

STATUTORY INSTRUMENTS

1986 No. 594

The Education and Libraries (Northern Ireland) Order 1986

PART VIII

ADMINISTRATION AND FINANCE

Administration

Payments to members of boards, etc.

79.—(1) A board shall make payments by way of travelling allowance or subsistence allowance,^{F1} . . . to any [^{F2}person to whom this paragraph applies] who necessarily incurs expenditure on travelling or, as the case may be, subsistence for the purpose of enabling him to perform any duty specified in the conditions.

[^{F1}(1A) Payments under paragraph (1) shall be made at such rates and on such conditions as may be—

- (a) determined by [^{F3}the Authority] ; and
- (b) approved by the Department.]

(2) Paragraph (1) shall apply to members of [^{F4}, or of a committee of,]

- (a) a Board of Governors of a controlled school;
- (b) a Board of Governors of a maintained school;^{F5} . . .

Sub#para. (c) rep. by 1997 NI 15

^{F6} . . .

^{F7}(3)

- F1** 2003 NI 12
- F2** Words in art. 79(1) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 9(12)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F3** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F4** 1989 NI 20
- F5** 1997 NI 15
- F6** Words in art. 79(2) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F7** Art. 79(3) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

Modifications etc. (not altering text)

- C1** Art. 79(1) applied (27.7.2006 for certain purposes, otherwise 1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2)(3)(b), **25(11)** (with art. 26)

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Payments in respect of official visits, etc.

^{F8}**80.**

F8 Arts. 80-86 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 4](#) (with [Sch. 2](#) para. 4(3)); S.R. 2015/35, art. 2(b)

Members of a board not to be employed as paid officers of the board

^{F8}**81.**

F8 Arts. 80-86 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 4](#) (with [Sch. 2](#) para. 4(3)); S.R. 2015/35, art. 2(b)

The Staff Commission

^{F8}**82.**

F8 Arts. 80-86 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 4](#) (with [Sch. 2](#) para. 4(3)); S.R. 2015/35, art. 2(b)

Officers of boards

^{F8}**83.**

F8 Arts. 80-86 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 4](#) (with [Sch. 2](#) para. 4(3)); S.R. 2015/35, art. 2(b)

Loans to officers for purchase of motor cars and motor cycles

^{F8}**84.**

F8 Arts. 80-86 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 4](#) (with [Sch. 2](#) para. 4(3)); S.R. 2015/35, art. 2(b)

Prohibition of acceptance of unauthorised fee or reward and duty to disclose pecuniary interest

^{F8}**85.**

F8 Arts. 80-86 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 4](#) (with [Sch. 2](#) para. 4(3)); S.R. 2015/35, art. 2(b)

Insurance against risks by boards

^{F8}**86.**

F8 Arts. 80-86 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 4](#) (with [Sch. 2](#) para. 4(3)); S.R. 2015/35, art. 2(b)

Protection for officers acting in execution of duty

87.—(1) An officer of [F3the Authority] shall not be personally liable in respect of any act done by him in the execution of any statutory provision relating to a function of [F3the Authority] and within the scope of his employment if he acted reasonably and in the honest belief that his duty under the statutory provision required or empowered him to do it but nothing in this paragraph shall be construed as relieving [F3the Authority] of any liability in respect of acts of its officers.

(2) Where an action is brought against an officer of [F3the Authority] in respect of an act done by him in the execution or purported execution of any such statutory duty as aforesaid and the circumstances are such that he is not legally entitled to require [F3the Authority] to indemnify him, [F3the Authority] may nevertheless indemnify him against the whole or a part of any damages or costs which he may have been ordered to pay or may have incurred, if [F3the Authority] is satisfied that he honestly believed that the act complained of was within the scope of his employment and that his duty under the statutory provision required or empowered him to do it.

F3 Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 1(1)(a) (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

Appointment of non-teaching staff for controlled and maintained schools

88.—(1) Where it is necessary to appoint staff[F9 to which this paragraph applies for] a controlled school or a maintained school, [F3the Authority]^{F10} ... shall furnish to the Board of Governors of the school the names of all applicants for appointment whom [F3the Authority] considers to be qualified and the Board of Governors may select from the names so furnished to it the person or, where more than one person is to be appointed, the requisite number of persons whom it recommends for appointment and shall inform [F3the Authority] of the name or names of the person or persons so selected.

[F9(1A) Paragraph (1) applies to all staff required[F11 by [F3the Authority]] in or about a controlled or maintained school, except—

- (a) teachers;
- (b) in the case of a school to which paragraph (1B) applies, persons employed in connection with the provision of a schools meals service.

(1B) This paragraph applies to a school which—

- (a) does not have a delegated budget under[F12Part VII of the Education (Northern Ireland) Order 1998]; or
- (b) has such a budget, but no allowance is made for expenditure on or in connection with the provision of a school meals service in determining the school's budget share under that Part.]

(2) Where a Board of Governors informs [F3the Authority] of the name of the person or, as the case may be, the names of the requisite number of persons whom it has selected under paragraph (1), [F3the Authority] shall appoint that person or those persons.

(3) Where a Board of Governors to whom names of applicants are furnished under paragraph (1) fails within a reasonable time to inform [F3the Authority] of the name of the person or, as the case may be, the names of the requisite number of persons whom it recommends for appointment, [F3the Authority] may either—

- (a) seek further applications and comply again with paragraph (1); or

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(b) with the approval of the Department, appoint one or, as the case may be, the requisite number of persons from the qualified applicants.

(4) This Article shall not apply where, after consultation with the Board of Governors, [^{F3}the Authority] is of opinion that a service or services for the internal or external maintenance of the premises of the school can best be provided—

(a) by a person or group of persons employed by [^{F3}the Authority] to perform that service or those services in a number of schools which are not all under the management of the same Board of Governors;

(b) by the placing by [^{F3}the Authority] of a contract, in accordance with its regular procedure for placing contracts, for the doing of anything relating to its functions in relation to a controlled school or a maintained school which is of a nature ordinarily done by employing a contractor.

(5) A Board of Governors aggrieved by any action of [^{F3}the Authority] under paragraph (4) may refer the matter to the Department for determination.

(6) The functions of a Board of Governors under this Article shall [^{F9} be carried out on behalf of, and in the name of, [^{F3}the Authority]] .

F3 Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

F9 1989 NI 20

F10 Words in art. 88(1) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

F11 1997 NI 5

F12 Words in art. 88(1B)(a) substituted (31.5.2009) by Education (Northern Ireland) Order 1998 (S.I. 1998/1759 (N.I. 13)), arts. 1(3)(g), 91(1), Sch. 5 Pt. II; S.R. 2009/183, **art. 3(d)**

^{F13} **Regulations as to employment of certain non-teaching staff**

88A ^{F14}.—(1) The Department may make regulations as to—

- (a) the eligibility for employment of persons to whom this Article applies; and
- (b) the terms and conditions of employment of such persons.

(2) Without prejudice to the generality of paragraph (1), regulations under that paragraph may include provision—

- (a) for imposing requirements as to the health and physical capacity of persons to whom this Article applies;
- (b) for prohibiting or restricting the employment or further employment of such persons [^{F15} on medical grounds or on grounds of misconduct].

(3) This Article applies to persons employed by [^{F3}the Authority] [^{F16} or by the governing body of an institution of further education] or by the managers of [^{F17} a grant-maintained integrated school or of] a voluntary school (other than a maintained school) in work otherwise than as teachers which brings them regularly into contact with persons who have not attained the age of nineteen years.]

F3 Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

F13 1987 NI 2

F14 certain functions transf. by SR 1999/481

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- F15** Words in art. 88A(2)(b) substituted (12.10.2009) for heads (i) - (iv) by virtue of [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(1), **Sch. 7 para. 2(2)** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 3**, Sch.
- F16** 1997 NI 15
- F17** 1989 NI 20

Provision of residences by boards

89.—(1) A board may, with the approval of the Department, provide and maintain or maintain a house or other residence for—

- (a) a teacher employed by [^{F3}the Authority] ;
- (b) a caretaker, groundsman or other person employed by [^{F3}the Authority] in connection with a school or institution managed by [^{F3}the Authority] or a maintained school or any premises or property used by [^{F3}the Authority] for educational purposes or purposes connected therewith;

and for that purpose may erect a dwelling-house or other residence or acquire, and if necessary enlarge or improve, an existing dwelling-house or other residence.

(2) The trustees of a maintained school may, notwithstanding anything in any instrument of government of the school, lease part of the land used for the school to [^{F3}the Authority] for the purposes of paragraph (1)(b).

(3) Where [^{F3}the Authority] provides and maintains or maintains a house or residence under paragraph (1) [^{F3}the Authority] may charge the person occupying the house or residence such sums, if any, as the Department may approve.

(4) Where [^{F3}the Authority] provides and maintains or maintains a house or residence under paragraph (1), [^{F3}the Authority] may permit the house or residence to be occupied by any person when it is not required for a person mentioned in paragraph (1) and may charge the person occupying the house or residence such sums, if any, as the Department may approve.

(5) A board may, [^{F18} subject to paragraph (5A)], recover possession of any house or residence provided or maintained by it under the foregoing provisions of this Article and where the house or residence is vested in the Department may act on behalf of the Department in the recovery of such possession.

[^{F18}(5A) A board shall, before proceeding to recover possession of any house or residence provided and maintained or maintained as mentioned in paragraph (1)(a), give six months notice to the occupant.]

(6) Where [^{F3}the Authority] is entitled by virtue of paragraph (5) to recover possession of any premises, the following provisions shall have effect in relation to those premises—

- (a) the Rent (Northern Ireland) Order 1978 shall not apply;
- (b) [^{F3}the Authority] may, notwithstanding any enactment or rule of law and without prejudice to any other method of recovery, proceed under Part VI of the Magistrates' Courts (Northern Ireland) Order 1981 for the summary recovery of the premises and for the purposes of any such proceedings that Part shall have effect as if [^{F3}the Authority] were the owner of the premises and the teacher or other person in possession thereof was a person who had been put into such possession by permission of the owner as caretaker.

- F3** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 3 para. 1(1)(a)** (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)

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F18 1987 NI 2

Teachers' residences provided etc. by statutory loan prior to 1st February 1922

^{F19}90.

F19 Art. 90 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 4** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

Art. 91 rep. by 1989 NI 20

[^{F20}Use of spare capacity of computers of board

^{F21}91A].

F20 1987 NI 2
F21 Art. 91A repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 4** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

Power of boards as to research and conferences

^{F22}92.

F22 Art. 92 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 4** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

Contributions to certain bodies

^{F23}93.

F23 Art. 93 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 4** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

Making of bye-laws by boards

94.—(1) It shall be the duty of [^{F3}the Authority] to make bye-laws providing for any matter required by this Order to be so provided and to enforce bye-laws made by it under this Order.

(2) Bye-laws made under this Order may provide for the imposing on persons contravening the bye-laws reasonable fines, recoverable on summary conviction, not exceeding level 2 on the standard scale and in the case of a continuing offence £2 for each day on which the offence continues after conviction.

(3) A bye-law made under this Order shall not come into operation until it has been confirmed by the Department.

(4) A board not less than one month before submitting a proposed bye-law for the confirmation of the Department shall—

- (a) deposit a draft of the proposed bye-law at the headquarters of [^{F3}the Authority] and at such other place or places as the Department may direct;
- (b) publish notice of the deposit in accordance with the provisions of Article 129;

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- (c) permit any person to inspect the deposited copy at all reasonable times without payment;
- (d) furnish to any person, on application, a copy of the proposed bye-law, or of any part thereof, on payment of such reasonable sum as [F3the Authority] may determine.

(5) The Department before confirming a bye-law shall be satisfied that the provisions of paragraph (4)(a) and (b) have been complied with and shall cause such inquiry, if any, to be made F24... as the Department thinks requisite.

(6) A copy of bye-laws when confirmed shall be printed and deposited at the headquarters of [F3the Authority] F25... and in such other place or places as the Department may direct and shall at all reasonable hours be open to public inspection without payment and a copy thereof shall, on application, be furnished to any person on payment of such reasonable sum as [F3the Authority] determines.

(7) A copy of any bye-law made by [F3the Authority] under this Order certified and signed by the [F26 chief executive] of [F3the Authority] or, in his absence, such other officer as [F3the Authority] authorises to be a true copy and to have been duly confirmed shall, until the contrary is proved, be evidence in all legal proceedings of the due making, confirmation and existence of such bye-law without further or other proof.

- F3 Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 1(1)(a) (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F24 Words in art. 94(5) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 4 (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F25 Words in art. 94(6) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 4 (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F26 1989 NI 20

Admission of public to, and facilities for newspaper representatives at, meetings of boards

F27 95.

- F27 Arts. 95-99 repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 4 (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

Notice and information to be given as to meetings of boards

F27 96.

- F27 Arts. 95-99 repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 4 (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

Certain publications to be privileged

F27 97.

- F27 Arts. 95-99 repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 4 (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

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Inspection of minutes of proceedings of boards

^{F27}98.

F27 Arts. 95-99 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 4](#) (with [Sch. 2 para. 4\(3\)](#)); [S.R. 2015/35](#), art. 2(b)

Determination of disputes between boards

^{F27}99.

F27 Arts. 95-99 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 4](#) (with [Sch. 2 para. 4\(3\)](#)); [S.R. 2015/35](#), art. 2(b)

^{F28}**Determination of disputes**

100. Any dispute arising between—

- (a) [^{F3}the Authority] and the trustees or managers of a voluntary school;
- (b) [^{F3}the Authority] and the Board of Governors of a grant#maintained integrated school;

[^{F3}the Authority] and the governing body of an institution of further education;]
^{F29}(bb) ^{F30}

- (c) [^{F3}the Authority] and the Council for Catholic Maintained Schools; or
- (d) the Council for Catholic Maintained Schools and the trustees or managers of a Catholic maintained school,

with respect to the exercise of any power conferred or the performance of any duty imposed by or under the Education Orders may, notwithstanding any enactment rendering the exercise of the power or the performance of the duty contingent on the opinion of one of the parties to the dispute, be referred by either party to the dispute to the Department and any dispute so referred shall be determined by the Department whose determination shall be final.]

F3 Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), [Sch. 3 para. 1\(1\)\(a\)](#) (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); [S.R. 2015/35](#), art. 2(b)

F28 1989 NI 20

F29 1997 NI 15

F30 certain functions transf. by SR 1999/481

^{F31}**Power of Department to give directions**

101 ^{F32}.—(1) The Department may give directions to any relevant authority as to the exercise by that authority of any power conferred, or the performance of any duty imposed, on that authority by or under any provision of the Education Orders; but the Department shall consult with a relevant authority before giving any directions to the authority under this paragraph.

(2) In particular, but without prejudice to the generality of paragraph (1), directions given under that paragraph may—

- (a) require a specified power—
 - (i) to be exercised;
 - (ii) to be exercised in a specified manner;

- (iii) not to be exercised;
- (iv) not to be exercised in a specified manner;
- (b) require a specified duty—
 - (i) to be performed;
 - (ii) to be performed in a specified manner;
 - (iii) not to be performed in a specified manner;

and in this paragraph “specified” means specified in directions.

(3) In this Article “relevant authority” means any of the following, namely—

- (a) [F³the Authority] ;
- (b) the Board of Governors or trustees of a grant#aided school;
- Sub#para. (c) rep. by 1993 NI 12*
- (d) the governing body of an institution of further education;
- (e) the managers or trustees of a college of education;
- (f) the Council for Catholic Maintained Schools;

[the Northern Ireland Council for the Curriculum, Examinations and Assessment.]
F³³(g)

(4) If, on a complaint made to it by any person or body, the Department is satisfied that a relevant authority has acted or is proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under any provision of the Education Orders, the Department shall give such directions under paragraph (1) as to the exercise of the power or the performance of the duty as appear to the Department to be expedient to remedy that complaint.

(5) Directions may be given to a relevant authority under paragraph (1) notwithstanding any provision of the Education Orders rendering the exercise of the power or the performance of the duty contingent upon the opinion of that authority.

(6) It shall be the duty of a relevant authority to comply with any directions given to the authority under paragraph (1) and any such directions may be enforced by mandamus.

(7) Where the Department is satisfied that a relevant authority has failed to comply with any directions given to the authority under paragraph (1), the Department may make an order appointing a person or persons to discharge, in the name of the relevant authority, all the functions of the authority or such functions as may be specified in the order and the order may render valid any act, thing or payment which would otherwise be invalid by reason of any default by the authority.

(8) So long as an order under paragraph (7) remains in force the functions of the relevant authority or such functions as are specified in the order shall be performed by the person or persons appointed by the order and shall not be performed by the authority.

(9) The remuneration and expenses of a person or persons appointed by an order made under paragraph (7) shall be determined by the Department and shall together with any other sums expended by the Department in consequence of the order be defrayed as part of the expenses of the relevant authority under the Education Orders.

(10) The Statutory Rules (Northern Ireland) Order 1979 shall not apply to any order made under paragraph (7).

[
F³⁴(11) In relation to the managers or trustees of a college of education the functions of the Department under this Article are exercisable by the Department for Employment and Learning (as well as by the Department of Education).]]

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F3 Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

F31 1989 NI 20

F32 certain functions transf. by SR 1999/481

F33 1993 NI 12

F34 2005 NI 13

Modifications etc. (not altering text)

C2 Art. 101 applied (1.1.2007) by Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006 (S.R. 2006/439), **reg. 11(2)** (with regs. 5(4), 16(3)(4), 26, 49, 53, 54(1))

[^{F35}Inspection of educational and other establishments by Department

102 ^{F36}.—(1) Every relevant establishment shall be open at all reasonable times to inspection under this Article.

(2) In this Article and Article 102A “relevant establishment” means—

(a) a school;

[an institution of further education;]

^{F37}(aa)

(b) a college of education;

(c) a grant=aided institution or establishment; or

(d) an institution or establishment which is established, maintained or managed by [^{F3}the Authority] or the activities of which are organised by [^{F3}the Authority] .

(3) Inspections under this Article shall be conducted by—

(a) inspectors appointed by the Department; or

(b) other officers of the Department.

(4) Inspectors conducting the inspection of an establishment under this Article may be accompanied and assisted in the inspection by a lay person assigned for the purposes of that inspection under Article 102A.

(5) It shall be the duty of inspectors to promote the highest standards of education and of professional practice among teachers in relevant establishments which provide education by—

(a) monitoring, inspecting and reporting on the standard of education being provided in those establishments and the standards of professional practice among teachers on the staff of such establishments;

(b) advising the Department on any aspect of the curriculum of any of those establishments which the Department may refer to them or on which they think advice is appropriate.

(6) It shall be the duty of inspectors to monitor, inspect and report on the nature, scope and effect of advisory and support services provided by boards under Article 29 of the 1989 Order in relation to the curricula and staff of grant#aided schools.

[

^{F37}(6A) Inspectors conducting the inspection of an establishment under this Article may monitor, inspect and report on any other aspect of the establishment including, in particular, the management of the establishment and the staffing, equipment, accommodation and other resources of the establishment.]

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(7) The functions conferred by this Article on inspectors shall not be exercisable in relation to any provision for religious education included in the curriculum of a school under [F38 Article 5(1)(a) of the Education (Northern Ireland) Order 2006] except with the agreement of the Board of Governors of the school.

(8) The Department may give directions under Article 101 for the purpose of remedying any matter referred to in a report under this Article.]

- F3** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 1(1)(a) (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F35** 1996 NI 1
- F36** certain functions transf. by SR 1999/481
- F37** 1997 NI 15
- F38** Words in art. 102(7) substituted (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), Sch. 2 para. 5

Lay persons

102A^{F39}.—(1) The Department may appoint a panel of persons to act as lay persons in inspections conducted under Article 102.

(2) A person shall not be appointed to the panel unless he is, in the opinion of the Department, without significant personal experience in the management of relevant establishments and the provision of education (otherwise than as a member of the managing body of such an establishment or in any other voluntary capacity).

(3) The Department may remove a person from the panel at any time.

(4) The Department may assign a member of the panel to be a lay person for the purposes of an inspection of any relevant establishment to be conducted under Article 102 but shall ensure that no person is so assigned if he has, or at any time had, any connection with—

- (a) the establishment in question;
- (b) any person who is employed at that establishment;
- (c) any person who is a member of the managing body of that establishment;
- (d) where the establishment is an independent school, the proprietor of the school,

of a kind which might reasonably be taken to raise doubts about his ability to act impartially in relation to that establishment.

(5) The Department may, with the approval of the Department of Finance and Personnel, pay to members of the panel such allowances and expenses as the Department may determine.

(6) In this Article “managing body” means—

- (a) in relation to a school, the Board of Governors;
- (b) in relation to an institution of further education, the governing body;
- (c) in relation to any other relevant establishment, the body responsible for its management.

- F39** certain functions transf. by SR 1999/481

Art. 103 rep. by 2003 NI 12

Art. 104 rep. by 1987 NI 2

Status: Point in time view as at 01/04/2015.

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Acquisition by Department of land

105^{F40}.—(1) The Department may by agreement, or in accordance with paragraph (4) otherwise than by agreement, acquire any land which in its opinion is required for use by it for the purposes of [F41 the Education Orders] and any land held by it for those purposes may, if in its opinion it is no longer required for those purposes, be disposed of by it in such manner and on such terms and conditions as the Department considers expedient or be appropriated by it for other purposes of the Department.

(2) Paragraph (1) shall not enable the Department to dispose of any land on terms other than the best obtainable except with the approval of the Department of Finance and Personnel.

(3) Section 5 of the Stormont Regulation and Government Property Act (Northern Ireland) 1933 (which contains provisions with respect to the disposal of land by government departments) shall not apply to the disposal of any land under paragraph (1) or paragraph (11).

(4) Where the Department desires for the purposes of [F41 the Education Orders] to acquire land otherwise than by agreement, it may, subject to paragraphs (9) and (10), make a vesting order vesting the land in the Department and Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall, subject to the modifications thereof specified in Part I of Schedule 16 apply for the purposes of the acquisition of land by means of a vesting order made under this paragraph in like manner as it applies to the acquisition of land by means of a vesting order made under that Act.

(5) Any person authorised by the Department in writing stating the particular purpose or purposes for which entry is authorised may at all reasonable times, on giving three days prior notice of his intention to the occupier, enter for the purpose of survey, valuation or examination—

- (a) land which the Department proposes to acquire compulsorily under the powers conferred on it by this Article; and
- (b) any land, where it appears to the Department that survey, valuation or examination is necessary in order to determine whether any powers under this Article should be exercised in respect of that land.

(6) If any person, other than the owner or occupier of land entered under paragraph (5), obstructs a person authorised as aforesaid in the performance of anything which such person is required or authorised to do, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) If any person being the owner or occupier of land prevents a person authorised as aforesaid from duly carrying into effect any survey, valuation or examination of such land, any court of summary jurisdiction on proof thereof may order the first-mentioned person to permit to be done on such land all things requisite for carrying into effect such survey, valuation or examination and if he fails to comply with the order, he shall be guilty of an offence and shall, for every day during which the failure continues, be liable on summary conviction to a fine not exceeding £20.

(8) Where any property is damaged in the exercise of a right of entry conferred under this Article or in the making of any survey or examination for the purpose of which any such right of entry has been conferred, compensation in respect of that damage may be recovered from the Department by any person interested in the property and any question of disputed compensation shall be referred to and determined by the Lands Tribunal for Northern Ireland.

(9) Nothing in this Article shall authorise the acquisition, without the consent of the Department of the Environment, of any land on or in which there is to the knowledge of the Department any historic monument or archaeological object within the meaning of [F42 the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995].

(10) The powers to make a vesting order under this Article may be exercised over land—

- (a) which is the property of any body established by or under any transferred provision which has power under any transferred provision to acquire land compulsorily; or

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(b) which is declared by or under any transferred provision to be inalienable;

but a vesting order shall not be made in relation to any such land, where representations objecting to the proposal for making the order have been duly made by the owner of the land and have not been withdrawn, unless the proposal has been approved by a resolution of the Assembly.

(11) The Department may transfer to another Department of the Government of Northern Ireland or to [F3the Authority][F43 or to the governing body of an institution of further education] any land acquired by it under this Article or vested in it by Article 94(1) of the 1972 Order.

(12) Stamp duty shall not be payable on any instrument or other document executed for the purpose of transferring land from the Department under paragraph (11).

(13) A certificate of the Department that land has been transferred to it by Article 94(1) of the 1972 Order or transferred by the Department under paragraph (11) shall be evidence of such transfer and, upon lodgment of such a certificate, the certificate shall be registered in the Registry of Deeds or, in the case of registered land, the title to which the certificate relates shall be registered in the Land Registry.

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| F3 | Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12) , Sch. 3 para. 1(1)(a) (with Sch. 2 para. 4(3) , Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b) |
| F40 | certain functions transf. by SR 1999/481 |
| F41 | 1989 NI 20 |
| F42 | 1995 NI 9 |
| F43 | 1997 NI 15 |

Functions of boards in relation to land

106 ^{F44}.—(1) A board may, with the approval of the Department but not otherwise, acquire, hold or dispose of land and shall if the Department so directs transfer to the Department any land held by it.

(2) Where [F3the Authority] desires to acquire otherwise than by agreement any land which it considers necessary for the purposes of [F45 the Education Orders] or which it considers is required for the purposes of a maintained school or for the purposes of a voluntary grammar school[F46 in relation to which an agreement under paragraph 1(1) of Schedule 6 is in force]^{F45} . . . , [F3the Authority] may apply to the Department for an order vesting such land in [F3the Authority] and the Department shall have power to make such an order and Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall, subject to the modifications thereof specified in Part II of Schedule 16, apply for the purposes of the acquisition of land by means of a vesting order made under this paragraph in like manner as it applies to the acquisition of land by means of a vesting order made under that Act.

(3) Where land acquired otherwise than by agreement for the purposes of a voluntary school is disposed of by [F3the Authority] to the trustees or Board of Governors of the school, the land shall vest in those trustees or Board of Governors subject to such conditions, including provision for the reversion of the land in [F3the Authority] in the event of the land not being, or not continuing to be, used or required for approved purposes of that school, as [F3the Authority] may, with the approval of the Department, determine.

(4) Paragraphs (5) to (10) of Article 105 shall apply for the purposes of this Article as they apply for the purposes of that Article and in their application for the purpose of this Article—

- (a) references to the Department ^{F47}... shall be construed as including references to [F3the Authority]^{F47} ...;
- (b) references to that Article shall be construed as references to this Article.

Status: Point in time view as at 01/04/2015.

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(5) The board shall not, under paragraph (1), dispose of any land gratuitously, or at either a price or rent other than the best obtainable, or on terms other than the best obtainable unless the approval of the Department is obtained.

(6) The Department may empower [^{F3}the Authority] to act on its behalf in the acquisition, holding or disposal of land and [^{F3}the Authority] shall manage and maintain, and may provide any buildings required for the purposes of [^{F45} the Education Orders] on, such land held by the Department as the Department may approve.

(7) A board, notwithstanding that it is exercising functions on behalf of the Department under paragraph (6), shall be entitled to enforce any rights acquired and shall be liable in respect of any liabilities incurred (including liabilities in tort) in the exercise of those functions in all respects as if it were acting as principal, and all proceedings for the enforcement of such rights or liabilities shall be brought by or against [^{F3}the Authority] in its own name.

- F3** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F44** certain functions transf. by SR 1999/481
- F45** 1989 NI 20
- F46** 1993 NI 12
- F47** Words in art. 106(4)(a) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

Transfer to board of certain assets of Department

107.—(1) The Department may, where it thinks fit, transfer to [^{F3}the Authority] any assets or liabilities [^{F48}to which it is for the time being entitled or subject to for the purposes of the Education Orders] .

(2) The transfer to the Department ^{F49}... of an endowment or other charitable gift shall be effective notwithstanding any provision to the contrary in any instrument making the endowment or gift but the Department shall, so far as practicable, ensure that the benefits accruing from any such endowment or gift are applied for the purposes for which the endowment or gift was made.

- F3** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F48** Words in art. 107(1) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 9(13)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F49** Words in art. 107(2) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

Art. 108 rep. by 2005 c. 12

Power of Head of the Department to appoint advisory bodies or committees

109 ^{F50}. The Head of the Department may appoint such advisory bodies or committees as he considers necessary to assist the Department in the exercise and performance of the functions conferred on the Department by [^{F51} the Education Orders].

- F50** certain functions transf. by SR 1999/481
- F51** 1989 NI 20

Conduct of examinations by Department

110. The Department may conduct such examinations as it considers necessary for the purposes of the statutory system of public education.

Finance

Power of boards to accept gifts

111.—(1) Subject to paragraph (2), [^{F3}the Authority] may be constituted trustees for any endowment or charity for the purposes of any of its functions under [^{F52} the Education Orders] whether the endowment was established before or after the date of the coming into operation of this Article and, subject to Article 106, [^{F3}the Authority] shall have power to accept any real or personal property given to it as an endowment or upon trust for any of the aforesaid purposes.

(2) Paragraph (1) shall not enable [^{F3}the Authority] to be trustees for or to accept any endowment, charity or trust, the purposes of which are inconsistent with the provisions of [^{F52} the Education Orders] or the principles on which [^{F3}the Authority] is required to conduct schools provided by it.

F3 Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\), Sch. 3 para. 1\(1\)\(a\)](#) (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)
F52 1989 NI 20

Borrowing powers of boards

^{F53}**112.**

F53 Art. 112 repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\), Sch. 4](#) (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

Art. 113 rep. by 2003 NI 12

Art. 114 rep. by 2003 NI 12

[^{F54}Grants for educational or library services, etc.

115 ^{F55}.—^{F56}(1) Subject to paragraph (3), the Department may, in accordance with regulations made with the approval of the Department of Finance and Personnel, pay grants to persons in respect of expenditure incurred or to be incurred by them—

- (a) for the purposes of, or in connection with, the provision (or proposed provision) of—
 - (i) educational ^{F57}. . . services; or
 - (ii) recreational, social, cultural, physical or youth service activities or services ancillary to education;
- (b) for the purposes of research relevant to the functions of the Department or of boards under the Education Orders.

(2) Regulations under paragraph (1) may prescribe the rates of grants which may be paid under that paragraph.

- (3) The Department shall not pay grants under this Article to—
 - (a) [^{F3}the Authority] ; or

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- (b) the trustees or managers of—
 - (i) a voluntary school; or
 - (ii) a grant#maintained integrated school.

[^{F58}or]

[the governing body of an institution of further education;]
^{F58}(c)

(4) Paragraph (5) applies where—

- (a) the Department has, after the coming into operation of Article 159 of the 1989 Order, paid a grant under this Article to a person in respect of expenditure incurred or to be incurred by him for the provision or alteration of premises; and
- (b) those premises cease to be used for approved purposes.

(5) Where this paragraph applies there shall be payable to the Department by the person to whom the grant was paid or his successor in title such sum as the Department considers equitable but not exceeding such proportion of the value of the premises as the proportion that the amount of the grant was of the approved cost of the provision or alteration of the premises together with interest on that sum from the date on which the premises ceased to be used for approved purposes until the date of payment to the Department.

(6) For the purposes of paragraph (5) the value of premises shall be taken to be the amount which the premises might be expected to realise if sold in the open market on the date on which the premises ceased to be used for approved purposes and where the Department certifies that it is not possible to reach agreement as to such value, the dispute as to such value may be referred to and determined by the Lands Tribunal for Northern Ireland.

(7) For the purposes of paragraph (5) interest shall be at such rate as may from time to time be determined by the Department of Finance and Personnel under paragraph 18(2) of Schedule 6 to the Local Government Act (Northern Ireland) 1972.

(8) Any sum payable or repayable to the Department under this Article may be recovered as a debt due to the Department.]

F3	Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 1(1)(a) (with Sch. 2 para. 4(3) , Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
F54	1989 NI 20
F55	certain functions transf. by SR 1999/481
F56	for certain purposes functions transf. by SR 2001/229
F57	Words in art. 115(1)(a)(i) repealed (1.4.2009) by Libraries Act (Northern Ireland) 2008 (c. 8), ss. 10(2), 12(2), Sch. 4 ; S.R. 2009/123, art. 2(g)
F58	1997 NI 15

Building and equipment grants for voluntary schools

116. ^{F59}

F59	Art. 116 repealed (31.5.2009) by Education (Northern Ireland) Order 1998 (S.I. 1998/1759 (N.I. 13)) , arts. 1(3)(h), 91(2)(3) , Sch. 6 Pt. II ; S.R. 2009/183, art. 3(e)(i)
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Arts. 117, 118 rep. by 1989 NI 20

Art. 119 rep. by 2003 NI 12

[^{F60}Recovery by Department of certain premature retirement compensation costs

119A.—(1) Where the Department becomes liable to pay premature retirement compensation in relation to a member of the staff of a special school, the Department may, where there appears to the Department to be good reason to do so, direct that—

- (a) a specified amount shall be charged to [^{F61}the Authority] in any single specified financial year; or
- (b) a specified amount shall be charged to [^{F62}the Authority] in each financial year for such period (not exceeding 10 years) as may be specified,

in respect of premature retirement compensation costs of the Department in relation to that member of staff.

(2) In paragraph (1)—

^{F63}
...

“specified” means specified in directions under that paragraph.

(3) The amount or (in a case falling within sub-paragraph (b) of that paragraph) the total amount charged to [^{F3}the Authority] in pursuance of a direction given under paragraph (1) in relation to a member of the staff of a special school shall not exceed such amount as appears to the Department to represent the cost, capitalised as of the date on which the direction is given, of discharging the Department's liability to pay premature retirement compensation to, or in respect of, that member of staff.

(4) Where [^{F3}the Authority] becomes liable to pay premature retirement compensation in relation to a member of the staff of—

- (a) a controlled school which does not have a delegated budget under [^{F64}Part VII of the Education (Northern Ireland) Order 1998],^{F65} . . .

Sub#para. (b) rep. by 1997 NI 15

the Department may, where there appears to the Department to be good reason to do so, direct that—

- (i) a specified amount shall be charged to [^{F3}the Authority] in any single specified financial year; or
- (ii) a specified amount shall be charged to [^{F3}the Authority] in each financial year for such period (not exceeding 10 years) as may be specified,

in respect of premature retirement compensation costs of [^{F3}the Authority] in relation to that member of staff.

(5) In paragraph (4) “specified” means specified in directions under that paragraph.

(6) For the purposes of paragraph (4)—

- (a) a controlled school does not have a delegated budget during any period when the right of the Board of Governors of that school to such a budget is suspended under [^{F66}Article 55 of the Education (Northern Ireland) Order 1998];

Sub#para. (b) rep. by 1997 NI 15

(7) The amount or (in a case falling within sub-paragraph (ii) of that paragraph) the total amount charged to [^{F3}the Authority] in pursuance of a direction given under paragraph (4) in relation to a member of the staff of a school^{F65}. . . shall not exceed such amount as appears to the Department to represent the cost, capitalised as of the date on which the direction is given, of discharging [^{F67}the Authority's] liability to pay premature retirement compensation to, or in respect of, that member of staff.

Status: Point in time view as at 01/04/2015.

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(8) Where the Department becomes liable to pay premature retirement compensation in relation to a person employed otherwise than at a grant-aided school^{F65} . . . , the Department may, where there appears to the Department to be good reason to do so, direct that—

- (a) a specified amount shall be charged to the employer of that person in any single specified financial year; or
- (b) a specified amount shall be charged to the employer of that person in each financial year for such period (not exceeding 10 years) as may be specified,

in respect of premature retirement compensation costs of the Department in relation to that employee.

(9) In paragraph (8) “specified” means specified in directions under that paragraph.

(10) The amount or (in a case falling within sub-paragraph (b) of that paragraph), the total amount charged to an employer in pursuance of a direction given under paragraph (8) in relation to an employee shall not exceed such amount as appears to the Department to represent the cost, capitalised as of the date on which the direction is given, of discharging the Department's liability to pay premature retirement compensation to, or in respect of, that employee.

(11) Any amount charged by the Department to [^{F3}the Authority] or an employer under this Article in any financial year shall be payable by [^{F3}the Authority] or employer to the Department at such time or times and in such manner as the Department may direct.

(12) In this Article—

“member of staff” includes former member of staff;

“premature retirement compensation” means compensation under Parts III and IV of the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1991;

“premature retirement compensation costs of [^{F3}the Authority] ”, in relation to any person, means the costs incurred or to be incurred by [^{F3}the Authority] in paying premature retirement compensation to, or in respect of, that person;

“premature retirement compensation costs of the Department”, in relation to any person, means the costs incurred or to be incurred by the Department in paying premature retirement compensation to, or in respect of, that person.]

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| F3 | Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 1(1)(a) (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b) |
| F60 | 1993 NI 12 |
| F61 | Words in art. 119A(1)(a) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 9(14) (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b) |
| F62 | Words in art. 119A(1)(b) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 9(14) (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b) |
| F63 | Words in art. 119A(2) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 4 (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b) |
| F64 | Words in art. 119A(4)(a) substituted (31.5.2009) by Education (Northern Ireland) Order 1998 (S.I. 1998/1759 (N.I. 13)), arts. 1(3)(g), 91(1), Sch. 5 Pt. II; S.R. 2009/183, art. 3(d) |
| F65 | 1997 NI 15 |
| F66 | Words in art. 119A(6) substituted (31.5.2009) by Education (Northern Ireland) Order 1998 (S.I. 1998/1759 (N.I. 13)), arts. 1(3)(g), 91(1), Sch. 5 Pt. II; S.R. 2009/183, art. 3(d) |
| F67 | Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 1(1)(b) (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b) |

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