

---

STATUTORY INSTRUMENTS

---

**1989 No. 2406**

**The Education Reform(Northern Ireland) Order 1989**

**PART X**

**MISCELLANEOUS AND SUPPLEMENTARY**

*Training*

**Further training of teachers in institutions of further education**

**147.**—(1) A board shall, in accordance with a programme approved under Article 149, secure the provision of further training to teachers employed in institutions of further education.

(2) A board may pay to teachers undergoing further training under this Article, travelling and other allowances at such rate or of such amount and subject to such conditions as the board may determine.

**Information and training for Boards of Governors, governing bodies, etc.**

**148.**—(1) Every board shall, in accordance with a programme approved under Article 149, secure the provision to—

- (a) every member of the Board of Governors of a controlled school under its management;
- (b) every member of the Board of Governors of a maintained school maintained by it;
- (c) every member of the Board of Governors of any other voluntary or grant-maintained integrated school situated in its area;
- (d) every person approved by the Department under Article 11(8) of the principal Order in relation to a voluntary school situated in its area;
- (e) every member of the governing body of an institution of further education situated in its area,

of such training as is necessary for the effective discharge of his functions under the Education Orders.

(2) A board may provide to any such person as is mentioned in paragraph (1)(a) to (e) such information as the board considers appropriate in connection with the discharge of his functions under the Education Orders.

(3) Without prejudice to paragraph (2), every board shall provide to—

- (a) every member of the Board of Governors of a controlled school under its management or of a maintained school (other than a Catholic maintained school) maintained by it, a copy of the scheme of management for the school;
- (b) every member of the governing body of an institution of further education situated in its area, a copy of the instrument and articles of government of the institution.

(4) The Council for Catholic Maintained Schools shall provide to every member of the Board of Governors of a Catholic maintained school a copy of the scheme of management for the school.

(5) The Department may secure the provision to members of the Boards of Governors of grant-aided schools, persons approved by the Department under Article 11(8) and members of the governing bodies of institutions of further education of such training and such information as the Department considers appropriate in connection with the discharge of their functions under the Education Orders.

(6) Documents, information and training provided under this Article shall be provided free of charge.

(7) The Department or a board may pay to persons undergoing training secured by it under this Article travelling and other allowances at such rate or of such amount and subject to such conditions as the Department or board (as the case may be) may determine.

### **Programmes of training by boards**

**149.**—(1) A board shall, at such times and in such form as the Department may direct, prepare and submit to the Department a programme of the provision it proposes to secure—

- (a) for the further training of teachers, in pursuance of its duty under a scheme under Article 29;
- (b) for the further training of teachers employed in institutions of further education, in pursuance of its duty under Article 147(1);
- (c) for the training of persons mentioned in paragraph (1)(a) to (e) of Article 148, in pursuance of its duty under that paragraph.

(2) Before preparing a programme under paragraph (1) a board shall consult—

- (a) the Board of Governors of—
  - (i) every controlled school under its management;
  - (ii) every maintained school maintained by it;
  - (iii) every other voluntary or grant-maintained integrated school situated in its area;
- (b) any person approved by the Department under Article 11(8) of the principal Order in relation to a voluntary school situated in its area;
- (c) the governing body of every institution of further education situated in its area;
- (d) the Council for Catholic Maintained Schools;
- (e) the Northern Ireland Curriculum Council and the Northern Ireland Schools Examinations and Assessment Council;
- (f) such other persons as the board considers appropriate.

(3) The Department may request a board to furnish such information in connection with any programme submitted to the Department under this Article as the Department may require, including information as to the results of consultations under paragraph (2).

(4) The Department may, after making such modifications, if any, in the programme as after consultation with the board it considers necessary or expedient, approve any programme submitted to it under this Article.

(5) It shall be the duty of a board to give effect to the provisions of any programme which has been approved by the Department under this Article.

(6) A board may at any time, and shall if the Department so directs, prepare and submit to the Department a revised programme or an amendment to an existing programme and paragraphs (2) to

(5) shall apply in relation to any such revised programme or amendment as they apply in relation to the programme.

### *Miscellaneous*

#### **Procedures for carrying out by certain bodies of their activities**

**150.**—(1) Each board shall, at such intervals and in accordance with such arrangements as may be determined by the Department after consultation with the boards, review its procedures for the carrying out of such activities as the Department may direct with a view to ensuring that such activities are carried out as effectively, efficiently and economically as practicable.

(2) The Department may direct that paragraph (1) shall apply to any of the bodies or persons listed in Article 101(3)(b) to (h) of the principal Order as it applies to a board but with the substitution for the reference to consultation with the boards of a reference to consultation with the bodies or persons concerned.

(3) The Department may by regulations provide, in relation to any prescribed activity of a board, —

- (a) that a board shall before carrying out that activity comply with such conditions as may be prescribed including, without prejudice to the generality of this sub-paragraph, such conditions as appear to the Department to be necessary or desirable to secure that the board—
  - (i) invites tenders from other persons for the carrying out by them of the prescribed activity; and
  - (ii) takes any such tenders received by the board into consideration in deciding whether to carry out the prescribed activity itself;
- (b) that a board shall during or after the carrying out by it of that activity, comply with such conditions as may be prescribed, including, without prejudice to the generality of this sub-paragraph—
  - (i) conditions as to the keeping of accounts, the making of reports and the supplying of information in relation to the carrying out of that activity;
  - (ii) conditions imposing financial objectives on the board in relation to the carrying out of that activity.

(4) Regulations under paragraph (3)—

- (a) may authorise a board to make charges for the provision of prescribed documents;
- (b) may prescribe the sanctions which may be applied by the Department in respect of a board which fails to comply with the regulations or with any condition imposed on it under the regulations.

(5) References in this Article to the carrying out of activities include references to the provision of services.

#### **Review of performance of teachers**

**151.**—(1) The Department may by regulations make provision requiring employing authorities to secure that the performance of teachers to whom the regulations apply—

- (a) in discharging their duties; and
- (b) in engaging in other activities connected with the establishments at which they are employed,

is regularly reviewed in accordance with such requirements as may be prescribed.

- (2) The regulations may, in particular, make provision—
- (a) requiring the Boards of Governors of controlled schools and Catholic maintained schools and the governing bodies of institutions of further education—
    - (i) to secure that any arrangements made in accordance with the regulations are complied with in relation to their establishments;
    - (ii) to provide such assistance to the employing authority as that authority may reasonably require in connection with its obligations under the regulations;
  - (b) with respect to the disclosure to teachers of the results of reviews and the provision of opportunities for them to make representations with respect to those results; and
  - (c) requiring employing authorities to have regard to the results of reviews in the exercise of such of their functions as may be prescribed.
- (3) The regulations may be expressed to apply to any of the following categories of teacher, that is to say—
- (a) teachers employed in grant-aided schools;
  - (b) teachers employed in institutions of further education;
  - (c) supply teachers;
  - (d) peripatetic teachers.
- (4) Before making any regulations under paragraph (1), the Department shall consult—
- (a) such representatives of employing authorities and such representatives of teachers as appear to it to be concerned; and
  - (b) any other person with whom consultation appears to it to be desirable.
- (5) In this Article “employing authority” means—
- (a) in relation to teachers employed in controlled schools and institutions of further education, the board by which they are employed;
  - (b) in relation to teachers (including supply teachers) employed by the Council for Catholic Maintained Schools, that Council;
  - (c) in relation to teachers employed in a voluntary school (other than a Catholic maintained school), the managers of that school;
  - (d) in relation to teachers employed in a grant-maintained integrated school, the Board of Governors of the school;
  - (e) in relation to peripatetic teachers, the board by which they are employed;
  - (f) in relation to supply teachers (other than those mentioned in sub-paragraph (b)), the board by which they are employed.

### **Educational projects by Department**

**152.** The Department may carry out any project appearing to the Department to be associated with the provision of educational or library services or recreational, social, cultural, physical or youth service activities or services ancillary to education.

### **Appointment of teachers**

**153.—**(1) Within such time after the coming into operation of this Article as the Department may direct, each board shall prepare and submit to the Department a scheme providing for the procedures to be followed in relation to the appointment by the board of—

- (a) teachers to posts in controlled schools;

- (b) peripatetic teachers;
- (c) supply teachers.

(2) A scheme under paragraph (1) may provide for any specified functions of the board under the scheme to be performed by the teaching appointments committee of the board on behalf of, and in the name of, the board.

(3) Before preparing a scheme under paragraph (1) a board shall consult the Board of Governors of every controlled school managed by the board.

(4) In preparing a scheme under paragraph (1) a board shall take into account any guidance given by the Department, after consultation with all the boards and such other persons as appear to the Department to be concerned, as to the provisions it regards as appropriate for inclusion in a scheme under that paragraph.

(5) The Department may, after making such modifications (if any) in a scheme submitted to it by a board as after consultation with the board it considers necessary or expedient, approve the scheme.

(6) It shall be the duty of the board to give effect to the provisions of a scheme under paragraph (1) which has been approved by the Department.

(7) Where—

- (a) a board fails to submit a scheme to the Department under paragraph (1) by the date directed by the Department; or
- (b) it appears to the Department that a scheme submitted by the board as required by that paragraph does not accord with any guidance given by it for the purposes of this Article and cannot be made to do so merely by modifying it,

the Department may, after consultation with the board and such other persons as appear to the Department to be concerned, make a scheme which shall be treated for the purposes of paragraphs (6) and (8) as if it had been prepared by the board and approved by the Department under this Article.

(8) A board may at any time, and shall if the Department so directs, prepare and submit to the Department a revised scheme or an amendment to an existing scheme and paragraphs (2) to (7) (except (7)(a)) shall apply in relation to any such revised scheme or amendment as they apply in relation to the scheme.

#### *Miscellaneous amendments to the principal Order*

#### **Repeal of provisions relating to direct grant voluntary intermediate schools**

**154.** The following provisions of the principal Order shall cease to have effect, namely—

- (a) Article 20;
- (b) Article 118;
- (c) Schedule 10.

#### **Definition of “child” for purposes of special education**

**155.** In Article 33 of the principal Order after paragraph (3) there shall be inserted—

“(3A) For the purposes of paragraph (3) a person who attains the age of 19 at any time during a school term at any school shall be deemed not to have attained that age until the day after the end of that school term.”.

#### **Compulsory school age**

**156.** For Article 46 of the principal Order there shall be substituted the following Articles—

**“Compulsory school age**

**46.**—(1) Subject to the following provisions of this Article, in the Education Orders the expression “compulsory school age” means any age between four years and sixteen years and accordingly a person shall be of compulsory school age if he has attained the age of four years and has not attained the age of sixteen years.

(2) Where a person attains the age of four years—

- (a) on any date occurring in the period beginning on (and including) 1st September in any year and ending on (and including) 1st July in the following year, he shall be deemed not to have attained the lower limit of compulsory school age until 1st August in that following year;
- (b) on any date occurring in the period beginning on (and including) 2nd July in any year and ending on (and including) 31st August in the same year, he shall be deemed not to have attained the lower limit of compulsory school age until 1st August in the following year.

(3) Where a person attains the age of sixteen years—

- (a) on any date occurring in the period beginning on (and including) 1st September in any year and ending on (and including) 1st July in the following year, he shall be deemed not to have attained the upper limit of compulsory school age until, or as the case may be, deemed to have attained that upper limit on 30th June in that following year or such other date as the Department may, by order subject to affirmative resolution, prescribe;
- (b) on any date occurring in the period beginning on (and including) 2nd July in any year and ending on (and including) 31st August in the same year, he shall be deemed not to have attained the upper limit of compulsory school age until 30th June in the following year or such other date as the Department may, by order subject to affirmative resolution, prescribe.

**Commencement of secondary education**

**46A.** Unless the Department otherwise directs in a particular case, a child shall commence secondary education—

- (a) where he attains the age of eleven years on a date occurring in the period beginning on (and including) 1st September in any year and ending on (and including) 1st July in the following year, on 1st August in that following year;
- (b) where he attains that age on a date occurring in the period beginning on (and including) 2nd July in any year and ending on (and including) 31st August in the same year, on 1st August in the following year.”.

**Payment of medical expenses incurred by teachers**

**157.** In Article 70 of the principal Order after paragraph (2) there shall be inserted the following paragraph—

“(2A) Regulations under paragraph (1) may provide for the payment by the Department of any reasonable expenses incurred by a teacher in connection with any medical examination undergone by that teacher in pursuance of a requirement imposed by the Department under those regulations.”.

**Power of Department to give directions**

**158.** For Article 101 of the principal Order there shall be substituted the following Article—

### **“Power of Department to give directions**

**101.**—(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) a board;
- (b) the Board of Governors or trustees of a grant-aided school;
- (c) a person approved by the Department under Article 11(8);
- (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;
- (g) the Northern Ireland Curriculum Council;
- (h) the Northern Ireland Schools Examinations and Assessment Council.

(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(1) shall not apply to any order made under paragraph (7).”.

### **Grants for provision of educational or library services, etc.**

159. For Article 115 of the principal Order there shall be substituted the following Article—

#### **“Grants for educational or library services, etc.**

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

(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(2).

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

#### **Filling of certain casual vacancies in boards**

**160.** In paragraph 2 of Schedule 2 to the principal Order after sub-paragraph (3) there shall be added—

“(4) As soon as possible after the date on which a vacancy occurs among the members of a board appointed under paragraph 1(2)(a) and in any event within two months of that date, the appropriate council shall select a member of that council to be nominated by it to the board to fill that vacancy and shall send to the Head of the Department the name and address of the person so nominated.

(5) If the appropriate council fails to nominate a member to a board in accordance with sub-paragraph (4), the Head of the Department may, on behalf of that council, nominate a person who is a member of that council and that nomination shall be deemed for all purposes to be a nomination by that council.

(6) Sub-paragraphs (4) and (5) do not apply where the Head of the Department fills the vacancy in question by re-appointing a person under paragraph 6(5) and notifies the appropriate council of that re-appointment.

(7) In sub-paragraphs (4) to (6) “the appropriate council” in relation to a vacancy means the council by which the member being replaced was nominated.”.

#### **Loans to officers of Staff Commission for purchase of motor cars**

**161.** In paragraph 7 of Schedule 15 to the principal Order after the word “Articles” there shall be inserted “84.”.

### *Supplementary*

#### **Temporary exclusion of section 5 of Data Protection Act 1984**

**162.—**(1) Where personal data are transferred under any provision of this Order to a body corporate established under this Order, section 5(1) of the Data Protection Act 1984(3) (prohibition of unregistered holding, etc., of personal data) shall not apply in relation to the holding by that body corporate of the data so transferred or any data of the same description as the data so transferred until the end of the period of six months beginning with the date on which the data are transferred.

(2) Expressions used in paragraph (1) to which a meaning is given for the purposes of that Act of 1984 have the same meaning in that paragraph.

---

(2) SR 1978 No. 217  
(3) 1979 NI 12

### **Stamp duty**

**163.** Stamp duty shall not be chargeable in respect of any transfer effected under Article 27, 75, 83, 84 or 95 or paragraph 4(2) of Schedule 6.

### **Regulations and orders**

**164.—**(1) All regulations under this Order shall be subject to negative resolution.

(2) The Statutory Rules (Northern Ireland) Order 1979(4) shall not apply to any order made by the Department under Article 27(1) or (2), 71(13), 76(1)(b), 82(1), 84(2), 86(1) or 102(6) or paragraph 1 of Schedule 6.

(3) Except as provided by paragraphs (4) and (5), all other orders made by the Department under this Order shall be subject to negative resolution.

(4) Orders under Article 5(7), 6(6), 8(5), 34(1), 46(7), 60(8) or 77(13) or paragraph 2(4) or 3(7) of Schedule 8 shall be subject to affirmative resolution.

(5) Paragraph (3) does not apply to an order under Article 1(3).

(6) Regulations and orders under this Order may contain such transitional provision as the Department thinks fit.

### **Transitional provisions**

**165.—**(1) Until a board makes the provision required by Article 102(1) for the management of an institution of further education, the management committee for that institution constituted under Article 28 of the principal Order shall continue in being and may exercise, in relation to the institution, the functions of a governing body under the Education Orders.

(2) Until the making by a board under Article 102(4) for an institution of further education of an instrument and articles of government, the scheme approved for the institution under Article 28(3) of the principal Order shall continue in operation in relation to the institution.

(3) Until the coming into operation in relation to a school of a scheme of management prepared under Article 9B of the principal Order, the scheme approved for the school under Article 10(3) or 11(2) of that Order shall continue in operation in relation to the school.

(4) References in the Education Orders to a scheme of management shall include references to a scheme continuing in operation under paragraph (3); but nothing in any provision of those Orders shall be construed as requiring such a scheme to make any provision which it was not required to make before the making of this Order.

(5) Until the coming into operation of Article 141 references in the Education Orders to the Council for Catholic Maintained Schools shall be construed as references to the body referred to in paragraph 12(1) of Schedule 8.

(6) The Department may by order make such other transitional provision (including the adaptation of any provision of the Education Orders) as appears to the Department to be necessary or expedient in connection with the coming into operation of any provision of this Order.

### **Amendments**

**166.** The statutory provisions specified in Schedule 9 shall have effect subject to the amendments specified in that Schedule.

## **Repeals**

**167.** The statutory provisions set out in Schedule 10 are hereby repealed to the extent specified in the third column of that Schedule.