
STATUTORY INSTRUMENTS

2005 No. 1963

The Colleges of Education (Northern Ireland) Order 2005

PART II

THE COLLEGE

Duties and powers of the governing body

General duties of the governing body

6.—(1) It shall be the duty of the governing body—

- (a) to secure the efficient and effective management of the college; and
- (b) to ensure that the college provides, or secures the provision of, suitable and efficient education to students of the college.

(2) In carrying out its duty under paragraph (1), the governing body shall have regard to the requirements of persons who have learning difficulties.

Principal powers of governing body

7.—(1) The governing body shall have the power—

- (a) to provide or secure the provision of education (and in particular education relevant to the initial or further training of teachers) and to secure the carrying on of research related to such education;
- (b) to charge fees for or in connection with the provision under sub-paragraph (a) of any form of education or the securing of any research;
- (c) to provide to students of the college such assistance of a financial or other nature (including waiving or granting remission of fees) as it may consider appropriate;
- (d) to manage the college, and for that purpose to receive any property, rights and liabilities transferred to it under this Order;
- (e) to provide, or secure the provision of, facilities of any description appearing to it to be necessary or expedient for the purpose of or in connection with the carrying on of any activities it has power to carry on (including residential accommodation and recreational facilities for students and staff of the college and facilities to meet the needs of students who have learning difficulties and disabled students and staff);
- (f) to provide meals and refreshments for students and staff of the college;
- (g) to supply goods and services in connection with the provision of education by it and make charges for such goods and services;
- (h) to acquire, hold and dispose of land and other property;
- (i) to enter into contracts, including in particular—

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- (i) contracts for the employment of teachers and other staff for the purpose of or in connection with the carrying on of any activities it has power to carry on;
 - (ii) contracts with respect to the carrying on by it of any such activities; and
 - (iii) contracts to secure the provision by others of facilities in connection with the carrying on by it of any such activities, including externally financed development agreements as defined in Article 8(4)(c).
- (j) to form or promote, or to join with any other person in forming or promoting, companies ^{[F1}under the Companies Act 2006];
 - (k) to enter into collaborative arrangements with other educational institutions or bodies and community groups on such terms as it thinks fit and to exercise its decision-making in relation to such arrangements through any joint body established for the purposes of the arrangements;
 - (l) to borrow such sums as it thinks fit for the purpose of carrying on any activities it has power to carry on or meeting any liability transferred to it under this Order and, in connection with such borrowing, to grant such security as it thinks fit;
 - (m) to give such guarantee or indemnity in relation to the obligations of a company to which sub-paragraph (j) applies or any other person on such terms and conditions (including the giving of security in respect of its obligations under such guarantee or indemnity) as it thinks fit;
 - (n) to invest any sums not immediately required by it for the purpose of carrying on any activities it has power to carry on or meeting any liability transferred to it under this Order;
 - (o) to raise funds, accept gifts of money, land or other property and apply it to, or hold or administer it in trust for, the purpose of carrying on any activities it has power to carry on; and
 - (p) to do all such other things as are calculated to facilitate or are incidental or conducive to the carrying on of any activities it has power to carry on.
- (2) For the purposes of paragraph (1)(g), goods and services are supplied in connection with the provision of education by the governing body if—
- (a) they result from the provision of education or anything done by the governing body under this Order for the purpose of or in connection with the provision of education,
 - (b) they result from the use of, or are provided by making available, the facilities of the governing body or the expertise of persons employed by it in the fields in which they are so employed, or
 - (c) they result from ideas of a person employed by the governing body, or of one of its students, arising out of the provision of education by it.
- (3) The Department may by order amend the provisions of paragraph (1) by varying, adding to or removing the powers for the time being conferred by that paragraph.
- (4) Before making any order under paragraph (3), the Department shall consult—
- (a) the governing body; and
 - (b) any other persons with whom consultation appears to the Department to be appropriate.
- (5) The exercise by the governing body of any power conferred by this Article is subject to Article 8; and an order under paragraph (3) may make such consequential amendments to Article 8 as appear to the Department to be necessary or expedient.

F1 Words in art. 7(1)(j) substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), Sch. 1 para. 254 (with art. 10)

Restrictions on exercise of principal powers of governing body

8.—(1) The powers of the governing body under Article 7(1)(b) (charging of fees for education or research) shall not be exercised otherwise than in accordance with—

- (a) the statutory provisions for the time being regulating the charging of such fees; and
- (b) any other arrangements approved or determined by the Department.

(2) The powers of the governing body under—

- (a) Article 7(1)(j) (formation of companies);
- (b) Article 7(1)(k) (collaborative arrangements),
- (c) Article 7(1)(n) (investment);

shall be exercised in accordance with any arrangements approved or determined by the Department.

(3) The powers of the governing body under Article 7(1)(f) (provision of meals and refreshments) shall be so exercised as to give effect to arrangements approved or determined by the Department for the remission in whole or in part of charges which would otherwise be made in respect of meals or refreshments provided to students of the college.

(4) The governing body shall not, without the prior consent of the Department—

- (a) borrow money from any source, give any guarantee or indemnity or create any trust or security over or in respect of any of its property;
- (b) effect any material change in the character of the college;
- (c) enter into an externally financed development agreement, that is to say an agreement—
 - (i) the purpose or main purpose of which is the provision of facilities in connection with the carrying on of any activities which the governing body has power to carry on; and
 - (ii) in connection with which a person proposes to make a loan to, or provide any other form of finance for, any party to the agreement other than the governing body; or
- (d) acquire any land.

(5) The consent of the Department under paragraph (4) may be given subject to such conditions as the Department may determine.

(6) Subject to paragraph (9), the governing body shall not dispose of any property to which this paragraph applies without the prior consent of the Department.

(7) Property to which paragraph (6) applies is—

- (a) property transferred to the governing body under this Order;
- (b) property acquired by the governing body wholly or partly with assets which represent or in any way derive from any part of the proceeds of or any consideration for the disposal of property so transferred; and
- (c) property acquired, improved or maintained wholly or partly, directly or indirectly, out of funds provided by a Northern Ireland department or from the proceeds of or any consideration for the disposal of any property so acquired, improved or maintained.

(8) The consent of the Department under paragraph (6) may be given in respect of a particular disposal of property or of disposals of any class or description and may be given subject to such conditions as the Department may determine.

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(9) The consent of the Department is not required for the disposal of land which is or forms part of property to which paragraph (6) applies where the disposal is in consequence of the compulsory acquisition of such land by any authority in pursuance of any power of compulsory acquisition under any statutory provision; but the governing body shall inform the Department of any such compulsory acquisition.

(10) Where any property to which paragraph (6) applies is disposed of, the governing body shall pay to the Department such portion of the proceeds or value of the consideration for the disposal, after deduction of such expenses as appear to the Department to have been reasonably incurred in the disposal, as the Department may, after consultation with the governing body, determine.

Accounts of governing body

9.—(1) It shall be the duty of the governing body to keep proper accounts and proper records in relation to the accounts.

(2) The accounts shall be prepared and audited in respect of each financial year in such manner as the Department may, with the approval of the Department of Finance and Personnel, direct.

(3) The audited accounts shall—

- (a) be submitted to the Department on or before such date as the Department may direct; and
- (b) be published in such manner as the Department may direct.

(4) Subject to paragraph (5), the financial year of the governing body shall be the period of 12 months ending on 31st July.

(5) The first financial year of the governing body shall be the period beginning with the transfer date and ending on 31st July 2006.

(6) The Department may by order amend paragraph (4).

(7) The Comptroller and Auditor General for Northern Ireland and the Department shall have the right of access to the books, accounts and records of the governing body.

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Commencement Orders yet to be applied to the The Colleges of Education (Northern Ireland) Order 2005

Commencement Orders bringing legislation that affects this Order into force:

- [S.R. 2015/35 art. 2](#) commences (2014 c. 12 (N.I.))