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STATUTORY INSTRUMENTS

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**2006 No. 1915**

**The Education (Northern Ireland) Order 2006**

**PART I**

**INTRODUCTORY**

**Title and commencement**

1.—(1) This Order may be cited as the Education (Northern Ireland) Order 2006.

(2) Except as provided by the following provisions of this Article, this Order comes into operation on 1st August 2006.

(3) The following provisions come into operation on the expiration of one week from the date on which this Order is made—

- (a) this Part;
- (b) Part II (except Articles 18 to 22) in so far as it authorises the making of regulations or orders;
- (c) Article 43.

(4) The following provisions come into operation on such day or days as the Department may by order appoint—

- (a) Articles 18 to 22;
- (b) Articles 31 to 35 and 37;
- (c) Part II of Schedule 2 and Article 44(1) so far as relating to that Part;
- (d) Part III of Schedule 3 and Article 44(2) so far as relating to that Part.

(5) Articles 27, 28(1), 29 and 30 (and Part II of Schedule 3 and Article 44(2) so far as relating to that Part) come into operation on 1st October 2006, but do not apply in relation to any admission to a school taking effect, or proposed admission to a school which would take effect, at any time before 31st July 2010.

(6) Article 28(2) comes into operation—

- [<sup>F1</sup>(a) if Schedule 4 to the Northern Ireland (St Andrews Agreement) Act 2006 comes into force, on such date as the Department may by order appoint;
- (b) if Schedule 3 to that Act comes into force, on the date on which that Schedule comes into force;]

but (in either case) does not apply in relation to any admission to a school taking effect, or proposed admission to a school which would take effect, at any time before 31st July 2010.

(7) No order may be made under paragraph (6)(a) unless a draft of the order has been laid before and approved by resolution of the Assembly.

**Status:** This version of this Order contains provisions that are prospective.  
**Changes to legislation:** There are currently no known outstanding effects for the  
The Education (Northern Ireland) Order 2006. (See end of Document for details)

#### Subordinate Legislation Made

- P1** Art. 1(4) power partly exercised: 26.1.2007 appointed for specified provision by S.R. 2007/42, **art. 2**; 11.6.2007 appointed for specified provision by S.R. 2007/42, **art. 3**; 23.3.2007 appointed for specified provisions by S.R. 2007/197, **art. 2, Sch.**; 16.12.2011 appointed for specified provision by S.R. 2011/406, **art. 2**; 1.9.2013 appointed for specified provisions by S.R. 2011/406, **art. 3**

#### Textual Amendments

- F1** Art. 1(6)(a)(b) substituted (22.11.2006) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), **ss. 21(1), 27(8)** (with s. 1(3))

### Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

“the 1986 Order” means the Education and Libraries (Northern Ireland) Order 1986 (NI 3);

“the 1989 Order” means the Education Reform (Northern Ireland) Order 1989 (NI 20);

“the 1996 Order” means the Education (Northern Ireland) Order 1996 (NI 1);

“the 1997 Order” means the Education (Northern Ireland) Order 1997 (NI 5);

“the 1998 Order” means the Education (Northern Ireland) Order 1998 (NI 13).

(3) This Order shall be construed as one with the 1986 Order; and accordingly Article 2 of the 1986 Order, in so far as it relates to the interpretation of words or expressions used in that Order and in this Order, applies for the purposes of this Order as it applies for the purposes of that Order.

## PART II

### THE CURRICULUM

#### Modifications etc. (not altering text)

- C1** Pt. 2 power to disapply or modify conferred (temp.) (25.3.2020) by Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 17 para. 17** (with ss. 88-90)
- C2** Pt. 2 expiry of earlier affecting provision 2020 c. 7, **Sch. 16 para. 17** (25.3.2022) by Coronavirus Act 2020 (c. 7), s. 89 (with s. 90)

#### *Interpretation*

### Interpretation: the curriculum

3.—(1) In this Part—

“area of learning” shall be construed in accordance with Article 6(1);

“assess” includes examine and test;

“assessment arrangements” means arrangements for assessing pupils in a school year for the purpose of ascertaining what they have achieved in that year;

“contributory element”, in relation to an area of learning, has the meaning given by Article 6(2);

“cross-curricular skill” means a skill listed in Article 8(2);

“directions” means directions in writing;

“key stage”, or references to a particular key stage, shall be construed in accordance with paragraph (3);

“levels of progression” means levels determined for the purpose of measuring the progress of pupils in the development of a cross-curricular skill;

“minimum content”, in relation to an area of learning and a key stage, means the knowledge, understanding and skills within that area of learning which are required to be taught to pupils of different abilities and maturities during that stage;

“NICCEA” means the Northern Ireland Council for the Curriculum, Examinations and Assessment;

F2 ...

“school year” means a year ending on 31st July;

“skill” includes any personal capability.

(2) For the purposes of this Part a school is an Irish speaking school if more than one half of the teaching of—

(a) religious education; and

(b) the minimum content of the areas of learning other than that called Language and literacy, is conducted (wholly or partly) in Irish, and “school” includes part of a school.

(3) For the purpose of this Part the key stages in relation to a pupil are as follows—

(a) the foundation stage is the period beginning with his becoming of compulsory school age and ending at the same time as the school year in which the majority of pupils in his class complete two school years in that stage;

(b) key stage 1 is the period beginning at the same time as the next school year after the end of the foundation stage and ending at the same time as the school year in which the majority of pupils in his class complete two school years in that key stage;

(c) key stage 2 is the period beginning at the same time as the next school year after the end of key stage 1 and ending at the same time as the school year in which the majority of pupils in his class complete three school years in that key stage;

(d) key stage 3 is the period beginning at the same time as the next school year after the end of key stage 2 and ending at the same time as the school year in which the majority of pupils in his class complete three school years in that key stage;

(e) key stage 4 is the period beginning at the same time as the next school year after the end of key stage 3 and ending at the same time as he ceases to be of compulsory school age.

(4) In paragraph (3) “class”, in relation to a particular pupil, means the teaching group in which he is regularly taught or, where there are two or more such groups, such one of them as may be designated by the principal of the school.

(5) The Department may by order amend paragraph (3).

(6) For the purposes of this Part Irish is to be treated as an official language of the European Union at any time before 1st January 2007 (on which date it becomes an official language).

*Status:* This version of this Order contains provisions that are prospective.  
*Changes to legislation:* There are currently no known outstanding effects for the  
 The Education (Northern Ireland) Order 2006. (See end of Document for details)

### Textual Amendments

- F2** Words in art. 3(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)

### Commencement Information

- I1** Art. 3 in force for certain purposes at 27.7.2006 and otherwise at 1.8.2006, see art. 1(2)(3)

## *General duty*

### **General duty in respect to the curriculum**

4.—(1) It shall be the duty of the Board of Governors and principal of every grant-aided school to exercise their functions as respects that school (including, in particular, the functions conferred on them by this Part) with a view to securing that the curriculum for the school satisfies the requirements of this Article.

(2) The curriculum for a grant-aided school satisfies the requirements of this Article if it is a balanced and broadly based curriculum which—

- (a) promotes the spiritual, emotional, moral, cultural, intellectual and physical development of pupils at the school and thereby of society; and
- (b) prepares such pupils for the opportunities, responsibilities and experiences of life by equipping them with appropriate knowledge, understanding and skills.

## *Statutory requirements relating to curriculum*

### **The curriculum: main requirements**

5.—(1) The curriculum for every grant-aided school shall—

- (a) include provision for religious education for all registered pupils at the school in accordance with such of the provisions of Article 21 of the 1986 Order as apply in relation to the school; and
- (b) in so far as it relates to registered pupils at the school of compulsory school age, meet the requirements of Articles 6 to 9.

[<sup>F3</sup>(1A) The curriculum for every grant-aided school shall, in relation to key stages 3 and 4, include age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health and rights, covering prevention of early pregnancy and access to abortion.]

(2) In Articles 6 to 9—

- (a) references to the curriculum for a grant-aided school are references to that curriculum so far as it relates to registered pupils at the school of compulsory school age; and
- (b) references to pupils at such a school are references to registered pupils at the school of compulsory school age.

(3) Nothing in those Articles requiring particular matters to be included in the curriculum of a grant-aided school is to be taken to preclude the inclusion in that curriculum of any other matter.

### Textual Amendments

- F3** [Art. 5\(1A\)](#) inserted (1.7.2023) by [The Relationships and Sexuality Education \(Northern Ireland\) \(Amendment\) Regulations 2023 \(S.I. 2023/602\)](#), regs. 1(2), **2(2)**

### Areas of learning and contributory elements

- 6.—(1) The curriculum for every grant-aided school shall include—
- in relation to pupils in the foundation stage, the areas of learning set out in column 1 of Part I of Schedule 1;
  - in relation to pupils in key stages 1 and 2, the areas of learning set out in column 1 of Part II of that Schedule;
  - in relation to pupils in key stage 3, the areas of learning set out in column 1 of Part III of that Schedule;
  - in relation to pupils in key stage 4, the areas of learning set out in column 1 of Part IV of that Schedule.
- (2) For the purposes of this Part, the elements (“the contributory elements”) which fall within each area of learning listed in column 1 of a Part of Schedule 1 are the elements listed against that area of learning in column 2 of that Part of that Schedule.
- (3) In relation to key stage 4, paragraph (2) applies only in relation to the areas of learning called—
- Learning for life and work; and
  - Physical education.
- (4) The Department may by order amend Schedule 1.

### Commencement Information

- I2** [Art. 6](#) in force for certain purposes at 27.7.2006 and otherwise at 1.8.2006, see [art. 1\(2\)\(3\)](#)

### Minimum content

- 7.—(1) The curriculum for every grant-aided school shall, in relation to each area of learning applicable to pupils at the school—
- include such minimum content as is specified in relation to that area of learning and those pupils under paragraph (2);
  - require each pupil at the school to be taught the minimum content within that area of learning; and
  - require that the teaching in that area of learning is consistent with that minimum content.
- (2) The Department may by order specify, in relation to an area of learning and pupils in a key stage, such minimum content as it considers appropriate.
- (3) The minimum content specified in relation to an area of learning and pupils in a key stage must incorporate knowledge, understanding and skills relevant to each of the contributory elements which fall within that area of learning in relation to pupils in that key stage.
- (4) It is the duty of the Department so to exercise the powers conferred by paragraph (2) as—
- to set in place as soon as is practicable minimum content in relation to all the areas of learning and each key stage, and

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- (b) to revise any existing minimum content whenever it considers it necessary or appropriate to do so.
- (5) In relation to key stage 4, paragraphs (1) to (4) apply only in relation to the areas of learning called—
  - (a) Learning for life and work; and
  - (b) Physical education.

#### Commencement Information

**I3** [Art. 7](#) in force for certain purposes at 27.7.2006 and otherwise at 1.8.2006, see [art. 1\(2\)\(3\)](#)

#### Skills

- 8.—(1)** The curriculum for a grant-aided school must ensure, wholly or mainly through the teaching of the minimum content of areas of learning and religious education, the acquisition and development by pupils of—
- (a) the cross-curricular skills; and
  - (b) any other skills specified by order of the Department.
- (2) The cross-curricular skills are—
- (a) communication;
  - (b) using mathematics;
  - (c) using information and communications technology.
- (3) The Department may by order specify, in relation to a cross-curricular skill and pupils in key stages 1, 2, 3 and 4, such levels of progression as it considers appropriate for that skill.
- (4) It is the duty of the Department so to exercise the powers conferred by paragraph (3) as—
- (a) to set in place as soon as is practicable levels of progression in relation to pupils in key stages 1, 2 and 3; and
  - (b) to revise any existing levels of progression whenever it considers it necessary or appropriate to do so.

#### Commencement Information

**I4** [Art. 8](#) in force for certain purposes at 27.7.2006 and otherwise at 1.8.2006, see [art. 1\(2\)\(3\)](#)

#### Assessment

- 9.—(1)** The curriculum for every grant-aided school shall require each pupil in each key stage at the school to be assessed in each school year in accordance with such assessment arrangements as are specified in relation to that pupil and that key stage under paragraph (2).
- (2) The Department may by order specify, in relation to—
- (a) an area of learning;
  - (b) a cross-curricular skill; and
  - (c) any other skill specified under Article 8(1)(b),
- such assessment arrangements as it considers appropriate for pupils in each key stage.
- (3) Assessment arrangements specified under paragraph (2)(b)—

- (a) must, in the case of pupils in key stages 1, 2 and 3, and
  - (b) may in the case of pupils in key stage 4,
- require pupils to be assessed by reference to levels of progression specified under Article 8(3).
- (4) It is the duty of the Department so to exercise the powers conferred by paragraph (2) as—
- (a) to set in place as soon as is practicable assessment arrangements in relation to pupils in the foundation stage and key stages 1, 2 and 3; and
  - (b) to revise any existing assessment arrangements whenever it considers it necessary or appropriate to do so.
- (5) An order under paragraph (2) may impose such duties on the Boards of Governors and principals of grant-aided schools as appear to the Department to be necessary or expedient for the purpose of implementing the assessment arrangements specified by the order.

#### **Commencement Information**

**I5** [Art. 9](#) in force for certain purposes at 27.7.2006 and otherwise at 1.8.2006, see [art. 1\(2\)\(3\)](#)

#### **Orders under Articles 7 to 9: supplementary**

- 10.**—(1) This Article applies to any order under—
- (a) Article 7(2) (power to specify minimum content);
  - (b) Article 8(1)(b) (power to specify other skills);
  - (c) Article 8(3) (power to specify levels of progression); or
  - (d) Article 9(2) (power to specify assessment arrangements).
- (2) The order may, instead of containing the provision to be made, refer to provisions in an approved document and direct that those provisions are to have effect or, as the case may be, are to have effect as amended by the order.
- (3) The order may not require—
- (a) that any particular period or periods of time should be allocated during any key stage to the teaching of any matter; or
  - (b) that provision of any particular kind should be made in school timetables for the periods to be allocated to such teaching during any such stage.
- (4) The Department may refer its proposal to make the order to NICCEA.
- (5) Where a proposal is referred to NICCEA under paragraph (4), NICCEA shall, before such date as the Department may direct—
- (a) consult, with regard to the proposal, with such bodies or persons as appear to NICCEA to be concerned; and
  - (b) make a report to the Department containing—
    - (i) a summary of the views expressed during the consultations;
    - (ii) NICCEA's recommendations as to the proposal; and
    - (iii) such other advice relating to the proposal as NICCEA thinks fit.
- (6) In paragraph (2) “approved document” means a document which has been—
- (a) prepared by NICCEA;
  - (b) approved by the Department; and
  - (c) published by NICCEA.

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(7) NICCEA shall send to the Board of Governors of every grant-aided school which appears to NICCEA to be affected a copy of every document published by it under paragraph (6)(c).

#### Commencement Information

**I6** [Art. 10](#) in force for certain purposes at 27.7.2006 and otherwise at 1.8.2006, see [art. 1\(2\)\(3\)](#)

#### [<sup>F4</sup>Relationships and Sexuality Education

**10A.**—(1) The Department must, by 1st January 2024, issue guidance on the content and delivery of the education required to be provided by virtue of Article 5(1A).

(2) The guidance must be issued with a view to ensuring that—

- (a) pupils receive education on sexual and reproductive health and rights, covering prevention of early pregnancy and access to abortion; and
- (b) the education received by pupils is age-appropriate, comprehensive and scientifically accurate.

(3) In exercising their functions as respects the school, the Board of Governors and principal of every grant-aided school must have regard to guidance issued under paragraph (1).

(4) The Department may at any time revise its guidance under paragraph (1).

(5) The Department must by regulations make provision about the circumstances in which, at the request of a parent, a pupil may be excused from receiving the education required to be provided by virtue of Article 5(1A), or specified elements of that education.

(6) Before making regulations under paragraph (5), the Department must consult such persons as the Department considers appropriate.]

#### Textual Amendments

**F4** [Art. 10A](#) inserted (6.6.2023 for specified purposes, 1.7.2023 in so far as not already in force) by [The Relationships and Sexuality Education \(Northern Ireland\) \(Amendment\) Regulations 2023 \(S.I. 2023/602\)](#), regs. 1(2)(3), **2(3)**

#### Core syllabus for religious education

**11.**—(1) Subject to paragraph (2), the Department may by order specify a core syllabus for the teaching of religious education in grant-aided schools, that is to say a syllabus which—

- (a) sets out certain core matters, skills and processes which are to be included in the teaching of religious education to pupils in such schools, but does not prevent or restrict the inclusion of any other matter, skill or process in that teaching; and
- (b) is such that the teaching in a controlled school (other than a controlled integrated school) of any of the matters, skills or processes set out in that syllabus would not contravene Article 21(2) of the 1986 Order.

(2) The Department shall not specify a core syllabus under paragraph (1) unless a draft of that syllabus—

- (a) was prepared by a group of persons (“the drafting group”) appearing to the Department to be persons having an interest in the teaching of religious education in grant-aided schools;



- (b) was published, in accordance with directions given by the Department, together with a notice inviting representations to be made before a specified date not being less than four weeks from the date of publication;
  - (c) was revised, if necessary, by the drafting group, after considering all representations made in accordance with the notice mentioned in sub-paragraph (b); and
  - (d) was submitted to the Department by the drafting group together with—
    - (i) a report by that group on the nature of representations made in accordance with the notice mentioned in sub-paragraph (b) and on the extent to which, and the manner in which, account has been taken of those representations in the draft submitted to the Department; and
    - (ii) any other information which the Department may request.
- (3) Paragraphs (1) and (2) apply with appropriate modifications to amendments to, or a revision of, an existing core syllabus.
- (4) An order under paragraph (1) may, instead of containing the provisions to be made, refer to provisions in a document published as specified in the order and direct that those provisions are to have effect or, as the case may be, are to have effect as amended by the order.

#### **Commencement Information**

**I7** [Art. 11](#) in force for certain purposes at 27.7.2006 and otherwise at 1.8.2006, see [art. 1\(2\)\(3\)](#)

#### *Duties relating to the curriculum*

#### **Determination of curriculum policy and of curriculum**

- 12.**—(1) The scheme of management for every grant-aided school shall provide for it to be the duty of the Board of Governors—
- (a) to determine, and keep under review, its policy in relation to the curriculum for the school; and
  - (b) to make, and keep up to date, a written statement of that policy.
- (2) The policy determined by a Board of Governors under paragraph (1)(a) in relation to the curriculum for a school shall be compatible with—
- (a) any minimum content specified under Article 7(1) which forms part of that curriculum;
  - (b) any specification for a course of study which forms part of that curriculum and leads to an examination for a qualification approved under Article 81 of the 1998 Order; and
  - (c) the statutory provisions relating to education (including, in particular, those relating to children with special educational needs).
- (3) In discharging its duty under paragraph (1), a Board of Governors shall consider, in particular—
- (a) the range of the curriculum; and
  - (b) the balance between, and coherence of, its different components.
- (4) The scheme of management for every grant-aided school shall provide for it to be the duty of the Board of Governors—
- (a) when determining or reviewing its policy in relation to the curriculum for the school—
    - (i) to take account of the findings of any inspection of the school under Article 102 of the 1986 Order;

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(ii) to consider any representations made to it regarding the curriculum by [<sup>F5</sup>the Authority] , the Council for Catholic Maintained Schools (where the school is a Catholic maintained school) and any other body or person connected with the community served by the school;

(b) to consult the principal of the school before making or varying any statement under paragraph (1)(b).

(5) The scheme of management for every grant-aided school shall provide for the principal to be allocated such functions as will, subject to the resources available, enable him to determine and organise the curriculum and secure that it is followed within the school.

(6) In discharging his duties in relation to the curriculum for a school the principal shall ensure that the curriculum is compatible with the policy of the Board of Governors as expressed in its statement under paragraph (1)(b).

(7) In carrying out its functions under the Education Orders or any other statutory provision in relation to a school under its management, a Board of Governors shall have regard to its policy in relation to the curriculum for the school, as expressed in its statement under paragraph (1)(b).

(8) The Board of Governors of a grant-aided school shall send a copy of every statement made by it under paragraph (1)(b) to—

(a) [<sup>F6</sup>the Authority] ; and

(b) if the school is a Catholic maintained school, the Council for Catholic Maintained Schools.

#### Textual Amendments

**F5** Words in art. 12(4)(a)(ii) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 25(1) (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

**F6** Words in art. 12(8)(a) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 25(1) (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

#### Duties with respect to requirements of this Part

**13.—**(1) In relation to any grant-aided school and any school year, it shall be the duty of the Board of Governors to exercise its functions with a view to securing and the duty of the principal to secure—

(a) that religious education is given in accordance with the provision for such education included in the school's curriculum by virtue of Article 5(1)(a);

(b) that the minimum content for each area of learning is taught as required by the school's curriculum as subsisting at the beginning of that year;

(c) that pupils are assessed as required by Article 9(1).

(2) In relation to any grant-aided school and any time before the coming into operation of an order under Article 7(2) specifying minimum content in relation to a particular area of learning and pupils in a key stage, it shall be the duty of the Board of Governors to exercise its functions with a view to securing and the duty of the principal to secure that knowledge, understanding and skills falling within that area of learning are taught to pupils in that key stage for a reasonable time.

(3) It shall be the duty of—

(a) the Department and [<sup>F7</sup>the Authority] in relation to all grant-aided schools;

(b) the Council for Catholic Maintained Schools in relation to Catholic maintained schools,

to exercise their functions with a view to ensuring that the Boards of Governors and principals of grant-aided schools are in a position to fulfil their duties under the preceding provisions of this Part.

#### Textual Amendments

- F7** 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)

#### *Special cases*

#### **Development work and experiments**

**14.**—(1) For the purpose of enabling development work or experiments to be carried out, the Department may direct as respects a particular grant-aided school that, for such period as may be specified in the direction, Articles 5 to 9—

- (a) shall apply with such modifications as may be so specified; or
- (b) shall not apply.

(2) A direction under paragraph (1) may apply either generally or in such cases as may be specified in the direction.

(3) A direction shall not be given under paragraph (1) in relation to a school except on the application of—

- (a) the Board of Governors of the school;
- (b) NICCEA, with the agreement of the Board of Governors of the school; or
- (c) [<sup>F8</sup>the Authority] , with the agreement of the Board of Governors of the school.

(4) Before giving a direction under paragraph (1) on an application mentioned in paragraph (3) (a) or (b), the Department shall consult [<sup>F9</sup>the Authority] .

(5) The Department may make it a condition of a direction under paragraph (1) that any body by which or with whose agreement the request for the direction was made should, when so directed or at specified intervals, report to the Department on any matters specified by the Department.

#### Textual Amendments

- F8** Words in *art. 14(3)(c)* substituted (1.4.2015) by *Education Act (Northern Ireland) 2014 (c. 12)*, **Sch. 3 para. 25(2)** (with *Sch. 2 para. 4(3)*); S.R. 2015/35, art. 2(b)
- F9** Words in *art. 14(4)* substituted (1.4.2015) by *Education Act (Northern Ireland) 2014 (c. 12)*, **Sch. 3 para. 25(2)** (with *Sch. 2 para. 4(3)*); S.R. 2015/35, art. 2(b)

#### **Exceptions by regulations**

**15.** The Department may by regulations provide that Articles 5 to 9—

- (a) shall apply with such modifications as may be specified in the regulations; or
- (b) shall not apply;

in such cases or circumstances as may be so specified.

**Status:** This version of this Order contains provisions that are prospective.  
**Changes to legislation:** There are currently no known outstanding effects for the  
 The Education (Northern Ireland) Order 2006. (See end of Document for details)

### Commencement Information

**18** Art. 15 in force for certain purposes at 27.7.2006 and otherwise at 1.8.2006, see art. 1(2)(3)

### Pupils with statements of special educational needs

**16.** The special educational provision for any pupil specified in a statement under Article 16 of the 1996 Order of his special educational needs may include provision—

- (a) applying Articles 5 to 9 with such modifications as may be specified in the statement; or
- (b) excluding the application of those Articles.

### Temporary exemptions for individual pupils

**17.—(1)** The Department may make regulations enabling the principal of any grant-aided school, in such cases or circumstances and subject to such conditions as may be prescribed—

- (a) to direct as respects a registered pupil at the school that, for such period as may be specified in the direction (the “operative period” of the direction), Articles 5 to 9—
  - (i) shall apply with such modifications as may be so specified; or
  - (ii) shall not apply; and
- (b) to revoke any direction given by him under the regulations and to vary any such direction except so as to extend its operative period.

(2) The conditions prescribed by the regulations shall, in particular, limit the period that may be specified in any direction given under the regulations to a maximum period specified in the regulations; and any maximum period specified in the regulations in relation to directions given under the regulations or in relation to directions so given in any circumstances so specified—

- (a) shall be either—
  - (i) a fixed period not exceeding 6 months; or
  - (ii) a period determinable (in such manner as may be specified in the regulations) not later than 6 months from its beginning; and
- (b) may differ according to whether or not the direction in question is given in respect of a period beginning immediately after the end of the operative period of a previous direction or within such period after the end of the operative period of a previous direction as may be specified in the regulations.

(3) Where a principal gives a direction under regulations made under this Article in the case of any pupil or varies any direction so given, he shall give the information mentioned in paragraph (4), in such manner as may be prescribed, to the Board of Governors and shall take such steps as may be prescribed to give that information also to a parent of the pupil.

(4) That information is the following—

- (a) the fact that he has taken the action in question, its effect and his reasons for taking it;
- (b) the provision that is being or is to be made for the pupil's education during the operative period of the direction; and
- (c) either—
  - (i) a description of the manner in which he proposes to secure the full application in relation to the pupil after the end of that period of Articles 5 to 9; or
  - (ii) an indication of his opinion that the pupil has or probably has special educational needs by virtue of which [F7the Authority] would be required to determine the special

educational provision that should be made for him (whether initially or on a review of any statement of his special educational needs [<sup>F7</sup>the Authority] is for the time being required under Article 16 of the 1996 Order to maintain).

(5) Where the principal of a grant-aided school includes such an indication of opinion as is mentioned in paragraph (4)(c)(ii) in information given to the Board of Governors under paragraph (3), he shall also give that information, in such manner as may be prescribed, to [<sup>F7</sup>the Authority].

(6) It shall be the duty of [<sup>F7</sup>the Authority] on receiving information given to [<sup>F7</sup>the Authority] under paragraph (5) by the principal of any grant-aided school which includes such an indication of opinion with respect to a pupil, to consider whether any action on its part is required in the case of that pupil under Article 15 of the 1996 Order (assessment of special educational needs).

(7) Where the principal of a grant-aided school—

- (a) gives, revokes or varies any direction with respect to a pupil under regulations made under this Article;
- (b) refuses to give, revoke or vary such a direction in response to a request made, in such manner and circumstances as may be prescribed, by the parent of a registered pupil at the school; or
- (c) fails within such period as may be prescribed following the making of such a request to give, revoke or vary such a direction in accordance with the request,

the parent of the pupil concerned may appeal to the Board of Governors.

(8) On any such appeal the Board of Governors may—

- (a) confirm the principal's action; or
- (b) direct the principal to take such action authorised by the regulations as it considers appropriate in the circumstances;

and it shall be the duty of the principal to comply with any directions of the Board of Governors under sub-paragraph (b).

(9) The Board of Governors shall notify the appellant and the principal in writing of its decision on any such appeal.

(10) Before making any regulations under this Article the Department shall consult any persons with whom consultation appears to be desirable.

#### **Textual Amendments**

**F7** 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)

#### **Commencement Information**

**I9** Art. 17 in force for certain purposes at 27.7.2006 and otherwise at 1.8.2006, see art. 1(2)(3)

### *Access to courses for older pupils*

#### **Access to courses: pupils in key stage 4**

**18.**—(1) The Board of Governors of a grant-aided school shall, in relation to all registered pupils at the school who are in key stage 4, provide access to at least the specified number of qualifying courses of which—

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- (a) not fewer than one third shall be applied courses;
  - (b) not fewer than one third shall be general courses;
  - (c) at least one shall be a course falling within each area of learning in relation to that key stage;
  - (d) at least one shall be a course in an official language of the European Union (other than English and, in Irish speaking schools, Irish).
- (2) For the purposes of this Article “the specified number” is such number as the Department may for the time being specify by directions.
- (3) For the purposes of this Article a “qualifying course” is a course of study which—
- (a) leads to an external qualification for the time being approved by the Department under Article 81(1) of the 1998 Order; and
  - (b) is specified by the Department as a qualifying course for those purposes.
- (4) For the purposes of this Article a Board of Governors of a grant-aided school provides access to a qualifying course if—
- (a) the course is provided by the school; or
  - (b) the course is provided on behalf of the school in accordance with arrangements made under Article 21.

#### **Access to courses: pupils over compulsory school age**

- 19.**—(1) The Board of Governors of a grant-aided school shall, in relation to all registered pupils at the school who are over compulsory school age, provide access to at least the specified number of qualifying courses of which—
- (a) not fewer than one third shall be applied courses;
  - (b) not fewer than one third shall be general courses.
- (2) For the purposes of this Article “the specified number” is such number as the Department may for the time being specify by directions.
- (3) For the purposes of this Article a “qualifying course” is a course of study which—
- (a) leads to an external qualification for the time being approved by the Department under Article 81(2) of the 1998 Order; and
  - (b) is specified by the Department as a qualifying course for those purposes.
- (4) For the purposes of this Article a Board of Governors of a grant-aided school provides access to a qualifying course if—
- (a) the course is provided by the school; or
  - (b) the course is provided on behalf of the school in accordance with arrangements made under Article 21.

#### **“Applied” and “general” courses**

- 20.** For the purposes of Articles 18 and 19 the Department shall issue and may from time to time revise—
- (a) a list of courses appearing to the Department to be wholly or mainly applied courses; and
  - (b) a list of courses appearing to the Department to be wholly or mainly general courses;
- and in those Articles reference to an applied course is to a course for the time being included in the list under paragraph (a) and reference to a general course is to a course for the time being included in the list under paragraph (b).

### **Arrangements for provision of secondary education on behalf of a grant-aided school**

**21.**—(1) The Board of Governors of a grant-aided school may enter into arrangements to secure the provision of secondary education on behalf of the school by—

- (a) any other grant-aided school;
- (b) any institution of further education;
- (c) any other person or body approved by the Department and appearing to the Board of Governors to be qualified and equipped to provide that education.

(2) Arrangements under this Article—

- (a) shall be in writing;
- (b) shall be made—
  - (i) in the case of arrangements under paragraph (1)(a), with the Board of Governors of the other grant-aided school;
  - (ii) in the case of arrangements under paragraph (1)(b), with the governing body of the institution of further education;
  - (iii) in the case of arrangements under paragraph (1)(c), with the person or body in question;
- (c) may be varied from time to time;
- (d) may include such terms and conditions as the Board of Governors think necessary or appropriate, including terms and conditions—
  - (i) as to any charges to be paid by the Board of Governors;
  - (ii) as to the nature and quality of the secondary education to be provided under the arrangements;
  - (iii) as to the provision to the Board of Governors of such reports and other information and the carrying out on behalf of the Board of Governors of such actions as will facilitate or assist the Board of Governors in carrying out any statutory duty in relation to the pupils to whom the arrangements relate;
  - (iv) designed to safeguard the welfare of such pupils, to protect such pupils from abuse or to provide for discipline among such pupils.

(3) In determining—

- (a) whether to enter into any arrangements under this Article; and
- (b) the terms and conditions on which to enter any such arrangements,

a Board of Governors shall take account of such guidance as may from time to time be issued by the Department.

(4) In Article 14 (1) of the Further Education (Northern Ireland) Order 1997 (principal powers of governing body of institution of further education) for sub-paragraph (aa) substitute—

- “(aa) to provide secondary education—
  - (i) for registered pupils of a grant-aided school in accordance with arrangements entered into under Article 21 of the Education (Northern Ireland) Order 2006;
  - (ii) for children who are not registered pupils at any grant-aided school in accordance with arrangements entered into with a board under Article 83(2)(b) of the Education (Northern Ireland) Order 1998”.

*Status: This version of this Order contains provisions that are prospective.*  
*Changes to legislation: There are currently no known outstanding effects for the*  
*The Education (Northern Ireland) Order 2006. (See end of Document for details)*

## Exceptions

22.—(1) The Department may direct as respects a particular grant-aided school or any description of grant-aided school that, for such period as may be specified in the direction, Article 18 or Article 19 or both Articles—

- (a) shall apply with such modifications as may be so specified; or
- (b) shall not apply.

(2) Before giving a direction under paragraph (1) which affects any school the Department shall consult—

- (a) the <sup>F10</sup>Authority] ; and
- (b) in the case of a Catholic maintained school, the Council for Catholic Maintained Schools.

(3) The Department may make it a condition of a direction under paragraph (1) affecting any school that the Board of Governors or <sup>F11</sup>the Authority] should, when so directed or at specified intervals, report to the Department on any matters specified by the Department.

### Textual Amendments

**F10** Words in art. 22(2)(a) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 25(3) (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

**F11** Words in art. 22(3) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 25(4) (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

### *Miscellaneous and supplementary*

## Curriculum advice and support by boards

23.—(1) <sup>F7</sup>the Authority] shall prepare and submit to the Department a scheme for the provision to all grant-aided schools <sup>F12</sup>... of advisory and support services in relation to the curricula and staff of such schools.

(2) A scheme under paragraph (1) shall be in such form as the Department may direct and shall in particular contain provision—

- (a) requiring <sup>F7</sup>the Authority] , in accordance with a programme prepared under Article 149 of the 1989 Order, to secure the provision of further training for teachers (whether or not employed on the staff of a particular school);
- (b) empowering <sup>F7</sup>the Authority] to pay to persons undergoing the training referred to in sub-paragraph (a) travelling and other allowances at such rate or of such amount and subject to such conditions as <sup>F7</sup>the Authority] may determine;
- (c) enabling <sup>F7</sup>the Authority] to provide teaching and training materials for use in schools or by persons undergoing the training referred to in sub-paragraph (a);
- (d) enabling services, training and materials mentioned in the scheme to be provided by <sup>F7</sup>the Authority] itself or through the agency of another <sup>F13</sup>..., person or body;
- (e) requiring such services, training and materials to be provided free of charge;
- (f) requiring <sup>F7</sup>the Authority] to secure the agreement of the Board of Governors of a school to the entry into that school for the purposes of the scheme of any persons employed by <sup>F7</sup>the Authority] .

(3) Before preparing a scheme under paragraph (1), <sup>F7</sup>the Authority] shall consult—



- (a) the Board of Governors of every school in its area; and
- (b) such other persons as [<sup>F7</sup>the Authority] considers appropriate.

(4) The Department may request [<sup>F7</sup>the Authority] to furnish such information in connection with any scheme submitted to the Department under this Article as the Department may require, including information as to the results of consultations under paragraph (3).

(5) The Department may, after making such modifications, if any, in the scheme as after consultation with [<sup>F7</sup>the Authority] it considers necessary or expedient, approve any scheme submitted to it under this Article.

(6) It shall be the duty of [<sup>F7</sup>the Authority] to give effect to the provisions of any scheme which has been approved by the Department under this Article.

(7) Where—

- (a) [<sup>F7</sup>the Authority] fails to submit a scheme to the Department in accordance with this Article; or
- (b) the Department refuses to approve a scheme submitted to it under this Article,

the Department may, after consultation with [<sup>F7</sup>the Authority] and such other persons as the Department thinks fit, make a scheme which shall be treated for the purposes of paragraphs (6) and (8) as if it had been made by [<sup>F7</sup>the Authority] and approved by the Department under this Article.

(8) [<sup>F7</sup>the Authority] 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 (3) to (7) shall apply in relation to any such revised scheme or amendment as they apply in relation to the scheme.

#### Textual Amendments

- F7** 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)
- F12** Words in art. 23(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)
- F13** Word in art. 23(2)(d) 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)

#### Provision of information

**24.—**(1) The Department may make regulations requiring [<sup>F7</sup>the Authority] to make available, either generally or to prescribed persons, such information relevant for the purposes of this Part as may be prescribed.

(2) The Department may make regulations requiring the Board of Governors or the principal of each grant-aided school to make available either generally or to prescribed persons—

- (a) such information relating to—
  - (i) the curriculum of the school;
  - (ii) the educational provision made by the school for pupils at the school and the courses of study which are provided by or on behalf of the school; and
  - (iii) the educational achievements of pupils at the school (including the results of any assessments of those pupils for the purpose of ascertaining those achievements); and
  - (iv) any other matter relevant for the purposes of this Part,as may be prescribed;

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- (b) such copies of—
- (i) any written statement made by the Board of Governors under Article 12(1)(b); and
  - (ii) any report prepared by the Board of Governors under Article 125 of the 1989 Order as may be prescribed.
- (3) Regulations under paragraph (1) or (2) may—
- (a) provide for information and documents to be made available in pursuance of the regulations in such form and manner and at such times as may be prescribed;
  - (b) authorise [F7the Authority] , Boards of Governors and principals to make a charge (not exceeding the cost of supply) for any documents supplied by them in pursuance of the regulations.
- (4) Before making any regulations under paragraph (1) or (2) the Department shall consult—
- (a) [F7the Authority] ;
  - (b) the Council for Catholic Maintained Schools;
  - (c) the Boards of Governors and principals of a number of grant-aided schools selected by the Department as being a representative sample of all such schools affected by the regulations; and
  - (d) any other person with whom consultation appears to it to be desirable.
- (5) Regulations under this Article shall not require information as to the results of an individual pupil's assessment to be made available to any persons or bodies other than—
- (a) the pupil concerned and his parents;
  - (b) the Board of Governors of any school attended by the pupil concerned;
  - (c) the Board of Governors of any other school if—
    - (i) the pupil has been admitted to that school; or
    - (ii) the parent of the pupil requests that the information be made available to that Board;
 or
  - (d) a body or person prescribed by the regulations,
- and shall not require such information to be made available to any body or person mentioned in subparagraphs (b) to (d) except—
- (i) in the case of information to which paragraph (6) applies, where the Department so directs;
  - (ii) in any other case, where necessary for the purposes of the performance by that body or person of any functions under the Education Orders.
- (6) This paragraph applies to information as to the results of—
- (a) any assessment of a pupil at a special school; or
  - (b) any assessment of a pupil in any area of learning or skill in a school year if at any time during that school year any provision has been made under Article 14, 15, 16 or 17 in relation to that pupil excluding or modifying the application of any of Articles 5 to 9 in relation to that area of learning or skill.
- (7) References in this Article to an assessment of a pupil are references to an assessment whether made under this Part or otherwise.

#### Textual Amendments

- F7** 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)

### Commencement Information

**I10** Art. 24 in force for certain purposes at 27.7.2006 and otherwise at 1.8.2006, see art. 1(2)(3)

### Complaints

**25.**—(1) [F7the Authority] shall, in accordance with regulations under paragraph (4), appoint a tribunal (in this Article referred to as a complaints tribunal) to hear and determine any complaint which is to the effect that [F7the Authority] or the Board of Governors of a grant-aided school<sup>F14</sup> ...—

- (a) has acted or is proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed on it by or under a relevant provision; or
- (b) has failed to discharge any such duty.

(2) In paragraph (1) “relevant provision” means—

- (a) any of the preceding provisions of this Part;
- (b) Articles 148 and 149 (in the case of [F7the Authority] only) of the 1989 Order;
- (c) any other statutory provision relating to the curriculum for grant-aided schools;
- (d) any statutory provision relating to collective worship in grant-aided schools; or
- (e) Article 46A of the 1986 Order.

(3) For the purposes of any complaint made by virtue of paragraph (2)(e), [F7the Authority] or Board of Governors shall not be taken to have acted or to be proposing to act unreasonably if it has complied, or is proposing to comply, with the guidance issued under Article 46A(6) (in the case of a Board of Governors) or (7) (in the case of [F7the Authority] ) of the 1986 Order.

(4) The Department shall by regulations provide for the constitution and procedure of a complaints tribunal and, without prejudice to the generality of the foregoing, such regulations—

- (a) shall provide for the membership of the tribunal and may provide for disqualifying prescribed persons or descriptions of person for membership of the tribunal;
- (b) may contain provision requiring the tribunal to hear and determine the appeal within such period as may be specified in, or determined in accordance with, the regulations;
- (c) may provide for the tribunal in considering a complaint to have regard in particular to any matters specified in the regulations;
- (d) may provide for the tribunal to sit in private, except in such circumstances as may be specified in, or determined in accordance with, the regulations;
- (e) may provide that all matters relating to the procedure on the hearing or determination of any complaint which are not specifically regulated by the regulations shall be determined by [F7the Authority] .

(5) On determining any complaint made to it under this Article a complaints tribunal shall send notice of its determination and of the reasons for that determination to—

- (a) the person by whom or body by which the complaint was made (“the complainant”);
- (b) [F7the Authority] or Board of Governors in respect of which the complaint was made (“the respondent”).

(6) Where—

- (a) a complaints tribunal upholds a complaint in whole or in part; and
- (b) it appears to the complaints tribunal that any matter which was the subject of the complaint (so far as upheld) should be remedied,

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the tribunal may include in a notice given under paragraph (5) a requirement for the respondent to take such steps as may be specified in the notice within such time as may be so specified for the purpose of remedying that matter.

(7) Where it appears to a complaints tribunal that a respondent has not, within the time specified in a notice under paragraph (5), taken the steps so specified or otherwise remedied the matter mentioned in paragraph (6)(b), it may refer that matter to the Department together with a copy of the notice under paragraph (5).

(8) Where any matter is referred to the Department under paragraph (7) it shall—

- (a) consider the matter after consulting the complaints tribunal, the complainant and the respondent; and
- (b) where it considers it appropriate, give such directions under Article 101 of the 1986 Order as appear to the Department to be expedient for the purpose of remedying the matter.

(9) The Department shall not entertain under Article 101(4) of the 1986 Order any complaint falling within paragraph (1) unless a complaint concerning the same matter has been made to, and heard and determined by, a complaints tribunal under this Article.

(10) A complaints tribunal shall not be regarded as a committee of [<sup>F7</sup>the Authority] .

(11) Article 79(1) of the 1986 Order shall apply to members of a complaints tribunal <sup>F15</sup>....

#### Textual Amendments

- F7** 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)
- F14** Words in art. 25(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)
- F15** Words in art. 25(11) 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)

#### Commencement Information

- I11** Art. 25 in force for certain purposes at 27.7.2006 and otherwise at 1.8.2006, see art. 1(2)(3)

### Application of this Part

**26.**—(1) Nothing in this Part, except—

- (a) Article 23;
  - (b) Article 24(1) to (4) with the omission of the words in brackets in Article 24(2)(a)(iii) and of Article 24(2)(b)(i); and
  - (c) Article 25, in so far as it applies for the purposes of those provisions,
- shall apply in relation to a nursery school or a nursery class in a primary school.

(2) Nothing in this Part, except—

- (a) Article 23; and
  - (b) Article 25, in so far as it applies for the purposes of that Article,
- shall apply in relation to a school established in a hospital.

## PART III

### MISCELLANEOUS AND SUPPLEMENTARY

#### *Admissions*

#### **Admission to grammar schools**

- 27.—(1) Article 14 of the 1997 Order (admission to grammar schools) shall cease to have effect.
- (2) In Article 13 of that Order (admission to primary or secondary school, other than grammar school) in the heading and in paragraph (1) omit “(other than a grammar school)”.
- (3) In Article 15 omit—
- (a) in paragraph (1) the words “or 14”;
  - (b) in paragraph (2)(a) the words “or 14(7)(b)”;
  - (c) paragraph (2)(b) and (c).

#### **Commencement Information**

- I12** Art. 27 partly in force; art. 27 in force for certain purposes at 1.10.2006, see art. 1(5) (with application as mentioned in the commencing provision)

#### **Admission criteria**

- 28.—(1) For Article 16 of the 1997 Order substitute—

#### **“Admission criteria**

- 16.—(1) Subject to the following provisions of this Article, the Board of Governors of each grant-aided school shall draw up, and may from time to time amend, the criteria to be applied in selecting children for admission to the school under Article 13.
- (2) When drawing up or amending criteria under this Article—
- (a) the Board of Governors of a controlled school shall consider any representations made to it by the board responsible for the management of the school;
  - (b) the Board of Governors of a Catholic maintained school shall consider any representations made to it by the Council for Catholic Maintained Schools.
- (3) Where the criteria to be applied in respect of any school year have been published under Article 17(2), the Board of Governors shall not amend those criteria in respect of that school year without the approval of the Department.
- (4) The criteria drawn up by the Board of Governors of a school under paragraph (1)—
- (a) shall be such as to ensure that the Board of Governors by applying those criteria can comply with Article 13 before the criteria are exhausted;
  - (b) shall provide for all children resident in Northern Ireland at the time of their proposed admission to the school to be selected for admission to the school before any child not so resident may be selected for admission;
  - (c) shall in all other respects comply—
    - (i) in the case of a secondary school, with regulations under paragraph (5); and
    - (ii) in the case of a primary school, with regulations under paragraph (9).

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*Changes to legislation: There are currently no known outstanding effects for the*  
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- (5) Regulations may make provision in relation to the drawing up of criteria under paragraph (1) by the Board of Governors of a secondary school; and in particular such regulations may—
- (a) require the Board of Governors to include only such criteria, or criteria of such description, as are specified (“permitted criteria”);
  - (b) require the Board of Governors to include a specified number (or minimum number) of permitted criteria;
  - (c) require the Board of Governors to include—
    - (i) any specified permitted criteria;
    - (ii) any specified combination of permitted criteria;
    - (iii) a specified combination of permitted criteria selected in a specified manner;
  - (d) require the Board of Governors to include provision as to the sequence in which different criteria are to be applied in making any selection using the criteria.
- (6) In paragraph (5) “specified” means specified in the regulations under that paragraph.
- (7) Regulations may—
- (a) confer on the Department power to direct the Board of Governors of a secondary school to reconsider any criteria drawn up by that Board under paragraph (1) (but not yet published under Article 17(2)) in the light of concerns of the Department as to the likely effect of the application of those criteria on admissions to the school; and
  - (b) provide that where such a direction has been given, the criteria drawn up by the Board of Governors under paragraph (1) may not be published under Article 17(2) without the consent of the Department.
- (8) Before making any regulations under paragraph (5) or (7) the Department shall consult—
- (a) the Boards of Governors of secondary schools; and
  - (b) such other bodies or persons as appear to the Department to be appropriate.
- (9) Regulations may provide, in relation to any primary school—
- (a) that the criteria drawn up under paragraph (1) shall include such matters, or matters of such description, as are specified in the regulations;
  - (b) that those criteria shall not include such matters, or matters of such description, as may be so specified.”.
- (2) In Article 16 of the 1997 Order (as substituted by paragraph (1))—
- (a) in paragraph (4)(c)(i) after “with” insert “ paragraph (4A) and ”; and
  - (b) after paragraph (4) insert—
 

“(4A) The criteria drawn up by the Board of Governors of a secondary school under paragraph (1) shall not include the academic ability or aptitude of the child (whether assessed by reference to his performance in any test or examination or by any other means whatsoever).”.

#### **Commencement Information**

**I13** [Art. 28](#) partly in force; [art. 28\(1\)](#) in force for certain purposes at 1.10.2006, see [art. 1\(5\)](#) (with application as mentioned in the commencing provision); [art. 28\(2\)](#) coming into force in accordance with [art. 1\(6\)](#)

## **Admission to secondary school: exceptional circumstances**

**29.**—(1) After Article 16 of the 1997 Order insert—

### **“Admission to secondary school: exceptional circumstances**

**16A.**—(1) The parent of a child of compulsory school age may apply to the body established by regulations under paragraph (6) (“the body”) for a direction that on the grounds of exceptional circumstances specified in the application the child is to be admitted to a grant-aided secondary school so specified (“the specified school”).

(2) On the hearing of an application under this Article—

- (a) if the body is satisfied that exceptional circumstances exist which require the admission of the child to the specified school, the body shall direct the Board of Governors of that school to admit the child to the school;
- (b) in any other case, the body shall dismiss the application.

(3) It shall be the duty of the Board of Governors of the specified school to comply with any direction given under paragraph (2)(a).

(4) The Department shall make regulations as to the meaning of “exceptional circumstances” for the purposes of this Article.

(5) Such regulations may—

- (a) specify matters to be taken into account, or not to be taken into account, in determining whether, in relation to a particular pupil, there are exceptional circumstances which require his admission to a particular school;
- (b) give examples of—
  - (i) circumstances which may be regarded for the purposes of this Article as exceptional circumstances requiring the admission of a child to a particular school;
  - (ii) circumstances which may not be so regarded.

(6) The Department shall by regulations provide for the constitution and procedure of a body to determine applications under this Article; and, in particular, such regulations—

- (a) shall provide for the membership of the body and may provide for disqualifying prescribed persons or descriptions of person for membership of the body;
- (b) may contain provision requiring the body to hear and determine an application within such period as may be specified in, or determined in accordance with, the regulations;
- (c) may provide for the body to sit in private, except in such circumstances as may be specified in, or determined in accordance with, the regulations;
- (d) may provide that all matters relating to the procedure on an application which are not specifically regulated by the regulations shall be determined by the Department.

(7) The Department may make payments by way of travelling and subsistence allowances to members of the body.

(8) Payments under paragraph (7) shall be made at such rates and on such conditions as may be determined by the Department.”.

(2) In Article 10(3) of the 1997 Order (calculation of number of children admitted in relevant age group) after sub-paragraph (a) insert —

“(aa) a direction of the body constituted by regulations under Article 16A(6);”.

(3) In Article 10(4) of the 1997 Order (calculation of number of registered pupils at a school) after sub-paragraph (a) insert—

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“(aa) a direction of the body constituted by regulations under Article 16A(6);”.

#### Commencement Information

**I14** Art. 29 partly in force; art. 29 in force for certain purposes at 1.10.2006, see art. 1(5) (with application as mentioned in the commencing provision)

#### Guidance as to admissions

**30.** After Article 16A of the 1997 Order insert—

##### “Guidance as to admissions

**16B.**—(1) The Department may issue, and from time to time revise, such guidance as it thinks appropriate in respect of the arrangements for the admission of pupils to grant-aided schools and the discharge by—

- (a) boards;
- (b) the Boards of Governors of grant-aided schools;
- (c) appeal tribunals constituted in accordance with regulations under Article 15(8); and
- (d) the body established by regulations under Article 16A(6),

of their respective functions under this Part.

(2) The guidance may in particular set out aims, objectives and other matters in relation to the discharge of those functions.

(3) It shall be the duty of—

- (a) each of the bodies mentioned in paragraph (1); and
- (b) any other person exercising any function for the purposes of the discharge by such a body of functions under this Part,

to have regard to any relevant guidance for the time being in force under this Article.”.

#### Commencement Information

**I15** Art. 30 partly in force; art. 30 in force for certain purposes at 1.10.2006, see art. 1(5) (with application as mentioned in the commencing provision)

#### *Suspension and expulsion of pupils from grant-aided schools*

PROSPECTIVE

#### Suspension and expulsion of pupils

**31.**—(1) The Department shall prepare and issue a scheme specifying the procedure to be followed in relation to the suspension and expulsion of registered pupils from grant-aided schools.

(2) A scheme under this Article—

- (a) shall provide that—



- (i) a registered pupil at a controlled school may be expelled from that school only by <sup>F16</sup>the Authority] on the application of the Board of Governors of the school;
- (ii) a registered pupil at any other grant-aided school may be expelled from that school only by the Board of Governors of the school;
- (b) shall provide that a registered pupil at a grant-aided school may be suspended from that school only by a person or body specified in the scheme;
- (c) shall specify the maximum period—
  - (i) for which a pupil may be suspended in any one school year;
  - (ii) for which a pupil may be suspended on any one occasion;
- (d) may provide for the extension of a period of suspension (subject to any provision made by virtue of sub-paragraph (c));
- (e) may include provision for such other matters as the Department thinks appropriate.
- (3) It is the duty of—
  - (a) <sup>F17</sup>the Authority] and the Board of Governors (in relation to a controlled school); and
  - (b) the Board of Governors (in relation to any other grant-aided school),to comply with a scheme under this Article.
- (4) The Department—
  - (a) shall review a scheme issued under this Article not later than five years after the issue of the scheme (or, as the case may be, after the last review under this paragraph); and
  - (b) may revise the scheme and issue the revised scheme.
- (5) Before making or revising a scheme under this Article the Department shall consult—
  - (a) <sup>F7</sup>the Authority] ;
  - (b) the Board of Governors of a number of grant-aided schools selected by the Department as being a representative sample of all such schools; and
  - (c) any other person with whom consultation appears to it to be desirable.
- <sup>F18</sup>(6) .....

#### Textual Amendments

- F7** 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)
- F16** Words in art. 31(2)(a)(i) substituted (1.4.2015) by *Education Act (Northern Ireland) 2014* (c. 12), **Sch. 3 para. 25(5)** (with *Sch. 2 para. 4(3)*); S.R. 2015/35, art. 2(b)
- F17** Words in art. 31(3)(a) substituted (1.4.2015) by *Education Act (Northern Ireland) 2014* (c. 12), **Sch. 3 para. 25(5)** (with *Sch. 2 para. 4(3)*); S.R. 2015/35, art. 2(b)
- F18** Art. 31(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)

PROSPECTIVE

#### Appeals against expulsion

- 32.—(1)** Where <sup>F19</sup>the Authority] decides to expel a registered pupil from a controlled school—

- (a) [<sup>F7</sup>the Authority] shall immediately—
- (i) inform the Board of Governors of the school concerned of that decision; and
  - (ii) inform the relevant person of that decision and of his right of appeal; and
- (b) the relevant person may appeal against that decision to the appeal tribunal constituted in accordance with regulations under paragraph (6).
- (2) Where the Board of Governors of any grant-aided school other than a controlled school decides to expel a registered pupil from that school—
- (a) the Board of Governors shall immediately inform the relevant person of that decision and of his right of appeal; and
  - (b) the relevant person may appeal against that decision to the appeal tribunal constituted in accordance with regulations under paragraph (6).
- (3) In this Article “the relevant person” means—
- (a) in relation to a pupil under the age of 18, a parent of his;
  - (b) in relation to a pupil who has attained that age, the pupil himself.
- (4) On the hearing of an appeal under this Article the appeal tribunal may—
- (a) allow the appeal and direct that the pupil be re-admitted to the school; or
  - (b) dismiss the appeal.
- (5) It shall be the duty of the Board of Governors of the school to comply with any direction given under paragraph (4)(a).
- (6) The Department shall by regulations provide for the constitution and procedure of an appeal tribunal to hear and determine appeals under this Article.
- (7) Regulations under paragraph (6) may in particular—
- (a) provide for the tribunal to consist of a prescribed number of persons selected in the prescribed manner from a panel or panels of persons appointed by the Department to act as members of the tribunal;
  - (b) provide for disqualifying prescribed persons or descriptions of person for membership of the tribunal;
  - (c) contain provision requiring—
    - (i) the appeal to be brought; and
    - (ii) the tribunal to hear and determine an appeal,
 within such period as may be specified in, or determined in accordance with, the regulations;
  - (d) provide for representations to be made to the tribunal by or on behalf of the Board of Governors of the school concerned, the relevant person and (in the case of a controlled school) [<sup>F20</sup>the Authority ] ;
  - (e) provide for the tribunal in determining an appeal to have regard in particular to any prescribed matters;
  - (f) provide for the tribunal to sit in private, except in such circumstances as may be specified in, or determined in accordance with, the regulations;
  - (g) provide that all matters relating to the procedure of a tribunal which are not specifically regulated by the regulations are to be determined by the Department.
- (8) The Department may make payments by way of travelling and subsistence allowances to members of the appeal tribunal.

(9) Payments under paragraph (8) shall be made at such rates and on such conditions as may be determined by the Department.

#### Textual Amendments

- F7** 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)
- F19** Words in art. 32(1) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 25(6) (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F20** Words in art. 32(7)(d) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 25(6) (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

PROSPECTIVE

#### Appeals against suspension

**33.**—(1) The Department may by regulations provide for appeals against decisions to suspend a registered pupil from a grant-aided school.

(2) Regulations under this Article may in particular include provision as to—

- (a) the persons who may appeal;
- (b) the person by whom, or body by which, the appeal is to be heard;
- (c) the circumstances under which, and time within which, an appeal may be brought;
- (d) the procedure to be followed on an appeal;
- (e) the matters to which the person or body hearing the appeal is to have regard in determining the appeal;
- (f) such other matters as the Department thinks appropriate.

#### Education of suspended pupils

**34.**—(1) It is the duty of the Board of Governors of a grant-aided school to make arrangements for the provision of suitable education to a registered pupil of the school at any time when the pupil is suspended from the school.

(2) In such circumstances as the Department may determine, [<sup>F7</sup>the Authority] may make arrangements to assist the Board of Governors of a grant-aided school in its area in providing suitable education for a pupil in pursuance of paragraph (1).

(3) In consequence of paragraphs (1) and (2), Article 86 of the 1998 Order is amended as follows—

- (a) in paragraph (1) (duty of board to make arrangements for the provision of suitable education for children of compulsory school age who by reason of illness, expulsion or suspension from school or otherwise, may not receive suitable education) for “expulsion or suspension” substitute “ or expulsion ”;
- (b) in paragraph (2) (power of board to make arrangements for the provision of suitable education for certain children over compulsory school age who by reason of illness, expulsion or suspension from school or otherwise, may not receive suitable education) for “expulsion or suspension” substitute “ or expulsion ”;
- (c) after paragraph (2) insert—

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“(2A) Paragraphs (1) and (2) do not apply in relation to a child who is suspended from school.”.

(4) In this Article “suitable education”, in relation to a pupil, means efficient education suitable to his age, ability and aptitude and to any special educational needs he may have.

#### Textual Amendments

**F7** 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)

### *The General Teaching Council for Northern Ireland*

#### Approval of qualifications of teachers

**35.** In Article 36(2)(a) of the 1998 Order (person not eligible for registration by Council unless he has such qualifications as may be approved by the Department) for “Department” substitute “Council”.

#### Removal from register

**36.** In Article 36(3)(f)(iii) of the 1998 Order (removal from register of persons found guilty of misconduct) after “misconduct” insert “ or serious professional incompetence ”.

PROSPECTIVE

#### Terms and conditions of service of registrar of General Teaching Council

**37.** In Schedule 1 to the 1998 Order (General Teaching Council) in paragraph 5(2)(b) (terms and conditions of service of registrar to be determined by the Council with the approval of the Department) omit “with the approval of the Department”.

### *Institutions of further education*

#### Membership of governing body of institution of further education

**38.—**(1) In Schedule 3 to the Further Education (Northern Ireland) Order 1997 (NI 15) in paragraph 2 (membership of governing body) after sub-paragraph (2) insert—

“(3) The Department may by order amend sub-paragraphs (1) and (2).”.

(2) In Article 24(4) of that Order (orders subject to affirmative resolution) after “Article 14(3) (a)” insert “ or paragraph 2(3) of Schedule 3 ”.

#### Payments to members of governing body of institution of further education

**39.** In Schedule 3 to the Further Education (Northern Ireland) Order 1997 (NI 15) renumber paragraph 5 (payment of travelling and subsistence allowances to members) as sub-paragraph (1) of that paragraph and after that sub-paragraph insert—

“(2) The articles of government of an institution of further education may provide for the governing body to pay remuneration to the members of the governing body (or such of those members as may be specified or described in the articles) of such amounts or at rates not exceeding

such amounts or rates and on such conditions as the Department, with the approval of the Department of Finance and Personnel, may determine.”.

### *Miscellaneous*

#### **Baseline assessments**

**40.** Chapter I of Part III of the 1998 Order (baseline assessments) shall cease to have effect.

#### **Removal of requirement for annual parents' meeting**

**41.** Article 126 of the 1989 Order (which requires the Board of Governors of a grant-aided school to hold an annual parents' meeting) shall cease to have effect.

#### **Fees for instruction provided by Department of Agriculture and Rural Development**

**42.—**(1) After section 5 of the Agriculture Act (Northern Ireland) 1949 (c. 2) (provision for education and instruction) insert—

##### **“5A Fees for instruction provided by the Department**

(1) The Department may, in accordance with regulations under this section, charge fees for or in connection with the provision by the Department under section 5 of any form of instruction.

(2) The Department may by regulations make provision as to—

- (a) the matters in respect of which fees are to be charged under this section;
- (b) the amount of fees to be charged under this section in respect of any matter;
- (c) the persons by whom such fees are payable;
- (d) the time at which, and manner in which, such fees are payable;
- (e) the reduction or remission of such fees in prescribed circumstances.”.

(2) In section 5(2B) of that Act for “sub-section (2A)” substitute “ this section ”.

(3) In section 26 (2) of that Act after “any scheme” insert “ or regulations ”.

### *Supplementary provisions*

#### **Regulations and orders**

**43.—**(1) Regulations under this Order shall be subject to negative resolution.

(2) Except as provided by paragraphs (3) and (4), orders under this Order shall be subject to negative resolution.

(3) No order shall be made under Article 3(5) or 6(4) unless a draft of the order has been laid before, and approved by resolution of, the Assembly.

(4) Paragraph (2) does not apply to an order under Article 1.

(5) Regulations and orders under this Order may contain such incidental, supplementary, transitional and savings provisions as appear to the Department to be necessary or expedient.

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### Minor and consequential amendments and repeals

**44.**—(1) The statutory provisions set out in Schedule 2 shall have effect subject to the minor and consequential amendments specified in that Schedule.

(2) The statutory provisions set out in Schedule 3 are hereby repealed to the extent specified in the second column of that Schedule.

#### Commencement Information

**I16** [Art. 44](#) partly in operation; [art. 44](#) in operation for certain purposes at 1.8.2006 and for certain further purposes at 1.10.2006, see [art. 1\(2\)\(4\)\(5\)](#) (with application as mentioned in [art. 1\(5\)](#)); [art. 44\(1\)\(2\)](#) in operation for certain purposes at 23.3.2007 by [S.R. 2007/197](#), [art. 2](#), [Sch.](#)

*A.K. Galloway*  
Clerk of the Privy Council

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the The Education (Northern Ireland) Order 2006.