

EDUCATION (NORTHERN IRELAND) ORDER 2006

S.I. 2006 1915

EXPLANATORY MEMORANDUM

INTRODUCTION

1. The Education (Northern Ireland) Order 2006 was made on 19 July 2006.
2. This Explanatory Memorandum has been prepared by the Department of Education (“the Department”) in order to assist the reader in understanding the Order. It does not form part of the Order.

BACKGROUND AND POLICY OBJECTIVES

3. The Order will secure changes necessary to implement the revised statutory curriculum, and to give effect to aspects of the new arrangements for post-primary education, including the prohibition of academic selection, the curricular Entitlement Framework and powers to introduce new admissions arrangements. It will introduce new arrangements for the expulsion and suspension of pupils from grant-aided schools and make a number of other legislative changes.

CONSULTATION

4. Consultation with a wide range of relevant interests has been undertaken in relation to the provisions in the Order.
5. The Northern Ireland Council for the Curriculum, Examinations and Assessment (NICCEA) has consulted widely with schools and others in developing its proposals for the revised curriculum. The development of the new arrangements for post-primary education has been the subject of extensive consultation. The Post-Primary Review Body consulted widely when it was developing its proposals. A consultation document entitled “Education for the 21st Century” was the subject of the most extensive consultation ever undertaken in the education sector.

MAIN ELEMENTS OF THE ORDER

Part II the Curriculum

6. This Part of the Order provides for the introduction of a revised structure for the curriculum and assessment arrangements for children of compulsory school age. It also creates a new duty on Boards of Governors of all grant-aided schools to provide pupils at Key Stage 4 and those over compulsory school age with access to a number and range of courses specified by the Department and enables this access to be provided by the school or in accordance with arrangements made with another grant-aided school, FE colleges or other providers.

Part Iii Miscellaneous and Supplementary

7. This Part provides for new admissions arrangements to post-primary schools, including prohibiting schools from using a pupil's ability or aptitude as an admissions criterion, new arrangements for the expulsion and suspension of pupils from grant-aided schools, amendments in relation to the governance of further education colleges and a number of minor and consequential amendments to, and repeals of, existing legislation. It also contains supplementary provisions about the exercise of powers to make orders and regulations.

COMMENTARY ON ARTICLES

8. A summary of each Article follows. Comments are not given where the wording in the Article or Schedule is self-explanatory.

Part I - Introductory

Article 1: Title and commencement

9. *Article 1* cites the title by which the Order is known and provides for its commencement.

Article 2: Interpretation

10. *Article 2* defines certain terms used in the Order.

Part Ii – the Curriculum

Article 3: Interpretation: the curriculum

11. *Article 3* defines the terms used in this Part.

Article 4: General duty in respect to the curriculum

12. *Article 4* sets out the general requirements for the curriculum of every grant-aided school and places a duty on the Board of Governors and principal of every school to ensure that the curriculum of the school satisfies these requirements.

Article 5: The curriculum: main requirements

13. *Article 5* describes the curriculum requirements in more detail. Schools must include religious education in accordance with Article 21 of the Education and Libraries (Northern Ireland) Order 1986 and meet the requirements of Articles 6 to 9 of this Order.

Article 6: Areas of learning and contributory elements

14. *Article 6* requires the curriculum of every grant-aided school to include the areas of learning and contributory elements for pupils in each key stage as set out in Schedule 1.

Article 7: Minimum content

15. *Article 7* requires schools to teach pupils the minimum content of each area of learning for each key stage. The Department is required to specify, as soon as practicable, the minimum content, as appropriate, for the areas of learning at each key stage. The minimum content must include the knowledge, understanding and skills for each area of learning's contributory elements.

Article 8: Skills

16. *Article 8* requires schools to ensure that pupils acquire and develop the listed cross-curricular skills and any other skills specified by the Department and requires the

Department to specify, as soon as practicable, levels of progression for cross-curricular skills.

Article 9: Assessment

17. *Article 9* requires schools to assess pupils in each school year in all key stages. The Department is required to specify, as soon as practicable, appropriate assessment arrangements for areas of learning, cross-curricular skills and any other skills specified by the Department.

Article 10: Orders under Article 7 to 9: supplementary

18. *Article 10* enables orders made by the Department which specify minimum content, other skills, levels of progression and assessment arrangements to give effect to documents prepared and published by the Northern Ireland Council for the Curriculum, Examinations and Assessment (NICCEA).

Article 11: Core syllabus for religious education

19. *Article 11* re-enacts Article 13 of the Education Reform (Northern Ireland) Order 1989.

Article 12: Determination of curriculum policy and of curriculum

20. *Article 12* re-enacts, with minor consequential amendments, Article 10 of the Education Reform (Northern Ireland) Order 1989.

Article 13: Duties with respect to requirements of this Part

21. *Article 13* re-enacts, with minor consequential amendments, Article 11 of the Education Reform (Northern Ireland) Order 1989.

Article 14: Development Work and Experiments

22. *Article 14* re-enacts Article 14 of the Education Reform (Northern Ireland) Order 1989.

Article 15: Exceptions by regulations

23. *Article 15* re-enacts Article 15 of the Education Reform (Northern Ireland) Order 1989.

Article 16: Pupils with statements of special educational needs

24. *Article 16* re-enacts Article 16 of the Education Reform (Northern Ireland) Order 1989.

Article 17: Temporary exemptions for individual pupils

25. *Article 17* re-enacts Article 17 of the Education Reform (Northern Ireland) Order 1989.

Article 18: Access to courses: pupils in key stage 4 and Article 19: Access to courses: pupils over compulsory school age

26. *Articles 18 and 19* require Boards of Governors to provide pupils in key stage 4 (Article 18) and pupils over compulsory school age (Article 19) with access to a minimum number of qualifying courses leading to qualifications approved by the Department. The Department will specify the number of courses for pupils in key stage 4 and for pupils over compulsory school age but in each case at least one third of the courses must be applied courses and at least one third must be general. Schools can meet this requirement if the course is provided by the school itself or on behalf of the school under arrangements made with others under Article 21.

Article 20: “Applied” and “general” courses

27. *Article 20* requires the Department to issue lists of applied and general courses and to revise these as necessary.

Article 21: Arrangements for provision of secondary education on behalf of a grant-aided school

28. *Article 21* enables Boards of Governors to make arrangements with other grant-aided schools, further education colleges and other approved bodies to secure the provision of secondary education on the school’s behalf and enables further education colleges to provide secondary education under arrangements entered into with schools under this Article.

Article 22: Exceptions

29. *Article 22* enables the Department, following consultation, to give directions providing for some or all of Article 18 or 19 or both Articles to be modified or disapplied in certain cases.

Article 23: Curriculum advice and support by boards

30. *Article 23* re-enacts Article 29 of the Education Reform (Northern Ireland) Order 1989.

Article 24: Provision of Information

31. *Article 24* re-enacts Article 31 of the Education Reform (Northern Ireland) Order 1989 with an amendment to provide that details of a pupil’s assessment can be made available to another school at the request of the pupil’s parents.

Article 25: Complaints

32. *Article 25* re-enacts Article 33 of the Education Reform (Northern Ireland) Order 1989 with amendments to enable complaints about access to courses under Articles 18-22 to be considered by a complaints tribunal.

Article 26: Application of this Part

33. *Article 26* specifies those Articles in Part II which apply to a nursery school, a nursery class in a primary school and a school established in a hospital.

Part Iii – Miscellaneous and Supplementary

Article 27: Admission to grammar schools

34. *Article 27* repeals Article 14 and amends Articles 13 and 15 of the Education (Northern Ireland) Order 1997 to provide that the same admissions arrangements will apply to all post-primary schools.

Article 28: Admission criteria

35. *Article 28* substitutes Article 16 of the Education (Northern Ireland) Order 1997 to provide that, in drawing up its admissions criteria, the Board of Governors of a secondary school shall not include any reference to the academic ability or aptitude of a child (see also paragraph 56). Following consultation, the Department may make regulations about the content of schools’ admissions criteria including criteria that are to be included, any specific number or combination of criteria which should be included and if the criteria are to be applied in a specific sequence. Regulations may also enable the Department to intervene if concerned about the likely effect of a school’s proposed criteria on its admissions.

Article 29: Admission to secondary school: exceptional circumstances

36. *Article 29* inserts a new Article 16A into the Education (Northern Ireland) Order 1997 to provide that the parents of a child can apply to a body to seek the admission of that child to a particular secondary school on the grounds that there are exceptional circumstances which require him to attend that particular school. Regulations will define exceptional circumstances and the membership of the new body. Pupils admitted to a school under exceptional circumstances will not count towards the school's admission number or enrolment number.

Article 30: Guidance as to admissions

37. *Article 30* enables the Department to issue guidance to education and library boards, Boards of Governors of grant-aided schools, appeals tribunals and the body to be established under Article 29 to consider exceptional circumstances, about the discharge of their functions in relation to admissions and to require regard to be had of such guidance.

Article 31: Suspension and expulsion of pupils

38. *Article 31* enables the Department to establish a scheme specifying the procedure to be followed in relation to the expulsion and suspension of pupils from grant-aided schools and provides that pupils may be expelled from a controlled school by the relevant education and library board on the application of the Board of Governors, and from any other school by its Board of Governors.

Article 32: Appeals against expulsion

39. *Article 32* enables the Department to establish an appeals tribunal to hear and determine all appeals against expulsion.

Article 33: Appeals against suspension

40. *Article 33* enables the Department to establish arrangements for appeals against decisions to suspend a pupil. Regulations will set out how the appeal system will operate, the circumstances under which an appeal may be made, the procedure to be followed and other matters that the Department may think appropriate.

Article 34: Education of suspended pupils

41. *Article 34* provides that the Board of Governors of a school has responsibility for the education of pupils while suspended from school and for the Department to determine when it may be appropriate for the education and library boards to assist schools in making educational provision for such pupils.

Article 35: Approval of qualifications of teachers

42. *Article 35* amends Article 36(2)(a) of the Education (Northern Ireland) Order 1998 to transfer the approval role of peripatetic teachers' qualifications and the qualifications of teachers in grant-aided schools from the Department to the General Teaching Council for Northern Ireland.

Article 36: Removal from register

43. *Article 36* amends Article 36(3)(f)(iii) of the Education (Northern Ireland) Order 1998 to allow the General Teaching Council for Northern Ireland to withdraw a teacher's registration on the grounds of serious professional incompetence.

Article 37: Terms and conditions of service of registrar of General Teaching Council

44. *Article 37* amends paragraph 5(2)(b) of Schedule 1 to the Education (Northern Ireland) Order 1998 to remove the Department's approval role to the terms and conditions of future registrars of the Council.

Article 38: Membership of governing body of institution of further education

45. *Article 38* amends paragraph 2 of Schedule 3 to the Further Education (Northern Ireland) Order 1997 to enable the Department for Employment and Learning (DEL) to change, by order, the constitution of a governing body of a further education institution.

Article 39: Payments to members of governing body of institution of further education

46. *Article 39* amends paragraph 5 of Schedule 3 to the Further Education (Northern Ireland) Order 1997 to allow further education institutions to remunerate the members of the governing body at such rates and subject to such conditions as DEL, with the approval of the Department of Finance and Personnel, may determine.

Article 40: Baseline assessments

47. *Article 40* repeals the requirement in Chapter I of Part III of the Education (Northern Ireland) Order 1998 for the assessment of pupils in their first year of compulsory education.

Article 41: Removal of the requirement for annual parents' meeting

48. *Article 41* repeals the requirement in Article 126 of the Education Reform (Northern Ireland) Order 1989 on Boards of Governors to hold an annual parents' meeting in a school.

Article 42: Fees for instruction provided by Department of Agriculture and Rural Development

49. *Article 42* confers power on the Department of Agriculture and Rural Development to charge fees for courses of education or instruction that it provides.

Article 43: Regulations and orders

Article 44: Minor and consequential amendments and repeals

SCHEDULES

52. *Schedule 1*: Areas of Learning and the contributory elements

53. *Schedule 2*: Minor and Consequential amendments

54. *Schedule 3*: Repeals

COMMENCEMENT

55. The provisions relating to the curriculum (except those relating to access to courses) will come into operation on 1 August 2006. The provisions relating to the new admissions arrangements (except those relating to the prohibition of academic selection) will come into operation on 1 October 2006 to take effect in relation to admissions from September 2010.
56. The prohibition on academic selection will come into operation on 25 November 2006, to take effect in relation to admissions from September 2010, unless the Northern Ireland Assembly is restored by 24 November 2006, in which case the commencement of the prohibition on academic selection will be subject to affirmative resolution in the Assembly.

57. The provisions relating to access to courses for older pupils, suspension and expulsion of pupils and certain provisions relating to the General Teaching Council will be brought into operation by commencement orders made by the Department.