
STATUTORY RULES OF NORTHERN IRELAND

1997 No. 327

EDUCATION

**Education (Special Educational Needs)
Regulations (Northern Ireland) 1997**

Made - - - - *4th July 1997*

Coming into operation *1st September 1997*

The Department of Education, in exercise of the powers conferred on it by Articles 14(5), 16(2), 19(2) and 28(2) of and paragraphs 2 and 3(1) of Schedule 1 and paragraphs 2, 7, 10(5) and 11(4) of Schedule 2 to the Education (Northern Ireland) Order 1996⁽¹⁾ and of every other power enabling it in that behalf, hereby makes the following Regulations:

Part I

General

Citation and commencement

1. These Regulations may be cited as the Education (Special Educational Needs) Regulations (Northern Ireland) 1997 and shall come into operation on 1st September 1997.

Interpretation

2.—(1) In these Regulations—

“Northern Ireland curriculum” means the curriculum for every grant-aided school as described in Articles 5, 6 and 8 of and Schedules 1 and 2 to the Education Reform (Northern Ireland) Order 1989⁽²⁾;

“registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1983⁽³⁾;

“principal” includes any person to whom the duties or functions of a principal under these Regulations have been delegated by the principal in accordance with regulation 3;

⁽¹⁾ S.I.1996/274 (N.I. 1)

⁽²⁾ S.I. 1989/2406 (N.I. 20) as amended by S.I. 1996/274 (N.I.) Article 35 and Schedule 3

⁽³⁾ 1983 c. 54

“qualified teacher” means a person who is eligible to be employed as a teacher in a grant-aided school;

“target” means the knowledge, skills and understanding which a child is expected to have by the end of a particular period;

“transition plan” means a document prepared pursuant to regulation 14(9) or 15(9) which sets out the arrangements which a board considers appropriate for a young person during the period when he is aged 14 to 19 years, including arrangements for special educational provision and for any other necessary provision, for suitable employment and accommodation and for leisure activities, and which will facilitate a satisfactory transition from childhood to adulthood;

“working day” means a day other than a Saturday, Sunday or public holiday;

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

“the 1985 Regulations” means the Education (Special Educational Needs) Regulations (Northern Ireland) 1985(4).

(2) In these Regulations any reference to the health and the social services authority is, in relation to a particular child, a reference to the health and social services authority in whose area that child lives.

(3) In these Regulations any reference to a numbered Article is a reference to the Article of the 1996 Order bearing that number.

Delegation of functions

3. Where a principal has any functions or duties under these Regulations he may delegate those functions or duties—

- (a) generally to a member of the staff of the school who is a qualified teacher; or
- (b) in a particular case to a member of the staff of the school who teaches the child in question.

Part II

Assessments

Notices relating to assessment

4.—(1) Where under Article 15(1) a board serves a notice on a child’s parent that it proposes to make an assessment, or under Article 15(4) gives notice to a child’s parent of its decision to make an assessment, it shall send copies of the relevant notice to—

- (a) the health and social services authority;
- (b) and if the child is registered at a school, the principal of that school.

(2) Where a copy of a notice is sent under paragraph (1), an endorsement on the copy or a notice accompanying that copy shall inform the recipient what advice the board is likely to seek.

(3) Where under Article 20(1) a child’s parent asks the board to arrange for an assessment to be made the board shall give notice in writing to the persons referred to in paragraph (1)(a) and (b) of the fact that the request has been made and inform them what advice it is likely to seek.

Advice to be sought

5.—(1) For the purpose of making an assessment under Article 15 a board shall seek—

- (a) advice from the child's parent;
 - (b) educational advice as provided for in regulation 6;
 - (c) medical advice as provided for in regulation 7;
 - (d) psychological advice as provided for in regulation 8;
 - (e) social services advice from the health and social services authority; and
 - (f) any other advice which the board considers appropriate for the purpose of arriving at a satisfactory assessment.
- (2) The advice referred to in paragraph (1) shall be written advice relating to—
- (a) the educational, medical, psychological or other features of the case (according to the nature of the advice sought) which appear to be relevant to the child's educational needs (including his likely future needs);
 - (b) how those features could affect the child's educational needs; and
 - (c) the provision which is appropriate for the child in light of those features of the child's case, whether by way of special educational provision or non-educational provision, but not relating to any matter which is required to be specified in a statement by virtue of Article 16(4)(b).
- (3) A person from whom the advice referred to in paragraph (1) is sought may in connection therewith consult such persons as it appears to him expedient to consult; and he shall consult such persons, if any, as are specified in the particular case by the board as persons who have relevant knowledge of, or information relating to, the child.
- (4) When seeking the advice referred to in paragraph (1)(b) to (f) a board shall provide the person from whom it is sought with copies of—
- (a) any representations made by the parent; and
 - (b) any evidence submitted by, or at the request of, the parent under Article 15(1)(d).
- (5) The board need not seek the advice referred to in paragraph (1)(b), (c), (d), (e) or (f) if—
- (a) it has obtained advice under paragraph (1)(b), (c), (d), (e) or (f) respectively within the preceding 12 months; and
 - (b) the board, the person from whom the advice was obtained and the child's parent are satisfied that the existing advice is sufficient for the purpose of arriving at a satisfactory assessment.

Educational advice

- 6.—**(1) The educational advice referred to in regulation 5(1)(b) shall, subject to paragraphs (2) to (5), be sought—
- (a) from the principal of each school which the child is currently attending or which he has attended at any time within the preceding 18 months;
 - (b) if advice cannot be obtained from a principal of a school which the child is currently attending (because the child is not attending a school or otherwise), from a person who the board is satisfied has experience of teaching children with special educational needs or knowledge of the differing provision which may be called for in different cases to meet those needs;
 - (c) if the child is not currently attending a school and if advice obtained under sub-paragraph (b) is not advice from such a person, from a person responsible for educational provision for him; and

(d) if any of the child's parents is a serving member of Her Majesty's armed forces, from Service Children's Education.

(2) The advice sought as provided in paragraph (1)(a) to (c) shall not be sought from any person who is not a qualified teacher.

(3) The advice sought from a principal as provided in paragraph (1)(a) shall, if the principal has not himself taught the child within the preceding 18 months, be advice given after consultation with a teacher who has so taught the child.

(4) The advice sought from a principal as provided in paragraph (1)(a) shall include advice relating to the steps which have been taken by the school to identify and assess the special educational needs of the child and to make provision for the purpose of meeting those needs.

(5) Where it appears to the board, in consequence of medical advice or otherwise, that the child in question is—

- (a) hearing impaired; or
- (b) visually impaired; or
- (c) both hearing impaired and visually impaired,

and any person from whom advice is sought as provided in paragraph (1) is not qualified to teach pupils who are so impaired then the advice sought shall be advice given after consultation with a person who is so qualified.

(6) For the purposes of paragraph (5) a person shall be considered to be qualified to teach pupils who are hearing impaired or visually impaired or who are both hearing impaired and visually impaired if he is qualified to be employed at a school as a teacher of a class for pupils who are so impaired otherwise than to give instruction in a craft, trade, or domestic subject.

(7) Paragraphs (3) and (5) are without prejudice to regulation 5(3).

Medical advice

7. The advice referred to in regulation 5(1)(c) shall be sought from the health and social services authority, who shall obtain the advice from a registered medical practitioner.

Psychological advice

8.—(1) The psychological advice referred to in regulation 5(1)(d) shall be sought from a person—

- (a) regularly employed by the board as an educational psychologist; or
- (b) engaged by the board as an educational psychologist in the case in question.

(2) The advice sought from a person as provided in paragraph (1) shall, if that person has reason to believe that another psychologist has relevant knowledge of, or information relating to, the child, be advice given after consultation with that other psychologist.

(3) Paragraph (2) is without prejudice to regulation 5(3).

Matters to be taken into account in making an assessment

9. When making an assessment a board shall take into consideration—

- (a) any representations made by the child's parent under Article 15(1)(d);
- (b) any written evidence submitted by, or at the request of, the child's parent under Article 15(1)(d); and
- (c) the advice obtained under regulation 5.

Part III

Statements

Notice accompanying a proposed statement

10. The notice which shall accompany a copy of a proposed statement served on the parent pursuant to paragraph 2 of Schedule 2 to the 1996 Order shall be in a form substantially corresponding to that set out in Part A of the Schedule and shall contain the information therein specified.

Statement of special educational needs

11. A statement of a child's special educational needs made under Article 16(1) shall be a form substantially corresponding to that set out in Part B of the Schedule, shall contain the information therein specified, and shall be dated and authenticated by the signature of an officer of the board concerned authorised in that behalf.

Period for amending or ceasing to maintain a statement

12.—(1) Where under paragraph 10(1) of Schedule 2 to the 1996 Order a board serves a notice on the child's parent informing him of its proposal to amend a statement it shall not amend the statement after the expiry of 8 weeks from the date on which the notice was served.

(2) Where under paragraph 11(2) of Schedule 2 to the 1996 Order a board gives notice to the child's parent that it has decided to cease to maintain a statement it shall not cease to maintain the statement—

- (a) before the expiry of the period referred to in regulation 7(3) of the Special Educational Needs Tribunal Regulations (Northern Ireland) 1997⁽⁵⁾ during which the parent may appeal to the Tribunal against the decision; or
- (b) after the expiry of 4 weeks from the end of that period.

Review of statement where child not aged 14 attends school

13.—(1) This regulation applies where—

- (a) a board reviews a statement under Article 19(1) other than on the making of an assessment;
- (b) the child concerned attends a school; and
- (c) regulation 14 does not apply.

(2) The Board shall by notice in writing require the principal of the child's school to submit a report to it under this regulation by a specified date not less than two months from the date on which the notice is given and shall send a copy of the notice to the child's parent.

(3) The principal shall for the purpose of preparing the report referred to in paragraph (2) seek advice as to the matters referred to in paragraph (4) from—

- (a) the child's parent;
- (b) any person whose advice the board considers appropriate for the purpose of arriving at a satisfactory report and whom it specifies in the notice referred to in paragraph (2); and
- (c) any person whose advice the principal considers appropriate for the purpose of arriving at a satisfactory report.

- (4) The advice referred to in paragraph (3) shall be written advice as to—
- (a) the child’s progress towards meeting the objectives specified in the statement;
 - (b) the child’s progress towards attaining any targets established in furtherance of the objectives specified in the statement;
 - (c) where the school which the child attends is a grant-aided school—
 - (i) any modifications to or exclusions from the application of the Northern Ireland curriculum to the child; and
 - (ii) the appropriateness of any provisions substituted for the provisions of the Northern Ireland curriculum in order to maintain a balanced and broadly based curriculum;
 - (d) where appropriate, and in any case where a transition plan exists, any matters which are the appropriate subject of such a plan;
 - (e) whether the statement continues to be appropriate;
 - (f) any amendments to the statement which would be appropriate; and
 - (g) whether the board should cease to maintain the statement.
- (5) The notice referred to in paragraph (2) shall require the principal to invite the following persons to attend a meeting to be held on a date before the report referred to in that paragraph is submitted—
- (a) the representative of the board specified in the notice;
 - (b) the child’s parent;
 - (c) a member or members of the staff of the school who teach the child or who are otherwise responsible for the provision of education for the child whose attendance the principal considers appropriate;
 - (d) any other person whose attendance the principal considers appropriate; and
 - (e) any person whose attendance the board considers appropriate and who is specified in the notice.
- (6) The principal shall not later than two weeks before the date on which a meeting referred to in paragraph (5) is to be held send to all the persons invited to that meeting copies of the advice he has received pursuant to his request under paragraph (3) and by written notice accompanying the copies shall request the recipients to submit to him before or at the meeting any written comments on that advice and any other advice which they think appropriate.
- (7) The meeting referred to in paragraph (5) shall consider—
- (a) the matters referred to in paragraph (4); and
 - (b) any significant changes in the child’s circumstances since the date on which the statement was made or last reviewed.
- (8) The meeting referred to in paragraph (5) shall recommend—
- (a) any steps which it concludes ought to be taken, including whether the board should amend or cease to maintain the statement;
 - (b) any targets to be established in furtherance of the objectives specified in the statement which it concludes the child ought to meet during the period until the next review; and
 - (c) where a transition plan exists, the matters which it concludes ought to be included in that plan.
- (9) If the meeting cannot agree the recommendations to be made under paragraph (8) the persons who attended the meeting shall make differing recommendations as appears necessary to each of them.

(10) The report to be submitted under paragraph (2) shall be completed after the meeting is held and shall include the principal's assessment of the matters referred to in paragraph (7) and his recommendations as to the matters referred to in paragraph (8), and shall refer to any difference between his assessment and recommendations and those of the meeting.

(11) When the principal submits his report to the board under paragraph (2) he shall at the same time send copies to—

- (a) the child's parent;
- (b) the persons from whom the principal sought advice under paragraph (3);
- (c) the persons who were invited to attend the meeting in accordance with paragraph (5);
- (d) any other person to whom the board considers it appropriate that a copy be sent and to whom it directs him to send a copy; and
- (e) any other person to whom the principal considers it appropriate that a copy be sent.

(12) The board shall review the statement under Article 19(1) in light of the report and any other information or advice which it considers relevant, shall make written recommendations as to the matters referred to in paragraph (8)(a) and (b) and, where a transition plan exists, shall amend the plan as it considers appropriate.

(13) The board shall send copies of the recommendations and any transition plan referred to in paragraph (12) to—

- (a) the child's parent;
- (b) the principal;
- (c) the persons from whom the principal sought advice under paragraph (3);
- (d) the persons who were invited to attend the meeting in accordance with paragraph (5); and
- (e) any other person to whom the board considers it appropriate that a copy be sent.

Review of statement where child aged 14 attends school

14.—(1) This regulation applies where—

- (a) a board reviews a statement under Article 19(1) other than on the making of an assessment;
- (b) the child concerned attends a school; and
- (c) the review is the first review commenced after the child has attained the age of 14 years.

(2) The board shall for the purpose of preparing a report under this regulation by notice in writing require the principal of the child's school to seek the advice referred to in regulation 13(4), including in all cases advice as to the matters referred to in regulation 13(4)(d), from—

- (a) the child's parent;
- (b) any person whose advice the board considers appropriate for the purpose of arriving at a satisfactory report and whom it specifies in the notice referred to above; and
- (c) any person whose advice the principal considers appropriate for the purpose of arriving at a satisfactory report.

(3) The board shall invite the following persons to attend a meeting to be held on a date before the review referred to in paragraph (1) is required to be completed—

- (a) the child's parent;
- (b) a member or members of the staff of the school who teach the child or who are otherwise responsible for the provision of education for the child whose attendance the principal considers appropriate and whom he has asked the board to invite;
- (c) a representative of the health and social services authority;

- (d) a person providing careers services under section 1 of the Employment and Training Act (Northern Ireland) 1950(6);
- (e) any person whose attendance the principal considers appropriate and whom he has asked the board to invite; and
- (f) any person whose attendance the board considers appropriate.

(4) The principal shall not later than two weeks before the date on which the meeting referred to in paragraph (3) is to be held serve on all the persons invited to attend that meeting copies of the advice he has received pursuant to his request under paragraph (2) and shall by written notice request the recipients to submit to him before or at the meeting any written comments on that advice and any other advice which they think appropriate.

(5) A representative of the board shall attend the meeting.

(6) The meeting shall consider the matters referred to in regulation 13(7), in all cases including the matters referred to in regulation 13(4)(d), and shall make recommendations in accordance with regulation 13(8) and (9), in all cases including recommendations as to the matters referred to in regulation 13(8)(c).

(7) The report to be prepared by the board under paragraph (2) shall be completed after the meeting, shall contain the board's assessment of the matters required to be considered by the meeting and its recommendations as to the matters required to be recommended by it and shall refer to any difference between its assessment and recommendations and those of the meeting.

(8) The board shall send copies of the report completed under paragraph (7) to—

- (a) the child's parent;
- (b) the principal;
- (c) the persons from whom the principal sought advice under paragraph (2);
- (d) the persons who were invited to attend the meeting under paragraph (3); and
- (e) any person to whom it considers it appropriate to send a copy.

(9) The board shall review the statement under Article 19(1) in light of the report and any other information or advice which it considers relevant, shall make written recommendations as to the matters referred to in regulation 13(8)(a) and (b), and shall prepare a transition plan.

(10) The board shall send copies of the recommendations and the transition plan referred to in paragraph (9) to the persons referred to in paragraph (8).

Review of statement where child does not attend school

15.—(1) This regulation applies where a board reviews a statement under Article 19(1) other than on the making of an assessment and the child concerned does not attend a school.

(2) The board shall prepare a report addressing the matters referred to in regulation 13(4), including the matters referred to in regulation 13(4)(d) in any case where the review referred to in paragraph (1) is commenced after the child has attained the age of 14 years or older, and for that purpose shall seek advice on those matters from the child's parent and any other person whose advice it considers appropriate in the case in question for the purpose of arriving at a satisfactory report.

(3) The board shall invite the following persons to attend a meeting to be held on a date before the review referred to in paragraph (1) is required to be completed—

- (a) the child's parent;

(6) 1950 c. 29 (N.I.) as amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 S.I. 1988/1087 (N.I. 10)

- (b) where the review referred to in paragraph (1) is the first review commenced after the child has attained the age of 14 years, a representative of the health and social services authority;
 - (c) where sub-paragraph (b) applies, a person providing careers services under section 1 of the Employment and Training Act (Northern Ireland) 1950; and
 - (d) any person or persons whose attendance the board considers appropriate.
- (4) The board shall not later than two weeks before the date on which the meeting referred to in paragraph (3) is to be held send to all the persons invited to that meeting a copy of the report which it proposes to make under paragraph (2) and by written notice accompanying the copies shall request the recipients to submit to the board any written comments on the report and any other advice which they think appropriate.
- (5) A representative of the board shall attend the meeting.
- (6) The meeting shall consider the matters referred to in regulation 13(7), including in any case where the review is commenced after the child has attained the age of 14 years the matters referred to in regulation 13(4)(d), and shall make recommendations in accordance with regulation 13(8) and (9), including in any case where the child has attained the age of 14 years or older as aforesaid recommendations as to the matters referred to in regulation 13(8)(c).
- (7) The report prepared by the board under paragraph (2) shall be completed after the meeting referred to in paragraph (3) is held, shall contain the board's assessment of the matters required to be considered by the meeting and its recommendations as to the matters required to be recommended by the meeting, and shall refer to any difference between its assessment and recommendations and those of the meeting.
- (8) The board shall send copies of the report completed under paragraph (7) to—
- (a) the child's parent;
 - (b) the persons from whom it sought advice under paragraph (2);
 - (c) the persons who were invited to attend the meeting under paragraph (3); and
 - (d) any person to whom it considers it appropriate to send a copy.
- (9) The board shall review the statement under Article 19(1) in light of the report and any other information or advice which it considers relevant, shall make written recommendations as to the matters referred to in regulation 13(8)(a) and (b), in any case where the review is the first review commenced after the child has attained the age of 14 years prepare a transition plan, and in any case where a transition plan exists amend the plan as it considers appropriate.
- (10) The board shall send copies of the recommendations and any transition plan referred to in paragraph (9) to the persons referred to in paragraph (8).

Transfer of statements

16.—(1) This regulation applies where a child in respect of whom a statement is maintained moves from the area of the board which maintains the statement ('the old board') into that of another board ('the new board').

- (2) The old board shall transfer the statement to the new board, and from the date of the transfer—
- (a) the statement shall be treated for the purposes of the new board's duties and functions under Part II of the 1996 Order and these Regulations as if it had been made by the new board on the date on which it was made by the old board; and
 - (b) where the new board makes an assessment under Article 15 and the old board has supplied the new board with advice obtained in pursuance of a previous assessment regulation 5(5) shall apply as if the new board had obtained the advice on the date on which the old board obtained it.

(3) The new board shall within 6 weeks of the date of the transfer serve a notice on the child's parent informing him—

- (a) that the statement has been transferred;
- (b) whether it proposes to make an assessment under Article 15; and
- (c) when it proposes to review the statement in accordance with paragraph (4).

(4) The new board shall review the statement under Article 19(1) before the expiry of whichever of the following two periods expires later—

- (a) the period of twelve months beginning with the making of the statement, or as the case may be, with the previous review; or
- (b) the period of three months beginning with the date of the transfer.

(5) Where by virtue of the transfer the new board comes under a duty to arrange the child's attendance at a school specified in the statement but in light of the child's move that attendance is no longer practicable the new board may arrange for the child's attendance at another school appropriate for the child until such time as it is possible to amend the statement in accordance with paragraph 10 of Schedule 2 to the 1996 Order.

Restriction on disclosure of statements

17.—(1) Subject to the provisions of the 1996 Order and of these Regulations, a statement in respect of a child shall not be disclosed without the parent's consent except—

- (a) to persons to whom, in the opinion of the board concerned, the statement should be disclosed in the interests of the child;
- (b) for the purposes of any appeal under the 1996 Order;
- (c) for the purposes of educational research which, in the opinion of the board, may advance the education of children with special educational needs, if, but only if, the person engaged in that research undertakes not to publish anything contained in, or derived from, a statement otherwise than in a form which does not identify any individual concerned including, in particular, the child concerned and his parent;
- (d) on the order of any court or for the purposes of any criminal proceedings;
- (e) for the purposes of any investigation under the Commissioner for Complaints (Northern Ireland) Order 1996(7);
- (f) to the Department when it requests such disclosure for the purposes of deciding whether to give directions or make an order under Article 101 of the 1986 Order(8);
- (g) for the purposes of an assessment of the needs of the child with respect to the provisions of any statutory services for him being carried out by officers of a health and social services authority by virtue of arrangements made under section 5(5) of the Disabled Persons (Northern Ireland) Act 1989(9);
- (h) for the purposes of a health and social services authority in the performance of its duties under Article 26(1)(a), 174(6), 175(3), 176(2), or 177(5) of the Children (Northern Ireland) Order 1995(10); or
- (i) to an inspector, pursuant to Article 102 of the 1986 Order(11).

(7) S.I. 1996/1297 (N.I. 7)

(8) As substituted by S.I. 1989/2406 (N.I. 20) Article 158

(9) 1989 c. 10 as amended by Article 7 of and Schedule 1 to the Health and Personal Social Services (Northern Ireland) Order 1994 S.I. 1994/429 (N.I. 2)

(10) S.I. 1995/755 (N.I. 2)

(11) As amended by S.I. 1996/274 (N.I. 1) Article 33

(2) The arrangements for keeping such statements shall be such as to ensure, so far as is reasonably practicable, that unauthorised persons do not have access to them.

(3) In this regulation any reference to a statement includes a reference to any representations, evidence, advice or information which is set out in the appendices to a statement.

Part IV

Revocation and transitional provisions

Revocation

18. Subject to regulation 19, the 1985 Regulations are hereby revoked.

Transitional provisions

19.—(1) Subject to the following provisions of this regulation references in these Regulations to anything done under the 1996 Order or these Regulations shall be read in relation to the times, circumstances or purposes in relation to which a corresponding provision of the 1986 Order or the 1985 Regulations had effect and so far as the nature of the reference permits as including a reference to that corresponding provision.

(2) Regulations 3 to 8 of the 1985 Regulations shall continue to apply in relation to any assessment where before 1st September 1997 in pursuance of paragraph 1(3)(a) of Schedule 11 to the 1986 Order the board notifies the parent that it has decided to make an assessment, and Part II shall not apply in relation to any such assessment.

(3) Where regulations 3 to 8 of the 1985 Regulations continue to apply in relation to any assessment but the board has not before 1st January 1998—

- (a) notified the parent of its decision that it is not required to determine the special educational provision of the child in accordance with paragraph 1(4)(a) of Schedule 11 to the 1986 Order; or
- (b) served on the parent a copy of a proposed statement in accordance with paragraph 5(1) of Schedule 11 to the 1986 Order,

Part II shall apply in relation to the assessment from 1st January 1998 as if on that date the board had given notice to the parent under Article 15(4) of its decision to make an assessment.

(4) Where in accordance with paragraph (3) Part II applies in relation to an assessment the board shall obtain advice in accordance with Part II, but advice obtained in accordance with the 1985 Regulations shall be considered to have been obtained under Part II if such advice is appropriate for the purpose of arriving at a satisfactory assessment under that Part.

(5) Regulation 10 of the 1985 Regulations shall continue to apply to the making of any statement where before 1st January 1998 the board has served on the parent a copy of a proposed statement in accordance with paragraph 5(1) of Schedule 11 to the 1986 Order, and regulations 9 and 10 shall not apply to the making of any such statement.

(6) Regulation 12(1) and (2) shall not apply in relation to a proposal to amend or cease to maintain a statement where a board serves a notice under paragraph 8 of Schedule 11 to the 1986 Order before 1st September 1997.

(7) Regulations 13 to 15 shall not apply to any review of a statement which is required to be completed before 1st December 1997.

(8) Regulations 13 to 15 shall apply to a review of a statement which is not required to be completed before 1st December 1997, but where the statement was made under the 1986 Order they shall apply with any necessary modifications, including the following:

- (a) where the review is the first review to which regulations 13 to 15 apply—
 - (i) the board shall seek advice as to the objectives which the special educational provision for the child should meet rather than as to the child's progress towards meeting the objectives specified in the statement;
 - (ii) the board shall seek advice as to the targets which should be established in furtherance of those objectives rather than as to the child's progress towards attaining any such targets;
 - (iii) where the child has attained the age of 14 years before the date on which the review is commenced, the board shall in any event seek advice as to any matters which are the appropriate subject of a transition plan;
 - (iv) the meeting held in accordance with regulation 13(7), 14(6), or 15(6) shall consider the matters referred to in those regulations as modified by heads (i) to (iii) as appropriate, and shall make recommendations under regulation 13(8), 14(7) or 15(7) but including recommendations as to the objectives referred to in head (i), the targets referred to in head (ii) and where appropriate the transition plan referred to in head (iii); and
 - (v) the board shall review the statement in accordance with regulation 13(12), 14(9) or 15(9), shall make recommendations as to the matters referred to in those regulations read in light of the modifications in this head, shall prepare a transition plan where head (iii) applies, and shall in any event specify the objectives referred to in head (i); and
- (b) where the review is not the first review to which regulations 13 to 15 apply any reference to objectives shall include a reference to objectives specified in accordance with subparagraph (a)(v) in addition to objectives specified in a statement.

(9) Subject to paragraph (10), regulation 12 of the 1985 Regulations shall continue to apply in relation to a transfer on a date before 1st September 1997, and regulation 16 shall not apply in relation to such a transfer.

(10) Notwithstanding paragraph (9), where a statement has been transferred on a date before 1st September 1997 the new board shall review the statement under Article 19(1) before the expiry of whichever of the following two periods expires later—

- (a) the period of twelve months beginning with the making of the statement, or as the case may be, with the previous review; or
- (b) the period ending on 30th November 1997.

(11) Regulation 11 of the 1985 Regulations shall not apply to statements made before or after 1st September 1997 and regulation 17 shall apply, except that a statement may be disclosed for the purposes of any appeal under paragraph 5(9) of Schedule 11 to the 1986 Order as well as for the purposes of any appeal under the 1996 Order.

Sealed with the Official Seal of the Department of Education on

L.S.

4th July 1997.

S. Peover
Assistant Secretary

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Regulations 10 and 11

PART A NOTICE TO PARENT

- 1. A copy of a proposed statement of the special educational needs of is attached.
- 2. You may, in each case within 15 days*,—
 - (a) make representations to the Board about the content of the proposed statement;
 - (b) express a preference to the Board for any grant-aided school, giving reasons for your preference if you wish. If you would first like to have further information about any grant-aided school in this, or any other, Board area, you should let [*here insert name of responsible Board officer*] known immediately;
 - (c) require the Board to arrange a meeting to discuss the statement, including any advice on which it is based. If necessary, further meetings may be arranged which may include the person who gave the advice.
- 3. The Board is required to comply with any preference of grant-aided school you may express unless—
 - (a) the school is unsuitable to your child’s age, ability or aptitude or to his/her special educational needs; or
 - (b) the attendance of your child at the school would be incompatible with the provision of efficient education for the children with whom he/she would be educated or the efficient use of resources.
- 4. If at the conclusion of these procedures you disagree with the Board’s final statement, you may appeal to the Special Educational Needs Tribunal against the description of your child’s special educational needs, against the special educational provision specified including the school named, or, if no school is named, against that fact.

(It is important to note that any such appeal must normally be made within 2 months of the date when formal notice of the right of appeal is given by the Board; such notice is required by law to be given in writing to the child’s parent at the time when the final statement is issued.)

* Any approach to the Board under paragraph 2 above must be made not later than 15 days from the date on which you receive this notice, or 15 days from the date on which you last attend a meeting in accordance with paragraph 2(c) above, whichever is later. If the 15th day falls on a Saturday, a Sunday or a public holiday you must do so not later than the following working day.

Signature (Responsible Board officer)

Date

PART B STATEMENT OF SPECIAL EDUCATIONAL NEEDS

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Part 1: Introduction

1. The following statement is made by [here insert name of Education and Library Board] in respect of the child whose name and other particulars are mentioned below.

| Child | |
|--------------------------------------|-----------------------------|
| Surname | Other names |
| Home address | |
| | Sex |
| | Religion |
| Date of Birth | Home language |
| Child's parent or person responsible | |
| Surname | Other names |
| Home address | |
| | Relationship to child |
| | |
| Telephone No. | |

2. When assessing the child's special educational needs the board took into consideration the representations, evidence and advice set out in the Appendices to this statement.

Part 2: Special Educational Needs

[Here set out the child's special educational needs, in terms of the child's learning difficulties which call for special educational provision, as assessed by the board.]

Part 3: Special Educational Provision other than Placement

Objectives

[Here specify the objectives which the special educational provision for the child should aim to meet.]

Educational provision to meet needs and objectives

[Here specify the special educational provision which the board considers appropriate to meet the needs specified in Part 2 and to meet the objectives specified in this Part, and in particular specify—

- (a) any appropriate facilities and equipment, staffing arrangements and curriculum;

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- (b) any appropriate modifications to the application of the Northern Ireland curriculum;
- (c) any appropriate exclusions from the application of the Northern Ireland curriculum, in detail, and the provision which it is proposed to substitute for any such exclusions in order to maintain a balanced and broadly based curriculum; and
- (d) where residential accommodation is appropriate, that fact.]

Monitoring

[Here specify the arrangements to be made for—

- (a) regularly monitoring progress in meeting the objectives specified in this Part;
- (b) establishing targets in furtherance of those objectives;
- (c) regularly monitoring the targets referred to in (b);
- (d) regularly monitoring the appropriateness of any modifications to the application of the Northern Ireland curriculum; and
- (e) regularly monitoring the appropriateness of any provision substituted for exclusions from the application of the Northern Ireland curriculum.

Here also specify any special arrangements for reviewing this statement.]

Part 4: Special Educational Provision: Placement

[Here specify—

- (a) the type of school which the board considers appropriate for the child and the name of the school for which the parent has expressed a preference or, where the board is required to specify the name of a school, the name of the school which it considers would be appropriate for the child and should be specified; or
- (b) the provision for his education otherwise than at a school which the board considers appropriate.]

Part 5: Non-educational Needs

[Here specify the non-educational needs of the child for which the board considers provision is appropriate if the child is to benefit properly from the special educational provision specified in Part 3.]

Part 6: Non-educational Provision

[Here specify any non-educational provision which the board proposes to make available or which it is satisfied will be made available by a health and social services authority or some other body, including the arrangements for its provision. Also specify the objectives of the provision, and the arrangements for monitoring progress in meeting those objectives.]

Signature

(A duly authorised officer of the Board)

Date

Appendix A: Parental Representations

[Here set out any written representations made by the parent of the child under Article 15(1)(d) of or paragraph 4(1) of Schedule 2 to the Order and a summary which the parent has accepted as accurate of any oral representations so made or record that no such representations were made.]

Appendix B: Parental Evidence

[Here set out any written evidence either submitted by the parent of the child under Article 15(1)(d) of the Order or record that no such evidence was submitted.]

Appendix C: Advice from the Child's Parent

[Here set out the advice obtained under regulation 5(1)(a).]

Appendix D: Educational Advice

[Here set out the advice obtained under regulation 5(1)(b).]

Appendix E: Medical Advice

[Here set out the advice obtained under regulation 5(1)(c).]

Appendix F: Psychological Advice

[Here set out the advice obtained under regulation 5(1)(d).]

Appendix G: Social Services Advice

[Here set out the advice obtained under regulation 5(1)(e).]

Appendix H: Other Advice Obtained by the Board

[Here set out the advice obtained under regulation 5(1)(f).]

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations relate to the assessment of special educational needs and to statements of such needs under Part II of the Education Order 1996. Part II replaces with modifications the provisions relating to such assessments and statements in the Education and Libraries (Northern Ireland) Order 1986, and these Regulations revoke and replace with modifications the Education (Special Educational Needs) Regulations (Northern Ireland) 1985.

The Regulations make provision for a principal to delegate his functions under them generally to a qualified teacher, or in a particular case to the staff member who teaches the child (regulation 3).

The Regulations provide that Education and Library Boards in making an assessment of a child's special educational needs must seek advice from the child's parent, educational advice, psychological advice, advice from the health and social services authority on medical and social services issues and any other advice which it considers appropriate for the purpose of arriving at a satisfactory assessment (regulation 5). If such advice has been obtained on making a previous assessment within the last 12 months and certain persons are satisfied that it is sufficient, it is not necessary to obtain new advice (regulation 5(5)). Detailed provision is made as to the persons from whom educational, medical and psychological advice must be sought (regulations 6 to 8). It is provided that in making an assessment a board shall take into consideration representations from the parent, evidence submitted by the parent, and the advice which has been obtained (regulation 9).

The Regulations prescribe the form and content of a notice to be served on a parent with a draft statement of special educational needs, and of a statement of special educational needs (regulations 10 and 11 and Part A and B of the Schedule respectively).

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The Regulations also supplement the procedural framework for making an assessment and a statement contained in Part II of the Education (Northern Ireland) Order 1996 and Schedules 1 and 2 to that Order. They require copies of notices of an Education and Library Board's proposal to make an assessment, its decision to make an assessment or notices of a parent's request for an assessment to be made, to be served on the health and social services authority and the principal of the child's school (regulation 4).

Detailed provision is made as to how a review of a statement by an Education and Library Board under Article 19 of the Education (Northern Ireland) Order 1996 is to be carried out (regulations 13 to 15). In particular it is provided that where a child attends school, where the review is the first review after he has attained the age of 14 the principal of his school will obtain advice, the Education and Library Board will hold a meeting and will prepare a transition plan (regulation 14). In the case of any other review where a child attends school, the principal of his school will obtain advice, he will hold a meeting and report to the Education and Library Board (regulation 13). Where a child does not attend school, provision is made for the board to obtain advice, to hold a meeting, and where the review is the first after he attains the age of 14, to prepare a transition plan (regulation 15).

The Regulations provide for the transfer of a statement from one Education and Library Board to another (regulation 16). The duties of the old board are transferred to the new board, and within six weeks of the transfer the new board must serve a notice on the parent informing him of the transfer, whether it proposes to make an assessment, and when it proposes to review the statement (regulation 16(2) and (3)). It is provided that where it would not be practicable to require the new board to arrange for the child's attendance at a school specified in the statement, it need not do so, but can arrange for attendance at another school until it is possible to amend the statement (regulation 16(5)).

There are restrictions on the disclosure of statements and steps are to be taken to avoid unauthorised persons having access to them (regulation 17).

Detailed provision is made for the transition from the regime imposed by the 1985 Regulations to the regime imposed by these Regulations (regulation 19). In particular if an assessment has been commenced before 1st September 1997 the Education and Library Board may continue to make the assessment under the 1985 Regulations, and may make any statement following the assessment under them as well (regulation 19(2) and (7)), and these Regulations will not apply. However if the assessment is not complete before 1st January 1998, these Regulations will apply to the assessment as if it had been commenced under them on that date (regulation 19(3)).