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STATUTORY INSTRUMENTS

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**1989 No. 2406 (N.I. 20)**

**NORTHERN IRELAND**

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

*Made - - - - 19th December 1989*

*Coming into operation in accordance with Article 1*

At the Court at Buckingham Palace, the 19th day of December 1989

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974<sup>(1)</sup> and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**PART I**

**INTRODUCTORY**

**Title and commencement**

1.—(1) This Order may be cited as the Education Reform (Northern Ireland) Order 1989.

(2) Except as provided by paragraph (3), this Order shall come into operation on the expiration of two months from the date on which it is made.

(3) The following provisions of this Order shall come into operation on such day or days as the Department may by order appoint—

Article 5(1)(b), (2), (4) and (5);

Article 6 and Schedule 2;

Article 8(1);

Article 9;

Article 11(1)(b) to (e) and (2);

Articles 18 to 28 and Schedule 3;

Article 34;

Part IV;

Article 54;

Article 56;

Article 57;

Articles 59 to 62;

Article 77(2) to (6);

Article 78;

Articles 102 to 104;

Article 113;

Article 119;

Articles 127 to 138;

Part IX and Schedule 8;

Article 156;

Article 159;

Article 166 and Schedule 9 so far as relating to—

The Commissioner for Complaints Act (Northern Ireland) 1969<sup>(2)</sup>;

The Industrial Relations (No. 2) (Northern Ireland) Order 1976<sup>(3)</sup>;

The following provisions of the Education and Libraries (Northern Ireland) Order 1986<sup>(4)</sup>, namely, the definition of “grammar school” in Article 2(2) and Articles 4, 8(2), 10(5), 11(1), 33, 65, 69, 72, 79(2), 88(6), 103(1) and 116(1);

Article 167 and Schedule 10 so far as relating to—

The Children and Young Persons Act (Northern Ireland) 1968<sup>(5)</sup>;

The following provisions of the Education and Libraries (Northern Ireland) Order 1986, namely, the definition of “intermediate school” in Article 2(2) and Articles 4, 8(1)(b) and (c), 24 to 26, 28, 56(1) and (4) to (6), 57(1), 68, 103(1), 117, Part IX, Schedule 2, paragraph 4 of Schedule 3, Schedule 14 and Schedule 17;

The Education (Northern Ireland) Order 1987.

(4) An order under paragraph (3) may—

- (a) make such transitional provision as appears to the Department to be necessary or expedient in connection with the provisions brought into operation by the order;
- (b) include such adaptations of the provisions which it brings into operation, or of any other provision of this Order then in operation, as appears to the Department necessary or expedient for the purpose or in consequence of the operation of any provision of this Order (including in particular, the provisions which the order brings into operation) before the coming into operation of any other provision.

(2) 1969 c. 25 (N.I.)

(3) 1976 NI 28

(4) 1986 NI 3

(5) 1968 c. 34 (N.I.)

## **Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954<sup>(6)</sup> shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order “the principal Order” means the Education and Libraries (Northern Ireland) Order 1986<sup>(7)</sup>.

(3) In any provision of this Order “the appointed day” means the day appointed under Article 1(3) for the coming into operation of that provision.

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

(5) For the purposes of the Education Orders a maintained school is maintained by a board if the board has the responsibilities mentioned in Article 8(1) of the principal Order in relation to the school.

## **PART II**

### **GENERAL DUTY OF THE DEPARTMENT OF EDUCATION**

#### **General duty of the Department**

3. It shall be the duty of the Department—

- (a) to promote the education of the people of Northern Ireland;
- (b) to secure the effective execution by boards and other bodies on which or persons on whom powers are conferred or duties imposed under the Education Orders of the Department’s policy in relation to the provision of the education service.

## **PART III**

### **THE CURRICULUM**

#### *Preliminary*

#### **Duties with 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, 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 adult life.

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<sup>(6)</sup> 1987 NI 2

<sup>(7)</sup> 1954 c. 33 (N.I.)

*Principal provisions***The curriculum**

- 5.—(1) The curriculum for every grant-aided school shall—
- (a) include provision for religious education for all registered pupils at the school; and
  - (b) in so far as it relates to registered pupils at the school of compulsory school age, meet the requirements of this Article and Article 6.
- (2) The curriculum for a grant-aided school shall include the following areas of study—
- (a) English;
  - (b) Mathematics;
  - (c) Science and Technology;
  - (d) the Environment and Society;
  - (e) Creative and Expressive Studies;
  - (f) Language Studies, in relation to—
    - (i) schools which are Irish speaking; and
    - (ii) the third and fourth key stages in other schools.
- (3) For the purposes of this Part the subjects which fall within each area of study listed in column 1 of Schedule 1 are—
- (a) the subjects listed against that area of study in column 2 of that Schedule; and
  - (b) any other cognate subjects which appropriately fall to be taught within that area of study,
- and the subjects falling within any area of study by virtue of sub-paragraph (a) or (b) are referred to in this Part as the contributory subjects within that area of study and the subjects falling within any area of study by virtue of sub-paragraph (a) are referred to in this Part as the listed contributory subjects within that area of study.
- (4) The curriculum for every grant-aided school shall, in relation to each listed contributory subject which is taught to pupils at the school,—
- (a) include such attainment targets and programmes of study as are specified in relation to that subject and those pupils under Article 7(1)(a); and
  - (b) require that the content of the teaching of that subject is consistent with those programmes of study and with the attainment by those pupils of those attainment targets.
- (5) The curriculum for every grant-aided secondary school shall afford to all pupils in the third and fourth key stages the opportunity to be taught, within the area of study called Language Studies, one of the following listed contributory subjects, namely French, German, Italian or Spanish.
- (6) For the purposes of this Part the key stages in relation to a pupil are as follows—
- (a) the period beginning with his becoming of compulsory school age and ending at the same time as the fourth school year thereafter;
  - (b) the period beginning at the same time as the next school year after the end of the first key stage and ending at the same time as the third school year thereafter;
  - (c) the period beginning at the same time as the next school year after the end of the second key stage and ending at the same time as the third school year thereafter;
  - (d) the period beginning at the same time as the next school year after the end of the third key stage and ending at the same time as he ceases to be of compulsory school age.
- (7) The Department may by order amend paragraphs (5) and (6) and Schedule 1.

(8) Nothing in paragraph (2)(f) shall be taken to preclude the inclusion of Language Studies as an area of study in the curriculum of a grant-aided school in relation to the first and second key stages.

(9) In paragraphs (2) to (6) and Article 6—

- (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.

### **Compulsory contributory subjects and compulsory assessment**

6.—(1) The curriculum for every grant-aided school shall require each pupil at the school to be taught within each area of study the contributory subjects which in accordance with paragraph (2) are compulsory contributory subjects in relation to that pupil.

(2) The compulsory contributory subjects within each area of study specified in column 1 of Schedule 2—

- (a) in relation to pupils in key stages 1 and 2, are those specified in column 2 of that Schedule;
- (b) in relation to pupils in key stage 3, are those specified in column 3 of that Schedule;
- (c) in relation to pupils in key stage 4, are those specified in column 4 of that Schedule.

(3) Subject to paragraph (4), the curriculum for every grant-aided school shall require each pupil at the school to be assessed in each of his compulsory contributory subjects in accordance with such assessment arrangements as are specified in relation to that subject and that pupil under Article 7(1) (b).

(4) Paragraph (3) does not apply to any compulsory contributory subjects which are within the area of study called Creative and Expressive Studies.

(5) For ease of reference, in Schedule 2 an “(A)” is placed after each entry relating to a compulsory contributory subject in which pupils are required under paragraph (3) to be assessed.

(6) The Department may by order amend Schedule 2.

### **Attainment targets, programmes of study and assessment arrangements**

7.—(1) The Department may by order specify—

(a) in relation to a listed contributory subject—

(i) such attainment targets; and

(ii) such programmes of study,

as it considers appropriate for that subject; and

(b) in relation to a compulsory contributory subject in which pupils are required under Article 6(3) to be assessed, such assessment arrangements as it considers appropriate for that subject.

(2) It shall be the duty of the Department so to exercise the powers conferred by paragraph (1) as—

(a) to set in place as soon as is practicable—

(i) attainment targets and programmes of study in relation to all the compulsory contributory subjects;

(ii) assessment arrangements in relation to all the compulsory contributory subjects in which pupils are required under Article 6(3) to be assessed;

- (b) to revise any existing attainment targets, programmes of study or assessment arrangements whenever it considers it necessary or appropriate to do so.
- (3) In this Part—
  - (a) “attainment targets” means the knowledge, skills and understanding which pupils of different abilities and maturities are expected to have by the end of each key stage;
  - (b) “programmes of study” means the matters, skills and processes which are required to be taught to pupils of different abilities and maturities during each key stage;
  - (c) “assessment arrangements” means the arrangements for assessing pupils at or near the end of each key stage for the purpose of ascertaining what they have achieved in relation to the attainment targets for that stage.
- (4) An order made under paragraph (1) may not require—
  - (a) that any particular period or periods of time should be allocated during any key stage to the teaching of any programme of study or any matter, skill or process forming part of it; 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.
- (5) An order under paragraph (1) may, instead of containing the provisions to be made, refer to provisions in a document published by Her Majesty’s Stationery Office and direct that those provisions shall have effect or, as the case may be, have effect as amended by the order.
- (6) An order under paragraph (1)(b) may authorise the making of such provisions giving full effect to or otherwise supplementing the provisions made by the order as appear to the Department to be expedient; and any provisions made under such an order shall, on being published by Her Majesty’s Stationery Office, have effect for the purposes of this Part as if made by the order.

### **Educational themes**

- 8.—**(1) The curriculum for a grant-aided school shall not, in so far as it relates to pupils of compulsory school age, be taken to satisfy the requirements of Article 4(2) unless it promotes, wholly or mainly through the teaching of the contributory subjects and religious education, the attainment of the objectives of the following educational themes, namely—
- (a) Information Technology;
  - (b) Education for Mutual Understanding;
  - (c) Cultural Heritage;
  - (d) Health Education;
  - (e) in relation to the third and fourth key stages, Economic Awareness;
  - (f) in relation to the third and fourth key stages, Careers Education.
- (2) The Department may by order specify in relation to each educational theme mentioned in paragraph (1) such objectives as it considers appropriate for that educational theme.
- (3) It shall be the duty of the Department so to exercise the powers conferred by paragraph (2) as—
- (a) to set objectives in place as soon as is practicable in relation to each of the educational themes mentioned in paragraph (1); and
  - (b) to revise any existing objectives whenever it considers it necessary or expedient to do so.
- (4) Paragraphs (4) and (5) of Article 7 shall apply to an order under paragraph (2) as they apply to an order under paragraph (1) of that Article.
- (5) The Department may by order amend the list of educational themes in paragraph (1).

### **Courses leading to external qualifications**

9.—(1) No course of study leading to a qualification authenticated by an outside person shall be provided for pupils of compulsory school age by or on behalf of any grant-aided school unless the qualification is for the time being approved by the Department and either—

- (a) a syllabus provided by the outside person for the purposes of the course is for the time being approved by the Department; or
- (b) criteria so provided for determining a syllabus for those purposes are for the time being so approved.

(2) An approval under this Article may be given either generally or in relation to particular cases.

(3) In this Article “outside person”, in relation to a school, means a person other than a member of staff of the school.

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

10.—(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 programme of study specified under Article 7(1)(a) which forms part of that curriculum;
- (b) any syllabus for a course which forms part of that curriculum and leads to an examination for a qualification approved under Article 9(1); 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 principal Order;
  - (ii) to consider any representations made to it regarding the curriculum by the relevant board, 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 furnish the relevant board and, if the school is a Catholic maintained school, the Council for Catholic Maintained Schools with a copy of every statement made by it under paragraph (1)(b).

(9) In paragraph (8) “relevant board” in relation to a school means—

- (a) in the case of a controlled school, the board responsible for the management of the school;
- (b) in the case of a maintained school, the board by which the school is maintained;
- (c) in the case of any other grant-aided school, the board for the area in which the school is situated.

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

**11.—**(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 listed contributory subjects within each area of study are taught as required by the school’s curriculum as subsisting at the beginning of that year;
- (c) that the compulsory contributory subjects within each area of study are assessed as required by Article 6(3);
- (d) that Article 9 is not contravened; and
- (e) where the school is a secondary school, that Article 5(5) is not contravened.

(2) In relation to any grant-aided school and any time before the coming into operation as respects any pupils at the school of an order under Article 7(1)(a) specifying attainment targets and programmes of study in relation to a particular compulsory contributory subject and those pupils, 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 that subject is taught to those pupils for a reasonable time.

(3) It shall be the duty of—

- (a) the Department and the boards 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 this Part.

### *Religious education*

### **Religious education**

**12.—**(1) The religious education for which provision is required by Article 5(1)(a) to be included in the curriculum for—

- (a) a special school, shall be religious education provided in accordance with regulations under Article 34 of the principal Order;



- (b) any other grant-aided school, shall be religious education of the kind required by Article 21 of the principal Order.

(2) In Articles 21 and 22 of the principal Order for the word “instruction” wherever it occurs there shall be substituted the word “education”.

### **Core syllabus for religious education**

**13.**—(1) Subject to paragraph (4), 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 principal Order.

(2) In Article 21 of the principal Order after paragraph (3) there shall be inserted—

“(3A) In a grant-aided school the religious education required by paragraph (1) shall include religious education in accordance with any core syllabus specified under Article 13(1) of the 1989 Order.”.

(3) In Article 34 of the principal Order for paragraph (2) there shall be substituted—

“(2) Regulations under paragraph (1) shall secure that every pupil attending a special school—

- (a) shall, so far as is practicable, attend collective religious worship or be withdrawn from attendance at such worship in accordance with the wishes of his parent;
- (b) shall receive religious education in accordance with any core syllabus specified under Article 13(1) of the 1989 Order, or be withdrawn from receiving such education in accordance with the wishes of his parent.”.

(4) 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.

(5) Paragraphs (1) and (4) apply with appropriate modifications to amendments to, or a revision of, an existing core syllabus.

(6) Paragraph (5) of Article 7 shall apply to an order under paragraph (1) as it applies to an order under paragraph (1) of Article 7.

*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, 6 and 8—

- (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) the Northern Ireland Curriculum Council, with the agreement of the Board of Governors of the school; or
- (c) the relevant board, 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 the relevant board.

(5) In paragraphs (3) and (4) “relevant board” has the meaning assigned to it by Article 10(9).

(6) 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.

**Exceptions by regulations**

**15.** The Department may by regulations provide that Articles 5, 6 and 8—

- (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.

**Pupils with statements of special educational needs**

**16.** The special educational provision for any pupil specified in a statement under Article 31 of the principal Order of his special educational needs may include provision—

- (a) applying Articles 5, 6 and 8 with such modifications as may be specified in the statement; or
- (b) excluding the application of those Articles.

**Temporary exceptions 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, 6 and 8—
  - (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 six months; or
    - (ii) a period determinable (in such manner as may be specified in the regulations) not later than six 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, 6 and 8; or
    - (ii) an indication of his opinion that the pupil has or probably has special educational needs by virtue of which the board 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 the board is for the time being required under Article 31 of the principal 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 the board.
- (6) It shall be the duty of a board on receiving information given to the board 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 29 of the principal 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 with any persons with whom consultation appears to be desirable.

*The Northern Ireland Curriculum Council and the Northern  
Ireland Schools Examinations and Assessment Council*

**The Northern Ireland Curriculum Council**

**18.—**(1) There shall be established a body to be known as the Northern Ireland Curriculum Council (in this Article and Article 19 referred to as “the Council”) which shall perform the functions conferred on it by Article 19.

(2) Schedule 3 shall have effect with respect to the Council.

**Functions of the Northern Ireland Curriculum Council**

**19.—**(1) The Northern Ireland Curriculum Council shall—

- (a) keep all aspects of the curriculum for grant-aided schools under review;
- (b) advise the Department on such matters concerned with the curriculum for grant-aided schools as the Department may refer to it or as it may see fit;
- (c) publish and distribute, or secure or assist the publication and distribution by another body or person of, information relating to the curriculum for grant-aided schools;
- (d) carry out such other activities as the Department may direct, being activities which the Department considers to be appropriate for the Council to carry out for the purpose of, or in connection with, the exercise of any of its other functions under this Article.

(2) Where the Department proposes to exercise the power conferred by Article 7(1) to set in place or revise any programme of study or attainment target for any listed contributory subject or the power conferred by Article 8(2) to set in place or revise objectives for any educational theme, the Department may refer the proposal to the Council.

(3) Where a proposal is referred to the Council under paragraph (2) the Council shall, before such date as the Department may direct,—

- (a) consult, with regard to the proposal, with such bodies or persons as appear to the Council to be concerned; and
- (b) make a report to the Department containing—
  - (i) a summary of the views expressed during the consultations;
  - (ii) the Council's recommendations as to the proposal; and
  - (iii) such other advice relating to the proposal as the Council thinks fit.

(4) The Council may, in connection with the exercise of any of its functions, and shall if the Department so directs, carry out, or commission, or assist in any way, the carrying out by another

body or person of, any programme of research and development for purposes connected with the curriculum for grant-aided schools.

(5) The Department may by order provide that paragraphs (1) and (4) shall have effect as if references to the curriculum for grant-aided schools included references to courses of further education in institutions of further education.

### **The Northern Ireland Schools Examinations and Assessment Council**

**20.**—(1) There shall be established a body to be known as the Northern Ireland Schools Examinations and Assessment Council (in this Article and Articles 21 and 22 referred to as “the Council”) which shall perform the functions conferred on it by Articles 21 and 22.

(2) Schedule 3 shall have effect with respect to the Council.

### **Duty to conduct examinations and assessments**

**21.**—(1) The Northern Ireland Schools Examinations and Assessment Council shall, subject to the following provisions of this Article,—

- (a) conduct, and award the appropriate certificates for, the relevant examinations, in accordance with such rules as the Council may determine;
- (b) conduct the relevant assessments, in accordance with such assessment arrangements as are specified under Article 7(1)(b);
- (c) conduct the moderation of relevant examinations and relevant assessments;
- (d) seek to ensure that the standards of the relevant examinations and of the relevant assessments are recognised as equivalent to the standards of examinations and assessments conducted by other bodies or authorities exercising similar functions elsewhere in the United Kingdom.

(2) Arrangements made by the Council for the conduct of the relevant examinations may include provision—

- (a) for the conduct of external examinations on syllabuses specified by the Council and approved by the Department under Article 9;
- (b) for the conduct of external examinations on syllabuses prepared by individual schools or groups of schools or by individual institutions of further education or groups of such institutions or groups of schools and such institutions and approved by the Department under Article 9;
- (c) for external assessment of examinations conducted internally by individual schools or groups of schools or by individual institutions of further education or groups of such institutions or groups of schools and such institutions and approved by the Department under Article 9.

(3) The Council may enter into arrangements to perform functions or provide services to or on behalf of any other examining body or authority and such arrangements may provide for the payment by the said body or authority of the whole or part of any expenditure incurred by the Council in carrying out the arrangements.

(4) The Council may—

- (a) arrange for the relevant examinations, or part thereof, to be conducted on its behalf by any other examining body or authority;
- (b) with the approval of the Department, arrange for the relevant assessments, or part thereof, to be conducted on its behalf by any other body, authority or person;

- (c) make payments to any such body, authority or person in respect of the expenditure incurred in carrying out the arrangements.
- (5) The Council may appoint such examiners, assessors, moderators and other persons as it considers necessary for the performance of its functions and shall pay them such salaries, fees or other allowances as the Council may determine.
- (6) The Council may publish rules and syllabuses for the relevant examinations and may publish specimen examination papers and such other material as it considers desirable.
- (7) The Council may charge such fees in connection with relevant examinations as may be approved by the Department.
- (8) Every certificate awarded by the Council shall be signed on behalf of the Council.
- (9) The Council shall make arrangements for the consideration by the Council of appeals against any decision or complaints against any action of the Council.
- (10) The Council may enter into arrangements with a board for the board to assist the Council in the exercise of any of its functions under this Article and such arrangements may provide for the payment by the Council to the board of the whole or part of any expenditure incurred by the board in carrying out the arrangements.
- (11) A board shall have power to enter into and carry out any arrangements under paragraph (10).
- (12) In this Article—
  - “relevant assessments” means assessments of pupils required by Article 6(3);
  - “relevant examinations” means—
    - (a) examinations for the Northern Ireland General Certificate of Secondary Education;
    - (b) examinations for the Northern Ireland General Certificate of Education at Advanced (including Advanced Supplementary) Level;
    - (c) such other examinations as the Department, after consultation with the Council, may determine.

### **Other functions of the Northern Ireland Schools Examinations and Assessment Council**

- 22.**—(1) The Northern Ireland Schools Examinations and Assessment Council shall—
- (a) keep all aspects of examinations and assessment under review;
  - (b) advise the Department on such matters concerned with examinations and assessment as the Department may refer to it or as it may see fit;
  - (c) publish and disseminate, or assist in the publication and dissemination of, information relating to examinations and assessment;
  - (d) advise the Department on the exercise of its powers under Article 9(1);
  - (e) carry out such other activities as the Department may direct, being activities which the Department considers to be appropriate for the Council to carry out for the purpose of, or in connection with, the exercise of any of its functions under Article 21 or this Article.
- (2) The Council may, in connection with the exercise of any of its functions, and shall if the Department so directs, carry out, or commission, or assist in any way, the carrying out by another body or person of, any programme of research and development for purposes connected with examinations and assessments.
- (3) The Council shall make such reports and returns, and give such information, to the Department as the Department may reasonably require.

### **Application of Articles 24 to 27 to both Councils**

**23.** References in Articles 24 to 27 to “the Council” are references to each of the following bodies—

- (a) the Northern Ireland Curriculum Council; and
- (b) the Northern Ireland Schools Examinations and Assessment Council;

and references in Article 24 to “the other Council” shall be construed accordingly.

### **Work programmes**

**24.—**(1) The Council shall, at such time, in such form and in respect of such period as the Department may direct, prepare and submit to the Department a programme of its proposed activities in exercise of its functions (referred to in this Article as “a work programme”).

(2) A work programme submitted to the Department under this Article shall include—

- (a) in respect of each activity mentioned in the programme, an estimate of the Council’s expenditure and receipts;
- (b) such other matters as the Department may direct.

(3) Before submitting a work programme under this Article, the Council shall consult—

- (a) the other Council;
- (b) the boards; and
- (c) such other bodies or persons as it thinks fit.

(4) The Council shall seek to secure that a work programme submitted under this Article in respect of any period is compatible with any work programme submitted under this Article by the other Council in respect of that period.

(5) The Department may request the Council to furnish such information in connection with any work programme submitted to the Department as the Department may require, including information as to the results of consultations under paragraph (3).

(6) The Department may, after making such modifications, if any, in the work programme as, after consultation with the Council, it considers necessary, approve any work programme submitted under this Article.

(7) The Council may at any time, and shall if the Department so directs, prepare and submit to the Department a revised work programme or an amendment to an existing work programme and paragraphs (2) to (6) shall apply in relation to any such revised work programme or amendment as they apply in relation to the original work programme.

(8) It shall be the duty of the Council—

- (a) to carry out the activities in a work programme approved under this Article in accordance with that programme;
- (b) not to carry out any activities or incur any expenditure in any period except in accordance with the work programme approved under this Article in respect of that period.

### **Grants to the Council**

**25.—**(1) The Department may pay to the Council grants equal to—

- (a) approved expenditure incurred by the Council for the provision or alteration of premises for the use of the Council;
- (b) approved expenditure incurred by the Council for the provision of equipment;

- (c) other approved expenditure incurred by the Council in carrying out a work programme approved under Article 24.
- (2) Grants under this Article shall be made on such conditions (including conditions as to repayment) and at such times as the Department may determine.

### **Accounts and audit**

**26.**—(1) The Council shall keep, in such form as the Department may direct, accounts of all moneys received and all moneys paid out by it.

(2) In respect of each financial year—

- (a) the Council shall prepare and submit to the Comptroller and Auditor General for Northern Ireland a statement of accounts before such date, in such form and containing such information as the Department, with the approval of the Department of Finance and Personnel, may direct and shall before that date send a copy thereof to the Department;
- (b) the Comptroller and Auditor General for Northern Ireland shall examine and certify the statement of accounts submitted to him by the Council; and
- (c) the Department shall lay before the Assembly a copy of the certified statement of accounts of the Council together with a copy of any report thereon of the Comptroller and Auditor General for Northern Ireland.

(3) The Comptroller and Auditor General for Northern Ireland in the discharge of his functions under this Article shall have right of access to the books, accounts and records of the Council and may require from any member or officer or former member or officer of the Council such information relating to the affairs of the Council as he may think necessary for the proper performance of those functions.

### **Transfer of property and staff to the Council**

**27.**—(1) The Department may by order provide for the transfer to the Council of—

- (a) such of the property of an existing body;
- (b) such of the rights and liabilities of such a body (other than rights and liabilities arising under contracts of employment),

as, in its opinion, require to be so transferred for the purpose of enabling the Council properly to perform its functions.

(2) Paragraph (3) applies to any person who—

- (a) immediately before the establishment of the Council is employed by an existing body; and
- (b) is as respects the Council designated by order of the Department.

(3) The contract of employment between a person to whom this paragraph applies and the existing body shall have effect from the date on which the order under paragraph (2) comes into operation as if originally made between him and the Council.

(4) Without prejudice to paragraph (3)—

- (a) all the existing body's rights, powers, duties and liabilities under or in connection with a contract to which that paragraph applies shall by virtue of that paragraph be transferred to the Council on the date on which the order under paragraph (2) comes into operation; and
- (b) anything done before that date by or in relation to the existing body in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to the Council.



(5) Paragraphs (3) and (4) are without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right shall arise by reason only of the change in employer effected by paragraph (3).

(6) An order under paragraph (2) may designate a person either individually or as a member of a class or description of employees.

(7) No order under this Article shall be made more than six months after the date on which the Council is established.

(8) In this Article “existing body” means—

- (a) the Northern Ireland Schools Examinations Council;
- (b) the Department; or
- (c) the managers of a college of education maintained in pursuance of arrangements made by the Department under Article 66(1) of the principal Order.

### **Abolition of Northern Ireland Schools Examinations Council**

**28.—**(1) The Northern Ireland Schools Examinations Council is hereby abolished.

(2) Part IX of, and Schedule 17 to, the principal Order are hereby repealed.

### *Miscellaneous and supplementary*

### **Curriculum advice and support by boards**

**29.—**(1) Within such time after the coming into operation of this Article as the Department may direct, each board shall prepare and submit to the Department a scheme for the provision to—

- (a) all controlled schools under its management;
- (b) all maintained schools maintained by it;
- (c) all other voluntary or grant-maintained integrated schools situated in its area,

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, without prejudice to the generality of paragraph (1), shall contain provision—

- (a) requiring the board, in accordance with a programme approved under Article 149, to secure the provision of further training for teachers (whether or not employed on the staff of a particular school);
- (b) empowering the board 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 the board may determine;
- (c) enabling the board 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 the board itself or through the agency of another board, person or body;
- (e) requiring such services, training and materials to be provided free of charge;
- (f) requiring the board 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 the board.

(3) Before preparing a scheme under paragraph (1), a board shall consult—

- (a) the Board of Governors of every school mentioned in that paragraph; and
- (b) such other persons as the board considers appropriate.

(4) The Department may request a board 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 the board it considers necessary or expedient, approve any scheme submitted to it under this Article.

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

(7) Where—

(a) a board fails to submit a scheme to the Department under this Article by the date, or in the form, directed by the Department; or

(b) the Department refuses to approve a scheme submitted to it under this Article,

the Department may, after consultation with the board 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 the board and approved by the Department under this Article.

(8) A board may at any time, and shall if the Department so directs, prepare and submit to the Department a revised scheme or an amendment to an existing scheme and paragraphs (3) to (6) shall apply in relation to any such revised scheme or amendment as they apply in relation to the scheme.

### **Duties of inspectors**

**30.** Article 102 of the principal Order shall be renumbered as paragraph (1) of that Article and after that paragraph there shall be added—

“(2) It shall be the duty of inspectors to promote the highest standards of education and of professional practice among teachers in the schools, colleges, institutions and establishments mentioned in paragraph (1) by—

(a) monitoring, inspecting and reporting on the standard of education being provided by those bodies and the standard of professional practice among teachers on the staff of those bodies; and

(b) advising the Department on any aspect of the curriculum of any of those bodies which the Department may refer to them or on which they think advice is appropriate.

(3) It shall be the duty of inspectors to monitor, inspect and report on the nature, scope and effect of advisory and support services provided by boards under Article 29 of the 1989 Order in relation to the curricula and staff of grant-aided schools.

(4) The Department may direct a board, the Council for Catholic Maintained Schools, the Board of Governors or principal of a grant-aided school or the governing body or principal of an institution of further education to take such action as the Department thinks necessary to remedy any matter referred to by a report under this Article.

(5) It shall be the duty of a person or body to whom or to which a direction is given under paragraph (4) to comply with that direction.

(6) Before giving a direction under paragraph (4) to a person or body the Department shall consult with that person or body and such other persons or bodies as it thinks fit.

(7) The functions conferred by this Article on inspectors and other officers of the Department shall not be exercisable in relation to any provision for religious education included in the curriculum of a school under Article 5(1)(a) of the 1989 Order except with the agreement of the Board of Governors of the school.”.

## **Provision of information**

**31.**—(1) The Department may make regulations requiring each board 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 any syllabuses to be followed by those pupils; 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;

(b) such copies of—

- (i) any written statement made by the Board of Governors under Article 10(1)(b); and
  - (ii) any report prepared by the Board of Governors under Article 125,
- 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 boards, 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 the boards, the Council for Catholic Maintained Schools, the Boards of Governors and principals of all grant-aided schools and 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 the school attended by the pupil concerned;
- (c) the Board of Governors of any other school to which that pupil applies for admission; 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 subject at or near the end of a key stage, if at any time during that key stage any provision has been made under Article 14, 15, 16 or 17 in relation to that pupil excluding or modifying the application of Article 5 or 6 in relation to that subject.

(7) References in this Article to an assessment of a pupil are references to an assessment whether made under this Part or otherwise.

### **Keeping, disclosure and transfer of educational records**

**32.** In Article 17A of the principal Order—

(a) in paragraph (2) after sub-paragraph (f) there shall be added—

“(g) with respect to the keeping, disclosure and transfer of educational records about pupils at such schools and the supply of copies of such records to such persons, and in such circumstances, as may be determined by or under the regulations.”;

(b) after paragraph (2) there shall be inserted—

“(2A) Regulations made under paragraph (1) by virtue of paragraph (2)(g) may authorise persons who in pursuance of the regulations supply copies of any such records as are there mentioned to charge such fee as they think fit (not exceeding the cost of supply) in respect of each copy so supplied.”.

### **Complaints**

**33.—**(1) Every board shall, in accordance with regulations under paragraph (3), appoint a tribunal (in this Article referred to as a complaints tribunal) to hear and determine any complaint made on or after the coming into operation of this Article which is to the effect that the board or the Board of Governors of a relevant school—

(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—

(i) this Part;

(ii) Articles 147 to 149 (in the case of a board only); or

(iii) any other statutory provision relating to the curriculum for grant-aided schools; or

(b) has failed to discharge any such duty.

(2) Paragraph (1) does not apply to a complaint of a kind mentioned in Article 23(2) of the principal Order.

(3) 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 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 the board.

(4) 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) the board or Board of Governors in respect of which the complaint was made (“the respondent”).

(5) 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,

the tribunal may include in a notice given under paragraph (4) 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.

(6) Where it appears to a complaints tribunal that a respondent has not, within the time specified in a notice under paragraph (4), taken the steps so specified or otherwise remedied the matter mentioned in paragraph (5)(b), it may refer that matter to the Department together with a copy of the notice under paragraph (4).

(7) Where any matter is referred to the Department under paragraph (6) 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 principal Order as appear to the Department to be expedient for the purpose of remedying the matter.

(8) The Department shall not entertain under Article 101(4) of the principal 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.

(9) A complaints tribunal shall not be regarded as a committee of the board.

(10) Article 79(1) of the principal Order shall apply to members of a complaints tribunal in like manner as it applies to members of a board.

(11) In this Article “relevant school” in relation to a board means—

- (a) a controlled school managed by the board;
- (b) a maintained school maintained by the board;
- (c) any other voluntary or grant-maintained integrated school situated in the area of the board.

### **Extension of Articles 9 and 11(1)(d) to senior pupils**

**34.—**(1) The Department may by order direct that the provisions of Articles 9 and 11(1)(d) shall have effect as if—

- (a) any reference to pupils of compulsory school age included a reference to—
  - (i) senior pupils who are of or over that age; and
  - (ii) persons in full-time further education who are over that age but have not attained the age of nineteen;
- (b) any reference to a grant-aided school included a reference to an institution of further education;
- (c) any reference to the Board of Governors of such a school included a reference to the governing body of such an institution; and
- (d) any reference to a school year included a reference to an academic year.

(2) An order under paragraph (1) may make such consequential modifications of Articles 21 and 22 as appear to the Department to be necessary or expedient.

(3) The Department may make regulations requiring, in relation to every institution of further education, the board, the governing body or the principal to make available either generally or to prescribed persons, in such form and at such times as may be prescribed, such information relating to—

- (a) the qualifications authenticated by outside persons (within the meaning of Article 9) for which courses of study are to be provided by or on behalf of the institution concerned for relevant students;
- (b) the courses of study leading to such qualifications which are to be so provided;

- (c) the syllabuses which have been provided or determined for the purposes of those courses; and
- (d) the results of the assessments of such students for the purposes of those qualifications, as may be prescribed.

(4) In paragraph (3) “relevant students” means persons mentioned in paragraph (1)(a)(ii) in relation to whom Articles 9 and 11(1)(d) have effect by virtue of an order under paragraph (1).

(5) Regulations under paragraph (3) shall not require information as to the results of an individual student’s assessment for the purposes of any qualification to be made available to any persons or bodies other than—

- (a) the student concerned and his parents;
- (b) the governing body of the institution attended by the student concerned; or
- (c) 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) and (c) except where necessary for the purposes of the performance by that body or person of any functions under the Education Orders.

(6) Regulations under paragraph (3) may authorise boards, governing bodies and principals to make a charge (not exceeding the cost of supply) for any documents supplied by them in pursuance of the regulations.

(7) Before making any order under paragraph (1) or regulations under paragraph (3) the Department shall consult with—

- (a) the boards and the governing bodies and principals of all institutions of further education; and
- (b) any other persons with whom consultation appears to it to be desirable.

### **Interpretation of Part III**

**35.—**(1) In this Part—

“assess” includes examine and test;

“assessment arrangements”, “attainment targets” and “programmes of study” have the meanings given by Article 7(3);

“key stages” has the meaning given by Article 5(6);

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

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

- (a) religious education; and
- (b) the subjects, other than English and Irish, which are compulsory contributory subjects in relation to pupils at the school,

are taught (wholly or partly) in Irish, and “school” includes part of a school.

(3) In this Part any reference to the Board of Governors of a school includes, in relation to a voluntary school referred to in Article 11(8) of the principal Order, a reference to the person approved in relation to that school by the Department under the said Article 11(8).

(4) In its application to a technical secondary school conducted in association with an institution of further education, this Part shall have effect as if—

- (a) references to the Board of Governors of a school included references to the governing body of the institution;

(b) references to the scheme of management for a school included references to the articles of government of the institution;

(c) references to the principal of a school included references to the principal of the institution.

(5) In this Part references to the contributory subjects or listed contributory subjects within an area of study shall be construed in accordance with Article 5(3) and references to compulsory contributory subjects shall be construed in accordance with Article 6(1) and (2).

(6) Nothing in this Part, except Articles 30 and 32, shall apply in relation to a nursery school or a nursery class in a primary school.

(7) Directions given by the Department under this Part shall be given in writing.

## PART IV

### ADMISSION OF CHILDREN TO GRANT-AIDED SCHOOLS

#### Parental preferences

**36.**—(1) Every board shall make arrangements for enabling the parent of a child resident in the area of the board to express a preference as to the school at which he wishes education to be provided for his child and to give reasons for his preference.

(2) It shall be the duty of the Board of Governors of a grant-aided school—

(a) to make arrangements for the admission of pupils to the school;

(b) subject to paragraphs (3) and (4), to comply with any preference expressed in accordance with arrangements made under paragraph (1).

(3) The duty imposed by paragraph (2)(b) does not apply if compliance with the preference would prejudice the provision of efficient education or the efficient use of resources; but no such prejudice shall be taken to arise from the admission to a school in any school year of a number of pupils in the relevant age group which does not exceed the school's admissions number for that school year.

(4) The duty imposed by paragraph (2)(b) does not apply if—

(a) the preferred school is a grammar school; and

(b) compliance with the preference would be detrimental to the educational interests of the child concerned.

(5) A parent who makes an application for the admission of his child to, or to a person acting on behalf of, the Board of Governors of a grant-aided school shall be regarded for the purposes of paragraph (2)(b) as having expressed a preference for that school in accordance with arrangements made under paragraph (1).

(6) The duty imposed by paragraph (2)(b) in relation to a preference expressed in accordance with arrangements made under paragraph (1) shall apply also in relation to—

(a) any application for the admission to a grant-aided school of a child who is not resident in the area of the board in which the school is situated;

(b) any application made as mentioned in Article 44(3) or (4) for a child to be admitted to a grant-aided school;

and references in paragraphs (3) and (4) to a preference and a preferred school shall be construed accordingly.

**Appeals against admission decisions**

**37.**—(1) Every board shall make arrangements for enabling the parent of a child to appeal against any decision made by or on behalf of the Board of Governors of a grant-aided school situated in the area of the board refusing the child admission to the school.

(2) Any appeal by virtue of this Article shall be to an appeal tribunal constituted in accordance with regulations under paragraph (7).

(3) An appeal by virtue of this Article may be brought only on the ground that the criteria drawn up under Article 38 for selecting pupils for admission to the school were not applied, or not correctly applied, in deciding to refuse the child admission to the school.

(4) On the hearing of an appeal under this Article—

- (a) if it appears to the appeal tribunal that the criteria drawn up under Article 38 for selecting pupils for admission to the school were not applied, or not correctly applied, in deciding to refuse the child admission to the school, the tribunal shall, subject to paragraph (5), allow the appeal and direct the Board of Governors of the school to admit the child to the school;
- (b) in any other case, the tribunal shall dismiss the appeal.

(5) If in the case mentioned in paragraph (4)(a) it appears to the appeal tribunal that had the criteria drawn up under Article 38 for selecting pupils for admission to the school been applied or (as the case may be) been correctly applied the child would have been refused admission to the school, the tribunal shall dismiss the appeal.

(6) It shall be the duty of the Board of Governors of a school to comply with any direction given to it under paragraph (4)(a).

(7) The Department shall by regulations provide for the constitution and procedure of appeal tribunals and, without prejudice to the generality of the foregoing, such regulations—

- (a) shall provide for the tribunals to be appointed by the board;
- (b) shall provide for the membership of such tribunals and may provide for disqualifying prescribed persons or descriptions of person for membership of such tribunals;
- (c) may provide for two or more tribunals to sit at the same time;
- (d) may provide that all matters relating to the procedure on appeals which are not specifically regulated by the regulations shall be determined by the board.

(8) An appeal tribunal shall not be regarded as a committee of the board.

(9) Article 79(1) of the principal Order shall apply to members of an appeal tribunal in like manner as it applies to members of a board.

**Criteria for admission to grant-aided schools**

**38.**—(1) Subject to paragraphs (2) to (5), 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 pupils for admission to the school.

(2) When drawing up or amending the criteria to be applied in selecting pupils for admission to—

- (a) a controlled school, the Board of Governors of the school shall consider any representations which are made to it regarding those criteria by the board responsible for the management of the school;
- (b) a Catholic maintained school, the Board of Governors of the school shall consider any representations which are made to it regarding those criteria by the Council for Catholic Maintained Schools.



(3) Any amendment of the criteria mentioned in paragraph (1) which is made in the course of a school year shall not apply in relation to the admission of pupils to the school in that school year.

(4) The criteria to be applied in selecting pupils in the relevant age group for admission to a secondary school shall not include the performance of the pupils in any test or examination held by, or on behalf of, the Board of Governors of a secondary school.

(5) A test or examination of an individual pupil held by a board at the request of the Board of Governors of a grammar school shall not be taken for the purposes of paragraph (4) to be a test or examination held by, or on behalf of, that Board of Governors.

(6) Regulations may provide, in relation to any school or description of school,—

- (a) that the criteria to be drawn up under this Article 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.

### **Restriction on number of registered pupils at a grant-aided school**

**39.**—(1) Subject to paragraph (2), the Board of Governors of a grant-aided school shall not cause or permit the number of registered pupils at the school at any time to exceed the school's enrolment number.

(2) In calculating for the purposes of paragraph (1) the number of registered pupils at a school at any time, no account shall be taken of any pupils registered at the school in compliance with a direction of an appeal tribunal or in compliance with a school attendance order.

(3) In this Part any reference to a school's enrolment number is a reference to the number for the time being applying under the following provisions of this Article to the school.

(4) Subject to paragraph (5), the enrolment number applying to a school shall be such number as the Department may, after consultation with the Board of Governors of the school, determine having regard in particular to—

- (a) the requirements of regulations under Article 18 of the principal Order which apply in relation to the school; and
- (b) the accommodation available for use by pupils at the school, other than—
  - (i) in the case of a boarding school, so much of the accommodation as is used wholly or mainly for boarding purposes; and
  - (ii) in the case of a grammar school, so much of the accommodation as is not available for use by pupils of the secondary department.

(5) The Department may—

- (a) direct that the enrolment numbers applying to schools of any class or description specified in the directions shall be varied in accordance with the directions;
- (b) on the application of, or after consultation with, the Board of Governors of an individual school, direct that the enrolment number applying to that school shall be varied in accordance with the directions.

(6) Directions given by the Department under paragraph (5)(b) on the application of the Board of Governors of an individual school shall specify as the new enrolment number applying to the school either the number specified by the Board of Governors in its application or—

- (a) in the case of an application to increase the enrolment number, such lesser number as the Department thinks fit;
- (b) in the case of an application to reduce the enrolment number, such greater number as the Department thinks fit.

(7) It shall be the duty of the Department—

- (a) when determining under paragraph (4) the enrolment number applying to a controlled school or varying that number under paragraph (5), to consider any representations which are made to it regarding that number by the board responsible for the management of the school;
- (b) when determining under paragraph (4) the enrolment number applying to a Catholic maintained school or varying that number under paragraph (5), to consider any representations which are made to it regarding that number by the Council for Catholic Maintained Schools.

(8) Where the Department determines a school's enrolment number under paragraph (4) or varies that enrolment number under paragraph (5), it shall send notice of the enrolment number so determined or varied to—

- (a) the Board of Governors of the school;
- (b) where the school is a controlled school, the board responsible for the management of the school;
- (c) where the school is a Catholic maintained school, the Council for Catholic Maintained Schools.

#### **Determination of admissions number for a school**

**40.**—(1) In this Part any reference to a school's admissions number for a school year is a reference to the number for the time being applying under the following provisions of this Article to the school in relation to that school year.

(2) Subject to paragraph (4), the admissions number applying to a school shall, for the commencement year and any subsequent school year, be such number as the Department may, after consultation with the Board of Governors of the school, determine.

(3) In determining a school's admissions number for a school year the Department shall have regard in particular to—

- (a) the requirements of regulations under Article 18 of the principal Order which apply in relation to the school; and
- (b) the school's enrolment number.

(4) The Department may—

- (a) direct that the admissions numbers applying to schools of any class or description specified in the directions shall be varied in accordance with the directions;
- (b) on the application of, or after consultation with, the Board of Governors of an individual school, direct that the admissions number applying to that school shall be varied in accordance with the directions.

(5) Directions given by the Department under paragraph (4)(b) on the application of the Board of Governors of an individual school shall specify as the new admissions number applying to the school either the number specified by the Board of Governors in its application or—

- (a) in the case of an application to increase the admissions number, such lesser number as the Department thinks fit;
- (b) in the case of an application to reduce the admissions number, such greater number as the Department thinks fit.

(6) It shall be the duty of the Department—

- (a) when determining under paragraph (2) the admissions number applying to a controlled school or varying that number under paragraph (4), to consider any representations which

are made to it regarding that number by the board responsible for the management of the school;

- (b) when determining under paragraph (2) the admissions number applying to a Catholic maintained school or varying that number under paragraph (4), to consider any representations which are made to it regarding that number by the Council for Catholic Maintained Schools.

(7) Where the Department determines a school's admissions number under paragraph (2) or varies that admissions number under paragraph (4), it shall send notice of the admissions number so determined or varied to—

- (a) the Board of Governors of the school;
- (b) where the school is a controlled school, the board responsible for the management of the school;
- (c) where the school is a Catholic maintained school, the Council for Catholic Maintained Schools.

(8) In paragraph (2) "the commencement year" means the school year beginning next after the coming into operation of this Article.

#### **Requirement to admit pupils in accordance with admissions number**

**41.**—(1) Subject to paragraphs (2) and (3), the Board of Governors of a grant-aided school shall not admit to the school in any school year a number of pupils in the relevant age group which exceeds the school's admissions number for that school year.

(2) In calculating for the purposes of paragraph (1) the number of pupils in the relevant age group admitted to a school in any school year no account shall be taken of any pupils admitted to the school in compliance with a direction of an appeal tribunal or in compliance with a school attendance order.

(3) The Department may, on the application of the Board of Governors of a school, approve the admission to that school in any particular school year of a number of pupils in the relevant age group which exceeds the school's admissions number for that school year, being either—

- (a) the number specified by the Board of Governors in its application; or
- (b) such lesser number as the Department thinks fit;

and, where any such approval is given, paragraph (1) shall have effect in relation to that school and that school year as if for the reference to the school's admissions number there were substituted a reference to the number approved under this paragraph.

(4) In determining whether and, if so, how to exercise its powers under paragraph (3) on an application made by the Board of Governors of a school in respect of a school year, the Department shall—

- (a) have regard in particular to—
  - (i) the criteria for admission to the school drawn up under Article 38; and
  - (ii) the number of applications received by or on behalf of the Board of Governors in respect of pupils in the relevant age group for admission to the school in that year; and
- (b) consider—
  - (i) where the application relates to a controlled school, any representations which are made to it regarding that application by the board responsible for the management of the school;

- (ii) where the application relates to a Catholic maintained school, any representations which are made to it regarding that application by the Council for Catholic Maintained Schools.
- (5) The Board of Governors of a grammar school shall not in any school year—
  - (a) admit to the school a number of pupils in the relevant age group which is less than the school's admissions number for that school year; and
  - (b) refuse admission to other pupils by virtue of paragraph (3) or (4) of Article 36, unless—
    - (i) the Board of Governors of the school has obtained the Department's approval to do so; and
    - (ii) the number of pupils admitted to the school in that school year in the relevant age group is not less than a number approved by the Department, being either the number specified by the Board of Governors in its application for an approval under this Article or such greater number as the Department thinks fit.
- (6) In determining whether to grant an approval under paragraph (5) to the Board of Governors of a school and in approving a number under that paragraph in relation to a school, the Department shall—
  - (a) have regard in particular to the criteria for admission to the school drawn up under Article 38;
  - (b) where the approval relates to a controlled school, consider any representations which are made to it regarding that approval by the board responsible for the management of the school.
- (7) Where the Department grants an approval under this Article on the application of—
  - (a) the Board of Governors of a controlled school, it shall send notice of the approval to the board responsible for the management of the school;
  - (b) the Board of Governors of a Catholic maintained school, it shall send notice of the approval to the Council for Catholic Maintained Schools.

### **Information as to schools and admission arrangements**

- 42.**—(1) Every board shall, for each school year, publish, at such time and in such manner as the Department may direct, particulars of—
- (a) the arrangements made by the board under Articles 36(1) and 37(1); and
  - (b) the arrangements for the admission of pupils to each grant-aided school in its area.
- (2) The particulars to be published under paragraph (1)(b) for each school year in relation to a school shall include particulars of—
- (a) the school's enrolment number;
  - (b) the school's admissions number for that school year;
  - (c) the respective functions of the Board of Governors and principal in relation to admissions to the school; and
  - (d) the criteria for admission to the school drawn up under Article 38.
- (3) The Board of Governors of every grant-aided school shall, as respects that school, publish—
- (a) such information as may be required by regulations;
  - (b) such other information, if any, as the Board of Governors thinks fit.

(4) Every board shall publish such information as may be required by regulations with respect to its policy and arrangements in respect of any matter relating to primary or secondary education in its area.

(5) The board may, with the agreement of the Board of Governors of any grant-aided school situated in the area of the board, publish on behalf of the Board of Governors the particulars or information relating to the school referred to in paragraph (3).

(6) References in paragraphs (3) to (5) to publication are references to publication at such time or times and in such manner as may be required by regulations.

### **Exceptions**

**43.**—(1) Subject to paragraph (2), none of the provisions of Articles 36 to 42, other than paragraphs (3) to (5) of Article 42, have effect in relation to—

- (a) nursery schools; or
- (b) children who will not have attained compulsory school age at the time of their proposed admission.

(2) Where the arrangements for the admission of pupils to a grant-aided school provide for the admission to the school of children who will not be of compulsory school age at the time of their proposed admission—

- (a) those Articles shall have effect in relation to the admission of such pupils to the school otherwise than for nursery education;
- (b) the transfer to a reception class at the school of children previously admitted to the school for nursery education shall be treated for the purposes of those Articles as the admission of pupils to the school.

(3) For the purposes of paragraph (2)—

- (a) children are to be regarded as admitted to a school for nursery education if they are or are to be placed on admission in a nursery class; and
- (b) “reception class” means a class in which education is provided which is suitable to the requirements of pupils aged four and any pupils over that age whom it is expedient to educate together with pupils of that age;
- (c) “nursery class” means a class in which education is provided which is suitable to the requirements of pupils who have attained the age of two years but have not attained the lower limit of compulsory school age.

(4) None of the provisions of Articles 36 to 42, other than paragraphs (3) to (5) of Article 42, have effect in relation to—

- (a) special schools or children in respect of whom statements are maintained under Article 31 of the principal Order; or
- (b) the preparatory departments of grammar schools.

### **Determination of school to be named in school attendance order**

**44.**—(1) Before serving a school attendance order on a parent under paragraph 1(2) of Schedule 13 to the principal Order, a board shall serve on him a written notice of its intention to serve the order—

- (a) specifying the school which it intends to name in the order and, if it thinks fit, one or more other schools which it regards as suitable alternatives; and
- (b) stating the effect of paragraphs (2) and (3);

but no voluntary or grant-maintained integrated school shall be specified in the notice unless the board has consulted the managers of the school.

(2) If the notice specifies one or more alternative schools and the parent selects one of them and notifies the board accordingly before the expiration of the period of fourteen days beginning with the day after that on which the notice is served, the school selected by him shall be named in the order.

(3) If before the expiration of the period mentioned in paragraph (2) the parent—

(a) applies for the child to be admitted to a school other than the school or schools specified in the notice; and

(b) notifies the board accordingly,

then, if as a result of the application the child is offered a place at that school, that school shall, subject to paragraph (5), be named in the order.

(4) If at any time while a school attendance order is in force with respect to a child—

(a) the parent applies for the child to be admitted to a school other than the school named in the order; and

(b) as a result of the application the child is offered a place at a school,

the board by which the order was served shall, subject to paragraph (5), at the request of the parent amend the order by substituting that school for the one previously named.

(5) Paragraphs (3) and (4) do not apply where the school at which the child is offered a place is an independent school unless, in the opinion of the board, the school is suitable to his age, ability and aptitude and to any special educational needs he may have.

(6) This Article does not apply to children in respect of whom a board maintains a statement of special educational needs under Article 31 of the principal Order; but, except in relation to such children,—

(a) paragraphs (1) to (3) and (5) supersede paragraph 1(3) and (4) of Schedule 13 to the principal Order;

(b) paragraphs (4) and (5) supersede paragraph 2(1) and (2) of that Schedule, so far as it relates to the amendment of a school attendance order.

#### **Interpretation of Part IV**

**45.—**(1) In this Part—

(a) any reference to a school's enrolment number shall be construed in accordance with Article 39(3);

(b) any reference to a school's admissions number for a school year shall be construed in accordance with Article 40(1);

(c) any reference to the admission of a child to a school shall, in the case of a grammar school having a preparatory department, be construed as a reference to the admission of a child to the secondary department of that school;

(d) any reference to pupils registered at a school shall, in the case of a grammar school having a preparatory department, be construed as a reference to pupils registered in the secondary department of that school;

(e) any reference to the preparatory department of a grammar school is a reference to that part of the grammar school in which primary education is provided;

(f) any reference to the secondary department of a grammar school is a reference to that part of the grammar school in which secondary education is provided;

(g) any reference to the relevant age group—

- (i) in relation to a grammar school having a preparatory department, is a reference to the age group in which pupils below the upper limit of compulsory school age are normally admitted to the secondary department of the school;
  - (ii) in relation to any other school, is a reference to the age group in which pupils below the upper limit of compulsory school age are normally admitted to the school;
- (h) any reference to an appeal tribunal is a reference to an appeal tribunal constituted in accordance with regulations under Article 37(7);
- (i) any reference to a school year is a reference to a year ending on 31st July.
- (2) Directions and approvals of the Department under this Part shall be given in writing.
- (3) In this Part any reference to the Board of Governors of a school includes—
  - (a) in relation to a voluntary school referred to in Article 11(8) of the principal Order, a reference to the person approved in relation to that school by the Department under the said Article 11(8);
  - (b) in relation to a technical secondary school conducted in association with an institution of further education, a reference to the governing body of the institution.

## PART V

### FINANCING SCHOOLS

#### *Financing of controlled and maintained schools*

#### **Schemes for financing controlled and maintained schools**

**46.**—(1) It shall be the duty of every board to prepare a scheme in accordance with this Part and submit it for the approval of the Department in accordance with Article 47.

- (2) The scheme shall provide for—
  - (a) the determination in respect of each financial year of the board, for each school required to be covered by the scheme in that year, of the share to be appropriated for that school in that year of the part of the general schools budget of the board for that year which is available for allocation to individual schools under the scheme (referred to in this Part, in relation to such a school, as the school's budget share);
  - (b) the delegation by the board of the management of a school's budget share for any year to the Board of Governors of the school where such delegation is required or permitted by or under the scheme; and
  - (c) the making available by the board to the Board of Governors of the school of a sum of money to be spent at its discretion, where the management of the school's budget share is not delegated to the Board of Governors.
- (3) For the purposes of this Part, a school is required to be covered in any financial year by a scheme made under this Article by a board if either—
  - (a) immediately before the beginning of that year it is a controlled school (other than a special school or technical secondary school) under the management of that board or a maintained school (other than a special school) maintained by that board; or
  - (b) at any time during that year it becomes such a school (whether by virtue of being established as a new school of that description or by virtue of becoming a controlled or

maintained school where it was not, immediately before it became so, a school of either description).

(4) For the purposes of this Part—

- (a) references, in relation to any board, to the general schools budget of the board for any financial year, are references to the amount appropriated by the board for meeting expenditure in that year in respect of all schools required to be covered in that year by any scheme made under this Article by that board; and
- (b) the part of the general schools budget of any such board for any financial year which is available for allocation to individual schools under a scheme under this Article (referred to in this Part, in relation to any such board, as the board's aggregated budget for the year) is the amount remaining after deducting from the amount of the general schools budget of the board for that year the amount of any expenditure of the board in that year on heads or items of expenditure which in accordance with the scheme fall to be left out of account in determining the board's aggregated budget for the year (referred to in this Part as excepted heads or items of expenditure).

(5) In relation to any scheme under this Article, any reference in paragraph (4) to an amount is a reference to an amount determined (and from time to time revised) in accordance with the scheme; and a scheme under this Article must provide for all amounts relevant to the determination of a school's budget share under the scheme for any financial year to be determined initially before the beginning of that year.

(6) In this Part—

- (a) references to a school in respect of which financial delegation is required for any financial year under a scheme under this Article are references to a school managed by a Board of Governors to which the board concerned is for the time being required by or under the scheme to delegate the management of the school's budget share for that year (and the Board of Governors of such a school is said to have a right to a delegated budget for the year);
- (b) references to a school which has a delegated budget are references to a school managed by a Board of Governors to which a board has for the time being delegated the management of the school's budget share for any financial year in pursuance of such a scheme (whether that delegation is required by the scheme or not);
- (c) references to a relevant school in relation to a scheme made or to be made by a board under this Article are references to a controlled school (other than a special school or technical secondary school) under the management of that board or a maintained school (other than a special school) maintained by that board.

(7) The Department may by order substitute for references in this Article and Articles 47 to 57 to a financial year references to such other period as may be specified in the order.

### **Preparation and imposition of schemes**

**47.—**(1) A scheme prepared by a board under Article 46 shall be submitted to the Department on or before such date as the Department may direct.

(2) In preparing a scheme under that Article a board shall take into account any guidance given by the Department as to the provisions it regards as appropriate for inclusion in the scheme.

(3) The Department shall publish any guidance given by it for the purposes of this Article in such manner as it thinks fit.

(4) Before preparing such a scheme a board shall consult the Board of Governors of every relevant school and the Council for Catholic Maintained Schools.



(5) The Department may request a board to furnish such information in connection with any scheme submitted to the Department as the Department may require, including information as to the results of consultations under paragraph (4).

(6) Such a scheme shall not come into operation until it has been approved by the Department or until such date as the Department may, in giving its approval, specify; and the Department may approve such a scheme—

- (a) either without modifications or with such modifications as it thinks fit after consulting the board concerned; and
- (b) subject to such conditions as it may specify in giving its approval.

(7) A scheme shall be published in such manner as may be directed by the Department—

- (a) on its coming into operation; and
- (b) on such subsequent occasions as may be so directed.

(8) If in the case of any board either—

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

the Department may, after consulting the board and such other persons as it thinks fit, impose a scheme making such provision of a description required to be made by a scheme under Article 46 in relation to the financing by the board of relevant schools as it considers appropriate.

(9) A scheme imposed by the Department by virtue of paragraph (8)—

- (a) shall be treated as if made under Article 46 by the board concerned; and
- (b) shall come into operation on such date as may be specified in the scheme.

### **Replacement and variation of schemes**

**48.**—(1) Subject to the following provisions of this Article, a scheme may be replaced or varied by a subsequent scheme made under Article 46 by the board concerned.

(2) Article 46 shall apply for the purposes of a scheme replacing or varying a previous scheme with the omission of paragraph (1), and, subject to paragraph (5), Article 47(2) to (6) shall also apply for those purposes.

(3) A scheme prepared by a board under Article 46 which—

- (a) replaces a previous scheme; or
- (b) makes any significant variation of a previous scheme,

shall be submitted to the Department for its approval.

(4) A scheme under Article 46 varying a previous scheme which is not required by paragraph (3) (b) to be submitted to the Department for its approval is referred to below in this Article as a “minor variation scheme”.

(5) Paragraphs (4) to (6) of Article 47 shall not apply in relation to a minor variation scheme and such a scheme shall come into operation on such date as is specified in the scheme.

(6) The Department may give directions specifying what descriptions of variation are to be regarded as significant for the purposes of paragraph (3)(b).

(7) Where a board proposes to make a scheme under Article 46 which in its opinion is a minor variation scheme, the board shall notify the Department in writing of its proposal, giving brief particulars of the nature of the variations proposed to be made by the scheme.

(8) In any such case the board shall, if so required by the Department before the end of the period of two months beginning with the date on which it receives notification under paragraph (7) of the board's proposal, send to the Department a copy of the board's proposed scheme; and it shall be for the Department to determine whether or not any variation proposed to be made by the scheme falls within any description of variation specified in directions under paragraph (6).

(9) A scheme made under Article 46 may also be varied by a direction given by the Department, as from such date as may be specified in the direction.

(10) Before giving such a direction the Department shall consult the board concerned, the Council for Catholic Maintained Schools and such other persons as it thinks fit.

### **Schemes: determination of budget shares**

**49.**—(1) The provision to be included in a scheme for determining the budget share for any financial year of each school required to be covered by the scheme in that year shall require that share to be determined (and from time to time revised) by the application of a formula laid down by the scheme for the purpose of dividing among all such schools the aggregated budget for that year of the board concerned.

(2) In this Article "formula" includes methods, principles and rules of any description, however expressed; and references in this Part, in relation to a scheme, to the allocation formula under the scheme, are references to the formula laid down by the scheme in accordance with paragraph (1).

(3) The allocation formula under a scheme—

- (a) shall include provision for taking into account, in the case of each school required to be covered by the scheme in any financial year, the number and ages of registered pupils at that school on such date or dates as may be determined by or under the scheme in relation to that year; and
- (b) may include provision for taking into account any other factors affecting the needs of individual schools which are subject to variation from school to school (including, in particular, the number of registered pupils at a school who have special educational needs and the nature of the special educational provision required to be made for them).

### **Schemes: provision for financial delegation**

**50.**—(1) A scheme shall include provision for requiring, in the case of—

- (a) each secondary school required to be covered in any financial year by the scheme; and
- (b) each primary school which—
  - (i) is required to be covered by the scheme in any financial year; and
  - (ii) is specified, or is of a class or description specified, by regulations,

the delegation by the board concerned to the Board of Governors of the school of the management of the school's budget share for that year.

(2) Subject to Article 53(6), in the case of any relevant school in respect of which financial delegation is required for any financial year under a scheme, it shall be the duty of the board to put at the disposal of the Board of Governors of the school in respect of that year a sum equal to the school's budget share for that year to be spent for the purposes of the school.

(3) References in this Part to the delegation requirement under any scheme are references to any provision included in the scheme by virtue of paragraph (1).

(4) The application of the delegation requirement under a scheme in relation to any new school is subject to Article 52(8)(a).

(5) A scheme may provide for the delegation by the board concerned to the Board of Governors of any school to which the delegation requirement under the scheme does not apply in any financial year of the management of the school's budget share for that year.

(6) The Board of Governors of any school which has a delegated budget shall be entitled, subject to any provision made by or under the scheme, to spend any sum made available to it in respect of the school's budget share for any financial year as it thinks fit for the purposes of the school.

(7) Regulations under paragraph (1)(b)(ii) may provide that any scheme shall have effect with such modifications as appear to the Department to be appropriate in consequence of any provision made in those regulations.

**Schemes: making a sum of money available to Boards of Governors which do not have a delegated budget**

**51.** In respect of any period during which a relevant school does not have a delegated budget (including any period during which the right of the Board of Governors of the school to a delegated budget is suspended under Article 53), a scheme shall provide for it to be the duty of the board, subject to Articles 52(8)(b) and 53(7), to make available to the Board of Governors of the school out of the school's budget share a sum of money, in respect of such heads of expenditure as may be specified in the scheme in relation to the school, which the Board of Governors is to be entitled to spend at its discretion during that period on those heads of expenditure.

**Provisions supplementary to Articles 50 and 51**

**52.—**(1) Subject to the provisions of this Article—

- (a) any delegation by a board under a scheme to the Board of Governors of any school of the management of the school's budget share; and
- (b) the spending by the Board of Governors of any school of any sum made available to it under a scheme in accordance with Article 51,

shall be subject to such conditions as may be imposed by or under the scheme.

(2) In imposing conditions under a scheme a board shall take into account any guidance given by the Department as to the conditions it regards as appropriate for imposition under a scheme.

(3) The Department shall publish any guidance given by it under paragraph (2) in such manner as it thinks fit.

(4) The times at which, and the manner in which—

- (a) any sum is put at the disposal of a Board of Governors which has a delegated budget;
- (b) any sum is made available to a Board of Governors under a scheme in accordance with Article 51,

shall be such as may be provided by or under the scheme.

(5) The Board of Governors of a school may delegate to the principal, to such extent as may be permitted by or under a scheme—

- (a) its power under Article 50(6) in relation to any part of the sum made available to it in respect of the school's budget share for any financial year;
- (b) its power under Article 51 in relation to any part of a sum made available to it under the scheme in accordance with that Article.

(6) The members of the Board of Governors of a school shall not incur any personal liability in respect of anything done in good faith in the exercise or purported exercise of any power under Article 50(6), Article 51 or paragraph (5).

(7) A board may not—

- (a) delegate to the Board of Governors of any school required to be covered by a scheme in any financial year the power to spend any sum appropriated by the board for the purposes of the school;
  - (b) make available to the Board of Governors of any such school any sum of money to be spent by the Board of Governors,
- otherwise than as required or permitted under the scheme.
- (8) Where a new school is established and is required to be covered by a scheme, then—
- (a) if apart from this paragraph the delegation requirement would apply in relation to that school, that requirement shall not apply in relation to the school until such date as may be specified in the scheme in relation to the school;
  - (b) if apart from this paragraph the delegation requirement would not apply in relation to the school, the duty mentioned in Article 51 shall not apply in relation to the school until such date as may be specified in the scheme in relation to the school.

**Suspension of right of Board of Governors to delegated budget or to have sums of money made available to it**

**53.—**(1) Where it appears to a board, in the case of any school in respect of which financial delegation is required for the current financial year under a scheme, that the Board of Governors of the school—

- (a) has been guilty of a substantial or persistent failure to comply with any requirements or conditions applicable under the scheme; or
- (b) is not managing the appropriation or expenditure of the sum put at its disposal for the purposes of the school in a satisfactory manner,

the board may suspend the Board of Governors' right to a delegated budget by giving the Board of Governors (subject to paragraph (4)) not less than one month's notice of suspension.

(2) Where it appears to a board that a Board of Governors to which any sum is made available under the scheme in accordance with Article 51—

- (a) has been guilty of a substantial or persistent failure to comply with any requirements or conditions applicable under the scheme; or
- (b) is not managing the appropriation or expenditure of the sum in a satisfactory manner,

the board may suspend the Board of Governors' right under the scheme to have such a sum of money made available to it by giving the Board of Governors (subject to paragraph (4)) not less than one month's notice of suspension.

(3) Any notice under paragraph (1) or (2) shall specify the grounds for the proposed suspension, giving particulars of any failure alleged on the part of the Board of Governors to comply with any requirements or conditions applicable under the scheme and of any alleged mismanagement on its part; and a copy of the notice shall be given to the principal of the school, to the Department and, where the school is a Catholic maintained school, to the Council for Catholic Maintained Schools at the same time as the notice is given to the Board of Governors.

(4) A board may suspend the right mentioned in paragraph (1) or in paragraph (2) of any Board of Governors to which it has given notice under that paragraph before the expiry of the period of notice if it appears to the board to be necessary to do so by reason of gross incompetence or mismanagement on the part of that Board of Governors or other emergency; but in such a case the board shall immediately give to the Board of Governors, the Department and, where the school is a Catholic maintained school, to the Council for Catholic Maintained Schools written notification of its action and the reasons for it.

(5) A board may withdraw a notice given under paragraph (1) or (2) at any time before the expiry of the period of notice; but in such a case the board shall immediately give notice of the withdrawal to the Board of Governors and principal of the school concerned, to the Department and, where the school concerned is a Catholic maintained school, to the Council for Catholic Maintained Schools.

(6) During any period when a Board of Governors' right to a delegated budget is suspended under this Article the duty of the board concerned under Article 50(2) shall not apply in relation to that Board of Governors.

(7) During any period when a Board of Governors' right under a scheme to have a sum of money made available to it is suspended under this Article, the duty of the board concerned mentioned in Article 51 shall not apply in relation to that Board of Governors.

(8) It shall be the duty of the board concerned—

- (a) to review before the beginning of every financial year any suspension under this Article which is for the time being in force;
- (b) for the purposes of that review, to afford—
  - (i) the Board of Governors of the school concerned;
  - (ii) the principal of the school concerned; and
  - (iii) where the school is a Catholic maintained school, the Council for Catholic Maintained Schools,

an opportunity for making representations with respect to the suspension and to have regard to any representations made by the Board of Governors, the principal or that Council;

- (c) to revoke any such suspension where the board considers it appropriate to do so.

(9) The board shall give the Board of Governors concerned, the principal of the school concerned, the Department and, where that school is a Catholic maintained school, the Council for Catholic Maintained Schools written notification of its decision on any such review.

(10) The revocation of any such suspension shall take effect as from the beginning of the next following financial year.

(11) A Board of Governors shall be entitled to appeal to the Department against—

- (a) the imposition of any suspension under this Article; and
- (b) any refusal of a board to revoke any such suspension on any review required under this Article.

(12) On any such appeal the Department—

- (a) may allow or reject the appeal; and
- (b) shall have regard, in making its determination, to the gravity of the default on the part of the Board of Governors and the likelihood of its continuance or recurrence.

### **Publication of financial statements**

**54.—**(1) This Article applies where in the case of any board the board's financial provision for relevant schools is subject to regulation by a scheme.

(2) Before the beginning of each financial year the board shall prepare a statement of the financial provision it plans to make in that year for relevant schools.

(3) The statement shall contain the following particulars in relation to the financial year in question—

- (a) the amount of the general schools budget of the board for that year (as initially determined for the purposes of the scheme);
- (b) the amount of the board's aggregated budget for that year (as so determined);

- (c) such particulars as the Department may direct of amounts deducted in respect of excepted heads or items of expenditure in arriving at the amount specified in the statement by virtue of sub-paragraph (b);
  - (d) such particulars of the allocation formula under the scheme as the Department may direct;
  - (e) in the case of each school required to be covered by the scheme in that year, the planned expenditure per pupil arising from the division of the school's budget share (as so determined) by the initial pupil number;
  - (f) such further information with respect to the financial provision the board plans to make in that year for relevant schools as the Department may direct.
- (4) In paragraph (3)(e) "the initial pupil number" means, in relation to a financial year, the number of registered pupils at the school in question required under the scheme to be used in applying the allocation formula under the scheme for initial determination of the school's budget share for that year.
- (5) After the end of each financial year the board shall prepare a statement containing such information with respect to—
- (a) expenditure actually incurred in that year for the purposes of all schools required to be covered by the scheme; and
  - (b) expenditure so incurred which was incurred, or is treated by the board as having been incurred, for the purposes of each such school,
- as the Department may direct.
- (6) A statement prepared under this Article shall be prepared in such form, and published in such manner and at such times, as the Department may direct.
- (7) The board shall furnish the Board of Governors of each school required to be covered by the scheme in any financial year and, if any of those schools is a Catholic maintained school, the Council for Catholic Maintained Schools with a copy of each statement prepared by the board under this Article in relation to that year.
- (8) The Board of Governors of each such school shall secure that a copy of any such statement furnished to it under this Article is available for inspection (at all reasonable times and free of charge) at the school.

### **Application of schemes to special schools**

- 55.—**(1) The Department may by regulations provide for requiring or authorising schemes—
- (a) to cover special schools;
  - (b) to include provision, in the case of any such school which by virtue of any regulations made under sub-paragraph (a) is required or authorised to be covered by a scheme, for the delegation by the board concerned of the management of the school's budget share for any financial year to the Board of Governors of the school.
- (2) Regulations under this Article—
- (a) may make in any provisions of this Part such amendments as appear to the Department to be required in consequence of any provision made in those regulations by virtue of paragraph (1); and
  - (b) may provide that any scheme shall have effect with such modifications as appear to the Department to be appropriate in consequence of any provision so made.

**Duty on board to make a sum of money available to Board of Governors of special school not covered by a scheme**

**56.**—(1) Subject to paragraphs (4) and (10), in respect of any period during which any special school is not covered by a scheme, it shall be the duty of the board to make available a sum of money which the Board of Governors of the school is to be entitled to spend at its discretion during that period (but subject to paragraph (2)) on such heads of expenditure as the board may specify or as the Department may direct.

(2) A Board of Governors to which any sum is made available under this Article—

- (a) shall comply in spending that sum with such reasonable conditions as the board thinks fit to impose; and
- (b) may delegate to the principal, to such extent as it may specify, its powers in relation to that sum.

(3) The members of the Board of Governors of a school shall not incur any personal liability in respect of anything done in good faith in the exercise or purported exercise of any power under paragraph (2).

(4) Where a new special school is established and is not covered by a scheme, paragraph (1) shall not apply in relation to the school until such date as the Department may direct.

(5) Before specifying any heads of expenditure under paragraph (1), the board shall consult the Board of Governors of every special school appearing to it to be concerned and the Council for Catholic Maintained Schools and before giving any directions under paragraph (1), the Department shall consult all the boards, the Council for Catholic Maintained Schools and any other person with whom consultation appears to it to be desirable.

(6) Where it appears to a board that a Board of Governors to which any sum is made available under this Article—

- (a) has been guilty of a substantial or persistent failure to comply with any conditions imposed on it under paragraph (2)(a); or
- (b) is not managing the appropriation or expenditure of the sum in a satisfactory manner,

the board may suspend the Board of Governors' right under paragraph (1) to have a sum of money made available to it by giving the Board of Governors (subject to paragraph (8)) not less than one month's notice of suspension.

(7) Any such notice shall specify the grounds for the proposed suspension, giving particulars of any failure alleged on the part of the Board of Governors to comply with any conditions imposed on it under paragraph (2)(a) or of any alleged mismanagement on its part; and a copy of the notice shall be given to the principal of the school, the Department and, where the school is a Catholic maintained school, to the Council for Catholic Maintained Schools, at the same time as the notice is given to the Board of Governors.

(8) A board may suspend the right mentioned in paragraph (6) of any Board of Governors to which it has given notice under paragraph (6) before the expiry of the period of notice if it appears to the board to be necessary to do so by reason of gross incompetence or mismanagement on the part of that Board of Governors or other emergency; but in such a case the board shall immediately give to the Board of Governors, the Department and, where the school is a Catholic maintained school, to the Council for Catholic Maintained Schools written notification of its action and the reasons for it.

(9) A board may withdraw a notice given under paragraph (6) at any time before the expiry of the period of notice; but in such a case the board shall immediately give notice of the withdrawal to the Board of Governors and principal of the school concerned, to the Department and, where the school concerned is a Catholic maintained school, to the Council for Catholic Maintained Schools.

(10) During any period when a Board of Governors' right mentioned in paragraph (6) is suspended under this Article, the duty of the board concerned under paragraph (1) shall not apply in relation to that Board of Governors.

(11) It shall be the duty of the board concerned—

- (a) to review before the beginning of every financial year any suspension under this Article which is for the time being in force;
- (b) for the purposes of that review to afford—
  - (i) the Board of Governors of the school concerned;
  - (ii) the principal of the school concerned; and
  - (iii) where the school is a Catholic maintained school, the Council for Catholic Maintained Schools,
 an opportunity of making representations with respect to the suspension and to have regard to any representations made by the Board of Governors, the principal or that Council;
- (c) to revoke any such suspension where the board considers it appropriate to do so.

(12) The board shall give the Board of Governors concerned, the principal of the school concerned, the Department and, where that school is a Catholic maintained school, the Council for Catholic Maintained Schools written notice of the board's decision on any such review.

(13) The revocation of any such suspension shall take effect as from the beginning of the next following financial year.

(14) A Board of Governors shall be entitled to appeal to the Department against—

- (a) the imposition of any suspension under this Article; and
- (b) any refusal of a board to revoke any such suspension on any review required under this Article.

(15) On any such appeal the Department—

- (a) may allow or reject the appeal; and
- (b) shall have regard, in making its determination, to the gravity of the default on the part of the Board of Governors and the likelihood of its continuance or recurrence.

#### **Financial statements in respect of special schools not covered by statements under Article 54**

**57.**—(1) Before the beginning of each financial year a board shall prepare a statement of the financial provision initially planned by the board in respect of that financial year for any special schools under the management of, or maintained by, the board, other than special schools in respect of which, by virtue of any provision made by regulations under Article 55, any information is required to be included in a statement prepared by the board in respect of that year under Article 54.

(2) A statement under paragraph (1) shall contain such information as the Department may direct.

(3) After the end of each financial year in respect of which a board is required to prepare a statement under paragraph (1), the board shall prepare a statement containing such information with respect to—

- (a) expenditure actually incurred in that year for the purposes of all schools required to be covered by the statement under paragraph (1); and
- (b) expenditure so incurred which was incurred, or is treated by the board as having been incurred, for the purposes of each such school,

as the Department may direct.

(4) A statement prepared under this Article shall be prepared in such form, and published in such manner and at such times, as the Department may direct.



(5) The board shall furnish the Board of Governors of any school required to be covered by a statement prepared under paragraph (1) in respect of any financial year and, if any of those schools is a Catholic maintained school, the Council for Catholic Maintained Schools with a copy of each statement prepared by the board under this Article in relation to that year.

(6) The Board of Governors of each such school shall secure that a copy of any such statement furnished to it under this Article is available for inspection (at all reasonable times and free of charge) at the school.

#### **Financial delegation: staff**

**58.**—(1) The following matters in relation to staff at schools with delegated budgets, namely—

- (a) the determination of staff complements;
- (b) the regulation of conduct and discipline of staff;
- (c) the suspension and dismissal of staff;
- (d) the making of payments in respect of dismissals or resignations of staff,

shall be subject to Schedule 4.

(2) A scheme may provide for applying this Article and Schedule 4 in relation to persons employed to work—

- (a) partly for the purposes of school activities and partly for the purposes of non-school activities (that is to say, activities, other than school activities, carried on on the school premises and wholly or mainly under the management or control of the Board of Governors of the school); or
  - (b) solely for the purposes of non-school activities,
- as if all such activities were school activities.

#### **Salaries, etc., of teachers in maintained schools**

**59.**—(1) A board shall, in relation to a maintained school maintained by it, be responsible for meeting the cost of—

- (a) the salaries and allowances of teachers employed on the staff of the school;
  - (b) secondary Class 1 contributions under the Social Security (Northern Ireland) Act 1975<sup>(8)</sup> and employers' superannuation contributions in respect of such teachers;
  - (c) payments to which paragraph 7(1)(a) of Schedule 4 applies made in respect of such teachers; and
  - (d) redundancy payments under the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965<sup>(9)</sup> in respect of teachers ceasing to be employed on the staff of such school.
- (2) A board shall be responsible for meeting the cost of—
- (a) the salaries and allowances of relevant supply teachers employed by the Council for Catholic Maintained Schools;
  - (b) secondary Class 1 contributions under the Social Security (Northern Ireland) Act 1975 and employers' superannuation contributions in respect of such teachers; and
  - (c) redundancy payments under the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 in respect of such teachers ceasing to be employed by that Council.

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<sup>(8)</sup> 1986 NI 3

<sup>(9)</sup> 1975 c. 15

(3) A board shall pay to the Council for Catholic Maintained Schools an amount equal to the expenditure incurred or to be incurred by that Council in insuring against liability for personal injury suffered by—

- (a) a teacher employed on the staff of a Catholic maintained school maintained by that board;  
or
- (b) a relevant supply teacher,

and arising out of and in the course of his employment by that Council.

(4) In paragraphs (2) and (3) “relevant supply teachers” in relation to a board means supply teachers assigned by the Council for Catholic Maintained Schools to work principally in Catholic maintained schools maintained by the board.

### *Financing of voluntary grammar schools*

#### **Grants to voluntary grammar schools**

**60.**—(1) The Department may make grants to the Board of Governors of a voluntary grammar school towards expenditure incurred or to be incurred in carrying on the school, except—

- (a) expenditure incurred or to be incurred for the provision or alteration of the premises of the school; and
- (b) expenditure incurred or to be incurred for the provision of equipment for the school which is approved expenditure for the purposes of Article 116(1)(c) of the principal Order.

(2) Grants under this Article shall be made on such conditions (including conditions as to repayment) as the Department may determine.

(3) The amount of a grant to be paid under this Article to the Board of Governors of each individual voluntary grammar school in any financial year shall—

- (a) in so far as it derives from the aggregated voluntary grammar schools budget of the Department for that year, be determined by the Department (and from time to time revised) by the application of a formula determined by the Department for the purpose of dividing that budget among all voluntary grammar schools;
- (b) in so far as it derives from excluded heads or items of expenditure of the Department in that year, be such as the Department may determine.

(4) In paragraph (3) the reference to the aggregated voluntary grammar schools budget of the Department for a financial year is a reference to the amount remaining after deducting from the amount appropriated by the Department for meeting expenditure in that year in respect of grants under this Article to all voluntary grammar schools (“the general voluntary grammar schools budget of the Department”) the amount of any expenditure of the Department in that year on such heads or items of expenditure as the Department may specify for the purposes of this Article (“excluded heads or items of expenditure”).

(5) Before determining the formula to be applied under paragraph (3)(a) in relation to a financial year, the Department shall consult the Board of Governors of every voluntary grammar school and any other person or body appearing to the Department to be concerned.

(6) In determining the formula to be applied under paragraph (3)(a) in relation to a financial year the Department shall have regard to the allocation formulae for the time being included in schemes in accordance with Article 49.

(7) In this Article “formula” includes methods, principles and rules of any description, however expressed.

(8) The Department may by order substitute for references in this Article and Article 61 to a financial year references to such other period as may be specified in the order.

### **Financial statements in respect of voluntary grammar schools**

**61.**—(1) Before the beginning of each financial year the Department shall prepare a statement of the financial provision it plans to make in that year for voluntary grammar schools.

(2) A statement under paragraph (1) in relation to a financial year shall contain the following particulars—

- (a) the amount of the general voluntary grammar schools budget of the Department for that year;
- (b) the amount of the aggregated voluntary grammar schools budget of the Department for that year;
- (c) such particulars as the Department may determine of amounts deducted in respect of excluded heads or items of expenditure in arriving at the amount specified in the statement by virtue of sub-paragraph (b);
- (d) such particulars of the formula to be applied in accordance with Article 60(3)(a) as the Department may determine;
- (e) in the case of each individual voluntary grammar school, the planned expenditure per pupil arising from the division of the amount of grant payable to the school from the aggregated voluntary grammar schools budget of the Department in that year by the number of registered pupils at the school used in applying the formula to determine that amount;
- (f) such further information as the Department may determine with respect to the financial provision the Department plans to make in that year for voluntary grammar schools.

(3) After the end of each financial year the Department shall prepare a statement of—

- (a) the total amount of all grants actually made under Article 60 in that year;
- (b) the amount of the grants actually made under Article 60 in that year to each voluntary grammar school.

(4) A statement prepared under this Article shall be prepared in such form, and published in such manner and at such times, as the Department may determine.

(5) The Department shall furnish the Board of Governors of each voluntary grammar school with a copy of each statement prepared by it under this Article.

(6) The Board of Governors of each such school shall secure that a copy of any such statement furnished to it under this Article is available for inspection (at all reasonable times and free of charge) at the school.

(7) In this Article expressions to which a meaning is given by Article 60 have the same meanings as in that Article.

### *Miscellaneous*

### **Charges for educational facilities and services**

**62.**—(1) Notwithstanding anything in the instrument of government of the school—

- (a) the Board of Governors of a controlled school which has a delegated budget;
- (b) the managers of a voluntary school; and
- (c) the Board of Governors of a grant-maintained integrated school,

may make available educational facilities or services to any other school, institution, body or person and, subject to paragraphs (3) and (4), may make charges for any facilities or services made available under this paragraph.

(2) A board may make available educational facilities or services in a controlled school which is under the management of the board and does not have a delegated budget, to any school, institution, body or person and, subject to paragraphs (3) and (4), may make charges for any facilities or services made available under this paragraph.

(3) Charges under paragraphs (1) and (2)—

- (a) shall not be made in such circumstances or for such educational facilities or services as may be prescribed;
- (b) shall not for any prescribed educational facility or service exceed such amount as may be prescribed,

but shall otherwise be of such amounts and be made in respect of such educational facilities and services as the body making the charges may determine.

(4) Nothing in paragraphs (1) to (3) applies to any charge which is prohibited or regulated by any provision of Chapter II of Part VIII.

(5) The scheme of management for every controlled school shall provide—

- (a) for the use of the school premises to be under the control of the Board of Governors of the school at all times except, in the case of a controlled school which does not have a delegated budget, to the extent necessary for the exercise by the board of its powers under paragraph (2); and
- (b) for the Board of Governors to exercise control subject to any direction given to it by the board.

(6) In this Article—

“educational facilities” means the equipment, premises or other property of a school;

“educational services” includes services provided by teachers.

## **Interpretation of Part V**

**63.**—(1) In this Part—

- (a) references to a scheme are references—
  - (i) to a scheme made by a board under Article 46; and
  - (ii) in a context referring to a particular board, to a scheme so made by that board;
- (b) references to a school’s budget share for any financial year—
  - (i) shall be read in accordance with Article 46(2)(a); and
  - (ii) include references to that share as from time to time revised in accordance with the scheme under which it is determined;
- (c) references to the general schools budget of a board shall be read in accordance with Article 46(4)(a);
- (d) references to the aggregated budget of a board shall be read in accordance with Article 46(4)(b);
- (e) references to excepted heads or items of expenditure shall be read in accordance with Article 46(4)(b);
- (f) references to a school in respect of which financial delegation is required for any financial year shall be read in accordance with Article 46(6)(a);

- (g) references to a school which has a delegated budget shall be read in accordance with Article 46(6)(b);
  - (h) references to a relevant school shall be read in accordance with Article 46(6)(c);
  - (i) references to the delegation requirement under a scheme shall be read in accordance with Article 50(3).
- (2) Directions given under this Part by the Department—
- (a) shall be given in writing; and
  - (b) shall, except for directions under Article 48(9), be published by the Department in such manner as it thinks fit.

## PART VI

### INTEGRATED EDUCATION

#### CHAPTER I

##### GENERAL FUNCTIONS OF DEPARTMENT AND BOARDS

##### **General functions of Department and boards in relation to integrated education**

**64.**—(1) It shall be the duty of the Department to encourage and facilitate the development of integrated education, that is to say the education together at school of Protestant and Roman Catholic pupils.

(2) The Department may, subject to such conditions as it thinks fit, pay grants to any body appearing to the Department to have as an objective the encouragement or promotion of integrated education.

(3) It shall be the duty of a board to provide free of charge to any person seeking it advice and information about—

- (a) the procedures for acquisition by a school of controlled integrated status;
- (b) the implications for a school of the acquisition of that status.

#### CHAPTER II

##### GRANT-MAINTAINED INTEGRATED SCHOOLS

##### *Duty of Department to maintain grant-maintained integrated schools*

##### **Duty of Department to maintain grant-maintained integrated schools**

**65.**—(1) Subject to this Chapter, it shall be the duty of the Department to maintain any school under the control and management of a Board of Governors incorporated under this Chapter.

(2) For the purposes of this Chapter, the duty of the Department to maintain a school is a duty to make such payments in respect of expenditure incurred or to be incurred in carrying on the school as are required by Article 77.

(3) A school to which the Department's duty under this Article for the time being applies shall be known as a grant-maintained integrated school.

*Management of grant-maintained integrated schools***Management of grant-maintained integrated schools**

**66.**—(1) Each grant-maintained integrated school shall be under the control and management of a Board of Governors constituted in accordance with the provisions of Schedule 5.

(2) The scheme of management for a grant-maintained integrated school shall require the Board of Governors to use its best endeavours, in exercising its functions under the Education Orders, to ensure that the management, control and ethos of the school are such as are likely to attract to the school reasonable numbers of both Protestant and Roman Catholic pupils.

**Powers of Board of Governors**

**67.**—(1) Subject to the provisions of this Article and to any provision of the scheme of management for the school, section 19 of the Interpretation Act (Northern Ireland) 1954<sup>(10)</sup> shall apply to the Board of Governors of a grant-maintained integrated school.

(2) Subject as aforesaid, the Board of Governors of such a school shall have power to do anything which appears to it to be necessary or expedient for the purpose of or in connection with the management and control of the school, including in particular power to assume the management and control, as from the incorporation date in relation to the school, of the school as constituted immediately before that date, to manage and control the school as a school of the same category (that is to say primary, grammar or secondary, other than grammar) as the school immediately before it became a grant-maintained integrated school, and for those purposes to receive any property, rights and liabilities transferred to it under Article 75.

(3) The power of the Board of Governors under section 19(1)(a)(iv) of the Interpretation Act (Northern Ireland) 1954—

- (a) does not include power to grant any mortgage, charge or other security in respect of any land; and
- (b) in so far as it relates to the disposal of land, may only be exercised with the written consent of the Department.

(4) The Board of Governors of a grant-maintained integrated school shall have power to pay its members such travelling, subsistence and other allowances as may be determined by the Board of Governors and approved by the Department.

(5) The application of the seal of the Board of Governors of a grant-maintained integrated school shall be authenticated by the signature of the chairman of the Board of Governors or of some other member authorised either generally or specially by the Board of Governors to act for that purpose together with that of any other member.

*Procedure for acquisition of grant-maintained integrated status***Schools eligible for grant-maintained integrated status**

**68.**—(1) Subject to paragraphs (2) to (4), any controlled, voluntary or independent school is for the purposes of this Chapter eligible for grant-maintained integrated status.

(2) The following are not eligible for grant-maintained integrated status, namely—

- (a) a nursery school;
- (b) a special school;

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(10) 1965 c. 19 (N.I.)

(c) a voluntary primary school referred to in Article 11(8) of the principal Order.

(3) A controlled or voluntary school is not eligible for grant-maintained integrated status if a proposal to discontinue the school has been approved by the Department under Article 14(7) of the principal Order.

(4) A voluntary school is not eligible for grant-maintained integrated status if notice of the trustees' intention to discontinue the school has been given under Article 16(1) of the principal Order and has not been withdrawn.

### **Initiation of procedure for acquisition of grant-maintained integrated status by existing school**

**69.**—(1) Subject to paragraph (5), in the case of any controlled or voluntary school which is eligible for grant-maintained integrated status, a ballot of parents on the question of whether grant-maintained integrated status should be sought for the school shall be held in accordance with Article 70 if either—

- (a) the Board of Governors decides by a resolution passed at a meeting of that Board (“the first resolution”) to hold such a ballot and confirms that decision by a resolution (“the second resolution”) passed at a subsequent meeting of the Board of Governors held not less than fourteen nor more than twenty-eight days after that at which the first resolution was passed; or
- (b) the Board of Governors receives a written request to hold such a ballot which meets the requirements of paragraph (2).

(2) Those requirements are that the request must be signed, or otherwise endorsed in such manner as the Department may approve, by a number of parents of registered pupils at the school equal to at least twenty per cent. of the number of registered pupils at the school on the date on which the request is received.

(3) Immediately following the passing of the first resolution the Board of Governors shall give notice in writing to—

- (a) the relevant board;
  - (b) if the school is a voluntary school, the trustees of the school;
  - (c) if the school is a Catholic maintained school, the Council for Catholic Maintained Schools,
- of its decision to hold a ballot.

(4) Subject to paragraph (5), on the passing of the second resolution required for the purposes of paragraph (1)(a) or (as the case may be) on receipt of any such request as is mentioned in paragraph (1)(b) it shall be the duty of the Board of Governors—

- (a) to secure that a ballot is held in accordance with Article 70 not earlier than twenty-eight days and not later than two months or such longer period as the Department may approve after the date on which the second resolution was passed or the request was received; and
- (b) to give notice in writing that such a ballot is to be held to the bodies to which notice is required to be given under paragraph (3).

(5) Paragraphs (1) and (4) shall not apply if in the case of the school in question a ballot has been held in accordance with Article 70 earlier in the same school year as that in which the second resolution is passed or (as the case may be) the request is received, unless the Department gives consent in writing for a new ballot to be held.

(6) A request such as is mentioned in paragraph (1)(b) shall be taken as having been received by a Board of Governors if given or sent to the chairman or secretary of the Board.

(7) Subject to paragraph (8), it shall be the duty of the Board of Governors of any controlled or voluntary school which is eligible for grant-maintained integrated status, at the request of any parent

of a registered pupil at the school, to make available to the parent for inspection (at all reasonable times and free of charge) at the school, and to supply the parent with a copy of, a list containing the name and address of every person who is known to the Board of Governors to be such a parent if the request is made—

- (a) in connection with any proposal that a ballot should be held in accordance with Article 70; or
- (b) where the Board of Governors is under a duty by virtue of this Article or Article 70(8) to secure that such a ballot is held, in connection with the holding of the ballot.

(8) A Board of Governors shall not disclose to a parent under paragraph (7) the name and address of any person unless that person has consented in writing to the disclosure of that information; and accordingly the name and address of any person who has not so consented shall be excluded from the list mentioned in that paragraph.

(9) A Board of Governors which in pursuance of paragraph (7) supplies copies of the list there mentioned may charge such fee as it thinks fit (not exceeding the cost of supply) in respect of each copy so supplied.

(10) For the purposes of this Article, it shall be for the Board of Governors to determine any question whether a person is a parent of a registered pupil at the school.

### **Ballot of parents**

**70.**—(1) Where the Board of Governors of any school is under a duty by virtue of Article 69 to secure that a ballot is held in accordance with this Article, it shall secure that all necessary arrangements for the ballot are made by such body as may be prescribed (“the prescribed body”).

(2) The arrangements shall provide for a secret postal ballot.

(3) It shall be the duty of the Board of Governors to secure that the prescribed body takes such steps as are reasonably practicable to secure that every person who is eligible to vote in the ballot is—

- (a) given such information about the procedure for and consequences of acquisition of grant-maintained integrated status for a school as may reasonably be expected to enable him to form a proper judgment as to whether or not such status should be sought for the school, including, in particular, the information mentioned in paragraph (4);
- (b) informed that he is entitled to vote in the ballot; and
- (c) given an opportunity to do so.

(4) The information referred to in paragraph (3)(a) is—

- (a) a general explanation of the provisions of this Part relating to—
  - (i) the procedure for acquisition of grant-maintained integrated status for a school;
  - (ii) the constitution and powers of the Board of Governors of such a school; and
  - (iii) the conduct and funding of such a school;
- (b) the date that will be included in any proposal for acquisition of grant-maintained integrated status submitted in respect of the school under Article 71(1) if the result of the ballot is in favour of seeking grant-maintained integrated status as the proposed date of implementation of the proposal;
- (c) such other information as the Department may direct.

(5) Where the Board of Governors of any school is under a duty by virtue of Article 69 to secure that a ballot is held in accordance with this Article, it shall make available to every person employed to work at the school for inspection (at all reasonable times and free of charge) at the school a document containing the information required by paragraphs (3)(a) and (4) to be given to persons eligible to vote in the ballot.



(6) In determining the arrangements it requires to be made by the prescribed body for the purposes of the ballot the Board of Governors shall take into account any guidance given by the Department as to the arrangements it considers appropriate for ballots held in accordance with this Article.

(7) The Department shall publish any guidance given by it for the purposes of this Article in such manner as it thinks fit.

(8) Where in the case of any ballot held in respect of a school in accordance with this Article other than one held by virtue of this paragraph (“the first ballot”) the total number of votes cast in the ballot (disregarding spoiled votes) by persons eligible to vote in the ballot is less than fifty per cent. of the number of persons so eligible, it shall be the duty of the Board of Governors to secure that another ballot (“the second ballot”) is held before the end of the period of fourteen days beginning with the day on which the total number of votes cast in the first ballot is determined.

(9) In any case to which paragraph (8) applies—

- (a) the first ballot shall be disregarded for the purposes of Article 71(1); and
- (b) subject to paragraph (10), the provisions of this Article shall apply as they apply in a case where the Board of Governors of a school is under a duty by virtue of Article 69 to secure that a ballot is held in accordance with this Article.

(10) In any such case—

- (a) those provisions shall apply with the omission of paragraphs (3)(a) and (4); and
- (b) paragraph (5) shall be read as if the information there referred to were the information given for the purposes of the first ballot.

(11) If it appears to the Department—

- (a) that any requirements of this Article have been contravened in the case of any ballot held in purported compliance with this Article;
- (b) that the arrangements for any ballot so held did not accord with any guidance given by it for the purposes of this Article; or
- (c) that the Board of Governors of any school has acted unreasonably in the discharge of its duties under this Article,

it may by notice in writing given to the Board of Governors declare the ballot void and require that a fresh ballot be held in accordance with this Article before such date as it may specify in the notice.

(12) Where a ballot is held in respect of a school in accordance with this Article, the Department may pay, or reimburse the Board of Governors of the school in respect of, the whole or any part of the expenses incurred by the Board of Governors in respect of the ballot.

(13) The making of any payments under paragraph (12) shall be subject to such conditions as the Department thinks fit.

(14) For the purposes of this Article, a person is eligible to vote in any ballot held in respect of a school in accordance with this Article if he is—

- (a) known to the Board of Governors to be a parent of a registered pupil at the school; and
- (b) named as a parent of such a pupil in the register kept in accordance with Article 48 of the principal Order in the case of the school, as that register has effect on the date immediately following the end of the period of fourteen days beginning with the date on which the relevant resolution or request was passed or received by the Board of Governors.

(15) For the purposes of sub-paragraph (a) of paragraph (14) it shall be for the Board of Governors to determine any question whether a person is a parent of a registered pupil at the school; and in sub-paragraph (b) of that paragraph the reference to the relevant resolution or request is a reference to the resolution or request (mentioned in Article 69(4)) by reference to which the ballot is required to

be held or, where the ballot is a second ballot under paragraph (8), by reference to which the first ballot was required to be held.

### **Proposals for acquisition of grant-maintained integrated status**

**71.—(1)** Where in the case of any controlled or voluntary school which is eligible for grant-maintained integrated status the result of a ballot held in accordance with Article 70 shows a simple majority of votes cast in the ballot by persons eligible to vote in the ballot (within the meaning of that Article) in favour of seeking grant-maintained integrated status for the school, it shall be the duty of the Board of Governors of the school to submit a proposal for the acquisition of grant-maintained integrated status for the school to the relevant board.

(2) Where—

- (a) a person proposes to establish a new grant-maintained integrated school; or
- (b) the proprietor of an independent school proposes to seek grant-maintained integrated status for the school,

he shall submit the proposal to the relevant board.

(3) A proposal under paragraph (1) or (2) shall be in such form and contain such particulars (including the proposed date of implementation) as may be required by the Department and a proposal under paragraph (1) shall be submitted to the relevant board within such time as may be so required.

(4) A board shall forthwith submit to the Department any proposal submitted to it under paragraph (1) or (2) together with its views thereon.

(5) A proposal submitted to a board under paragraph (1) or (2) may not be withdrawn except with the consent of the Department and subject to such conditions as it may impose (which may, in particular, require a further proposal to be submitted under this Article within such period as it may specify).

(6) A board, after submitting a proposal to the Department under paragraph (4), shall—

- (a) forthwith publish by advertisement in one or more newspapers circulating in the area affected by the proposal a notice stating—
  - (i) such particulars of the nature of the proposal as may be required by the Department;
  - (ii) that the proposal has been submitted to the Department;
  - (iii) that a copy of the proposal can be inspected at a specified place;
  - (iv) that objections to the proposal can be made to the Department within two months of the date specified in the advertisement, being the date on which the advertisement first appears;
- (b) furnish to any person, on application, a copy of the proposal on payment of such reasonable sum as the board may determine.

(7) Subject to paragraphs (8), (9) and (10), the Department, after considering any objections to a proposal made to it within the time specified in the notice under paragraph (6)(a)(iv), may, after making such modification, if any, in the proposal as, after consultation with the Board of Governors or person making the proposal, it considers necessary or expedient, approve the proposal and inform that Board of Governors or person accordingly.

(8) The Department shall not approve a proposal under this Article in relation to a school unless it appears to the Department that, if the school were to become, or be established as, a grant-maintained integrated school, the school would be likely to be attended by reasonable numbers of both Protestant and Roman Catholic pupils.

(9) The Department shall not approve a proposal under paragraph (1) in relation to a school unless the school was eligible for grant-maintained integrated status on the date on which the proposal was submitted under that paragraph.

(10) The approval of the Department to a proposal made under paragraph (2) may be granted subject to such conditions as the Department may think fit.

(11) Where the Department rejects any proposal under paragraph (1) in relation to a school, it may require the Board of Governors of the school to submit a further proposal to the relevant board under that paragraph within such period as it may direct.

(12) If a proposal under paragraph (1) or (2)(b) in respect of any school is approved by the Department, Schedule 6 shall have effect in relation to the transition of the school to grant-maintained integrated status.

(13) If a proposal under paragraph (2)(a) is approved by the Department, the Department may by order made at any time on or after the date on which it approves the proposal and before the incorporation date in relation to the school make such provision as it considers appropriate in connection with the establishment of the school as a grant-maintained integrated school and the constitution of a Board of Governors for the school in accordance with Schedule 5.

### **Incorporation of Board of Governors**

**72.** If a proposal under paragraph (1) or (2) of Article 71 in respect of any school is approved by the Department, the Board of Governors of the school constituted in accordance with Schedule 5 shall on the proposed date of implementation of the proposal become a body corporate.

### **Effect of pending procedure for acquisition of grant-maintained integrated status**

**73.—(1)** This Article applies to a controlled or voluntary school during any period when the procedure under this Chapter for acquisition of grant-maintained integrated status is pending in relation to the school.

(2) For the purposes of this Article that procedure is pending in relation to a school when it has been initiated in relation to the school on any occasion and not terminated (as initiated on that occasion).

(3) For those purposes that procedure is to be regarded as initiated in relation to any school on any occasion—

(a) where the Board of Governors of the school has decided to hold a ballot in accordance with Article 70 by a first resolution passed as mentioned in paragraph (1)(a) of Article 69, on receipt by the relevant board, in the case of a controlled school, or the trustees of the school, in the case of a voluntary school, of notice under Article 69(3) of that decision;

(b) where such a request as is mentioned in paragraph (1)(b) of that Article has been received by the Board of Governors, on receipt by the relevant board, in the case of a controlled school, or the trustees of the school, in the case of a voluntary school, of notice under paragraph (4)(b) of that Article that such a ballot is to be held.

(4) For those purposes that procedure, as initiated on any occasion, is to be regarded as terminated—

(a) in the case of procedure initiated as mentioned in paragraph (3)(a), if the period of twenty-eight days after that on which the first resolution was passed has expired and the decision to hold a ballot has not been confirmed by a second resolution passed in accordance with Article 69(1)(a); or

(b) in the case of procedure initiated as mentioned in paragraph (3)(a) or (b) if—

- (i) the result of the ballot to which that notice relates does not show a majority in favour of seeking grant-maintained integrated status for the school;
- (ii) a proposal for acquisition of such status for the school which is required to be submitted under Article 71 by reference to the result of that ballot, or any proposal required in substitution for that proposal, is rejected by the Department or withdrawn; or
- (iii) a Board of Governors is incorporated for the school under Article 72.

(5) Where Article 70(8) applies in the case of any such ballot, the references in heads (i) and (ii) of paragraph (4)(b) to the result of that ballot shall be read as references to the result of the second ballot required by that paragraph.

(6) The reference in paragraph (4) to a proposal required in substitution for any proposal for acquisition of grant-maintained integrated status for any school which is required to be submitted under Article 71 by reference to the result of a ballot held in accordance with Article 70 (“the original proposal”) is a reference to any proposal required to be submitted under paragraph (5) or (11) of Article 71 on withdrawal or (as the case may be) rejection of—

- (a) the original proposal; or
- (b) any further proposal required to be submitted under either of those paragraphs with respect to the school without a further ballot;

and a proposal under that Article with respect to a school shall not be treated for the purposes of paragraph (4) as rejected in any case where the Department imposes a requirement under paragraph (11) of that Article or as withdrawn in any case where it imposes a requirement under paragraph (5) of that Article.

(7) Except with the consent of the Department, the trustees of a voluntary school to which this Article for the time being applies shall not—

- (a) dispose of any property used wholly or partly for the purposes of the school; or
- (b) enter into a contract to dispose of any such property.

(8) Paragraph (7) does not apply in relation to a disposal which is made in pursuance of a contract entered into, or an option granted, before the procedure mentioned in paragraph (1) was initiated in relation to the school.

(9) A disposal or contract shall not be invalid or void by reason only that it has been made or entered into in contravention of this Article and a person acquiring property, or entering into a contract to acquire property, from the trustees of a voluntary school shall not be concerned to enquire whether any consent required by this Article has been given.

(10) During any period when this Article applies to a school—

- (a) no resolution shall be passed by the Board of Governors under Article 69(1)(a) (as applied by Article 91);
- (b) no request shall be made to the Board of Governors under Article 69(1)(b) (as so applied).

#### *Proposals for alteration, etc. of schools eligible for grant-maintained integrated status*

#### **Proposals for alteration, etc. of schools eligible for grant-maintained integrated status**

**74.**—(1) Before formulating in respect of any controlled school which is eligible for grant-maintained integrated status any proposal under Article 14(1)(c), (d) or (e) of the principal Order, a board shall consult the Board of Governors of the school.

(2) No proposal shall be submitted under Article 14 of the principal Order in respect of any school in respect of which a proposal for acquisition of grant-maintained integrated status has been approved.

(3) Paragraph (4) applies in any case where either—

- (a) after a proposal for acquisition of grant-maintained integrated status has been first submitted to the Department under Article 71 in respect of any school which is eligible for grant-maintained integrated status but before that proposal is withdrawn or determined a proposal in respect of the school is submitted to the Department under Article 14 of the principal Order; or
- (b) after a proposal in respect of any such school has been submitted to the Department under Article 14 of the principal Order but before that proposal is withdrawn or determined a proposal for acquisition of grant-maintained integrated status for the school is first submitted to the Department under Article 71.

(4) In any case to which this paragraph applies, the Department shall consider both proposals together but shall not determine the proposal under Article 14 until it has made its determination with respect to the proposal for acquisition of grant-maintained integrated status.

(5) Where—

- (a) a proposal under Article 14(1)(d) or (e), (2)(d) or (e) or (3)(c) of the principal Order with respect to any school has been approved under Article 14(7) of that Order; and
- (b) the school becomes a grant-maintained integrated school before that proposal has been implemented,

that proposal shall be treated for the purposes of this Part as if it had been published and approved under Article 79.

### *Transfer of property and staff*

#### **Transfer of property, etc. to Board of Governors of grant-maintained integrated school**

**75.**—(1) Subject to the following provisions of this Article, on the incorporation date in relation to a grant-maintained integrated school which immediately before that date was a controlled school—

- (a) all land or other property which, immediately before that date, was property used or held by the relevant board or the Department for the purposes of the school;
- (b) all rights and liabilities subsisting immediately before that date which were acquired or incurred by that board or the Department for those purposes; and
- (c) any property, rights and liabilities of the former Board of Governors of the school,

shall be transferred to, and by virtue of this Order vest in, the Board of Governors of the grant-maintained integrated school.

(2) Subject to the following provisions of this Article, on the incorporation date in relation to a grant-maintained integrated school which immediately before that date was a voluntary school—

- (a) all land or other property which, immediately before that date, was property held by the trustees of the school for the purposes of the school;
- (b) all rights and liabilities subsisting immediately before that date which were acquired or incurred by those trustees for those purposes; and
- (c) any property, rights and liabilities of the former Board of Governors of the school,

shall be transferred to, and by virtue of this Order vest in, the Board of Governors of the grant-maintained integrated school.

(3) Subject to the following provisions of this Article, on the incorporation date in relation to a grant-maintained integrated school which immediately before that date was an independent school—

- (a) all land or other property which immediately before that date was property held by the trustees or the proprietor of the school for the purposes of the school; and
- (b) all rights and liabilities subsisting immediately before that date which were acquired or incurred by those trustees or that proprietor for those purposes,

shall be transferred to, and by virtue of this Order vest in, the Board of Governors of the grant-maintained integrated school.

(4) Paragraphs (1) to (3) shall not apply to rights and liabilities under any contract of employment.

(5) If before the incorporation date in relation to a school mentioned in paragraph (2) or paragraph (3) the Department so directs—

- (a) sub-paragraph (a) of that paragraph shall not apply to land held by the trustees of the school as mentioned in that sub-paragraph; and
- (b) sub-paragraph (b) of that paragraph shall not apply to rights and liabilities acquired or incurred in relation to or in connection with that land;

and in deciding whether or not to give a direction under this paragraph the Department shall consult the trustees of the school.

(6) Any land or other property transferred to the Board of Governors of a grant-maintained integrated school under this Article which immediately before the incorporation date was held on trust shall vest in that Board of Governors as trustees on the trusts applicable immediately before that date under any trust deed regulating the use of the land or other property for the purposes of the school.

(7) The Department may by regulations make provision for the payment of compensation by the Department to the trustees of a voluntary school in respect of land or other property held by them immediately before the incorporation date and transferred under paragraph (2) and such regulations may provide—

- (a) for the amount of compensation to be such as may be agreed between the Department and the trustees or, in default of agreement, such as may be determined by the Lands Tribunal;
- (b) for the amount of compensation to be reduced where grants have been paid by the Department in respect of the land or other property so transferred and for the calculation of any such reduction.

(8) On the incorporation date in relation to a grant-maintained integrated school which immediately before that date was a controlled school, the duty of the relevant board to maintain and manage the school shall be extinguished and the school shall accordingly cease to be a controlled school for the purposes of the Education Orders.

(9) On the incorporation date in relation to a grant-maintained integrated school which immediately before that date was a voluntary school, the school shall cease to be a voluntary school for the purposes of the Education Orders.

(10) On the incorporation date in relation to a grant-maintained integrated school which immediately before that date was an independent school, the school shall cease to be an independent school for the purposes of the Education Orders.

(11) For the purposes of this Article any interest in a dwelling house or other residence which, immediately before the incorporation date in relation to a grant-maintained integrated school, is used or held for occupation by a person employed to work at the school shall be treated as an interest used or held for the purposes of the school.

(12) In this Article “the former Board of Governors” means, in relation to a grant-maintained integrated school, the Board of Governors of the school immediately before the incorporation date in relation to the school.

### **Transfer of staff to grant-maintained integrated school**

**76.—**(1) Subject to paragraph (3), this Article applies to any person who—

- (a) immediately before the incorporation date in relation to a grant-maintained integrated school which is then a voluntary school is employed by the Board of Governors of the school; or
- (b) immediately before the incorporation date in relation to a grant-maintained integrated school—
  - (i) is employed by the relevant board or the Council for Catholic Maintained Schools to work solely at the school; or
  - (ii) is employed by that board to work at the school and is designated for the purposes of this Article by an order made by the Department.

(2) A person employed by a board in connection with the provision of meals shall not be regarded for the purposes of paragraph (1)(b) as employed to work solely at a school unless the meals are provided solely for consumption by persons at the school.

(3) This Article does not apply to—

- (a) any person employed as mentioned in paragraph (1)(a) or (b) whose contract of employment terminates on the day immediately preceding the incorporation date;
- (b) any person employed as mentioned in paragraph (1)(b) who before that date has been—
  - (i) appointed or assigned by the relevant board or the Council for Catholic Maintained Schools to work solely at another school as from that date; or
  - (ii) withdrawn from work at the school with effect as from that date.

(4) A person who before the incorporation date has been appointed or assigned by the relevant board or the Council for Catholic Maintained Schools to work at the school as from that date shall be treated for the purposes of this Article as if he had been employed by that body immediately before that date to do such work at the school as he would have been required to do on or after that date under his contract of employment with that body.

(5) References below in this Article to the former employer are references—

- (a) in relation to a person to whom this Article applies by virtue of paragraph (1)(a), to the Board of Governors of the school immediately before the incorporation date; and
- (b) in relation to a person to whom this Article applies by virtue of paragraph (1)(b), to the relevant board or the Council for Catholic Maintained Schools (as the case may be).

(6) The contract of employment between a person to whom this Article applies and the former employer shall have effect from the incorporation date as if originally made between him and the Board of Governors of the grant-maintained integrated school.

(7) Without prejudice to paragraph (6)—

- (a) all the former employer’s rights, powers, duties and liabilities under or in connection with a contract to which that paragraph applies shall by virtue of this Article be transferred to the Board of Governors of the grant-maintained integrated school on the incorporation date; and
- (b) anything done before that date by or in relation to the former employer in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to that Board of Governors.

(8) Paragraphs (6) and (7) are without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right shall arise by reason only of the change in employer effected by this Article.

(9) An order under this Article may designate a person either individually or as a member of a class or description of employees.

### *Financing of grant-maintained integrated schools*

#### **Maintenance grants and capital grants**

77.—(1) The payments the Department is required to make in pursuance of its duty to maintain a grant-maintained integrated school are grants to the Board of Governors of the school in respect of expenditure other than expenditure of a capital nature incurred or to be incurred in carrying on the school by the Board of Governors in the financial year to which any such grant relates (to be known as maintenance grants).

(2) The amount of the maintenance grant to be paid under this Article to the Board of Governors of each individual grant-maintained integrated school in any financial year shall—

- (a) in so far as it derives from the aggregated grant-maintained integrated schools budget of the Department for that year, be determined by the Department (and from time to time revised) by the application of a formula determined by the Department for the purpose of dividing that budget among all grant-maintained integrated schools;
- (b) in so far as it derives from excluded heads or items of expenditure of the Department in that year, be such as the Department may determine.

(3) In paragraph (2) the reference to the aggregated grant-maintained integrated schools budget of the Department for a financial year is a reference to the amount remaining after deducting from the amount appropriated by the Department for meeting expenditure in that year in respect of maintenance grants under this Article to all grant-maintained integrated schools (“the general grant-maintained integrated schools budget of the Department”) the amount of any expenditure of the Department in that year on such heads or items of expenditure as the Department may specify for the purposes of this Article (“excluded heads or items of expenditure”).

(4) Before determining the formula to be applied under paragraph (2)(a) in relation to a financial year, the Department shall consult the Board of Governors of every grant-maintained integrated school and any other person or body appearing to the Department to be concerned.

(5) In determining the formula to be applied under paragraph (2)(a) in relation to a financial year the Department shall have regard to the allocation formulae for the time being included in schemes in accordance with Article 49.

(6) Where—

- (a) a new grant-maintained integrated school is established; or
- (b) a school acquires grant-maintained integrated status,

paragraph (2) shall not apply in relation to the school until such date as the Department may direct; and until that date the amount of the maintenance grant to be paid under paragraph (1) to the Board of Governors of the school shall be such as the Department may determine.

(7) Until the coming into operation of paragraphs (2) to (6), the amount of the maintenance grant to be paid under paragraph (1) to the Board of Governors of each individual grant-maintained integrated school shall be such as the Department may determine.

(8) Regulations may provide for the payment by the Department to the trustees or Board of Governors of a grant-maintained integrated school of grants (to be known as “capital grants”) in



respect of approved expenditure of a capital nature incurred or to be incurred for the purposes of the school of any class or description specified in the regulations.

(9) The amount of any capital grant shall be equal to 100 per cent. of the expenditure in respect of which it is paid.

(10) The descriptions of expenditure which are to be regarded for the purposes of this Article as expenditure of a capital nature shall be such as may be determined by or in accordance with regulations.

(11) Maintenance and capital grants shall be made on such conditions (including conditions requiring repayment of all or part of the grant in specified circumstances) as the Department may determine.

(12) In this Article “formula” includes methods, principles and rules of any description, however expressed.

(13) The Department may by order substitute for references in this Article and Article 78 to a financial year references to such other period as may be specified in the order.

### **Financial statements**

**78.**—(1) Before the beginning of each financial year the Department shall prepare a statement of the financial provision it plans to make in that period for grant-maintained integrated schools.

(2) A statement under paragraph (1) in relation to a financial year shall contain the following particulars—

- (a) the amount of the general grant-maintained integrated schools budget of the Department for that year;
- (b) the amount of the aggregated grant-maintained integrated schools budget of the Department for that year;
- (c) such particulars as the Department may determine of amounts deducted in respect of excluded heads or items of expenditure in arriving at the amount specified in the statement by virtue of sub-paragraph (b);
- (d) such particulars of the formula to be applied in accordance with Article 77(2)(a) as the Department may determine;
- (e) in the case of each individual grant-maintained integrated school, the planned expenditure per pupil arising from the division of the amount of grant payable to the school from the aggregated grant-maintained integrated schools budget of the Department in that year by the number of registered pupils at the school used in applying the formula to determine that amount;
- (f) such further information as the Department may determine with respect to the financial provision the Department plans to make in that year for grant-maintained integrated schools.

(3) After the end of each financial year the Department shall prepare a statement of—

- (a) the total amount of all maintenance grants actually made under Article 77 in that year;
- (b) the amount of the maintenance grants actually made under Article 77 in that year to each grant-maintained integrated school.

(4) A statement prepared under this Article shall be prepared in such form, and published in such manner and at such times, as the Department may determine.

(5) The Department shall furnish the Board of Governors of each grant-maintained integrated school with a copy of each statement prepared by it under this Article.

(6) The Board of Governors of each such school shall secure that a copy of any such statement furnished to it under this Article is available for inspection (at all reasonable times and free of charge) at the school.

(7) In this Article expressions to which a meaning is given by Article 77 have the same meanings as in that Article.

### *Making of significant change to grant-maintained integrated schools*

#### **Significant changes to grant-maintained integrated schools**

**79.**—(1) Subject to paragraph (2), where the Board of Governors of a grant-maintained integrated school proposes—

- (a) to make a significant change in the character or size of the school; or
- (b) to make any other change which would have a significant effect on another grant-aided school,

it shall submit the proposal to the board for the area in which the school is situated and that board shall submit the proposal to the Department together with its views thereon.

(2) Paragraphs (4) to (7), (9), (9A), (9B) and (10) of Article 14 of the principal Order shall apply in relation to a proposal under paragraph (1) as they apply in relation to a proposal under paragraph (2) of that Article; but the Department shall not approve any proposal under Article 14(7) of the principal Order as so applied if in the opinion of the Department the implementation of that proposal would render the school less likely to be attended by reasonable numbers of both Protestant and Roman Catholic pupils.

### *Discontinuance of grant-maintained integrated schools*

#### **Discontinuance by Board of Governors**

**80.**—(1) The Board of Governors of a grant-maintained integrated school shall not discontinue the school except in accordance with this Article.

(2) Where the Board of Governors of such a school—

- (a) decides by a resolution passed at a meeting of that body to discontinue the school; and
- (b) confirms that decision by a resolution passed at a subsequent meeting of that body held not less than twenty-eight days after that at which the first resolution was passed;

it shall, subject to paragraphs (3) and (4), give at least two years' notice of its intention to discontinue the school to the Department and to the board for the area in which the school is situated.

(3) No notice given under paragraph (2) without the prior approval of the Department shall be effective if the school premises were built or altered with the aid of a grant from the Department or financial assistance by a board or, before 1st October 1973, by a former local education authority.

(4) The requirement to give notice under paragraph (2) shall not apply where the Department and the board for the area in which the school is situated agree to dispense with that notice.

(5) If, during the period of a notice given under paragraph (2) in respect of a school, the Board of Governors of the school informs the Department that it is unable or unwilling to carry on the school until the expiration of the notice, the Department may give such directions as to the carrying on of the school and as to the education of the children attending the school as it thinks expedient.

(6) Where—

- (a) the period of a notice given under paragraph (2) has expired; or

(b) the requirement to give that notice has been dispensed with under paragraph (4), the Board of Governors may submit a proposal to discontinue the school to the board for the area in which the school is situated and that board shall submit the proposal to the Department together with its views thereon.

(7) Paragraphs (4) to (7), (9), (9A), (9B) and (10) of Article 14 of the principal Order shall apply in relation to a proposal under paragraph (6) as they apply in relation to a proposal under paragraph (2) of that Article.

### **Withdrawal of grant by Department**

**81.**—(1) The Department may cease to maintain a grant-maintained integrated school by giving notice of its intention to do so to the Board of Governors of the school under this Article; and on the date specified in any such notice as the date on which the Department intends to cease to maintain the school the Department's duty to maintain the school shall cease.

(2) Subject to the following provisions of this Article—

- (a) a notice under this Article may not specify as the date on which the Department intends to cease to maintain such a school a date falling less than two years after the date of the notice; and
- (b) before giving such a notice the Department shall consult—
  - (i) the Board of Governors of the school;
  - (ii) the board for the area in which the school is situated; and
  - (iii) the Council for Catholic Maintained Schools.

(3) Paragraph (2) shall not apply where the Department is satisfied, in the case of any grant-maintained integrated school, that the school as currently constituted or conducted is unsuitable to continue as a grant-maintained integrated school on all or any of the following grounds—

- (a) that the number of registered pupils at the school is too small for sufficient and suitable instruction to be provided for them at reasonable cost;
- (b) that the Board of Governors has failed for a significant period of time to carry out its duties under Part III;
- (c) that the Board of Governors has been guilty of substantial or persistent failure to comply or secure compliance with any other requirement imposed by or under this Order or any other statutory provision;
- (d) that the school is not attended by reasonable numbers of both Protestant and Roman Catholic pupils.

(4) In any case within paragraph (3), the Department may give to the Board of Governors of the school a notice stating the grounds on which it considers that the school as currently constituted or conducted is unsuitable to continue as a grant-maintained integrated school together with full particulars of the matters relevant to each such ground.

(5) Where any of the matters of which particulars are given in a notice under paragraph (4) are stated in the notice to be in the opinion of the Department irremediable, the notice shall also state that the Department intends to cease to maintain the school on a date specified in the notice.

(6) Where paragraph (5) does not apply in the case of any notice under paragraph (4), the notice shall—

- (a) state that the Department intends to cease to maintain the school unless the matters of which particulars are given in the notice are remedied;
- (b) specify the measures necessary in the opinion of the Department to remedy those matters; and

- (c) specify the time, not being less than three months after the date of the notice, within which the Board of Governors is required to take those measures.
- (7) Where the Board of Governors of a grant-maintained integrated school fails to take the measures required by a notice under paragraph (4) within the time specified in the notice or allowed by any previous notice under this paragraph, the Department shall within the period of two months beginning with the date next following the end of that time either—
  - (a) give notice to the Board of Governors extending the time within which those measures are required to be taken; or
  - (b) after consulting the board for the area in which the school is situated, give notice that it intends to cease to maintain the school on a date specified in the notice.
- (8) The Department may by notice given to the Board of Governors—
  - (a) withdraw any notice under paragraph (1), (4) or (7)(b); or
  - (b) vary—
    - (i) any notice under paragraph (1) or (7)(b); or
    - (ii) any notice under paragraph (4) to which paragraph (5) applies, by substituting a later date for the date for the time being specified in the notice as the date on which it intends to cease to maintain the school; or
  - (c) vary any notice under paragraph (4) to which paragraph (6) applies, so far as relates to the measures required by the notice to remedy the matters of which particulars are given in the notice.
- (9) If by virtue of paragraph (8)(c) the Department varies any notice under paragraph (4) so as to require different measures to be taken it shall also substitute for the time specified in the notice as the time within which the Board of Governors is required to take the measures specified in the notice as varied a time ending—
  - (a) not less than three months after the date of the notice of variation; and
  - (b) where the time so specified has been extended under paragraph (7), not earlier than that time as so extended.
- (10) Any variation under paragraph (9) of the time specified in a notice under paragraph (4) is without prejudice to any further extension of that time under paragraph (7).
- (11) Any notice under this Article shall be in writing; and references in this Article to the date of any such notice given to a Board of Governors under this Article are references to the date on which it is given to the Board of Governors.

### *Winding up and disposal of property*

#### **Winding up**

- 82.**—(1) Where, in the case of any grant-maintained integrated school, the Department has—
- (a) approved a proposal for discontinuance of the school made under Article 80; or
  - (b) given notice to the Board of Governors of the school under Article 81 specifying a date on which it intends to cease to maintain the school;
- the Department may by order make provision for the winding up of the Board of Governors of the school and the disposal of the school property.
- (2) An order under this Article may—
- (a) set out a timetable for the winding up;

- (b) make provision with respect to the exercise of the functions of the Board of Governors in relation to the school, including in particular—
    - (i) provision requiring the Board of Governors in the exercise of those functions to comply with any directions given by the Department;
    - (ii) provision authorising any of those functions to be exercised by any member of the Board of Governors specified in the order; and
    - (iii) provision for the application of the seal of the Board of Governors to be authenticated by the signature of any person so specified;
  - (c) make provision for conferring or imposing functions on the Board of Governors in relation to the winding up and the management and disposal of the school property;
  - (d) make any provision authorised by Article 83 for or in connection with the transfer of the school property;
  - (e) make provision with respect to the discharge of the liabilities of the Board of Governors and the payment of the costs of the winding up;
  - (f) require the Board of Governors to give to persons employed by it notice terminating their contracts of employment as from a date specified in the order; and
  - (g) appoint a date on which the Board of Governors is to be dissolved.
- (3) Below in this Part—
- (a) references to a Board of Governors in liquidation are references to a Board of Governors in respect of which an order has been made under this Article; and
  - (b) references, in relation to any such Board of Governors or the grant-maintained integrated school under, or formerly under, the management of any such body, to the dissolution date are references to the date appointed in relation to that Board of Governors by virtue of paragraph (2)(g).
- (4) The Department may make grants to a Board of Governors in liquidation for the purpose of—
- (a) discharging any liabilities of that Board of Governors;
  - (b) meeting any costs incurred by that Board of Governors for the purposes of the winding up under this Article.
- (5) The Department may impose on a Board of Governors to which any such payment is made such requirements as it may from time to time determine (whether before, at or after the time when the payment in question is made).
- (6) The Department shall not by an order under this Article appoint a date on which a Board of Governors in liquidation is to be dissolved unless it is satisfied that—
- (a) all liabilities of the Board of Governors (other than any liabilities which fall to be transferred under Article 83(6)) have been discharged;
  - (b) all costs of the winding up have been met; and
  - (c) any provision authorised by Article 83 or 84 which is possible and expedient in the circumstances of the case has been made and anything required to be done by the Board of Governors for the purposes of or in connection with any such provision has been done.
- (7) In this Part—
- (a) references, in relation to a grant-maintained integrated school under, or formerly under, the management of a Board of Governors in liquidation, to the school property are references to—
    - (i) the premises used or formerly used for the purposes of the school;

- (ii) any interest belonging to the Board of Governors or held by any trustees on trust for the purposes of the school in any dwelling house or other residence used or held or formerly used or held for occupation by a person employed to work at the school; and
  - (iii) all other equipment and property used or held or formerly used or held for the purposes of the school;
- (b) references to a grant-maintained integrated school formerly under the management of a Board of Governors in liquidation apply in circumstances where the school has been discontinued before the dissolution date and refer to the school as managed immediately before discontinuance (and “formerly” in heads (i) to (iii) of sub-paragraph (a) applies in the same circumstances and refers to the time immediately before the discontinuance of the school concerned).

### **Transfer of school property**

**83.**—(1) Where a proposal under Article 14 of the principal Order that a new school be established on the premises of a grant-maintained integrated school under the management of a Board of Governors in liquidation has been approved by the Department, then—

- (a) if the new school is to be a controlled school, an order under Article 82 may vest the school property, or any part of it, in the board which is to manage the school;
- (b) if the new school is to be a voluntary school, an order under Article 82 may vest the school property, or any part of it, in persons specified in the order to be held on trust for the purposes of the new voluntary school.

(2) Where a person proposes to establish a new independent school on the premises of a grant-maintained integrated school under the management of a Board of Governors in liquidation, an order under Article 82 may vest the school property, or any part of it, in that person.

(3) The vesting in any board or person under paragraph (1) or (2) of—

- (a) any of the school property of a grant-maintained integrated school which was a controlled school immediately before it became a grant-maintained integrated school; or
- (b) land in respect of which a direction was given under Article 75(5);

shall be subject to the payment by that board or person of such an amount as the Department determines to be a fair consideration for the transfer of the property.

(4) In a case within paragraph (3)(a) the consideration is payable to the board by which the controlled school mentioned in that sub-paragraph was managed and in a case within paragraph (3)(b) the consideration is payable to the trustees from whom the land mentioned in that sub-paragraph is transferred.

(5) Where school property is held on trust for the purposes of a grant-maintained integrated school, an order made under Article 82 by virtue of paragraph (1) or (2) may vest the property in a board or person beneficially or on such trusts as appear to the Department to be appropriate.

(6) Where an order is made under Article 82 by virtue of paragraph (1) or (2) that order may provide for the transfer to the board or person to which or to whom any school property is transferred of such of the liabilities of the Board of Governors in liquidation as may be specified in the order.

### **Vesting of surplus assets**

**84.**—(1) Subject to paragraph (2), all school property of a grant-maintained integrated school under, or formerly under, the management of a Board of Governors in liquidation which has not been transferred under an order made under Article 82 shall, by virtue of this paragraph, be transferred to and vest in the Department on the dissolution date.

(2) Where the Department is satisfied as to the whole or any part of any such school property that it ought to be transferred to a board or any other person, the Department may by order made before the dissolution date vest that property in that board or person on the dissolution date, either beneficially or to be held on such trusts as the Department may specify.

(3) Without prejudice to the power of the Department under paragraph (2), any transfer of property under this Article shall be free of any trusts on which property is held before the transfer.

(4) Where land in respect of which a direction was given under Article 75(5) is vested in the Department, a board or any other person under this Article, there shall be payable by the Department, that board or that person (as the case may be) to the trustees from whom the land in question was transferred such an amount as the Department determines to be a fair consideration for the transfer of the property.

(5) Where—

- (a) any school premises are vested under paragraph (2) in a board; and
- (b) any person subsequently acquires those premises or any part of them from that board (whether compulsorily or otherwise),

the Department may require the board to pay to it the whole or any part of the consideration or purchase money paid in respect of the acquisition to meet, or contribute towards, the amount of grants paid by the Department under Article 82(4) to the Board of Governors of the school.

#### *Miscellaneous and supplementary*

### **Provision of benefits and services for pupils by boards**

**85.** Where—

- (a) a board is under a duty, or has power, to provide any benefits or services for pupils; and
- (b) the duty is to be performed, or the power may be exercised, both in relation to pupils at grant-maintained integrated schools and in relation to pupils at other grant-aided schools,

the board shall in performing the duty, or exercising the power, treat pupils at grant-maintained integrated schools no less favourably (whether as to the benefits or services provided or as to the terms on which they are provided) than pupils at other grant-aided schools.

### **Variation of instrument of government relating to grant-maintained integrated school**

**86.**—(1) The Department may by order make such modifications of any instrument of government relating to any school as, after consultation with the Board of Governors of the school and the trustees (if any), appear to be requisite—

- (a) in consequence of the approval of a proposal for acquisition of grant-maintained integrated status for the school; or
- (b) for removing any inconsistency between the provisions of that instrument and any provisions included or proposed to be included in the scheme of management for the school which it appears to the Department to be expedient to remove in the interests of the school.

(2) Any modification made by an order under this Article may be made to have permanent effect or to have effect for such period as may be specified in the order.

(3) Any provision of any instrument relating to any land held for the purposes of any voluntary school which—

- (a) confers on any person an option to acquire an interest in that land; or
- (b) provides (in whatever terms) for the determination or forfeiture of any such interest,

in the event of the school's ceasing to be a voluntary school shall, if the school becomes a grant-maintained integrated school, have effect as if the event referred to were the school's ceasing to be a school which is either a grant-maintained integrated school or a voluntary school.

### **Interpretation (grant-maintained integrated schools)**

**87.**—(1) In this Chapter—

- (a) references to the proposed date of implementation are references—
  - (i) in relation to any school in respect of which a proposal for acquisition of grant-maintained integrated status is required to be submitted under Article 71(1), to the date specified in accordance with Article 70(4)(b) in the information given for the purposes of the originating ballot to persons eligible to vote in that ballot (within the meaning of Article 70); and
  - (ii) in relation to any school in respect of which such a proposal has been submitted under Article 71(1), to the date specified in the proposal as the proposed date of implementation;
- (b) references, in relation to any school in respect of which such a proposal has been approved, to the proposal are references to the proposal as approved.

(2) In relation to any proposal for acquisition of grant-maintained integrated status required to be submitted under Article 71(1) in respect of any school, the reference in paragraph (1)(a) to the originating ballot is a reference—

- (a) where paragraph (1) of that Article applies, to the ballot by reference to which it applies; and
- (b) where the proposal is required to be published by virtue of a requirement imposed by the Department under paragraph (5) or (11) of that Article, to the last ballot held in accordance with Article 70 in relation to the school before that requirement was imposed.

(3) In this Part—

“incorporation date” means, in relation to a grant-maintained integrated school, the date on which the Board of Governors of the school is incorporated under Article 72;

“relevant board” means—

- (a) in relation to a controlled school, the board responsible for the management of the school;
- (b) in relation to a maintained school, the board by which the school is maintained;
- (c) in relation to any other voluntary school or an independent school, the board for the area in which the school is situated;
- (d) in relation to a proposal to establish a new grant-maintained integrated school, the board for the area in which the school is proposed to be.

## **CHAPTER III**

### **CONTROLLED INTEGRATED SCHOOLS**

#### *Management of controlled integrated schools*

#### **Management of controlled integrated schools**

**88.** The scheme of management for a controlled integrated school shall require the Board of Governors to use its best endeavours, in exercising its functions under the Education Orders, to ensure that the management, control and ethos of the school are such as are likely to attract to the school reasonable numbers of both Protestant and Roman Catholic pupils.



## **Constitution of Board of Governors for controlled integrated schools**

**89.—**(1) In Schedule 4 to the principal Order for paragraphs 4 and 5 there shall be substituted the following paragraphs—

*“Controlled grammar schools (other than controlled integrated grammar schools) and controlled nursery and special schools*

**4.** There shall be 8, 16 or 24 voting members appointed to the Board of Governors of a controlled grammar school (other than a controlled integrated grammar school), a controlled nursery school or a controlled special school and, subject to paragraph 6, of those members—

- (a) three-eighths shall be chosen by the board responsible for the management of the school;
- (b) one-quarter shall be nominated by the Head of the Department;
- (c) one-quarter shall be elected by parents of pupils attending the school from amongst the parents of such pupils;
- (d) one-eighth shall be elected by assistant teachers at the school from amongst such assistant teachers.

### *Controlled integrated schools*

**5.—**(1) There shall be 14 or 21 voting members appointed to the Board of Governors of a controlled integrated school, other than a controlled integrated school to which sub-paragraph (3) applies, and, subject to paragraph 6, of those members—

- (a) two-sevenths shall be elected by parents of pupils attending the school from amongst the parents of such pupils;
- (b) two-sevenths shall be chosen by the board responsible for the management of the school;
- (c) one-seventh shall be nominated by the transferors and superseded managers of controlled schools (other than controlled integrated schools) in the area of the board responsible for the management of the school;
- (d) one-seventh shall be nominated by the nominating trustees of Catholic maintained schools in the area of the board responsible for the management of the school;
- (e) one-seventh shall be elected by assistant teachers at the school from amongst such assistant teachers.

(2) Sub-paragraph (3) applies to—

- (a) a controlled integrated grammar school; and
- (b) a controlled integrated school which immediately before the date on which it became a controlled integrated school was a voluntary school (other than a Catholic maintained school).

(3) There shall be 14 or 21 voting members appointed to the Board of Governors of a controlled integrated school to which this sub-paragraph applies and, subject to paragraph 6, of those members—

- (a) two-sevenths shall be elected by parents of pupils attending the school from amongst the parents of such pupils;
- (b) two-sevenths shall be chosen by the board responsible for the management of the school;
- (c) two-sevenths shall be nominated by the Head of the Department;
- (d) one-seventh shall be elected by assistant teachers at the school from amongst such assistant teachers.

(4) It shall be the duty of a board in appointing persons to a Board of Governors under sub-paragraph (1)(b) or (3)(b) to choose for appointment persons appearing to the board to be committed to the continuing viability of the school as a controlled integrated school and it shall be the duty of the Head of the Department in nominating persons for appointment to a Board of Governors under sub-paragraph (3)(c) to nominate persons appearing to the Head of the Department to be so committed.”.

(2) In paragraph 6 of that Schedule—

(a) for sub-paragraphs (1) to (3) there shall be substituted the following sub-paragraphs—

“(1) Where the board proposes to appoint persons to a Board of Governors under paragraph 2(2)(a), 3(2)(a) or 5(1)(c) or (d) it shall serve on the nominating authorities a notice—

(a) stating the board’s intention to appoint such persons; and

(b) requesting the nominating authorities to make nominations to the board within a period of 21 days from the date on which the notice is served;

and where the nominating authorities fail to make any nomination requested by such a notice within that period the board may, subject to sub-paragraph (2), appoint such persons as it considers to be suitable for appointment.

(2) It shall be the duty of a board in appointing persons to the Board of Governors of a school under sub-paragraph (1)—

(a) in the case of a controlled integrated school, to choose for appointment persons appearing to the board to be committed to the continuing viability of the school as a controlled integrated school; and

(b) in all cases, so far as possible to choose for appointment persons who are resident in the locality served by the school.

(3) Persons appointed under sub-paragraph (1) shall be deemed for all purposes of this Schedule to have been duly nominated by the nominating authorities.”.

(b) in sub-paragraph (4) for the words “and 5(a) and (e)” there shall be substituted “, 5(1)(a) and (e) and 5(3)(a) and (d)”.

(3) In paragraph 7 of that Schedule at the end there shall be added the following definition—

““nominating authorities”, in relation to the appointment of any persons to a Board of Governors, means the persons who or bodies which are to nominate persons for the purpose of such appointment.”.

### *Procedure for acquisition of controlled integrated status*

#### **Schools eligible for controlled integrated status**

**90.**—(1) Subject to paragraphs (2) to (4), any controlled or voluntary school is for the purposes of this Chapter eligible for controlled integrated status.

(2) The following are not eligible for controlled integrated status, namely—

(a) a nursery school;

(b) a special school;

(c) a voluntary primary school referred to in Article 11(8) of the principal Order.

(3) A controlled or voluntary school is not eligible for controlled integrated status if a proposal to discontinue the school has been approved by the Department under Article 14(7) of the principal Order.

(4) A voluntary school is not eligible for controlled integrated status if notice of the trustees' intention to discontinue the school has been given under Article 16(1) of the principal Order and has not been withdrawn.

### **Initiation of procedure for acquisition of controlled integrated status**

**91.** Articles 69 and 70 shall apply for the purposes of the acquisition by a school eligible for controlled integrated status of that status as they apply for the purposes of the acquisition by a school eligible for grant-maintained integrated status of that status; and, accordingly, in those Articles as applied by this Article—

- (a) references to grant-maintained integrated status shall be read as references to controlled integrated status;
- (b) references to provisions of Article 69 or 70 shall be read as references to those provisions as so applied;
- (c) references to Article 71(1) shall be read as references to Article 92(1).

### **Proposals for acquisition of controlled integrated status**

**92.—**(1) Where in the case of any controlled or voluntary school which is eligible for controlled integrated status the result of a ballot held in accordance with Article 70 (as applied by Article 91) shows a simple majority of votes cast in the ballot by persons eligible to vote in the ballot (within the meaning of that Article (as so applied)) in favour of seeking controlled integrated status for the school, it shall be the duty of the relevant board to submit a proposal for the acquisition of controlled integrated status for the school to the Department together with its views thereon.

(2) Where a board proposes to establish a new controlled integrated school, it shall submit the proposal to the Department.

(3) A proposal under paragraph (1) or (2) shall be in such form and contain such particulars (including the proposed date of implementation) as may be required by the Department and a proposal under paragraph (1) shall be submitted to the Department within such time as may be so required.

(4) A board, after submitting a proposal to the Department under paragraph (1) or (2), shall—

- (a) forthwith publish by advertisement in one or more newspapers circulating in the area affected by the proposal a notice stating—
  - (i) such particulars of the nature of the proposal as may be required by the Department;
  - (ii) that the proposal has been submitted to the Department;
  - (iii) that a copy of the proposal can be inspected at a specified place;
  - (iv) that objections to the proposal can be made to the Department within two months of the date specified in the advertisement, being the date on which the advertisement first appears;
- (b) furnish to any person, on application, a copy of the proposal on payment of such reasonable sum as the board may determine.

(5) Subject to paragraphs (6) and (7), the Department, after considering any objections to a proposal made to it within the time specified in the notice under paragraph (4)(a)(iv), may, after making such modification, if any, in the proposal as, after consultation with the board making the proposal, it considers necessary or expedient, approve the proposal and inform that board accordingly.

(6) The Department shall not approve a proposal under this Article in relation to a school unless it appears to the Department that, if the school were to become, or be established as, a controlled

integrated school, the school would be likely to be attended by reasonable numbers of both Protestant and Roman Catholic pupils.

(7) The Department shall not approve a proposal under paragraph (1) in relation to a school unless the school was eligible for controlled integrated status on the date on which the proposal was submitted under that paragraph.

(8) Where the Department rejects any proposal under paragraph (1) in relation to a school, it may require the board to submit a further proposal under that paragraph within such period as it may direct.

(9) Where a proposal under paragraph (1) or (2) in respect of any school is approved by the Department—

- (a) the school shall become, or be established as, a controlled integrated school on the proposed date of implementation; and
- (b) the relevant board shall make provision by means of a Board of Governors appointed by the board for the management of the school as a controlled integrated school on and from that date.

(10) The provisions of the Education Orders shall, subject to any express provision to the contrary, apply to a controlled integrated school in like manner as they apply to a controlled school which is not a controlled integrated school.

### **Effect of pending procedure for acquisition of controlled integrated status**

**93.—**(1) This Article applies to a controlled or voluntary school during any period when the procedure under this Chapter for acquisition of controlled integrated status is pending in relation to the school.

(2) For the purposes of this Article that procedure is pending in relation to a school when it has been initiated in relation to the school on any occasion and not terminated (as initiated on that occasion).

(3) For those purposes that procedure is to be regarded as initiated in relation to any school on any occasion—

- (a) where the Board of Governors of the school has decided to hold a ballot in accordance with Article 70 by a first resolution passed as mentioned in paragraph (1)(a) of Article 69, on receipt by the relevant board, in the case of a controlled school, or the trustees of the school, in the case of a voluntary school, of notice under Article 69(3) of that decision;
- (b) where such a request as is mentioned in paragraph (1)(b) of that Article has been received by the Board of Governors, on receipt by the relevant board, in the case of a controlled school, or the trustees of the school, in the case of a voluntary school, of notice under paragraph (4)(b) of that Article that such a ballot is to be held.

(4) For those purposes that procedure, as initiated on any occasion, is to be regarded as terminated—

- (a) in the case of procedure initiated as mentioned in paragraph (3)(a), if the period of twenty-eight days after that on which the first resolution was passed has expired and the decision to hold a ballot has not been confirmed by a second resolution passed in accordance with Article 69(1)(a); or
- (b) in the case of procedure initiated as mentioned in paragraph (3)(a) or (b) if—
  - (i) the result of the ballot to which that notice relates does not show a majority in favour of seeking controlled integrated status for the school;
  - (ii) a proposal for acquisition of such status for the school which is required to be submitted under Article 92 by reference to the result of that ballot, or any

proposal required in substitution for that proposal, is rejected by the Department or withdrawn; or

(iii) the school becomes a controlled integrated school.

(5) Where Article 70(8) applies in the case of any such ballot, the references in heads (i) and (ii) of paragraph (4)(b) to the result of that ballot shall be read as references to the result of the second ballot required by that paragraph.

(6) The reference in paragraph (4) to a proposal required in substitution for any proposal for acquisition of controlled integrated status for any school which is required to be submitted under Article 92 by reference to the result of a ballot held in accordance with Article 70 (“the original proposal”) is a reference to any proposal required to be submitted under paragraph (8) of Article 92 on the rejection of—

(a) the original proposal; or

(b) any further proposal required to be submitted under that paragraph with respect to the school without a further ballot;

and a proposal under that Article with respect to a school shall not be treated for the purposes of paragraph (4) as rejected in any case where the Department imposes a requirement under paragraph (8) of that Article.

(7) Except with the consent of the Department, the trustees of a voluntary school to which this Article for the time being applies shall not—

(a) dispose of any property used wholly or partly for the purposes of the school; or

(b) enter into a contract to dispose of any such property.

(8) Paragraph (7) does not apply in relation to a disposal which is made in pursuance of a contract entered into, or an option granted, before the procedure mentioned in paragraph (1) was initiated in relation to the school.

(9) A disposal or contract shall not be invalid or void by reason only that it has been made or entered into in contravention of this Article and a person acquiring property, or entering into a contract to acquire property, from the trustees of a voluntary school shall not be concerned to enquire whether any consent required by this Article has been given.

(10) During any period when this Article applies to a school—

(a) no resolution shall be passed by the Board of Governors under Article 69(1)(a); and

(b) no request shall be made to the Board of Governors under Article 69(1)(b).

(11) In this Article (except paragraph (10)) references to Articles 69 and 70 are references to those Articles as applied by Article 91.

#### *Proposals for alteration, etc. of schools eligible for controlled integrated status*

#### **Proposals for alteration, etc. of schools eligible for controlled integrated status**

**94.**—(1) Before formulating in respect of any controlled school which is eligible for controlled integrated status any proposal under Article 14(1)(c), (d) or (e) of the principal Order, a board shall consult the Board of Governors of the school.

(2) Where a proposal for acquisition of controlled integrated status is approved in relation to a school, no proposal shall be submitted under Article 14 of the principal Order in respect of that school between the date on which the proposal for acquisition of controlled integrated status is approved and the proposed date of implementation of that proposal.

(3) Paragraph (4) applies in any case where either—

- (a) after a proposal for acquisition of controlled integrated status has been first submitted to the Department under Article 92 in respect of any school which is eligible for controlled integrated status but before that proposal is withdrawn or determined a proposal in respect of the school is submitted to the Department under Article 14 of the principal Order; or
  - (b) after a proposal in respect of any such school has been submitted to the Department under Article 14 of the principal Order but before that proposal is withdrawn or determined a proposal for acquisition of controlled integrated status for the school is first submitted to the Department under Article 92.
- (4) In any case to which this paragraph applies, the Department shall consider both proposals together but shall not determine the proposal under Article 14 until it has made its determination with respect to the proposal for acquisition of controlled integrated status.
- (5) Where—
- (a) a proposal under Article 14(1)(d) or (e), (2)(d) or (e) or (3)(c) of the principal Order with respect to any school has been approved under Article 14(7) of that Order; and
  - (b) the school becomes a controlled integrated school before that proposal has been implemented,
- that proposal shall be treated as if it had been published and approved under Article 14 after the school became a controlled integrated school.

#### *Transfer of property and staff*

#### **Transfer of property of voluntary school acquiring controlled integrated status**

**95.—**(1) Subject to the following provisions of this Article, on the proposed date of implementation in relation to a controlled integrated school which immediately before that date was a voluntary school—

- (a) all land or other property which, immediately before that date was property held by the trustees of the school for the purposes of the school;
  - (b) all rights and liabilities subsisting immediately before that date which were acquired or incurred by those trustees for those purposes;
  - (c) any property, rights and liabilities of the former Board of Governors of the school,
- shall be transferred to, and by virtue of this Order vest in, the relevant board.

(2) Paragraph (1) shall not apply to rights and liabilities under any contract of employment.

(3) Any land or other property transferred to a board under this Article which immediately before the proposed date of implementation was held on trust shall vest in that board as trustee on the trusts applicable immediately before that date under any trust deed regulating the use of the land or other property for the purposes of the school.

(4) The Department may by regulations make provision for the payment of compensation by the Department to the trustees of a voluntary school in respect of land or other property held by them immediately before the proposed date of implementation and transferred under this Article and such regulations may provide—

- (a) for the amount of compensation to be such as may be agreed between the Department and the trustees or, in default of agreement, such as may be determined by the Lands Tribunal;
- (b) for the amount of compensation to be reduced where grants have been paid by the Department in respect of land or other property so transferred and for the calculation of any such reduction.

(5) On the proposed date of implementation in relation to a controlled integrated school which immediately before that date was a voluntary school, the school shall cease to be a voluntary school for the purposes of the Education Orders and the trustees and former Board of Governors of the school shall be absolutely freed and discharged from all responsibility in connection with the school whether under any deed of trust or otherwise.

(6) For the purposes of this Article any interest in a dwelling house or other residence which, immediately before the proposed date of implementation in relation to a controlled integrated school, is used or held for occupation by a person employed to work at the school shall be treated as an interest used or held for the purposes of the school.

(7) In this Article “the former Board of Governors” means, in relation to a controlled integrated school, the Board of Governors of the school immediately before the proposed date of implementation in relation to the school.

### **Transfer of staff**

**96.**—(1) Subject to paragraph (2), this Article applies to any person who immediately before the proposed date of implementation in relation to a controlled integrated school which is then a voluntary school,—

- (a) is employed by the Board of Governors of the school; or
- (b) is employed by the Council for Catholic Maintained Schools to work solely at the school.

(2) This Article does not apply to—

- (a) any person employed as mentioned in paragraph (1)(a) or (b) whose contract of employment terminates on the day immediately preceding the proposed date of implementation;
- (b) any person employed as mentioned in paragraph (1)(b) who before that date has been—
  - (i) appointed or assigned by the Council for Catholic Maintained Schools to work solely at another school as from that date; or
  - (ii) withdrawn from work at the school with effect as from that date.

(3) A person who before the proposed date of implementation has been appointed or assigned by the Council for Catholic Maintained Schools to work at the school as from that date shall be treated for the purposes of this Article as if he had been employed by the Council immediately before that date to do such work at the school as he would have been required to do on or after that date under his contract of employment with the Council.

(4) References below in this Article to the former employer are references—

- (a) in relation to a person to whom this Article applies by virtue of paragraph (1)(a), to the Board of Governors of the school immediately before the proposed date of implementation; and
- (b) in relation to a person to whom this Article applies by virtue of paragraph (1)(b), to the Council for Catholic Maintained Schools.

(5) The contract of employment between a person to whom this Article applies and the former employer shall have effect from the proposed date of implementation as if originally made between him and the relevant board.

(6) Without prejudice to paragraph (5)—

- (a) all the former employer’s rights, powers, duties and liabilities under or in connection with a contract to which that paragraph applies shall by virtue of this Article be transferred to the relevant board on the proposed date of implementation; and

- (b) anything done before that date by or in relation to the former employer in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to that board.

(7) Paragraphs (5) and (6) are without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right shall arise by reason only of the change in employer effected by this Article.

### *Significant changes to controlled integrated schools*

#### **Significant changes to controlled integrated schools**

97. The Department shall not approve any proposal made under Article 14(1)(d) or (e) or (3)(c) of the principal Order in relation to a controlled integrated school if in the opinion of the Department the implementation of that proposal would render the school less likely to be attended by reasonable numbers of both Protestant and Roman Catholic pupils.

### *Miscellaneous and supplementary*

#### **Variation of instrument of government relating to controlled integrated school**

98. Article 86 shall apply to a controlled integrated school as if for the words “grant-maintained integrated” wherever they occur there were substituted the words “controlled integrated”.

#### **Interpretation (controlled integrated schools)**

99.—(1) In this Chapter and in any other provision of this Part as applied by Article 91 or 98—

- (a) references to the proposed date of implementation are references—
  - (i) in relation to any school in respect of which a proposal for acquisition of controlled integrated status is required to be submitted under Article 92(1), to the date specified in accordance with Article 70(4)(b) (as applied by Article 91) in the information given for the purposes of the originating ballot to persons eligible to vote in that ballot (within the meaning of Article 70 (as so applied)); and
  - (ii) in relation to any school in respect of which such a proposal has been submitted under Article 92(1), to the date specified in the proposal as the proposed date of implementation;
- (b) references, in relation to any school in respect of which such a proposal has been approved, to the proposal are references to the proposal as approved;
- (c) “relevant board” means—
  - (i) in relation to a controlled school, the board responsible for the management of the school;
  - (ii) in relation to a maintained school, the board by which the school is maintained;
  - (iii) in relation to a voluntary school, other than a maintained school, the board for the area in which the school is situated;
  - (iv) in relation to a proposal to establish a new controlled integrated school, the board for the area in which the school is proposed to be situated.

(2) In relation to any proposal for acquisition of controlled integrated status required to be submitted under Article 92(1) in respect of any school, the reference in paragraph (1)(a) to the originating ballot is a reference—



- (a) where paragraph (1) of that Article applies, to the ballot by reference to which it applies; and
- (b) where the proposal is required to be published by virtue of a requirement imposed by the Department under paragraph (8) of that Article, to the last ballot held in accordance with Article 70 (as applied by Article 91) in relation to the school before that requirement was imposed.

## PART VII

### FURTHER AND HIGHER EDUCATION

#### *Functions of boards with respect to further and higher education*

#### **Duty of boards with respect to further education**

**100.**—(1) Each board shall secure, in accordance with arrangements approved by the Department, the provision for its area of adequate facilities for further education and may, with the approval of the Department, provide facilities for further education to meet the requirements of an area in Northern Ireland outside its own area.

(2) Subject to the following provisions of this Article, in this Order “further education” means—

- (a) full-time and part-time education for persons over compulsory school age (including vocational, social, physical and recreational training); and
- (b) organized leisure-time occupation provided in connection with the provision of such education.

(3) In this Order “further education” does not include higher education, that is to say, education provided by means of a course of any description mentioned in Schedule 7; and the Department may by order amend Schedule 7.

(4) Full-time education suitable to the requirements of senior pupils over compulsory school age shall not be regarded for the purposes of this Order as further education if it is or is to be provided by an institution which does not provide part-time senior education or post-school age education to a significant extent.

(5) In this Order—

- (a) “part-time senior education” means part-time education for senior pupils over compulsory school age; and
- (b) “post-school age education” means full-time or part-time education for persons of or over nineteen years of age.

(6) The duty of a board under paragraph (1) extends, in the case of further education of a vocational kind, to the provision of facilities for continuing education for persons already in employment or already engaged in a vocation as well as to the provision of facilities for education with a view to entry into any employment or vocation.

(7) In paragraph (2)(b) “organized leisure-time occupation” means leisure-time occupation, in such organized cultural training and recreative activities as are suited to their requirements, for any persons over compulsory school age who are able and willing to profit by facilities provided for that purpose.

(8) In fulfilling its duty under paragraph (1) a board shall have regard to any educational facilities provided by other boards or by other bodies which are provided for, or available for use by persons living in, its area and may—

- (a) co-operate with other boards and bodies other than boards;
  - (b) with the approval of the Department, contribute towards the expenses of such bodies other than boards or incur expenditure jointly with another board or other boards.
- (9) In fulfilling that duty a board shall also have regard to the requirements of persons over compulsory school age who have learning difficulties.
- (10) Subject to paragraph (11), for the purposes of paragraph (9) a person has a “learning difficulty” if—
- (a) he has a significantly greater difficulty in learning than the majority of persons of his age; or
  - (b) he has a disability which either prevents or hinders him from making use of facilities of a kind generally provided by the board concerned in pursuance of its duty under paragraph (1) for persons of his age.
- (11) A person is not to be taken as having a learning difficulty solely because the language (or form of the language) in which he is, or will be, taught is different from a language (or form of a language) which has at any time been spoken in his home.

### **Powers of boards with respect to higher education**

- 101.**—(1) A board shall have power in accordance with arrangements approved by the Department—
- (a) to secure the provision for its area of such facilities for higher education to which this Article applies as appear to it to be appropriate for meeting the needs of the population of its area; and
  - (b) to secure the provision of higher education to which this Article applies for persons living outside its area.
- (2) In exercising its power under paragraph (1)(a) a board shall have regard to any facilities for higher education to which this Article applies provided by universities, boards and other bodies which are provided for, or available for use by persons living in, its area and may—
- (a) co-operate with other boards and bodies other than boards;
  - (b) with the approval of the Department, contribute towards the expenses of such bodies other than boards or incur expenditure jointly with another board or other boards.
- (3) The higher education to which this Article applies is higher education provided by means of a course of a description mentioned in paragraph 1(a), (b), (c) or (d) of Schedule 7.
- (4) The Department may by order amend paragraph (3).

### *Management of institutions of further education*

### **Management of institutions of further education**

- 102.**—(1) Each institution of further education shall be under the management of the board for the area in which the institution is situated and the board shall make provision by means of a governing body for the management of each such institution in its area.
- (2) A governing body for an institution of further education shall also have under its management any technical secondary school conducted in association with the institution.
- (3) For every institution of further education there shall be—
- (a) an instrument providing for the constitution of a governing body of the institution (to be known as the instrument of government); and

- (b) an instrument in accordance with which the institution is to be conducted (to be known as the articles of government).
- (4) Subject to paragraph (6), the instrument of government and articles of government shall be made by order of the board with the approval of the Department (which may be given subject to such conditions as the Department thinks fit).
- (5) The Department may direct a board to amend the instrument or articles of government of any institution of further education under its management in such manner, or for such purpose, as may be specified in the direction; and any amendment made in pursuance of such a direction shall be made by order under paragraph (4).
- (6) The Department may by order amend the instrument or articles of government of any institution of further education.
- (7) An order made under paragraph (6) may relate to all such institutions, to any category of such institutions specified in the order, or to any institution so specified.
- (8) Before giving any direction under paragraph (5) or making any order under paragraph (6) the Department shall consult such persons as it thinks fit.
- (9) The articles of government of an institution of further education—
  - (a) shall provide for the functions of the governing body under the articles in relation to the appointment of teachers and other staff to be carried out on behalf of, and in the name of, the board;
  - (b) may provide for the carrying out by the governing body in relation to the institution of other specified functions on behalf of, and in the name of, the board.
- (10) In this Article, Article 103 and Article 104 references to the board in relation to an institution of further education are references to the board for the area in which the institution is situated.

### **Provisions required in instrument of government**

- 103.**—(1) The instrument of government of an institution of further education shall provide for the governing body to consist of not more than twenty-five members, of whom—
- (a) not less than one-half shall be persons selected from among persons appearing to the person or persons selecting them to be, or to have been, engaged or employed in business, industry or any profession;
  - (b) not more than one-fifth shall be persons selected and appointed by the board, of whom not more than one-half shall be members of district councils;
  - (c) not more than one-tenth shall be elected by teachers at that institution from amongst such teachers;
  - (d) at least one shall be co-opted by the other members of the governing body.
- (2) The members of the governing body other than those mentioned in paragraph (1)(b), (c) or (d) shall be selected and appointed in accordance with the instrument of government.
- (3) The instrument of government shall make provision regulating the election of teachers to the governing body under paragraph (1)(c) and shall provide that a teacher elected as a member of the governing body shall, on ceasing to be a teacher at the institution of further education, cease to hold office as a member of the governing body.
- (4) The instrument of government shall provide that persons who are—
- (a) members of, or of any committee or sub-committee of, any board or district council; or
  - (b) employed by any board or district council,
- are disqualified for being members of the governing body of the category mentioned in paragraph (1) (a).

(5) The provision made by the instrument of government by virtue of paragraph (4)(a) shall not be such as to disqualify a member of the governing body for being such a member by reason only of the fact that he becomes, by virtue of that office, a member of a committee or sub-committee of a board or district council.

(6) Notwithstanding any provision made by the instrument of government by virtue of any of the preceding provisions of this Article, the board shall appoint all the members of the governing body of an institution of further education as first constituted in accordance with this Article.

(7) In making those appointments, the board—

- (a) shall first appoint all members other than members of the category mentioned in paragraph (1)(d); and
- (b) shall appoint as the members of that category persons nominated in accordance with the instrument of government by the members already appointed.

(8) In the case of the initial members within the category mentioned in paragraph (1)(a), the board shall appoint persons nominated by bodies determined by the board in accordance with paragraph (9).

(9) In determining the bodies who are to be entitled to nominate such persons for appointment, the board shall consult—

- (a) the management committee constituted for the institution under Article 28 of the principal Order;
- (b) such bodies representing business or industrial interests, the professions or trade unions as the board considers appropriate.

(10) In determining the provision to be included in any instrument of government for an institution of further education, a board shall take into account any guidance given by the Department as to the provisions it regards as appropriate for inclusion in any such instrument.

### **Provisions required in articles of government**

**104.—**(1) The articles of government of an institution of further education—

- (a) shall determine the functions to be exercised respectively, in relation to the institution, by the board, the governing body, the principal, and the academic board; and
- (b) shall regulate the constitution and functions of committees of the governing body and of the academic board of the institution, and of sub-committees of such committees, and may provide for the delegation of functions of the governing body and the academic board to such committees, to the principal or to such other persons as may be specified by or determined in accordance with the articles.

(2) The articles of government of an institution of further education in association with which a technical secondary school is conducted shall—

- (a) provide for the conduct of the school;
- (b) determine the functions to be exercised respectively, in relation to the school, by the board, the governing body and the principal.

(3) The articles of government of an institution of further education shall provide for it to be the duty of the governing body—

- (a) to determine, and keep under review, its policy in relation to the courses of study to be provided by or on behalf of the institution and, when so doing, to take account of the plan drawn up under Article 105 by the board and of the scheme made under Article 106 by the board;
- (b) to make, and keep up to date, a written statement of that policy.

(4) In determining the provision to be included in any articles of government for an institution of further education, a board shall take into account any guidance given by the Department as to the provisions it regards as appropriate for inclusion in any such articles.

### **Planning of, and publication of information with respect to, educational provision in institutions of further education**

**105.**—(1) Each board shall draw up and may from time to time amend a plan for the educational provision to be made by institutions of further education situated in its area.

(2) In drawing up or amending a plan under this Article, a board shall take into account any guidance given by the Department as to the provisions it regards as appropriate for inclusion in any such plan.

(3) The Department shall publish any guidance given by it for the purposes of this Article in such manner as it thinks fit.

(4) Before drawing up or amending such a plan a board shall consult the governing body of every institution of further education situated in the area of the board.

(5) A plan under this Article shall be published in such manner as may be directed by the Department—

- (a) when first drawn up by the board; and
- (b) on such subsequent occasions as may be so directed.

(6) The Department may make regulations requiring every board to publish, in relation to each institution of further education under its management—

- (a) such information as may be prescribed with respect to—
  - (i) the educational provision made by the institution for students at the institution; and
  - (ii) the educational achievements of students at the institution (including the results of examinations, tests and other assessments of those students); and
- (b) such copies of any written statement made by the governing body under Article 104(3)
  - (b) as may be prescribed.

(7) The information shall be published in such form and manner and at such times as may be prescribed; and the regulations may provide for a board to make arrangements with the governing body of any institution of further education for the publication by that governing body of the information required to be published in accordance with the regulations in the case of that institution.

### *Further and higher education funding schemes*

### **Schemes for financing by boards of further and higher education**

**106.**—(1) It shall be the duty of every board to prepare a scheme in accordance with this Part and submit it for the approval of the Department in accordance with Article 107.

(2) The scheme shall provide for—

- (a) the determination in respect of each financial year of the board, for each institution of further education situated in the area of the board, of the share to be appropriated for that institution in that year of the further and higher education budget of the board for that year (referred to in this Part, in relation to such an institution, as the institution's budget share); and
- (b) the delegation by the board of the management of an institution's budget share for any year to the governing body of the institution.

(3) The scheme shall also set out the principles and procedures to be applied by the board in planning the educational provision to be made by institutions of further education situated in the area of the board (in this Part referred to as institutions covered by the scheme).

(4) In this Part—

- (a) references to an institution in respect of which financial delegation is required for any financial year under a scheme under this Article are references to an institution managed by a governing body to which the board concerned is for the time being required by or under the scheme to delegate the management of the institution's budget share for that year (and the governing body of such an institution is said to have a right to a delegated budget for the year);
- (b) references to an institution which has a delegated budget are references to an institution managed by a governing body to which a board has for the time being delegated the management of the institution's budget share for any financial year in pursuance of such a scheme.

(5) The Department may by order substitute for references in this Part to a financial year references to such other period as may be specified in the order.

#### **Preparation and imposition of further and higher education funding schemes**

**107.**—(1) A scheme prepared by a board under Article 106 shall be submitted to the Department on or before such date as the Department may direct.

(2) In preparing a scheme under that Article, a board shall take into account any guidance given by the Department as to the provisions it regards as appropriate for inclusion in any such scheme.

(3) The Department shall publish any guidance given by it for the purposes of this Article in such manner as it thinks fit.

(4) Before preparing such a scheme a board shall consult the governing body of every institution of further education situated in the area of the board.

(5) The Department may request a board to furnish such information in connection with any scheme submitted to the Department as the Department may require, including information as to the results of consultations under paragraph (4).

(6) Such a scheme shall not come into operation until it has been approved by the Department or until such date as the Department may, in giving its approval, specify; and the Department may approve such a scheme—

- (a) either without modifications or with such modifications as it thinks fit after consulting the board concerned; and
- (b) subject to such conditions as it may specify in giving its approval.

(7) If in the case of any board either—

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

the Department may, after consulting the board and such other persons as it thinks fit, impose a scheme making such provision of a description required to be made by a scheme under Article 106 in the case of that board as it considers appropriate.

(8) A scheme imposed by the Department by virtue of paragraph (7)—

- (a) shall be treated as if made under Article 106 by the board concerned; and
- (b) shall come into operation on such date as may be specified in the scheme.

### **Replacement and variation of further and higher education funding schemes**

**108.**—(1) Subject to the following provisions of this Article, a scheme may be replaced or varied by a subsequent scheme made under Article 106 by the board concerned.

(2) Article 106 shall apply for the purposes of a scheme replacing or varying a previous scheme with the omission of paragraph (1), and, subject to paragraph (5), Article 107(2) to (6) shall also apply for those purposes.

(3) A scheme prepared by a board under Article 106 which—

(a) replaces a previous scheme; or

(b) makes any significant variation of a previous scheme,

shall be submitted to the Department for its approval.

(4) A scheme under Article 106 varying a previous scheme which is not required by paragraph (3)(b) to be submitted to the Department for its approval is referred to in this Article as a “minor variation scheme”.

(5) Paragraphs (4) to (6) of Article 107 shall not apply in relation to a minor variation scheme and such a scheme shall come into operation on such date as is specified in the scheme.

(6) The Department may give directions specifying what descriptions of variation are to be regarded as significant for the purposes of paragraph (3)(b).

(7) Where a board proposes to make a scheme under Article 106 which in its opinion is a minor variation scheme, the board shall notify the Department in writing of its proposal, giving brief particulars of the nature of the variations proposed to be made by the scheme.

(8) In any such case the board shall, if so required by the Department before the end of the period of two months beginning with the date on which it receives notification under paragraph (7) of the board’s proposal, send to the Department a copy of the board’s proposed scheme; and it shall be for the Department to determine whether or not any variation proposed to be made by the scheme falls within any description of variation specified in directions under paragraph (6).

(9) A scheme made under Article 106 may also be varied by a direction given by the Department, as from such date as may be specified in the direction.

(10) Before giving such a direction the Department shall consult the board concerned and such other persons as it thinks fit.

### **Delegation to governing body of management of institution’s budget share**

**109.**—(1) This Article applies where in the case of any board the board’s financial provision for institutions of further education situated in its area is subject to regulation by a scheme.

(2) Subject to Article 117(6), it shall be the duty of the board in the case of each such institution to put at the disposal of the governing body of the institution in respect of each financial year a sum equal to the institution’s budget share for that year to be spent for the purposes of the institution.

(3) The times at which, and the manner in which, any such sum is put at the disposal of the governing body of an institution shall be such as may be provided by or under the scheme.

(4) A board may not in any financial year delegate to the governing body of an institution of further education covered by the scheme the power to spend any sum appropriated by the board for the purposes of the institution in that year otherwise than as required under the scheme.

(5) Subject to Article 117(7), the governing body of any institution which has a delegated budget—

(a) shall be entitled, subject to any provision made by or under the scheme, to spend any sum made available to it in respect of the institution’s budget share for any financial year as it thinks fit for the purposes of the institution; and

- (b) may delegate to the principal, to such extent as may be permitted by or under the scheme and subject to any provision of the articles of government of the institution, its power under sub-paragraph (a) in relation to any part of that sum.

(6) The members of the governing body of an institution shall not incur any personal liability in respect of anything done in good faith in the exercise or purported exercise of any power under paragraph (5).

#### **Further and higher education funding schemes: determination of budget shares**

**110.**—(1) The provision to be included in a scheme for determining the budget share for any financial year of each institution of further education covered by the scheme in that year shall require that share to be determined (and from time to time revised) by the application of a formula laid down by the scheme for the purpose of dividing among all such institutions so much of the board's further and higher education budget for that year as is appropriated by the board for allocation in accordance with the scheme among those institutions.

(2) In this Article "formula" includes methods, principles and rules of any description, however expressed.

(3) The formula laid down by a scheme in accordance with paragraph (1)—

- (a) shall include provision for taking into account, in the case of each institution covered by the scheme in any financial year, the student numbers allocated to that institution under the scheme for that year; and
- (b) may include provision for taking into account any other factors affecting the needs of individual institutions which are subject to variation from institution to institution.

(4) The student numbers allocated to any institution under a scheme for any financial year shall be determined (and may from time to time be revised) in such manner as may be provided by the scheme.

(5) A scheme must provide for all amounts and student numbers relevant to the determination of an institution's budget share under the scheme for any financial year to be determined initially before the beginning of that year.

#### **Further and higher education funding schemes: provision for financial delegation**

**111.**—(1) A scheme shall include provision for requiring, in the case of each institution of further education covered by the scheme in any financial year, the delegation by the board concerned to the governing body of the institution of the management of the institution's budget share for that year.

(2) References in this Part to the delegation requirement under any scheme are references to any provision included in the scheme by virtue of paragraph (1).

(3) Where a new institution of further education is established, the delegation requirement under the scheme covering that institution shall not apply in relation to that institution until such date as may be specified in the scheme in relation to that institution.

(4) Any delegation by a board under a scheme to the governing body of any institution of the management of the institution's budget share for any financial year shall be subject to such conditions as may be imposed by or under the scheme.

(5) Conditions so imposed may (in particular) relate to the application of the whole of the budget share of any institution or of any part of the budget share of any institution determined by or under the scheme, and different conditions may be imposed in relation to any parts so determined.

(6) In imposing conditions under a scheme a board shall take into account any guidance given by the Department as to the conditions it regards as appropriate for imposition under a scheme.



(7) The Department shall publish any guidance given by it under paragraph (6) in such manner as it thinks fit.

### **Publication of further and higher education funding schemes**

**112.** A scheme shall be published in such manner as may be directed by the Department—

- (a) on its coming into operation; and
- (b) on such subsequent occasions as may be so directed.

### **Publication of financial statements**

**113.—**(1) This Article applies where in the case of any board the board's financial provision for institutions of further education situated in its area is subject to regulation by a scheme.

(2) Before the beginning of each financial year, the board shall prepare a statement containing—

- (a) such information as to the operation of the scheme; and
- (b) such information as to the financial provision it plans to make in that year for institutions of further education situated in its area,

as the Department may direct.

(3) After the end of each financial year the board shall prepare a statement containing such information with respect to—

- (a) expenditure actually incurred in that year for the purposes of all institutions covered by the scheme; and
- (b) expenditure so incurred which was incurred, or is treated by the board as having been incurred, for the purposes of each such institution,

as the Department may direct.

(4) A statement prepared under this Article shall be prepared in such form, and published in such manner and at such times, as the Department may direct.

(5) The board shall furnish the governing body of each institution of further education covered by the scheme in any financial year with a copy of each statement prepared by the board under this Article in relation to that year.

(6) The governing body of each such institution shall secure that a copy of any such statement furnished to it under this Article is available for inspection (at all reasonable times and free of charge) at the institution.

### *Provisions relating to staff during financial delegation*

### **Delegation of certain powers as to staff**

**114.—**(1) This Article applies to an institution of further education at any time when financial delegation is required in respect of the institution for the current financial year under any scheme, subject to any suspension, limitation or restriction under Article 117 of the powers conferred on the governing body under this Article or Article 115.

(2) A scheme may include provision with respect to the complement and the dismissal of staff at any institution to which this Article for the time being applies and (without prejudice to the inclusion of other provisions as to staff and other costs to be met from the budget share of any such institution) with respect to costs incurred by the board in respect of the dismissal or premature retirement, or for the purpose of securing the resignation, of any member of the staff.

(3) Subject to any provision of the relevant scheme or the articles of government of the institution, in the case of any institution to which this Article for the time being applies it shall be for the governing body of the institution to determine what staff (both full-time and part-time) are for the time being required for the purposes of the institution.

(4) Subject to any provision of the relevant scheme or the articles of government of the institution, where the governing body of an institution to which this Article for the time being applies notifies the board concerned in writing that it has determined that any person employed to work at the institution under a particular contract of employment should cease to work there under that contract—

- (a) if the person concerned is employed under the contract of employment in question to work solely at the institution, the board shall, before the end of the period of one month beginning with the date on which the notification is given in relation to him, either—
  - (i) give him such notice terminating that contract of employment with the board as is required under that contract; or
  - (ii) terminate that contract without notice if the circumstances are such that the board is entitled to do so by reason of his conduct; and
- (b) in any other case, the board shall require the person concerned to cease to work at the institution.

(5) The articles of government of an institution to which this Article for the time being applies shall provide for it to be the duty of the governing body to consult the chief education officer of the board concerned before making any determination which would have the effect of removing senior staff from work at the institution.

In this paragraph “senior staff” means staff who fall in accordance with the articles to be treated as senior staff for the purposes of any such provision.

(6) It shall be the duty of the chief education officer to offer advice when consulted in accordance with any such provision, and the duty of the governing body to consider any advice so offered.

(7) Subject to any provision of the articles of government of the institution—

- (a) the regulation of conduct and discipline in relation to the staff of an institution to which this Article for the time being applies, and any procedures for affording to members of the staff opportunities for seeking redress of any grievances relating to their employment, shall be under the control of the governing body; and
- (b) where the implementation of any determination made by the governing body in the exercise of that control requires any action which—
  - (i) is not within the functions exercisable by the governing body by virtue of the Education Orders; but
  - (ii) is within the powers of the board concerned,
 it shall be the duty of the board to take that action at the request of the governing body.

(8) References in this Article to the chief education officer of a board include references to any officer of the board nominated by the chief education officer.

### **Costs of dismissal, premature retirement or voluntary severance**

**115.**—(1) Subject to any provision of the relevant scheme or the articles of government of the institution and paragraph (2), it shall be for the governing body of any institution to which Article 114 for the time being applies to determine—

- (a) whether any payment should be made by the board concerned in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of the institution; and

- (b) the amount of any such payment.
- (2) Paragraph (1) does not apply in relation to any payment which the board is required to make—
  - (a) by virtue of any contract other than one made in contemplation of the impending dismissal or resignation of the member of staff concerned; or
  - (b) under any statutory provision.
- (3) The board concerned—
  - (a) shall take such steps as may be required for giving effect to any determination of the governing body of any such institution under paragraph (1); and
  - (b) shall not make, or agree to make, any payment to which that paragraph applies in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of any such institution otherwise than in accordance with any such determination.
- (4) Subject to any provision of the relevant scheme or the articles of government of the institution, costs incurred by the board concerned in respect of the dismissal or premature retirement, or for the purpose of securing the resignation, of any member of the staff of any such institution shall not be met from the institution's budget share for any financial year except in so far as the board has good reason for deducting those costs, or any part of those costs, from that share.
- (5) The fact that the board has a policy precluding dismissal of its employees by reason of redundancy is not to be regarded as a good reason for the purposes of paragraph (4).

#### **Application of employment law during financial delegation**

**116.**—(1) The Department may by order make such modifications in any statutory provision relating to employment, and in particular in any statutory provision—

- (a) conferring powers or imposing duties on employers;
- (b) conferring rights on employees; or
- (c) otherwise regulating the relations between employers and employees,

as it considers necessary or expedient in consequence of the operation of any of the provisions of Articles 114 and 115.

(2) Before making any order under this Article, the Department shall consult—

- (a) the boards;
- (b) such organisations representing staff in institutions of further education as appear to the Department to be concerned; and
- (c) such other persons as the Department thinks fit.

#### *Withdrawal of delegated powers*

#### **Withdrawal of delegated powers for mismanagement, etc.**

**117.**—(1) Where it appears to a board, in the case of any institution in respect of which financial delegation is required for the current financial year under a scheme, that the governing body of the institution—

- (a) has been guilty of a substantial or persistent failure to comply with any requirements or conditions applicable under the scheme; or
- (b) is not managing the appropriation or expenditure of the sum put at its disposal for the purposes of the institution in a satisfactory manner,

the board may take any action permitted by paragraph (2).

(2) The actions so permitted are—

- (a) complete suspension of the governing body's right to a delegated budget;
- (b) the limitation of that right to part only of the budget share of the institution concerned; and
- (c) the restriction, in any manner that appears to the board to be appropriate in the circumstances, of the discretion of the governing body to spend any sum made available to it in respect of the institution's budget share or any part of it as the board thinks fit for the purposes of the institution.

(3) Subject to paragraph (5), a board shall give the governing body of any institution in respect of which it proposes to take any action permitted by paragraph (2) not less than one month's notice of the action it proposes.

(4) Any such notice shall specify the grounds for the proposed action, giving particulars of any failure alleged on the part of the governing body to comply with any requirements or conditions applicable under the scheme and of any alleged mismanagement on its part; and a copy of the notice shall be given to the Department and the principal of the institution at the same time as the notice is given to the governing body.

(5) A board may take the action to which such a notice relates before the expiry of the period of notice if it appears to the board to be necessary to do so by reason of gross incompetence or mismanagement on the part of the governing body concerned or other emergency; but in such a case the board shall immediately give to the governing body and the Department written notification of the board's action and the reasons for it.

(6) During any period when a governing body's right to a delegated budget is subject to any suspension or limitation imposed under this Article the duty of the board concerned under Article 109(2) shall not apply in relation to that governing body or (as the case may require) shall apply only in relation to such part of the budget share of the institution concerned as is not subject to the limitation.

(7) During any period when a governing body's discretion to spend the budget share of the institution concerned is subject to any restriction imposed under this Article, the power of the governing body under paragraph (5)(a) of that Article shall be subject to that restriction.

(8) In imposing any suspension, limitation or restriction under paragraph (2) in relation to the governing body of any institution to which Article 114 applies a board may also impose such suspension, limitation or restriction as appears to it to be appropriate in that connection on the powers conferred on the governing body under or by virtue of that Article or Article 115.

(9) Without prejudice to paragraph (8), in imposing any such suspension, limitation or restriction in relation to any institution a board may exclude or modify, for the period during which the suspension, limitation or restriction applies, any provision of the articles of government of the institution which appears to it to be inconsistent with the operation of the suspension, limitation or restriction.

(10) It shall be the duty of the board concerned—

- (a) to review before the beginning of every financial year any suspension, limitation or restriction under this Article which is for the time being in force;
- (b) for the purposes of that review, to afford the governing body concerned and the principal of the institution concerned an opportunity of making representations with respect to that suspension, limitation or restriction and to have regard to any representations made by the governing body or the principal; and
- (c) to revoke any such suspension, limitation or restriction where the board considers it appropriate to do so.

(11) The board shall give the governing body concerned and the principal of the institution concerned written notification of its decision on any such review.

(12) The revocation of any such suspension, limitation or restriction shall take effect as from the beginning of the next following financial year.

(13) A governing body shall be entitled to appeal to the Department against—

- (a) the imposition of any suspension, limitation or restriction under this Article; and
- (b) any refusal of a board to revoke any such suspension, limitation or restriction on any review required under this Article.

(14) On any such appeal the Department shall have regard, in making its determination, to the gravity of the default on the part of the governing body and the likelihood of its continuance or recurrence.

(15) On any such appeal the Department—

- (a) may allow or reject the appeal; and
- (b) may give such directions as it thinks fit to the board for giving effect to its determination.

### *Miscellaneous*

#### **Regulations as to carrying on of institutions of further education**

**118.**—(1) The Department may by regulations make provision as to the carrying on of institutions of further education.

(2) Without prejudice to the generality of paragraph (1), regulations under paragraph (1) may include provision—

- (a) with respect to the curriculum and time-table to be followed in such institutions;
- (b) enabling the Department to prohibit the use in such institutions of any book or other teaching material of which the Department does not approve;
- (c) preventing the use of the premises of such institutions for such purposes as may be prescribed;
- (d) with respect to the fees to be charged to persons attending such institutions;
- (e) with respect to the keeping, disclosure and transfer of educational records about pupils at such institutions and the supply of copies of such records to such persons, and in such circumstances, as may be determined by or under the regulations.

(3) Regulations made under paragraph (1) by virtue of paragraph (2)(e) may authorise persons who in pursuance of the regulations supply copies of any such records as are there mentioned to charge such fee as they think fit (not exceeding the cost of supply) in respect of each copy so supplied.

(4) Regulations under paragraph (1) may enable the Department or a prescribed body or person to authorise such exceptions, grant such approvals and make such determinations for the purposes of the regulations as are specified therein.

#### **Supply of goods and services through institutions of further education**

**119.**—(1) The governing body of an institution of further education which has a delegated budget may—

- (a) make available the facilities of the institution to any other institution, school, body or person and, subject to paragraphs (3) and (6), make charges for any facilities made available under this sub-paragraph;
- (b) supply goods and services through the institution to any other institution, school, body or person and, subject to paragraphs (4) to (6), make charges for any goods and services supplied under this sub-paragraph.

- (2) A board may—
- (a) make available the facilities of an institution of further education under its management which does not have a delegated budget to any school, institution, body or person and, subject to paragraphs (3) and (6), make charges for any facilities made available under this sub-paragraph;
  - (b) supply goods and services through such an institution to any school, institution, body or person and, subject to paragraphs (4) to (6), make charges for any goods and services supplied under this sub-paragraph.
- (3) Charges for facilities made available under paragraph (1)(a) or (2)(a)—
- (a) shall not be made in such circumstances or for such facilities as may be prescribed;
  - (b) shall not for any prescribed facility exceed such amount as may be prescribed,
- but shall otherwise be of such amounts and be made for such facilities as the body making the charges may determine.
- (4) Charges for goods and services supplied under paragraph (1)(b) or (2)(b)—
- (a) shall, subject to paragraph (5), not be less than the open market value of the goods and services supplied;
  - (b) shall otherwise be of such amounts as the body making the charges may determine.
- (5) Paragraph (4)(a) does not apply where the goods are produced or the goods or services are supplied in the normal course of any educational activities.
- (6) Nothing in paragraphs (1) to (5) authorises—
- (a) the making of any charge which is prohibited or regulated by any provision of Chapter II of Part VIII;
  - (b) the carrying on through an institution of further education of any commercial activities which are detrimental to the provision of further or higher education at the institution.
- (7) The articles of government of every institution of further education shall provide—
- (a) for the use of the institution's premises to be under the control of the governing body of the institution at all times except, in the case of an institution which does not have a delegated budget, to the extent necessary for the exercise by the board of its powers under paragraph (2); and
  - (b) for the governing body to exercise control subject to any direction given to it by the board.
- (8) For the purposes of this Article—
- (a) references to the facilities of an institution of further education are references to the equipment, premises or other property of that institution;
  - (b) educational activities are—
    - (i) the provision of further and higher education;
    - (ii) the carrying out of research;
    - (iii) any activity incidental or ancillary to any activity mentioned in head (i) or (ii);
  - (c) goods are supplied through an institution of further education if they are—
    - (i) produced in the course of its educational activities;
    - (ii) produced by the use of its facilities and the expertise of persons employed at it in the fields in which they are so employed; or
    - (iii) derived from ideas of a person employed at it, or of one of its students, arising out of its educational activities;
  - (d) services are supplied through an institution of further education if they are—

- (i) provided by making available the expertise of persons employed at it in the fields in which they are so employed;
  - (ii) supplied in the course of its educational activities; or
  - (iii) derived from ideas such as are mentioned in sub-paragraph (c)(iii);
- (e) the open market value of goods or services shall be taken to be the amount of the consideration in money that would be payable for the supply of those goods or services by a person standing in no such relationship with any person as would affect that consideration.

### *Interpretation*

## **Interpretation of Part VII**

**120.** In this Part—

- (a) references to a scheme are references—
  - (i) to a scheme made by a board under Article 106; and
  - (ii) in a context referring to a particular board, to a scheme so made by that board;
- (b) references to an institution's budget share for any financial year—
  - (i) shall be read in accordance with Article 106(2)(a); and
  - (ii) include references to that share as from time to time revised in accordance with the scheme under which it is determined;
- (c) references to an institution covered by a scheme shall be read in accordance with Article 106(3);
- (d) references to an institution in respect of which financial delegation is required for any financial year shall be read in accordance with Article 106(4)(a);
- (e) references to an institution which has a delegated budget shall be read in accordance with Article 106(4)(b);
- (f) references to the further and higher education budget of a board for any financial year are references to the amount appropriated by the board for meeting expenditure in that year—
  - (i) for the purposes of the exercise of its functions under Articles 100 and 101; and
  - (ii) in respect of technical secondary schools under the management of that board;
- (g) references to the delegation requirement under any scheme shall be read in accordance with Article 111(2).

## **PART VIII**

### **SCHOOLS—GENERAL PROVISIONS**

#### **CHAPTER I**

#### **MANAGEMENT OF GRANT-AIDED SCHOOLS**

### **Appointment of parent governors**

**121.** In Article 13 of the principal Order after paragraph (3) there shall be inserted—

“(3A) Where, at any grant-aided school,—

- (a) one or more vacancies for parent members are required to be filled by election; and
- (b) the number of parents standing for election as parent members is less than the number of vacancies,

the required number of parent members shall be made up by persons appointed by the voting members of the Board of Governors of the school.

(3B) Where it is reasonably practicable to do so, it shall be the duty of the voting members of the Board of Governors in appointing any person under paragraph (3A) to appoint a person who is the parent of a registered pupil at the school.

(3C) In paragraph (3A) “parent member” means a member of the Board of Governors of a grant-aided school who but for that paragraph would be required to be elected by parents of pupils attending the school from amongst the parents of such pupils.

(3D) A person appointed under paragraph (3A) shall for all purposes of the Education Orders except Schedule 8 to the 1989 Order be treated as if he had been duly elected as a member of the Board of Governors by parents of pupils attending the school.

(3E) In paragraphs (3A) and (3B) “voting members” has the meaning assigned to it by Article 122(3) of the 1989 Order.”.

### **Co-option of persons to Board of Governors of grant-aided school**

**122.**—(1) The voting members of the Board of Governors of a grant-aided school may co-opt not more than three persons to be members of the Board of Governors of the school.

(2) It shall be the duty of the voting members in co-opting any person to be a member of the Board of Governors to co-opt a person who appears to them to be a member of the local business community if it appears to the voting members—

- (a) that no member of the Board of Governors is a member of the local business community; or
- (b) that it is desirable to increase the number of members of the Board of Governors who are members of that community.

(3) In this Article “voting members”—

- (a) in relation to the Board of Governors of a grant-maintained integrated school, has the same meaning as in Schedule 5;
- (b) in relation to the Board of Governors of a school to which Schedule 7 to the principal Order applies, means the members of the Board of Governors referred to in paragraph 2(1) (a), (b) and (c) of that Schedule;
- (c) in relation to the Board of Governors of any other grant-aided school, has the meaning assigned to it for the purposes of whichever of Schedules 4, 5, 6 or 8 to the principal Order applies in relation to the membership of that Board of Governors.

### **Schemes of management**

**123.** After Article 9 of the principal Order and after the cross-heading “School management” there shall be inserted the following Articles—

#### **“Schemes of management**

**9A.**—(1) For every grant-aided school (other than a technical secondary school) there shall be a scheme (to be known as a “scheme of management”) providing for—

- (a) the membership and procedure of the Board of Governors of the school;



- (b) the management of the school, and in particular the functions to be exercised in relation to the school by the Board of Governors, the principal and any other person or body specified in the scheme;
  - (c) such other matters as are required or authorised by the Education Orders to be included in or regulated by the scheme of management.
- (2) The scheme of management for a grant-aided school may provide for the establishment by the Board of Governors of the school of committees (whether or not including persons who are not members of the Board of Governors) and for—
  - (a) the membership and procedure of such committees;
  - (b) the delegation to such committees of such functions of the Board of Governors of the school as may be specified in or determined in accordance with the scheme.
- (3) The scheme of management for a grant-aided school may provide for the delegation to the principal of the school of such functions of the Board of Governors as may be specified in or determined in accordance with the scheme.
- (4) The scheme of management for a grant-aided school shall—
  - (a) contain no provision which is inconsistent with any provision of the Education Orders or any other statutory provision;
  - (b) except in so far as any provision of the Education Orders requires or authorises, comply with any instrument of government of the school.
- (5) The scheme of management for—
  - (a) a controlled integrated school, shall be a scheme applying only to that school;
  - (b) any other controlled school, may be either a scheme applying only to that school or a scheme applying to that school and to other controlled schools, all being schools specified, or of a description specified, in the scheme.
- (6) The scheme of management for a Catholic maintained school may be a scheme applying only to that school or a scheme applying to that school and to other Catholic maintained schools, all being schools specified, or of a description specified, in the scheme.
- (7) In its application to a voluntary school referred to in Article 11(8), this Article shall have effect with the omission of paragraphs (1)(a) and (2) and the substitution for the references in paragraphs (1)(b) and (3) to the Board of Governors of references to the person approved in relation to that school by the Department under the said Article 11(8).

### **Preparation of schemes of management**

- 9B.**—(1) It shall be the duty of a board to prepare a scheme or schemes of management for controlled schools under the management of the board; but before preparing a scheme of management applying to any school the board shall consult the Board of Governors of that school.
- (2) It shall be the duty of a board, after consultation with the managers or trustees of a maintained school (other than a Catholic maintained school) maintained by it, to prepare a scheme of management for the school.
- (3) It shall be the duty of the Council for Catholic Maintained Schools to prepare a scheme or schemes of management for Catholic maintained schools; but before preparing a scheme of management applying to any school the Council shall consult the trustees or managers of the school and the board by which the school is maintained.
- (4) It shall be the duty—

- (a) in the case of a voluntary school referred to in Article 11(8), of the person approved in relation to that school by the Department under the said Article 11(8),
- (b) in the case of any other voluntary school (not being a maintained school), of the Board of Governors of the school,

to prepare a scheme of management for the school.

(5) It shall be the duty of the Board of Governors of a grant-maintained integrated school to prepare a scheme of management for the school.

(6) In preparing a scheme of management under this Article a body or person shall take into account any guidance given by the Department as to the provisions it regards as suitable for inclusion in that scheme.

(7) The Department shall publish any guidance given by it for the purposes of this Article in such manner as it thinks fit.

#### **Approval or imposition of scheme of management by Department**

**9C.—**(1) Every body or person required by Article 9B to prepare a scheme of management shall, on or before such date as the Department may direct, submit the scheme to the Department for its approval, and in this Article and Article 9D “the submitting authority”, in relation to a scheme, means the body by which or person by whom the scheme is required to be prepared.

(2) In the case of a scheme prepared under paragraph (1) or (3) of Article 9B the submitting authority shall also submit to the Department such information as to the results of consultations under that paragraph as the Department may require.

(3) A scheme of management submitted under paragraph (1) shall not come into operation until it has been approved by the Department or until such date as the Department may, in giving its approval, specify; and the Department may approve such a scheme either without modifications or with such modifications as it thinks fit after consulting the submitting authority.

(4) Where—

- (a) a submitting authority fails to submit a scheme to the Department as required by paragraph (1); or
- (b) it appears to the Department that a scheme submitted by a submitting authority as required by that paragraph does not accord with any guidance given by it for the purposes of Article 9B and cannot be made to do so merely by modifying it,

the Department may impose a scheme of management making such provision of a description required or authorised to be made by a scheme of management as it considers appropriate.

(5) A scheme of management imposed by the Department by virtue of paragraph (4)—

- (a) shall be treated for all purposes as if it had been prepared by the submitting authority and approved by the Department under this Article; and
- (b) shall come into operation on such date as may be specified therein.

(6) Before imposing a scheme under paragraph (4) the Department shall consult the submitting authority and—

- (a) in the case of a scheme of management applying to a controlled school or controlled schools, the Board of Governors of the school or schools to which the scheme applies;

- (b) in the case of a scheme of management applying to a maintained school (other than a Catholic maintained school) the managers or trustees of the school; and
- (c) in the case of a scheme of management applying to a Catholic maintained school or schools, the managers or trustees of the school or schools to which the scheme applies and the board or boards by which any such school is maintained.

(7) The Council for Catholic Maintained Schools shall provide each board with a copy of the scheme or schemes of management approved under this Article and applying to the Catholic maintained schools maintained by that board.

### **Revision of schemes of management**

**9D.**—(1) A submitting authority may at any time, and shall if the Department so directs, prepare a revised scheme of management and submit it to the Department for its approval.

(2) Article 9B(6) and (7) shall apply in relation to the preparation of a revised scheme of management as it applies in relation to the preparation of the initial scheme.

(3) A revised scheme of management submitted under paragraph (1) shall not come into operation until it has been approved by the Department or until such date as the Department may, in giving its approval, specify; and the Department may approve such a scheme either without modifications or with such modifications as it thinks fit after consulting the submitting authority.”.

### **Discipline in grant-aided schools**

**124.**—(1) The scheme of management for every grant-aided school shall provide—

- (a) for it to be the duty of the principal to determine measures (which may include the making of rules and provision for enforcing them) to be taken with a view to—
  - (i) promoting, among pupils, self-discipline and proper regard for authority;
  - (ii) encouraging good behaviour on the part of pupils;
  - (iii) securing that the standard of behaviour of pupils is acceptable; and
  - (iv) otherwise regulating the conduct of pupils;
- (b) for it to be the duty of the principal, in determining any such measures—
  - (i) to act in accordance with any written statement of general principles provided for him by the Board of Governors; and
  - (ii) to have regard to any guidance that the Board of Governors may offer in relation to particular matters;
- (c) for it to be the duty of the principal to prepare a written statement of such measures and to secure that—
  - (i) a copy of that statement is given (free of charge) to the parents of all registered pupils at the school; and
  - (ii) copies of that statement are available for inspection (at all reasonable times and free of charge) at the school;
- (d) for the standard of behaviour which is to be regarded as acceptable at the school to be determined by the principal so far as it is not determined by the Board of Governors.

(2) In its application to a voluntary school referred to in Article 11(8) of the principal Order paragraph (1) shall have effect with the substitution for references to the Board of Governors of references to the person approved in relation to that school by the Department under the said Article 11(8).

(3) In its application to a technical secondary school conducted in association with an institution of further education, paragraph (1) shall have effect as if—

- (a) any reference to the scheme of management for a school included a reference to the articles of government of the institution;
- (b) any reference to the principal of a school included a reference to the principal of the institution; and
- (c) any reference to the Board of Governors of a school included reference to the governing body of the institution.

### **Annual report of Board of Governors**

**125.**—(1) The scheme of management for every grant-aided school shall provide for it to be the duty of the Board of Governors to prepare, once in every school year, a report containing—

- (a) a summary of the steps taken by the Board of Governors in the discharge of its functions during the period since its last report; and
  - (b) such other information as the scheme of management may require.
- (2) The scheme of management for every such school shall, in particular, require that report—
- (a) to be as brief as is reasonably consistent with the requirements as to its contents;
  - (b) to give details of the date, time and place for the next annual parents' meeting and its agenda and to indicate the purpose of that meeting as described in Article 126(2);
  - (c) to give the name of each member of the Board of Governors and indicate into which of the following categories he falls, namely—
    - (i) members nominated by transferors and superseded managers;
    - (ii) members elected by parents;
    - (iii) members elected by assistant teachers;
    - (iv) members chosen, nominated or appointed by a board;
    - (v) members nominated by the Boards of Governors of contributory schools;
    - (vi) members nominated or appointed by the Head of the Department;
    - (vii) members nominated by trustees or nominating trustees;
    - (viii) foundation members;
    - (ix) co-opted members;
    - (x) the principal;
    - (xi) members not falling under any preceding category;
  - (d) to give, in relation to each member (other than the principal) the date on which his term of office comes to an end;
  - (e) to name the chairman of the Board of Governors and its secretary;
  - (f) to give such information as is available to the Board of Governors about arrangements for the next election of parents to the Board of Governors;
  - (g) to contain a financial statement—
    - (i) reproducing or summarising any financial statement of which a copy has been furnished to the Board of Governors by the board under Article 54 or 57 or by the Department under Article 61 or 78 since the last report was prepared;
    - (ii) indicating, in general terms, how any grants made to the Board of Governors under the Education Orders in the period covered by the report were used and how any

- sum made available to the Board of Governors by the board in respect of the school's budget share (within the meaning of Part V) or in accordance with Article 51 in that period was used;
- (iii) giving details of the application of any gifts or bequests made to the school in that period;
- (h) to describe what steps have been taken by the Board of Governors to develop or strengthen the school's links with the community and, in particular, to promote the attainment of the objectives of the educational theme called Education for Mutual Understanding; and
- (i) to give such information as is required to be made available in accordance with regulations under Article 31(2)(a).
- (3) The scheme of management for every such school shall enable the Board of Governors to produce its report in such language or languages (in addition to English) as it considers appropriate.
- (4) The scheme of management for every such school shall provide for it to be the duty of the Board of Governors to take such steps as are reasonably practicable to secure that—
- (a) the parents of all registered pupils at the school and all persons employed at the school are given (free of charge) a copy of its report;
- (b) copies of that report are available for inspection (at all reasonable times and free of charge) at the school; and
- (c) copies of any such report to be considered at a parents' annual meeting are given to parents not less than two weeks before that meeting.
- (5) In their application to a voluntary school referred to in Article 11(8) of the principal Order, paragraphs (1) to (4) shall have effect—
- (a) with the modification mentioned in Article 124(2);
- (b) with the omission of paragraph (2)(d) to (g); and
- (c) with the substitution for paragraph (2)(c) of the following—
- “(c) to give the name of the principal and of the person approved by the Department in relation to the school under Article 11(8) of the principal Order;”.
- (6) In their application to a technical secondary school conducted in association with an institution of further education, paragraphs (1) to (4) shall have effect—
- (a) with the modifications mentioned in Article 124(3);
- (b) as if the reference in paragraph (1)(a) to functions were a reference to functions in relation to the technical secondary school;
- (c) with the omission in paragraph (2)(c) of the words from “and indicate” to the end; and
- (d) with the omission of paragraph (2)(f) and (g).

### **Annual parents' meeting**

**126.**—(1) The scheme of management for every grant-aided school shall provide for it to be the duty of the Board of Governors to hold a meeting once in every school year (“the annual parents' meeting”) which is open to—

- (a) all parents of registered pupils at the school; and
- (b) such other persons (including assistant teachers at the school) as the Board of Governors may invite.
- (2) The purpose of the meeting shall be to provide an opportunity for discussion of—
- (a) the report of the Board of Governors under Article 125;

- (b) the discharge by the Board of Governors, the principal, the board, the Council for Catholic Maintained Schools (in the case of a Catholic maintained school) and the Department of their functions in relation to the school.
- (3) Arrangements made under a relevant provision for the election by parents of parents to be members of the Board of Governors of a grant-aided school may provide for the election to be conducted at the annual parents' meeting.
- (4) In paragraph (3) “a relevant provision” means any of the following—
  - (a) paragraph 6(4) of Schedule 4 to the principal Order;
  - (b) paragraph 2(6) of Schedule 5 to that Order;
  - (c) paragraph 3(7) of Schedule 6 to that Order;
  - (d) paragraph 2(5) of Schedule 7 to that Order;
  - (e) paragraph 2(5) of Schedule 8 to that Order;
  - (f) paragraph 4 of Schedule 5 to this Order.
- (5) The scheme of management for every grant-aided school shall include provision regulating the procedure to be followed at any annual parents' meeting.
- (6) In its application to a voluntary school referred to in Article 11(8) of the principal Order, this Article shall have effect—
  - (a) with the modification mentioned in Article 124(2);
  - (b) with the omission of paragraphs (3) and (4).
- (7) In its application to a technical secondary school conducted in association with an institution of further education, this Article shall have effect—
  - (a) with the modifications mentioned in Article 124(3);
  - (b) with the omission of paragraphs (3) and (4).

## CHAPTER II

### CHARGES IN GRANT-AIDED SCHOOLS

#### **Application of Articles 128 to 131**

- 127.**—(1) Subject to paragraphs (2) to (5), Articles 128 to 131 apply to all grant-aided schools.
- (2) Those Articles do not apply to a voluntary grammar school if, on the appointed day, there is no agreement in force under Schedule 6 to the principal Order between the trustees or Board of Governors of the school and the Department.
- (3) The application of those Articles to a voluntary grammar school other than a school mentioned in paragraph (2) is subject to Article 132.
- (4) Those Articles do not apply to a grammar school in relation to an excepted pupil, that is to say—
- (a) any pupil who is not resident in Northern Ireland;
  - (b) any pupil whose parents are not nationals of a member State;
  - (c) in the case of a grammar school having a preparatory department, any pupil in that department of the school;
  - (d) any pupil who—
    - (i) was admitted to the grammar school or, in the case of a grammar school having a preparatory department, admitted to the secondary department of the grammar school before the appointed day; and

- (ii) on that day was not a non-fee-paying pupil, as defined by regulation 5 of the Grammar School Pupils (Admissions, Grants and Allowances) Regulations (Northern Ireland) 1978<sup>(11)</sup>.

(5) The board for the area in which a grammar school is situated may, in accordance with arrangements approved by the Department, direct that a pupil registered at the school who is an excepted pupil solely by reason of falling within paragraph (4)(d) shall cease to be an excepted pupil; and, accordingly, Articles 128 to 131 shall apply in relation to any pupil in respect of whom such a direction is given.

(6) In paragraph (4)(b) “national”, in relation to a member State, means the same as in the Community Treaties, but does not include a person who by virtue of Article 2 of Protocol No. 3 (Channel Islands and Isle of Man) to the Treaty of Accession is not to benefit from Community provisions relating to the free movement of persons and services.

### **Prohibition of charges, etc., in certain grant-aided schools**

**128.**—(1) No charge shall be made in respect of admission to any grant-aided school to which this Article applies.

(2) Subject to paragraph (3) and Article 129, no charge shall be made in respect of the education provided for registered pupils at any such school during school hours.

(3) Paragraph (2) shall not apply in relation to individual tuition in playing any musical instrument.

(4) No charge shall be made in respect of education provided for a registered pupil at any grant-aided school to which this Article applies where the education is education to which paragraph (2) does not apply if it is—

- (a) required as part of any syllabus for an approved public examination which is a syllabus for which the pupil is being prepared at the school; or
- (b) provided in pursuance of any of the duties imposed by Article 11(1)(a) or (b).

(5) No charge shall be made in respect of the entry of a registered pupil at any grant-aided school to which this Article applies for any approved public examination in any syllabus for that examination for which the pupil has been prepared at the school.

(6) Neither the parent of any such pupil nor the pupil himself shall be required to pay for or supply any materials, books, instruments or other equipment for use for the purposes of or in connection with—

- (a) education provided for the pupil at the school in respect of which by virtue of this Article no charge may be made; or
- (b) any syllabus for an approved public examination which is a syllabus for which the pupil has been prepared at the school.

(7) No charge shall be made in respect of transport provided for a registered pupil at any such school where the transport is either—

- (a) incidental to education provided for the pupil at the school in respect of which by virtue of this Article no charge may be made; or
- (b) provided for the purpose of enabling him to meet any examination requirement for any syllabus for an approved public examination which is a syllabus for which he has been prepared at the school.

(8) For the purposes of paragraph (7)(a) transport is incidental to education provided for registered pupils at any such school if it is provided for the purpose of carrying such pupils—

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(11) 1954 c. 33 (N.I.)

- (a) to or from any part of the school premises in which education is provided for those pupils, from or to any other part of those premises; or
  - (b) to or from any place outside the school premises in which education is provided for those pupils under arrangements made by or on behalf of the Board of Governors of the school or the board, from or to the school premises or any other such place.
- (9) Nothing in this Article shall be read as prohibiting the making of a charge in respect of board and lodging provided for a registered pupil at any such school on a residential trip.
- (10) In this Chapter “residential trip” means any trip—
- (a) which is arranged for registered pupils at any grant-aided school to which this Article applies by or on behalf of the managers of the school; and
  - (b) which requires the pupils taking part to spend one or more nights away from their usual overnight accommodation.
- (11) For the purposes of this Chapter, a pupil shall be regarded as having been prepared at a school for a syllabus for any approved public examination if any part of the education provided with a view to preparing him for that examination in that syllabus has been provided for him at that school.

**Provision for cases where education is provided partly during and partly outside school hours**

**129.**—(1) Where a period allowed for any educational activity at a school falls partly during school hours and partly outside school hours—

- (a) if fifty per cent. or more of the time occupied by that period together with any connected school travelling time falls during school hours, so much of the education provided during that period as is provided outside school hours shall be treated for the purposes of Article 128(2) as provided during school hours; and
  - (b) in any other case, so much of the education provided during that period as is provided during school hours shall be treated for those purposes as provided outside school hours.
- (2) In this Article “school travelling time” means time spent on travel during school hours; and for the purposes of paragraph (1)(a) such time is connected school travelling time in relation to any educational activity if it is spent by the pupils taking part in the activity in getting to or from the place where the activity takes place.
- (3) Where any education provided at a school is provided on a residential trip—
- (a) if the number of school sessions taken up by the trip is equal to or greater than fifty per cent. of the number of half days spent on the trip, any education provided on the trip which is provided outside school hours shall be treated for the purposes of Article 128(2) as provided during school hours; and
  - (b) in any other case, any education provided on the trip which is provided during school hours shall be treated for those purposes as provided outside school hours.
- (4) In this Article a “half day” means any period of twelve hours ending with noon or midnight on any day.
- (5) Where fifty per cent. or more of a half day is spent on a residential trip, the whole of that half day shall be treated for the purposes of paragraph (3) as spent on the trip.
- (6) For the purposes of that paragraph, a school session on any day on which such a session takes place at the school concerned shall be treated as taken up by a residential trip on which education is provided for registered pupils at the school if the time spent on the trip occupies fifty per cent. or more of the time allowed for that session at the school.



## Permitted charges

130.—(1) Subject to paragraph (2), a charge may be made in respect of—

- (a) education or transport provided for a registered pupil at any grant-aided school to which this Article applies other than education or transport in respect of which by virtue of Article 128 above or Article 52(1) of the principal Order no charge may be made;
- (b) the entry of any such pupil for a public examination in any syllabus for that examination otherwise than in circumstances in which by virtue of Article 128(5) no charge may be made; and
- (c) board and lodging provided for any such pupil on a residential trip.

(2) A charge may not be made—

- (a) by virtue of paragraph (1)(a) in respect of the provision for a pupil of education or transport; or
- (b) by virtue of paragraph (1)(b) in respect of the entry of a pupil for an examination in any syllabus for that examination,

unless the education or transport is provided or the pupil is entered for the examination in that syllabus by agreement with his parent; and any education, transport or examination entry in respect of which a charge may be made by virtue of either of those provisions is referred to below in this Article as an “optional extra”.

(3) The following provisions of this Article apply in relation to any charge permitted under this Article and any such charge is referred to in those provisions as a regulated charge.

(4) The amount of any regulated charge shall be payable by the parent of the pupil concerned.

(5) A regulated charge shall not exceed the cost of the provision of the optional extra or the board and lodging in question.

(6) Without prejudice to the generality of paragraph (5), the cost of the provision of an optional extra includes costs, or an appropriate proportion of the costs—

- (a) incurred in respect of the provision of any materials, books, instruments or other equipment used for the purposes of or in connection with the provision of the optional extra;
- (b) attributable to the provision of non-teaching staff for any purpose connected with the provision of the optional extra; or
- (c) attributable to the provision of teaching staff engaged under contracts for services for the purpose of providing it.

(7) Subject to paragraph (8), the cost of the provision of an optional extra shall not be taken as including any costs attributable to the provision of teaching staff other than staff engaged as mentioned in paragraph (6)(c).

(8) Where the optional extra in question consists of tuition in playing any musical instrument the cost of its provision shall include costs, or an appropriate proportion of the costs, attributable to the provision of teaching staff employed for the purpose of providing the tuition.

(9) Where charging is permitted under this Article and the charge would be a regulated charge, the question of whether any charge in respect of the optional extra or the board and lodging should be made, and the amount of any charge to be made, shall be determined—

- (a) in a case where the cost of the provision of the optional extra or board and lodging is met by, or from funds at the disposal of, the Board of Governors, by the Board of Governors;
- (b) in any other case, by the board.

(10) The whole or any part of the amount of any charge the board determines under paragraph (9) (b) to make—

- (a) shall, if the Board of Governors so determines, be met by, or from funds at the disposal of, the Board of Governors; and
- (b) shall not, to the extent that it is so met, be payable by the parent of the pupil concerned.

### **Charges and remissions policies**

**131.**—(1) Every Board of Governors of a grant-aided school to which this Article applies and every board shall determine and keep under review a policy with respect to the provision of, and the classes or descriptions of case in which it proposes to make charges for, any optional extra or board and lodging in respect of which charges are permitted by Article 130.

(2) No such Board of Governors or board shall make such a charge unless it has both—

- (a) determined a policy under paragraph (1) with respect to the making of such charges (its “charging policy”); and
- (b) determined a policy (its “remissions policy”)—
  - (i) setting out any circumstances in which it proposes to remit (in whole or in part) any charge which would otherwise be payable to it in accordance with its charging policy; and
  - (ii) in the case of such a policy determined by the Board of Governors, setting out also any circumstances in which the Board of Governors proposes to meet (in whole or in part) any charge payable to the board in accordance with the board’s charging policy for any optional extra or board and lodging provided for a registered pupil at the school.

(3) Any remissions policy determined by the Board of Governors of a school or by a board shall provide for complete remission of any charges otherwise payable in respect of board and lodging provided for a pupil on a residential trip if—

- (a) the education provided on the trip is education in respect of which by virtue of Article 128 no charge may be made; and
- (b) his parents are in receipt of income support or family credit in respect of any period wholly or partly comprised in the time spent on the trip.

(4) Any such Board of Governors or board shall keep under review any remissions policy determined by it under this Article.

(5) In this Article “optional extra” has the same meaning as in Article 130.

### **Capital charges in voluntary grammar schools to which Articles 128 to 131 apply**

**132.** Nothing in Articles 128 to 131 shall prevent the Board of Governors of a voluntary grammar school to which those Articles apply from making a charge not exceeding such amount as may be prescribed in respect of any pupil registered at the school for the purpose of meeting expenditure incurred or to be incurred—

- (a) for the provision or alteration of the premises of the school;
- (b) for the provision of equipment provided in connection with the provision or alteration of the premises of the school.

### **Charges in voluntary grammar schools to which Articles 128 to 131 do not apply**

**133.**—(1) This Article applies to a voluntary grammar school to which, by virtue of Article 127(2), Articles 128 to 131 do not apply.

(2) The Board of Governors of such a school may, subject to regulations, make charges of such amounts as it may determine in respect of any pupil registered at the school for the purpose of meeting expenditure required to carry on the school.

(3) No charge shall be made in respect of the entry of a registered pupil at such a school for any approved public examination in any syllabus for that examination for which the pupil has been prepared at the school.

(4) Paragraphs (2) and (3) do not apply in relation to excepted pupils.

(5) Without prejudice to the generality of paragraph (2), regulations under that paragraph may prescribe—

- (a) the types of charges which may be made under that paragraph;
- (b) the pupils in respect of whom any type of charge may be made under that paragraph.

### **Charges in respect of excepted pupils**

**134.**—(1) The Board of Governors of a grammar school in which an excepted pupil is registered may, subject to regulations, make charges of such amounts as it may determine in respect of that pupil.

(2) Without prejudice to the generality of paragraph (1), regulations under that paragraph may prescribe—

- (a) the types of charges which may be made under that paragraph;
- (b) the pupils in respect of whom any type of charge may be made under that paragraph.

### **Charges for board and lodging at boarding schools**

**135.**—(1) Subject to the following provisions of this Article where any registered pupil at any grant-aided school is provided at the school with board and lodging at the expense of a board or the Board of Governors of the school, charges shall be payable in respect of the board and lodging by the parent of the pupil concerned to that board or Board of Governors.

(2) Where a board is satisfied with respect to any pupil who is ordinarily resident in its area that education suitable to his age, ability, aptitude and any special educational needs he may have cannot be provided for him otherwise than by the provision of board and lodging at a particular grant-aided school, the board shall—

- (a) where the school is under its management, remit the whole of the charges payable under this Article; and
- (b) where the school is not under its management, pay to the board or Board of Governors to whom the charges are payable under this Article, the whole of those charges.

(3) Where a board is satisfied that payment of the full charges payable under this Article would involve financial hardship to the parent of a pupil who is ordinarily resident in its area, the board—

- (a) in the case of charges payable to the board, shall remit so much of those charges as falls in accordance with paragraph (4) to be so remitted; and
- (b) in the case of charges payable to another board or to the Board of Governors of a school, shall pay so much of those charges as falls in accordance with that paragraph to be so paid.

(4) In the case of any such charges, the amount that falls to be remitted or paid by a board by virtue of paragraph (3)(a) or (b) is—

- (a) such part of those charges as the board considers ought not to be paid by the pupil's parent in order to avoid such hardship as is mentioned in that paragraph; or
- (b) if in its opinion such hardship cannot otherwise be avoided, the whole of those charges.

**Obligation to enter pupils for approved public examinations**

**136.**—(1) Subject to the following provisions of this Article, the Board of Governors of every grant-aided school shall secure that each registered pupil at the school is entered, at such time as it considers appropriate, for each approved public examination for which he is being prepared at the school at the time in question in each syllabus for that examination for which he is being so prepared.

(2) Paragraph (1) shall not require a Board of Governors to secure that a pupil is entered for any examination, or for any examination in any syllabus for that examination, if either—

- (a) the Board of Governors considers that there are educational reasons in the case of that particular pupil for not entering him for that examination or (as the case may be) for not entering him for that examination in that syllabus and the parent of the pupil agrees that he should not be so entered; or
- (b) the parent of the pupil requests in writing that the pupil should not be entered for that examination or (as the case may be) for that examination in that syllabus.

(3) Paragraph (1) shall not require a Board of Governors to secure that a pupil is entered for any examination in any syllabus for that examination if the Board of Governors has secured that pupil's entry for another approved public examination in a corresponding syllabus.

(4) For the purposes of paragraph (3), a syllabus for any such examination shall be regarded as corresponding to a syllabus for another such examination if the same course of study is provided at the school concerned in preparation for both syllabuses.

(5) As soon as practicable after determining whether or not to secure the entry of any pupil for an approved public examination in any syllabus for which he is being prepared at the school the Board of Governors of a grant-aided school shall notify the parent of the pupil in writing of its determination in relation to each such syllabus.

**General and supplementary provisions relating to charges**

**137.**—(1) Nothing in the provisions of this Chapter relating to charges shall be read as prohibiting or in any way restricting or regulating any request or invitation by or on behalf of the Board of Governors of any grant-aided school or any board for voluntary contributions for the benefit of the school or any school activities.

(2) Any request or invitation made by or on behalf of any such Board of Governors or board for contributions for the benefit of any school or school activities shall not be regarded for the purposes of paragraph (1) as a request or invitation for voluntary contributions unless it is clear from the terms in which it is made—

- (a) that there is no obligation to make any contribution; and
- (b) that registered pupils at the school will not be treated differently according to whether or not their parents have made any contribution in response to the request or invitation.

(3) Nothing in Article 128(6) shall prevent the parent of a registered pupil at a grant-aided school to which this Article applies from being required to pay for or supply any materials for use for the purposes of the production in the course of the provision of education for the pupil at the school of any article incorporating those materials, where the parent has indicated before that requirement is made that he wishes the article to be owned by him or by the pupil.

(4) Nothing in this Chapter relating to charges with respect to a registered pupil at a grant-aided school shall be read as relating to—

- (a) charges made by persons other than the Board of Governors or the board; or
- (b) charges to be paid by persons other than the parent of the pupil or the pupil himself.

(5) The Department may make regulations requiring, in relation to every grant-aided school to which Articles 128 to 131 apply, the board, the Board of Governors or the principal to make

available either generally or to prescribed persons, in such form and manner and at such time as may be prescribed—

- (a) such information relevant for the purposes of this Chapter as to the school hours at the school; and
- (b) such information as to the policies determined under Article 131 which apply in relation to the school,

as may be prescribed.

(6) Any sum payable under Article 130 or 132 to 135 by the parent of any registered pupil at a grant-aided school shall be recoverable summarily as a civil debt.

## **Interpretation of Chapter II**

**138.**—(1) In this Chapter—

- (a) “equipment” does not include clothing;
- (b) “excepted pupil” has the meaning assigned to it by Article 127(4);
- (c) references to a public examination (including an approved public examination) are references to such an examination as it applies in relation to persons entered for any syllabus for that examination with a view to meeting the examination requirements for that syllabus so as to qualify for assessment for the purposes of determining their achievements in that examination on any particular occasion in any year when an assessment for the purposes of determining the achievements of persons entered for that examination takes place;
- (d) references to an examination requirement for a syllabus for any such examination are references to any requirements a pupil must meet in order to qualify for assessment for the purposes of determining his achievements in that examination in that syllabus; and
- (e) “residential trip” has the meaning given by Article 128(10).

(2) For the purposes of paragraph (1) an assessment for the purposes of determining the achievements of persons entered for any examination is to be regarded as taking place on any occasion on which it is determined in relation to each person entered for any syllabus in that examination who has met the examination requirements for that syllabus whether that person has passed or failed and, if grades are assigned for the purposes of the examination, the grade to be assigned in his case.

(3) In its application to—

- (a) a voluntary school referred to in Article 11(8) of the principal Order, this Chapter shall have effect with the substitution for references to the Board of Governors of references to the person approved in relation to the school by the Department under the said Article 11(8);
- (b) a technical secondary school conducted in association with an institution of further education, this Chapter shall have effect with the substitution for references to the Board of Governors of references to the governing body of the institution.

## **CHAPTER III**

### **COMMUNITY USE OF SCHOOL PREMISES**

#### **Community schools**

**139.**—(1) The Department may, on the application of the managers of a grant-aided school, designate that school as a community school.

(2) The Department shall not designate a school as a community school unless it appears to the Department that—

- (a) activities other than school activities (“non-school activities”) are carried on on the school premises; and
- (b) the activities which are so carried on are carried on wholly or mainly under the management or control of the Board of Governors of the school.

(3) A designation by the Department under paragraph (1) may be subject to such terms and conditions as the Department thinks fit.

(4) Before deciding whether to designate a grant-aided school as a community school in pursuance of an application by the managers of the school the Department shall ensure that—

- (a) particulars of the application have been furnished to any board and the trustees or managers of any school which would, in the opinion of the Department, be affected by the designation;
- (b) an opportunity is given to any such board, trustees or managers to make representations to the Department; and
- (c) any representations so made are taken into account by the Department.

(5) The voting members of the Board of Governors of a grant-aided school which is designated under paragraph (1) as a community school shall co-opt not less than one and not more than three appropriate persons to be members of the Board of Governors of the school.

(6) In paragraph (5) “appropriate persons” means persons appearing to the voting members to be representative of the persons who take part in the non-school activities carried on on the school premises.

(7) Members co-opted to the Board of Governors of a school under this Article shall be additional to any members co-opted under Article 122 and in this Article “voting members” has the same meaning as in that Article.

(8) This Article does not apply to a voluntary school to which Article 11(8) of the principal Order applies.

### **Community use of school premises**

**140.** Subject to regulations—

- (a) the managers and Board of Governors of every controlled school;
- (b) the trustees and managers of every voluntary school and grant-maintained integrated school,

shall, in exercising their respective powers in relation to the school premises, have regard to the desirability of the premises being made available (when not required by or in connection with the school) for use by members of the community served by the school.

## **PART IX**

### **THE COUNCIL FOR CATHOLIC MAINTAINED SCHOOLS**

#### **The Council for Catholic Maintained Schools**

**141.**—(1) There shall be established a body to be known as the Council for Catholic Maintained Schools (in this Part referred to as “the Council”).

(2) The provisions of Schedule 8 shall apply in relation to the Council.

(3) For the purposes of this Order a Catholic maintained school is a maintained school which is for the time being designated in a scheme under paragraph (4).

(4) The Department, after consultation with the Council, shall make a scheme designating those maintained schools which are to be Catholic maintained schools for the purposes of this Order.

(5) The Department—

- (a) shall make such amendments to the scheme under paragraph (4) as are required by Article 14(9C) of, or paragraph 1(3)(b) of Schedule 5 to, the principal Order;
- (b) may make such other amendments to that scheme as appear to it to be necessary or desirable.

(6) For the purposes of this Part a school becomes a Catholic maintained school on the date on which it is first included in the scheme under paragraph (4).

### **Functions of the Council**

**142.**—(1) The Council shall—

- (a) advise the Department or a board on such matters relating to Catholic maintained schools as the Department or board may refer to the Council or as the Council may see fit;
- (b) promote and co-ordinate, in consultation with the trustees of Catholic maintained schools, the planning of the effective provision of Catholic maintained schools;
- (c) promote the effective management and control of Catholic maintained schools by the Boards of Governors of such schools;
- (d) with the approval of the Department, provide or secure the provision of such advice and information to the trustees, Boards of Governors, principals and staff of Catholic maintained schools as appears to the Council to be appropriate in connection with the Council's duty under sub-paragraph (c);
- (e) exercise such other functions as are conferred on it by the Education Orders.

(2) The Council may advise any body (other than the Department or a board) on such matters relating to Catholic maintained schools as that body may refer to the Council or as the Council may see fit.

(3) The Council shall consult with the trustees, Boards of Governors and principals of Catholic maintained schools about the exercise by the Council of its functions.

(4) The Council may require the managers of a Catholic maintained school to make such reports and returns, and give such information, to the Council as the Council may reasonably require for the purposes of its functions, being reports or returns or information which cannot (for whatever reason) be obtained by the Council from the Department or a board.

### **Employment of teachers by the Council**

**143.**—(1) The Council may—

- (a) employ all such teachers as are required on the staffs of Catholic maintained schools;
- (b) with the approval of the Department, employ teachers (to be called "supply teachers") for the purposes of temporarily filling vacancies which may arise in the staffs of Catholic maintained schools.

(2) Supply teachers employed by the Council may, with the approval of the Council, work in a controlled school, a voluntary school other than a Catholic maintained school or a grant-maintained integrated school if so requested by the managers of that school.

(3) Within such time after the appointed day as the Department may direct, the Council shall prepare and submit to the Department a scheme providing for the procedures to be followed by—

- (a) the Council;
- (b) the diocesan education committees established under paragraph 3 of Schedule 8; and
- (c) the Boards of Governors of Catholic maintained schools,

in relation to the appointment of teachers under paragraph (1).

(4) Before preparing a scheme under paragraph (3) the Council shall consult the Board of Governors of every Catholic maintained school.

(5) In preparing a scheme under paragraph (3) the Council shall take into account any guidance given by the Department, after consultation with the Council and such other persons as appear to the Department to be concerned, as to the provisions it regards as appropriate for inclusion in a scheme under that paragraph.

(6) A scheme under paragraph (3) shall require the Council to appoint a panel of assessors in relation to each diocesan education committee and shall make provision for members of that panel to give advice and assistance to the diocesan education committee or the Board of Governors of a Catholic maintained school in relation to any functions of that committee or Board under the scheme.

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

(8) It shall be the duty of the bodies mentioned in paragraph (3) to give effect to the provisions of a scheme under that paragraph which has been approved by the Department.

(9) Where—

- (a) the Council fails to submit a scheme to the Department under paragraph (3) by the date directed by the Department; or
- (b) it appears to the Department that a scheme submitted by the Council as required by that paragraph does not accord with any guidance given by it for the purposes of this Article and cannot be made to do so merely by modifying it,

the Department may, after consultation with the Council and such other persons as appear to the Department to be concerned, make a scheme which shall be treated for the purposes of paragraphs (8) and (10) as if it had been prepared by the Council and approved by the Department under this Article.

(10) The Council may at any time, and shall if the Department so directs, prepare and submit to the Department a revised scheme or an amendment to the existing scheme and paragraphs (4) to (9) (except (9)(a)) shall apply in relation to any such revised scheme or amendment as they apply in relation to the scheme.

### **Transfer of teachers to employment of Council**

**144.**—(1) Subject to paragraph (2), this Article applies to any teacher employed by the Board of Governors of a school immediately before the date on which that school becomes a Catholic maintained school (in this Article referred to as “the transfer date”).

(2) This Article does not apply to a teacher whose contract of employment terminates on the day immediately preceding the transfer date.

(3) References below in this Article to the former employer in relation to a teacher are references to the Board of Governors by which that teacher was employed immediately before the transfer date.

(4) The contract of employment between a teacher to whom this Article applies and the former employer shall have effect from the transfer date as if originally made between him and the Council.

(5) Without prejudice to paragraph (4)—



- (a) all the former employer's rights, powers, duties and liabilities under or in connection with a contract to which that paragraph applies shall by virtue of this Article be transferred to the Council on the transfer date; and
  - (b) anything done before that date by or in relation to the former employer in respect of that contract or the teacher shall be deemed from that date to have been done by or in relation to the Council.
- (6) Paragraphs (4) and (5) are without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right shall arise by reason only of the change in employer effected by this Article.

### **Functions of the Council in relation to development proposals**

**145.**—(1) In Article 14 of the principal Order in paragraph (2) for the words from “that person” to the end there shall be substituted the words—

“then—

- (i) where the school is, or is proposed to be established or recognised as, a Catholic maintained school, the person making the proposal shall submit it to the Council for Catholic Maintained Schools which, after making such modifications (if any) as may be agreed with the person making the proposal, shall submit the proposal to the board for the area in which the school is, or is to be, situated together with the Council's views thereon;
- (ii) in any other case, the person making the proposal shall submit the proposal to the board for the area in which the school is, or is to be, situated,

and that board shall submit the proposal to the Department together with its views thereon and, in a case to which head (i) applies, the Council's views thereon.”.

(2) In Article 14(7) of the principal Order after the words “making the proposal” there shall be inserted the words “and, in a case to which paragraph (2)(i) applies, the Council for Catholic Maintained Schools”.

(3) In Article 14 of the principal Order after paragraph (9B) there shall be inserted the following paragraph—

“(9C) Where the Department approves under paragraph (9) a proposal submitted to a board under paragraph (2)(i) by the Council for Catholic Maintained Schools, it shall be the duty of the Department to make such amendments (if any) to the scheme under Article 141(4) of the 1989 Order as appear to the Department to be necessary or expedient in connection with the implementation of that proposal.”.

### **Miscellaneous functions of the Council under the principal Order**

**146.**—(1) The principal Order shall have effect subject to the amendments specified in the following provisions of this Article, being amendments to confer on the Council certain functions under that Order or amendments otherwise consequential on the establishment of the Council.

(2) In Article 32 after paragraph (3) there shall be inserted the following paragraph—

“(3A) The Council for Catholic Maintained Schools shall use its best endeavours in exercising its functions under Article 143 in relation to a Catholic maintained school which is an ordinary school to secure that if any child attending the school has special educational needs the special educational provision that is required for him is made.”.

(3) In Article 49—

- (a) in paragraph (2) after the words “voluntary school” there shall be inserted the words “(except a Catholic maintained school)”;
- (b) after paragraph (2A) there shall be inserted the following paragraph—
  - “(2B) The Council for Catholic Maintained Schools shall prepare a scheme specifying the procedure to be followed in relation to the suspension or expulsion of pupils from Catholic maintained schools.”.
- (4) For Article 100 there shall be substituted the following Article—

**“Determination of disputes**

**100.** Any dispute arising between—

- (a) a board and the trustees or managers of a voluntary school;
- (b) a board and the Board of Governors of a grant-maintained integrated school;
- (c) a board and the Council for Catholic Maintained Schools; or
- (d) the Council for Catholic Maintained Schools and the trustees or managers of a Catholic maintained school,

with respect to the exercise of any power conferred or the performance of any duty imposed by or under the Education Orders may, notwithstanding any enactment rendering the exercise of the power or the performance of the duty contingent on the opinion of one of the parties to the dispute, be referred by either party to the dispute to the Department and any dispute so referred shall be determined by the Department whose determination shall be final.”.

- (5) For paragraph 1 of Schedule 5 there shall be substituted the following paragraph—

“**1.**—(1) The managers or trustees of a voluntary school, other than a voluntary grammar school, may make a request to a board that the school become a maintained school or a Catholic maintained school.

(2) Without prejudice to the right of the managers or trustees to make a further request under sub-paragraph (1), a board may, with the approval of the Department, refuse a request made under sub-paragraph (1), but the Department shall not give such approval unless the board satisfies it that the condition of the premises of the school is such that it would be unreasonable to expect the board to assume responsibility for the maintenance of those premises.

(3) Where a board approves a request under sub-paragraph (1) for a school to become a Catholic maintained school—

- (a) the board shall notify the managers or trustees of the school, the Department and the Council for Catholic Maintained Schools in writing of that approval;
- (b) the Department shall amend the scheme under Article 141(4) of the 1989 Order so as to designate the school as a Catholic maintained school; and
- (c) the Council for Catholic Maintained Schools shall make such provision (if any) as is necessary to ensure that a scheme of management complying with paragraph 2 is framed for or applied to the school.

(4) Where the board approves a request under sub-paragraph (1) for a school to become a maintained school (other than a Catholic maintained school), it shall make provision for a scheme of management for the school complying with paragraph 2.

(5) Two or more maintained primary schools, other than nursery schools, may be grouped under one Board of Governors where the managers or trustees of the schools so request and—

- (a) in the case of Catholic maintained schools, the Council for Catholic Maintained Schools, with the approval of the Department, so determines;
  - (b) in the case of other maintained schools, the board, with the approval of the Department, so determines.
- (6) Nothing in any instrument of government of a school shall—
- (a) prevent the constitution of a Board of Governors for that school in accordance with a scheme of management complying with paragraph 2 or the doing by the managers or trustees of that school of anything necessary for or incidental to the constitution and functioning of such a Board of Governors; or
  - (b) restrict the powers under sub-paragraph (5) of the managers or trustees of that school or the application of that sub-paragraph to that school.
- (7) The managers or trustees of a school may, at any time before they have signified their approval of a scheme of management for the school complying with paragraph 2, withdraw their request under this paragraph.”.
- (6) In paragraph 2(1) of Schedule 5 for the words from the beginning to “and shall” there shall be substituted the words “The scheme of management for a maintained school shall”.
- (7) A scheme of management in force in relation to a school immediately before it becomes a Catholic maintained school shall continue in force until replaced by a scheme prepared under Article 9B(3) of that Order.

## PART X

### MISCELLANEOUS AND SUPPLEMENTARY

#### *Training*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) A board may at any time, and shall if the Department so directs, prepare and submit to the Department a revised programme or an amendment to an existing programme and paragraphs (2) to (5) shall apply in relation to any such revised programme or amendment as they apply in relation to the programme.

### *Miscellaneous*

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

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

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

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

- (a) that a board shall before carrying out that activity comply with such conditions as may be prescribed including, without prejudice to the generality of this sub-paragraph, such conditions as appear to the Department to be necessary or desirable to secure that the board—
  - (i) invites tenders from other persons for the carrying out by them of the prescribed activity; and
  - (ii) takes any such tenders received by the board into consideration in deciding whether to carry out the prescribed activity itself;
- (b) that a board shall during or after the carrying out by it of that activity, comply with such conditions as may be prescribed, including, without prejudice to the generality of this sub-paragraph—
  - (i) conditions as to the keeping of accounts, the making of reports and the supplying of information in relation to the carrying out of that activity;
  - (ii) conditions imposing financial objectives on the board in relation to the carrying out of that activity.
- (4) Regulations under paragraph (3)—
  - (a) may authorise a board to make charges for the provision of prescribed documents;
  - (b) may prescribe the sanctions which may be applied by the Department in respect of a board which fails to comply with the regulations or with any condition imposed on it under the regulations.

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

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

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

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

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

(2) The regulations may, in particular, make provision—

- (a) requiring the Boards of Governors of controlled schools and Catholic maintained schools and the governing bodies of institutions of further education—
  - (i) to secure that any arrangements made in accordance with the regulations are complied with in relation to their establishments;
  - (ii) to provide such assistance to the employing authority as that authority may reasonably require in connection with its obligations under the regulations;
- (b) with respect to the disclosure to teachers of the results of reviews and the provision of opportunities for them to make representations with respect to those results; and
- (c) requiring employing authorities to have regard to the results of reviews in the exercise of such of their functions as may be prescribed.

(3) The regulations may be expressed to apply to any of the following categories of teacher, that is to say—

- (a) teachers employed in grant-aided schools;
- (b) teachers employed in institutions of further education;
- (c) supply teachers;
- (d) peripatetic teachers.

(4) Before making any regulations under paragraph (1), the Department shall consult—

- (a) such representatives of employing authorities and such representatives of teachers as appear to it to be concerned; and
- (b) any other person with whom consultation appears to it to be desirable.

(5) In this Article “employing authority” means—

- (a) in relation to teachers employed in controlled schools and institutions of further education, the board by which they are employed;
- (b) in relation to teachers (including supply teachers) employed by the Council for Catholic Maintained Schools, that Council;
- (c) in relation to teachers employed in a voluntary school (other than a Catholic maintained school), the managers of that school;
- (d) in relation to teachers employed in a grant-maintained integrated school, the Board of Governors of the school;
- (e) in relation to peripatetic teachers, the board by which they are employed;
- (f) in relation to supply teachers (other than those mentioned in sub-paragraph (b)), the board by which they are employed.

### **Educational projects by Department**

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

### **Appointment of teachers**

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

- (a) teachers to posts in controlled schools;
- (b) peripatetic teachers;
- (c) supply teachers.

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

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

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

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

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

(7) Where—

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

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

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

### *Miscellaneous amendments to the principal Order*

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

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

- (a) Article 20;
- (b) Article 118;

(c) Schedule 10.

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

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

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

### **Compulsory school age**

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

#### **“Compulsory school age**

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

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

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

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

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

### **Commencement of secondary education**

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

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



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

### **Payment of medical expenses incurred by teachers**

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

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

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

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

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

**101.—(1)** The Department may give directions to any relevant authority as to the exercise by that authority of any power conferred, or the performance of any duty imposed, on that authority by or under any provision of the Education Orders; but the Department shall consult with a relevant authority before giving any directions to the authority under this paragraph.

(2) In particular, but without prejudice to the generality of paragraph (1), directions given under that paragraph may—

- (a) require a specified power—
  - (i) to be exercised;
  - (ii) to be exercised in a specified manner;
  - (iii) not to be exercised;
  - (iv) not to be exercised in a specified manner;
- (b) require a specified duty—
  - (i) to be performed;
  - (ii) to be performed in a specified manner;
  - (iii) not to be performed in a specified manner;

and in this paragraph “specified” means specified in directions.

(3) In this Article “relevant authority” means any of the following, namely—

- (a) a board;
- (b) the Board of Governors or trustees of a grant-aided school;
- (c) a person approved by the Department under Article 11(8);
- (d) the governing body of an institution of further education;
- (e) the managers or trustees of a college of education;
- (f) the Council for Catholic Maintained Schools;
- (g) the Northern Ireland Curriculum Council;
- (h) the Northern Ireland Schools Examinations and Assessment Council.

(4) If, on a complaint made to it by any person or body, the Department is satisfied that a relevant authority has acted or is proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under any provision of the Education Orders, the Department shall give such directions under paragraph (1) as to the exercise of the power or the performance of the duty as appear to the Department to be expedient to remedy that complaint.

(5) Directions may be given to a relevant authority under paragraph (1) notwithstanding any provision of the Education Orders rendering the exercise of the power or the performance of the duty contingent upon the opinion of that authority.

(6) It shall be the duty of a relevant authority to comply with any directions given to the authority under paragraph (1) and any such directions may be enforced by mandamus.

(7) Where the Department is satisfied that a relevant authority has failed to comply with any directions given to the authority under paragraph (1), the Department may make an order appointing a person or persons to discharge, in the name of the relevant authority, all the functions of the authority or such functions as may be specified in the order and the order may render valid any act, thing or payment which would otherwise be invalid by reason of any default by the authority.

(8) So long as an order under paragraph (7) remains in force the functions of the relevant authority or such functions as are specified in the order shall be performed by the person or persons appointed by the order and shall not be performed by the authority.

(9) The remuneration and expenses of a person or persons appointed by an order made under paragraph (7) shall be determined by the Department and shall together with any other sums expended by the Department in consequence of the order be defrayed as part of the expenses of the relevant authority under the Education Orders.

(10) The Statutory Rules (Northern Ireland) Order 1979(12) shall not apply to any order made under paragraph (7).”.

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

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

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

**115.—**(1) Subject to paragraph (3), the Department may, in accordance with regulations made with the approval of the Department of Finance and Personnel, pay grants to persons in respect of expenditure incurred or to be incurred by them—

- (a) for the purposes of, or in connection with, the provision (or proposed provision) of—
  - (i) educational or library services; or
  - (ii) recreational, social, cultural, physical or youth service activities or services ancillary to education;
- (b) for the purposes of research relevant to the functions of the Department or of boards under the Education Orders.

(2) Regulations under paragraph (1) may prescribe the rates of grants which may be paid under that paragraph.

(3) The Department shall not pay grants under this Article to—

- (a) a board; or

(b) the trustees or managers of—

(i) a voluntary school; or

(ii) a grant-maintained integrated school.

(4) Paragraph (5) applies where—

(a) the Department has, after the coming into operation of Article 159 of the 1989 Order, paid a grant under this Article to a person in respect of expenditure incurred or to be incurred by him for the provision or alteration of premises; and

(b) those premises cease to be used for approved purposes.

(5) Where this paragraph applies there shall be payable to the Department by the person to whom the grant was paid or his successor in title such sum as the Department considers equitable but not exceeding such proportion of the value of the premises as the proportion that the amount of the grant was of the approved cost of the provision or alteration of the premises together with interest on that sum from the date on which the premises ceased to be used for approved purposes until the date of payment to the Department.

(6) For the purposes of paragraph (5) the value of premises shall be taken to be the amount which the premises might be expected to realise if sold in the open market on the date on which the premises ceased to be used for approved purposes and where the Department certifies that it is not possible to reach agreement as to such value, the dispute as to such value may be referred to and determined by the Lands Tribunal for Northern Ireland.

(7) For the purposes of paragraph (5) interest shall be at such rate as may from time to time be determined by the Department of Finance and Personnel under paragraph 18(2) of Schedule 6 to the Local Government Act (Northern Ireland) 1972<sup>(13)</sup>.

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

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

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

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

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

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

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

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<sup>(13)</sup> SR 1978 No. 217

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

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

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

**162.—**(1) Where personal data are transferred under any provision of this Order to a body corporate established under this Order, section 5(1) of the Data Protection Act 1984<sup>(14)</sup> (prohibition of unregistered holding, etc., of personal data) shall not apply in relation to the holding by that body corporate of the data so transferred or any data of the same description as the data so transferred until the end of the period of six months beginning with the date on which the data are transferred.

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

**Stamp duty**

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

**Regulations and orders**

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

(2) The Statutory Rules (Northern Ireland) Order 1979<sup>(15)</sup> shall not apply to any order made by the Department under Article 27(1) or (2), 71(13), 76(1)(b), 82(1), 84(2), 86(1) or 102(6) or paragraph 1 of Schedule 6.

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

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

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

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

**Transitional provisions**

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

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

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

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(15) 1972 c. 9 (N.I.)

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

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

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

### **Amendments**

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

### **Repeals**

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

*G. I. de Deney*  
Clerk of the Privy Council

*Status: This is the original version (as it was originally made).*

## SCHEDULES

### SCHEDULE 1

Article 5(3) and (7).

#### AREAS OF STUDY AND LISTED CONTRIBUTORY SUBJECTS

(1) Area of Study	(2) Listed Contributory Subjects
English	English English Literature
Mathematics	Mathematics
Science and Technology	Science Biology Chemistry Physics Technology and Design Craft, Design and Technology Home Economics
The Environment and Society	History Geography Local Studies Community Studies Political Studies Business Studies Road Traffic Studies
Creative and Expressive Studies	Art and Design Music Drama Physical Education Media Studies
Language Studies	French German Italian Spanish Irish Classics

### SCHEDULE 2

Article 6.

#### COMPULSORY CONTRIBUTORY SUBJECTS

(1) Area of Study	(2) Compulsory contributory subjects in key stages 1 and 2	(3) Compulsory contributory subjects in key stage 3	(4) Compulsory contributory subjects in key stage 4
English	English (A)	English (A)	English (A)
Mathematics	Mathematics (A)	Mathematics (A)	Mathematics (A)
Science and Technology	Science (A) Technology and Design (A)	Science (A) Technology and Design (A)	Science (A) Technology and Design (A)
The Environment and Society	History (A) Geography (A)	History (A) Geography (A)	History or Geography (A)
Creative and Expressive Studies	Art and Design Music Physical Education	Art and Design Music Physical Education	Art and Design or Music or Drama Physical Education

Note: An "(A)" placed after an entry signifies that the compulsory contributory subject to which that entry relates is one in which pupils are required under Article 6(3) to be assessed.

(1) Area of Study	(2) Compulsory contributory subjects in key stages 1 and 2	(3) Compulsory contributory subjects in key stage 3	(4) Compulsory contributory subjects in key stage 4
Language Studies	Irish (in Irish speaking schools only) (A)	French or German or Italian or Spanish or Irish (A)	French or German or Italian or Spanish or Irish (A)

Note: An “(A)” placed after an entry signifies that the compulsory contributory subject to which that entry relates is one in which pupils are required under Article 6(3) to be assessed.

### SCHEDULE 3

Articles 18(2) and 20(2).

#### THE NORTHERN IRELAND CURRICULUM COUNCIL AND THE NORTHERN IRELAND SCHOOLS EXAMINATIONS AND ASSESSMENT COUNCIL

##### *Preliminary*

1. References in this Schedule to the Council are references to each of the following bodies—
  - (a) the Northern Ireland Curriculum Council; and
  - (b) the Northern Ireland Schools Examinations and Assessment Council.

##### *Constitution and status*

2.—(1) The Council shall be a body corporate to which, subject to the following provisions of this Schedule, section 19 of the Interpretation Act (Northern Ireland) 1954<sup>(16)</sup> shall apply.

(2) The Council shall not be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and its property shall not be regarded as property of, or property held on behalf of, the Crown.

3.—(1) The Council shall consist of a chairman and not fewer than 9 or more than 17 other members.

(2) The chairman and other members of the Council shall be appointed by the Head of the Department and shall be persons appearing to the Head of the Department to have knowledge or experience relevant to the functions of the Council.

(3) The Council may elect a deputy chairman from among its members.

(4) The Head of the Department may appoint two assessors to the Council who shall be entitled to receive notice of, and to attend and speak at, meetings of the Council and of committees and sub-committees thereof, but shall not be entitled to vote.

(5) Section 18(2) of the Interpretation Act (Northern Ireland) 1954 (except so much thereof as relates to remuneration) shall apply to the appointment of assessors under sub-paragraph (4).

<sup>(16)</sup> 1984 c. 35

*Qualifications of members and tenure of office*

4.—(1) A person shall hold and vacate office as a member or as chairman of the Council in accordance with the terms of his appointment and shall, on ceasing to be a member, be eligible for re-appointment.

(2) A member shall be deemed to have vacated his office and the Council shall declare his place vacant in the following circumstances—

- (a) where he gives to the Head of the Department a notice in writing of his resignation;
- (b) where he becomes bankrupt or makes a composition with his creditors;
- (c) where, in the opinion of the Head of the Department, he becomes unable or unfit to discharge the functions of a member and the Head of the Department so informs the Council in writing;
- (d) where he is convicted of an indictable offence and is sentenced to a term of imprisonment of not less than three months; or
- (e) where he fails, without leave of the Council, to attend any meetings of the Council or of a committee or sub-committee thereof for a period of 6 consecutive months.

(3) If the chairman or deputy chairman of the Council ceases to be a member of the Council, he shall also cease to be chairman or deputy chairman.

*Committees*

5.—(1) The Council shall appoint a Finance Committee.

(2) The Council may appoint such other committees as it thinks fit.

(3) A committee appointed under sub-paragraph (2) may include persons who are not members of the Council.

(4) The Council may delegate any of its functions to a committee, but functions which relate to finance may be delegated only to the Finance Committee.

(5) The Council may authorise a committee to appoint sub-committees for such purposes as the Council may approve and the membership of such sub-committees may include persons who are not members of the Council or of the committee which appointed the sub-committee.

(6) The powers of any committee or any sub-committee appointed under this paragraph shall be exercised, and the proceedings of the committee or sub-committee shall be regulated, in accordance with, and subject to, any directions given by the Council.

*Procedure*

6. The proceedings of the Council or of any committee or sub-committee shall not be invalidated by any vacancy in the membership of the Council, or of any committee or sub-committee, or by any defect in the appointment of a member.

7. Without prejudice to section 19(1)(a)(v) of the Interpretation Act (Northern Ireland) 1954<sup>(17)</sup>, the Council shall make standing orders relating to the convening of meetings of the Council and of committees and sub-committees, the fixing of the quorum, the conduct of business at meetings, the keeping of minutes, accounts and other records, the signing of cheques, the custody of deeds and other documents, the duties of officers and such other matters connected with the conduct of its business as it thinks fit.

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(17) 1979 NI 12



8. The common seal of the Council shall, when applied to a document, be attested by the signatures of any two members of the Council authorised by the Council to act for that purpose.

9. The power of the Council under section 19(1)(a)(iv) of the Interpretation Act (Northern Ireland) 1954 to acquire, hold, dispose of or charge real property shall not be exercised without the approval of the Department.

#### *Staff*

10.—(1) The right of the Council under section 19(1)(a)(vi) of the Interpretation Act (Northern Ireland) 1954 to employ staff shall be exercised subject to any directions which may be given by the Department with respect to the number and terms and conditions of service of persons employed or to be employed by the Council.

(2) The officers of the Council (other than the chief executive) shall be appointed at such rates of remuneration as the Council may, with the consent of the Department, determine.

(3) The Council shall have a chief executive who shall be appointed—

(a) in the case of a person who is also chairman of the Council, by the Head of the Department;

(b) in any other case, by the Council with the approval of the Department.

(4) The appointment of the chief executive shall be on such terms and conditions as the Department (in the case of an appointment under sub-paragraph (3)(a)) or the Council after consultation with the Department (in the case of an appointment under sub-paragraph (3)(b)) may determine.

(5) No member of the Council other than the chairman shall be appointed as chief executive.

(6) A person who is an officer of the Council (other than the chief executive) shall not be qualified to be a member of the Council.

(7) The Council may, in accordance with arrangements determined by the Department, make provision for the payment on death or retirement of pensions, gratuities or other like benefits to or in respect of the service of officers of the Council.

#### *Allowances*

11. The Council may pay to any member of the Council or to any member of a committee or sub-committee thereof (including persons who are not members of the Council) travelling, subsistence and other allowances at such rates as the Department may approve.

#### *Miscellaneous*

12. The Council may, in the exercise of any of its functions, form bodies corporate, but shall only do so with the approval of the Department and subject to such conditions as the Department may specify in granting any such approval.

## SCHEDULE 4

Article 58(1).

### PROVISIONS RELATING TO THE STAFF OF SCHOOLS WITH DELEGATED BUDGETS

#### *Application of this Schedule*

1.—(1) Subject to sub-paragraph (2), this Schedule applies to a school at any time when it has a delegated budget.

(2) Paragraphs 3 to 6 do not apply to teaching staff in a maintained school other than a Catholic maintained school.

(3) In the application of paragraph 7 to teaching staff in a maintained school, other than a Catholic maintained school, sub-paragraph (5) shall be omitted.

#### *Determination of staff complement*

2. Every school to which this Schedule for the time being applies shall have a complement of teaching and non-teaching posts determined by the Board of Governors of the school.

#### *Discipline*

3.—(1) The regulation of conduct and discipline in relation to the staff of any school to which this Schedule for the time being applies, and any procedures for affording to members of the staff opportunities for seeking redress of any grievances relating to their employment, shall be under the control of the Board of Governors.

(2) The Board of Governors of any such school shall, after consultation with the employing authority, establish—

- (a) disciplinary rules and procedures; and
- (b) procedures such as are mentioned in sub-paragraph (1),

and shall take such steps as appear to it to be appropriate for making them known to the staff at the school.

(3) Where the implementation of any determination made by the Board of Governors in the exercise of its control over the conduct and discipline of the staff of any such school requires any action which—

- (a) is not within the functions exercisable by the Board of Governors by virtue of the Education Orders; and
- (b) is within the power of the employing authority,

it shall be the duty of the employing authority to take that action at the request of the Board of Governors.

#### *Suspension*

4.—(1) In the case of any school to which this Schedule for the time being applies, the Board of Governors and the principal shall both have power to suspend any person employed to work at the school where, in the opinion of the Board of Governors or (as the case may be) of the principal, his exclusion from the school is required.

(2) The Board of Governors or principal, when exercising that power, shall immediately inform the employing authority and the principal or (as the case may be) the Board of Governors.

(3) Any suspension under this paragraph may only be ended by the Board of Governors; and the Board of Governors shall, on ending such a suspension, immediately inform the employing authority and the principal.

(4) In this paragraph “suspend” means suspend without loss of emoluments.

*Dismissal, etc.*

5.—(1) Where the Board of Governors of any school to which this Schedule for the time being applies determines that any person employed to work at the school under a particular contract of employment should cease to work there under that contract, it shall notify the employing authority in writing of its determination and the reasons for it.

(2) If in a case within sub-paragraph (1)—

- (a) the person concerned is employed under the contract of employment in question to work solely at the school; and
- (b) he does not resign,

the employing authority shall, before the end of the period of one month beginning with the date on which the notification under sub-paragraph (1) is given in relation to him, either give him such notice terminating that contract with the employing authority as is required under that contract or terminate that contract without notice if the circumstances are such that it is entitled to so do by reason of his conduct.

(3) If in a case within sub-paragraph (1) the person concerned is not employed under the contract of employment in question to work solely at the school the employing authority shall require him to cease to work at the school.

(4) In any case within sub-paragraph (3) no part of the costs incurred by a board in respect of the emoluments of the person concerned under the contract of employment in question, so far as relates to any period falling after the expiration of his contractual notice period, shall be met from the school’s budget share.

(5) In relation to any such person, the reference in sub-paragraph (4) to his contractual notice period is a reference to the period of notice that would have been required under the contract of employment in question for termination of that contract if such notice had been given on the date on which the notification under sub-paragraph (1) was given in relation to him.

(6) The Board of Governors of such a school shall make arrangements for affording to any person in respect of whom it proposes to make any determination under sub-paragraph (1) an opportunity of making representations with respect to the action it proposes to take, including (if he so wishes) oral representations to such person or persons as the Board of Governors may appoint for the purpose, and shall have regard to any representations made by him.

(7) The Board of Governors of such a school shall also make arrangements for affording to any person in respect of whom it has made such a determination an opportunity of appealing against it before it notifies the employing authority of the determination.

(8) The relevant officer of the employing authority shall be entitled to attend, for the purpose of giving advice, all proceedings of the Board of Governors relating to any determination under sub-paragraph (1) and the Board of Governors shall consider any advice given by a person entitled to attend such proceedings under this sub-paragraph before making any such determination.

6.—(1) Subject to sub-paragraph (2), the employing authority shall not dismiss a person employed by it to work solely at a school to which this Schedule for the time being applies except as provided by paragraph 5.

*Status: This is the original version (as it was originally made).*

(2) Sub-paragraph (1) shall not apply in any case where the dismissal of the person in question is required under any regulations made under Article 70 or 88A of the principal Order.

*Payments in respect of dismissals, resignations, etc.*

7.—(1) Subject to sub-paragraph (2), it shall be for the Board of Governors of any school to which this Schedule for the time being applies to determine—

- (a) whether any payment should be made by the relevant board in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of the school; and
- (b) the amount of any such payment.

(2) Sub-paragraph (1) does not apply in relation to any payment which is required to be made—

- (a) by virtue of any contract other than one made in contemplation of the impending dismissal or resignation of the member of staff concerned; or
- (b) under any statutory provision.

(3) The relevant board—

- (a) shall take such steps as may be required for giving effect to any determination of the Board of Governors of any such school under sub-paragraph (1); and
- (b) shall not make, or agree to make, any payment to which that sub-paragraph applies in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of any such school otherwise than in accordance with any such determination.

(4) Costs incurred by the relevant board in respect of the dismissal, or premature retirement, or for the purpose of securing the resignation, of any member of the staff of any such school shall not be met from the school's budget share for any financial year except in so far as the board has good reason for deducting those costs, or any part of those costs, from that share.

(5) The fact that the employing authority has a policy precluding dismissal of its employees by reason of redundancy is not to be regarded as a good reason for the purposes of sub-paragraph (4).

(6) In this paragraph "the relevant board" means—

- (a) in relation to a member of the staff of a controlled school, the board responsible for the management of the school;
- (b) in relation to a member of the staff of a maintained school, the board by which the school is maintained.

*School meals staff*

8. Nothing in paragraphs 2 to 7 shall apply in relation to a person employed to work at a school to which this Schedule for the time being applies, where—

- (a) the person concerned is to be, or is, employed to work solely in connection with the provision of a schools meals service; and
- (b) no allowance is made for expenditure on or in connection with the provision of such a service in determining the school's budget share.

*Application of employment law*

9.—(1) The Department may by order make such modifications in any statutory provision relating to employment and, in particular, in any statutory provision—

- (a) conferring powers or imposing duties on employers;

(b) conferring rights on employees; or  
(c) otherwise regulating the relations between employers and employees;  
as it considers necessary or expedient in consequence of the operation of any of the provisions of this Schedule.

- (2) Before making any order under this paragraph, the Department shall consult—
- (a) the boards;
  - (b) the Council for Catholic Maintained Schools;
  - (c) the Boards of Governors of maintained schools (other than Catholic maintained schools) or any body representing their interests;
  - (d) such organisations representing staff in schools required to be covered by schemes under Article 46 as appear to the Department to be concerned; and
  - (e) such other persons as the Department thinks fit.

#### *Interpretation*

- 10.**—(1) In this Schedule “employing authority” means—
- (a) in relation to teachers and other staff in a controlled school, the board responsible for the management of the school;
  - (b) in relation to teachers in a Catholic maintained school, the Council for Catholic Maintained Schools;
  - (c) in relation to other staff in a Catholic maintained school, the board by which the school is maintained; and
  - (d) in relation to staff other than teachers in a maintained school other than a Catholic maintained school, the board by which the school is maintained.
- (2) In paragraph 5(8) “the relevant officer” of the employing authority means—
- (a) where the employing authority is a board, the chief education officer of the board or another officer of the board nominated by him;
  - (b) where the employing authority is the Council for Catholic Maintained Schools, the Director of the Council or another officer of the Council nominated by him.

### SCHEDULE 5

Article 66(1).

#### MEMBERSHIP OF BOARD OF GOVERNORS OF GRANT-MAINTAINED INTEGRATED SCHOOLS

- 1.** The Board of Governors of a grant-maintained integrated school shall consist of—
- (a) either 16 or 24 persons (in this Schedule and Schedule 6 referred to as “voting members”);
  - (b) the principal of the school who shall be entitled to attend and take part in meetings of the Board of Governors but not to vote on any question; and
  - (c) persons co-opted under Articles 122 and 139 who shall be entitled to attend and take part in meetings of the Board of Governors but not to vote on any question.
- 2.**—(1) Of the voting members of the Board of Governors of a grant-maintained integrated school—

*Status: This is the original version (as it was originally made).*

- (a) three-eighths shall be foundation governors, at least one-third of whom shall, at the time of their appointment, be parents of pupils attending the school;
  - (b) one-quarter shall be appointed by the Head of the Department;
  - (c) one-quarter shall be elected by parents of pupils attending the school from amongst parents of such pupils;
  - (d) one-eighth shall be elected by assistant teachers at the school from amongst such assistant teachers.
- (2) In this paragraph—
- “assistant teacher” means a teacher, other than the principal or a temporary or part-time teacher, employed on the staff of a school;
- “foundation governors” means persons appointed—
- (a) when appointments are first made to the Board of Governors, by the body or person by which or by whom the relevant proposal was submitted under Article 71(1) or (2);
  - (b) on any subsequent appointment to the Board of Governors, by the persons holding office as foundation governors,
- being persons appearing to the body or persons appointing them to be persons committed to the good management and continuing viability of the school as a grant-maintained integrated school;
- “relevant proposal”, in relation to a grant-maintained integrated school, means the proposal approved by the Department for the acquisition of grant-maintained integrated status for the school or (as the case may be) for the establishment of the school as a grant-maintained integrated school.
- 3.** The Department may make such provision as it thinks fit for filling vacancies for foundation governors if it appears to the Department that the persons responsible for appointing persons to fill such vacancies are unable or unwilling to do so or that the vacancies cannot otherwise be filled.
- 4.** The Board of Governors shall, with the approval of the Department, make arrangements for the election of persons under paragraph 2(1)(c) and (d) and such arrangements shall ensure that any vote taken for the purpose of any such election shall be by secret ballot.
- 5.** Subject to any transitional provision made by an order under paragraph 1 of Schedule 6, the term of office of a member of the Board of Governors shall be such as is specified in the scheme of management for the school.

## SCHEDULE 6

Article 71(12).

### TRANSITION TO GRANT-MAINTAINED INTEGRATED STATUS

- 1.—(1)** Where the Department approves a proposal for acquisition of grant-maintained integrated status in respect of any school it may by order made at any time on or after the date on which it approves the proposal and before the incorporation date in relation to the school make such provision as it considers appropriate in connection with the school’s transition to grant-maintained integrated status and the impending transfer of responsibility for the management and control of the school to a Board of Governors constituted in accordance with Schedule 5.
- (2) In this Schedule, in relation to any school in respect of which such a proposal has been approved,—

“the existing governing authority” means, in the case of a grant-aided school, the Board of Governors of the school constituted under the principal Order and, in the case of an independent school, the proprietor of the school;

“the new Board of Governors” means the first Board of Governors constituted for the school in accordance with Schedule 5.

**2.** The provision that may be made by an order under paragraph 1 includes in particular provision—

- (a) for the constitution in accordance with Schedule 5 of the new Board of Governors for the school and in particular for—
  - (i) regulating the first appointment of foundation governors;
  - (ii) enabling some or all of the parents and teachers elected to the existing governing authority of a grant-aided school to be treated for the purposes of Schedule 5 as having been duly elected to the new Board of Governors and making transitional provision in relation to the terms of office of such persons;
  - (iii) empowering the voting members of the new Board of Governors to exercise the powers of co-option conferred by Article 122 or 139, or the powers of appointment conferred by Article 13(3A) of the principal Order;
  - (iv) empowering the new Board of Governors to make arrangements for the election of persons under paragraph 2(1)(c) and (d) of Schedule 5;
  - (v) applying Article 13 of the principal Order in relation to the new Board of Governors;
- (b) for the exercise by the new Board of Governors in relation to the school, in such circumstances and in such manner and subject to such conditions as may be specified in the order, of any functions so specified corresponding to any of the functions that would be exercisable by it on its incorporation, including in particular—
  - (i) power to appoint members of staff to take up employment on or after the incorporation date in relation to the school;
  - (ii) power to enter into contracts for the purpose of or in connection with the management and control of the school on or after that date;
  - (iii) functions under Part IV of this Order; and
  - (iv) functions in relation to the framing of the scheme of management for the school;
- (c) excluding or modifying any function of the board or of the existing governing authority in relation to any matter to which any function exercisable by the new Board of Governors in accordance with any provision made by virtue of sub-paragraph (b) applies;
- (d) for—
  - (i) requiring the new Board of Governors to be consulted before the board or the existing governing authority exercises in relation to the school any function of a description specified in the order or takes in relation to the school any action of a description so specified; or
  - (ii) requiring or enabling the new Board of Governors to participate in the exercise in relation to the school of any such function or in the taking in relation to the school of any such action,in such circumstances and in such manner as may be so specified; and
- (e) with respect to the proceedings of the new Board of Governors and the authentication of its actions (including the making or issue of any instrument by it or on its behalf).

*Status: This is the original version (as it was originally made).*

**3.—(1)** The Department may make grants to the new Board of Governors in respect of expenditure incurred or to be incurred by it in pursuance of any provision made by an order under paragraph 1.

(2) The Department may impose on a new Board of Governors to which any such payment is made such requirements as it may from time to time determine (whether before, at or after the time when the payment in question is made).

(3) The functions of a board in relation to a school in respect of which a proposal for acquisition of grant-maintained integrated status has been approved shall not include the meeting of any expenses incurred by the new Board of Governors of the school.

**4.—(1)** On and after the incorporation date in relation to a grant-maintained integrated school any appointment made, contract entered into or other thing done by the new Board of Governors in pursuance of any provision made by an order under paragraph 1, so far as subsisting or in force immediately before that date, shall be treated as having been made, entered into or done by the new Board of Governors as a body corporate.

(2) Any property acquired by the new Board of Governors before the incorporation date for the purposes of or in connection with the doing of anything in pursuance of any provision so made shall on that date be transferred to, and by virtue of this Order vest in, the new Board of Governors as a body corporate.

**5.—(1)** The first scheme of management for a grant-maintained integrated school shall be framed not later than the end of the period of six months beginning with the incorporation date in relation to the school and may be framed before that date to come into force on that date.

(2) In relation to any time on or after the incorporation date when no scheme of management is in force in respect of any such school, the Department may by direction make with respect to the school any provision it considers appropriate for dealing with any matters relating to the school that could be dealt with by a scheme of management.

(3) Any direction under sub-paragraph (2) in relation to any school—

(a) shall be in writing;

(b) may be given at any time on or after the date on which the proposal for acquisition of grant-maintained integrated status for the school is approved.

(4) At any time when any such direction is in force in relation to a school, the school shall be managed and controlled in accordance with the provisions of that direction.

(5) The reference in Article 67(1) to any provision of the scheme of management of a grant-maintained integrated school shall include a reference to any provision of a direction under sub-paragraph (2) in relation to such a school.

**6.** Except as provided in an order under paragraph 1, the new Board of Governors shall not exercise any functions in relation to the school before the incorporation date, and, except as so provided, references in the Education Orders to a Board of Governors shall not, in relation to any time before that date, be taken to include references to the new Board of Governors.

## SCHEDULE 7

Articles 100(3) and 101(3) and (4).

### COURSES OF HIGHER EDUCATION

**1.** The descriptions of courses referred to in Article 100(3) are the following—

(a) a course for the further training of teachers or youth and community workers;



- (b) a course for the Higher National Diploma or Higher National Certificate of the Business & Technician Education Council, or the Diploma in Management Studies;
- (c) a course in preparation for a professional examination at higher level;
- (d) a course providing education at a higher level (whether or not in preparation for an examination);
- (e) a post-graduate course (including a higher degree course);
- (f) a first degree course;
- (g) a course for the Diploma of Higher Education;
- (h) a course for the Certificate in Education.

2. For the purposes of paragraph 1(c) a professional examination is at higher level if its standard is higher than the standard of examinations at advanced level for the General Certificate of Education or the examination for the National Certificate or the National Diploma of the Business & Technician Education Council.

3. For the purposes of paragraph 1(d) a course is to be regarded as providing education at a higher level if its standard is higher than the standard of courses providing education in preparation for any of the examinations mentioned in paragraph 2.

## SCHEDULE 8

Article 141(2).

### THE COUNCIL FOR CATHOLIC MAINTAINED SCHOOLS

#### *Constitution*

1. The Council shall be a body corporate to which, subject to the following provisions of this Schedule, section 19 of the Interpretation Act (Northern Ireland) 1954<sup>(18)</sup> shall apply.

2.—(1) The Council shall consist of—

- (a) the Archbishop of Armagh or a person nominated by him;
- (b) the Bishops of Clogher, Derry, Down and Connor, Dromore and Kilmore or, in each case, a person nominated by that Bishop;
- (c) 14 persons appointed by the Archbishop and Bishops mentioned in heads (a) and (b) acting jointly;
- (d) 8 persons appointed by the Head of the Department after consultation with the said Archbishop and Bishops;
- (e) 4 parents appointed in accordance with sub-paragraphs (2) and (3) by the Council after consultation with the Head of the Department from amongst parents elected under paragraph 2(3) of Schedule 5 to the principal Order to the Boards of Governors of Catholic maintained schools;
- (f) 4 assistant teachers appointed in accordance with sub-paragraphs (2) and (3) by the Council after consultation with the Head of the Department from amongst assistant teachers elected under paragraph 2(3) of Schedule 5 to the principal Order to the Boards of Governors of Catholic maintained schools.

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(18) 1954 c. 33 (N.I.)

*Status: This is the original version (as it was originally made).*

(2) For the purposes of appointments to the Council under sub-paragraph (1)(e) and (f) 15 parents and 15 assistant teachers shall be nominated by diocesan education committees established under paragraph 3 as follows, namely—

- (a) 3 parents and 3 assistant teachers shall be nominated by the diocesan education committee for the Archdiocese of Armagh;
- (b) 2 parents and 2 assistant teachers shall be nominated by the diocesan education committee for the dioceses of Clogher and Kilmore;
- (c) 3 parents and 3 assistant teachers shall be nominated by the diocesan education committee for the diocese of Derry;
- (d) 5 parents and 5 assistant teachers shall be nominated by the diocesan education committee for the diocese of Down and Connor;
- (e) 2 parents and 2 assistant teachers shall be nominated by the diocesan education committee for the diocese of Dromore,

and the persons nominated by each diocesan education committee shall, as equitably as possible, represent the interests of primary schools and of secondary schools within the area of that committee.

(3) The persons appointed to the Council under sub-paragraph (1)(e) and (f) shall be chosen by the Council from amongst those nominated under sub-paragraph (2) and shall be so chosen as to represent as equitably as possible the interests of both primary and secondary schools and the interests of each of the areas for which a diocesan education committee is appointed under paragraph 3.

(4) The Department may, after consultation with the Archbishop of Armagh, by order amend this paragraph.

#### *Diocesan education committees*

**3.—**(1) There shall be established a committee of the Council, to be known as a diocesan education committee, for each of the following areas, namely—

- (a) the Archdiocese of Armagh;
- (b) the Dioceses of Clogher and Kilmore;
- (c) the Diocese of Derry;
- (d) the Diocese of Down and Connor;
- (e) the Diocese of Dromore.

(2) The diocesan education committee for the Archdiocese of Armagh shall consist of—

- (a) the Archbishop of Armagh or a person nominated by him;
- (b) 9 persons appointed by the trustees of Catholic maintained schools in the Archdiocese;
- (c) 4 persons appointed by the Head of the Department after consultation with the said Archbishop;
- (d) 2 parents appointed by the committee from amongst parents elected under paragraph 2(3) of Schedule 5 to the principal Order to the Boards of Governors of Catholic maintained schools in the Archdiocese;
- (e) 2 assistant teachers appointed by the committee from amongst assistant teachers elected under paragraph 2(3) of Schedule 5 to the principal Order to the Boards of Governors of Catholic maintained schools in the Archdiocese.

(3) The diocesan education committee for the dioceses of Clogher and Kilmore shall consist of—

- (a) the Bishop of Clogher or a person nominated by him and the Bishop of Kilmore or a person nominated by him;
  - (b) 4 persons appointed by the trustees of Catholic maintained schools in those dioceses;
  - (c) 2 persons appointed by the Head of the Department after consultation with the said Bishops;
  - (d) 1 parent appointed by the committee from amongst parents elected under paragraph 2(3) of Schedule 5 to the principal Order to the Boards of Governors of Catholic maintained schools in those dioceses;
  - (e) 1 assistant teacher appointed by the committee from amongst assistant teachers elected under paragraph 2(3) of Schedule 5 to the principal Order to the Boards of Governors of Catholic maintained schools in those dioceses.
- (4) The diocesan education committee for the diocese of Derry shall consist of—
- (a) the Bishop of Derry or a person nominated by him;
  - (b) 9 persons appointed by the trustees of Catholic maintained schools in that diocese;
  - (c) 4 persons appointed by the Head of the Department after consultation with the said Bishop;
  - (d) 2 parents appointed by the committee from amongst parents elected under paragraph 2(3) of Schedule 5 to the principal Order to the Boards of Governors of Catholic maintained schools in the diocese;
  - (e) 2 assistant teachers appointed by the committee from amongst assistant teachers elected under paragraph 2(3) of Schedule 5 to the principal Order to the Boards of Governors of Catholic maintained schools in the diocese.
- (5) The diocesan education committee for the diocese of Down and Connor shall consist of—
- (a) the Bishop of Down and Connor or a person nominated by him;
  - (b) 9 persons appointed by the trustees of Catholic maintained schools in that diocese;
  - (c) 4 persons appointed by the Head of the Department after consultation with the said Bishop;
  - (d) 2 parents appointed by the committee from amongst parents elected under paragraph 2(3) of Schedule 5 to the principal Order to the Boards of Governors of Catholic maintained schools in the diocese;
  - (e) 2 assistant teachers appointed by the committee from amongst assistant teachers elected under paragraph 2(3) of Schedule 5 to the principal Order to the Boards of Governors of Catholic maintained schools in the diocese.
- (6) The diocesan education committee for the diocese of Dromore shall consist of—
- (a) the Bishop of Dromore or a person nominated by him;
  - (b) 5 persons appointed by the trustees of Catholic maintained schools in that diocese;
  - (c) 2 persons appointed by the Head of the Department after consultation with the said Bishop;
  - (d) 1 parent appointed by the committee from amongst parents elected under paragraph 2(3) of Schedule 5 to the principal Order to the Boards of Governors of Catholic maintained schools in the diocese;
  - (e) 1 assistant teacher appointed by the committee from amongst assistant teachers elected under paragraph 2(3) of Schedule 5 to the principal Order to the Boards of Governors of Catholic maintained schools in the diocese.
- (7) The Department may, after consultation with the Council, by order amend sub-paragraphs (1) to (6).
- (8) The functions to be performed by diocesan education committees shall be specified in a scheme made by the Council and approved by the Department and that scheme may provide for

such functions as are specified in the scheme to be performed by diocesan education committees on behalf of, and in the name of, the Council.

(9) Where a scheme is submitted to the Department for its approval under sub-paragraph (8) the Department may before approving the scheme make such modifications (if any) in the scheme as after consultation with the Council it considers necessary or expedient.

(10) A diocesan education committee may appoint such sub-committees as it considers necessary and may authorise any such sub-committee all the members of which are members of the committee to perform specific functions on behalf of, and in the name of, the committee.

(11) Paragraphs 5 to 8 (except paragraph 5(2)) shall apply in relation to a diocesan education committee as they apply in relation to the Council, but with the substitution for references to a committee of the Council of references to a sub-committee of the diocesan education committee.

#### *Other committees of the Council*

4. The Council may appoint such other committees as it considers necessary and may authorise any such committee all the members of which are members of the Council to perform specific functions on behalf of, and in the name of, the Council.

#### *Terms of appointment*

5.—(1) Subject to sub-paragraph (2), the members of the Council shall be appointed in the year 1990, the year 1993 and in every fourth year thereafter.

(2) The following members of the Council, namely—

- (a) one half of those appointed under paragraph 2(1)(c); and
- (b) one half of those appointed under paragraph 2(1)(d),

shall be appointed in the year 1990, the year 1995 and in every fourth year thereafter.

(3) A person appointed to the Council in accordance with sub-paragraph (1) or (2) shall become a member of the Council from such date as shall be specified in his appointment; and the appointment shall cease to have effect after the day preceding that from which the first of the next subsequent appointments made to the Council in accordance with sub-paragraph (1) or (as the case may be) sub-paragraph (2) are effective.

(4) A member of the Council shall, on the expiry of his term of office, be eligible for re-appointment.

(5) A vacancy occurring in the membership of the Council shall be filled by a person nominated or appointed by the same person or body and in the same manner as the member being replaced and that person shall hold office for the residue of the term of office of that member.

#### *Resignation and disqualification*

6. A member of the Council may resign therefrom by giving notice in writing to the Council and, in the case of a member appointed by the Head of the Department, to the Head of the Department.

7.—(1) A person shall be disqualified for being a member of the Council if—

- (a) he is employed by the Council, otherwise than as an assistant teacher within the meaning of Schedule 5 to the principal Order;
- (b) he has been adjudged bankrupt or has made a composition with his creditors;
- (c) he has, within the last five years immediately preceding the day of his appointment or at any time thereafter, been convicted by a court in Northern Ireland or elsewhere in the

British Islands of any offence and ordered to be imprisoned for a period of not less than three months without the option of a fine.

(2) A person appointed to the Council by the Council from amongst parents or assistant teachers elected under paragraph 2(3) of Schedule 5 to the principal Order to the Boards of Governors of Catholic maintained schools shall if he ceases to hold office as a member of the Board of Governors of a Catholic maintained school cease to be a member of the Council.

(3) Where a member of the Council becomes disqualified under sub-paragraph (1) or is absent from meetings of the Council for more than 6 months consecutively, or a person ceases to be a member of the Council under sub-paragraph (2), the Council shall forthwith declare his office vacant.

(4) Attendance as a member of the Council at any meeting of a committee of the Council shall for the purposes of sub-paragraph (3) be regarded as an attendance at a meeting of the Council.

### *Procedure*

**8.—**(1) The proceedings of the Council shall not be invalidated by any vacancy among its members or by any defect in the appointment or qualification of any of its members.

(2) Without prejudice to the generality of sub-paragraph (1), the Council shall be regarded as fully constituted notwithstanding that parents and assistant teachers to be appointed to the Council by the Council have not yet been appointed.

**9.—**(1) Without prejudice to section 19(1)(a)(v) of the Interpretation Act (Northern Ireland) 1954<sup>(19)</sup>, the Council shall make standing orders for the Council and its committees and sub-committees relating to—

- (a) the convening of meetings;
- (b) the fixing of the quorum;
- (c) the conduct of business at meetings;
- (d) the disclosure by a member of any pecuniary interest in, or family relationship relevant to, any matter to be discussed at a meeting and the withdrawal by such a member from any discussion on that matter;
- (e) the keeping of minutes and other records;
- (f) the signing of cheques;
- (g) the custody of deeds and other documents;
- (h) the duties of officers;
- (i) such other matters connected with the conduct of business as the Council thinks fit.

(2) Articles 95(1) to (5), 96, 97 and 98 of the principal Order shall apply in relation to the Council (but not a committee or sub-committee of the Council) as they apply in relation to a board.

**10.** The common seal of the Council shall, when applied to a document, be attested by the signatures of any two members of the Council authorised by the Council to act for that purpose.

### *Staff*

**11.—**(1) The right of the Council under section 19(1)(a)(vi) of the Interpretation Act (Northern Ireland) 1954 to employ staff shall be exercised subject to any directions which may be given by the Department with respect to the number and terms and conditions of service of persons employed or to be employed by the Council.

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(19) 1954 c. 33 (N.I.)

*Status: This is the original version (as it was originally made).*

(2) The officers of the Council shall be appointed at such rates of remuneration as the Council may, with the consent of the Department, determine.

(3) The Council may, in accordance with arrangements approved by the Department, make provision for the payment on death or retirement of pensions, gratuities or other like benefits to or in respect of the service of officers of the Council.

(4) The Council shall appoint a fit person approved by the Department to be its Director.

(5) The Council shall not employ as a paid officer of the Council a person who is, or has within the preceding 12 months been, a member of the Council or a diocesan education committee.

**12.—**(1) Subject to sub-paragraph (2), this paragraph applies to any person employed immediately before the appointed day by the Interim Council for Catholic Maintained Schools established in accordance with the memorandum published by the Department on 17th September 1987 (in this paragraph referred to as “the former employer”).

(2) This paragraph does not apply to a person—

(a) whose contract of employment terminates on the day immediately preceding the appointed day; or

(b) employed for a temporary period.

(3) The contract of employment between a person to whom this paragraph applies and the former employer shall have effect from the appointed day as if originally made between him and the Council.

(4) Without prejudice to sub-paragraph (3)—

(a) all the former employer’s rights, powers, duties and liabilities under or in connection with a contract to which that sub-paragraph applies shall by virtue of this paragraph be transferred to the Council on the appointed day; and

(b) anything done before that day by or in relation to the former employer in respect of that contract or the employee shall be deemed from that day to have been done by or in relation to the Council.

(5) Sub-paragraphs (3) and (4) are without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right shall arise by reason only of the change in employer effected by this paragraph.

#### *Allowances*

**13.** The Council may pay to any member of the Council or a committee or sub-committee thereof travelling, subsistence and other allowances at such rates as the Department may approve.

#### *Financial arrangements*

**14.—**(1) The Council shall, at such times, in such form and in respect of such periods as the Department may direct, submit to the Department in relation to each such period estimates of its payments and receipts in respect of its functions and the Department may approve any such estimates with or without modifications in respect of such periods as the Department considers appropriate.

(2) The Council may at any time where necessary submit supplementary or revised estimates to the Department and the Department may approve any such estimates with or without modifications.

(3) The Council shall submit to the Department such information relating to any estimate submitted under this paragraph as the Department may require.

(4) The Council shall not incur expenditure otherwise than in accordance with estimates approved by the Department under this paragraph.

**15.—**(1) The Department may pay to the Council in respect of approved expenditure—

- (a) incurred for the provision or alteration of premises for the use of the Council, a sum equal to eighty-five per cent. of that expenditure;
- (b) incurred for the provision of equipment for the Council, a sum equal to that expenditure.

(2) The Department may pay to the Council grants equal to the approved net expenditure incurred by the Council in accordance with estimates approved under paragraph 14 less the amount of any sums received by the Council otherwise than from the Department.

(3) In sub-paragraph (2) “approved net expenditure” does not include any expenditure mentioned in sub-paragraph (1)(a) or (b).

**16.—**(1) Where any premises in respect of which the Department has paid a grant under paragraph 15(1)(a) cease to be used for approved purposes of the Council, there shall be payable to the Department by the Council or its successors in title such sum as the Department considers equitable but not exceeding such proportion of the value of the premises as the proportion that the amount of the grant was of the approved cost of the provision or alteration of the premises together with interest on that sum from the date on which the premises ceased to be used as aforesaid until the date of payment to the Department.

(2) Where any site which has been acquired for the purposes of the Council and in respect of which site the Department has paid a grant under paragraph 15(1)(a) ceases in the opinion of the Department to be required for such purposes, there shall be payable to the Department by the Council or its successors in title such sum as the Department considers equitable but not exceeding such proportion of the value of the site as the proportion that the amount of the grant was of the approved cost of the acquisition of the site together with interest on that sum from the date on which the site so ceased to be required until the date of payment to the Department.

(3) Where the Department proposes to pay a grant under paragraph 15(1)(a) in respect of the provision or alteration of premises used or to be used for the purposes of the Council and the new or altered premises in the opinion of the Department replace any premises in respect of which the Department has paid a grant under paragraph 15(1)(a) or (before the coming into operation of this paragraph) under the Educational and Library Services Etc. Grants Regulations (Northern Ireland) 1973(21), the Department may either—

- (a) reduce the amount of the grant so payable by such amount as the Department considers equitable; or
- (b) attach to the grant a condition that when the replaced premises cease to be used for approved purposes of the Council, there shall be payable to the Department by the Council or its successors in title such amount as the Department considers equitable.

(4) The amount by which a grant may be reduced under sub-paragraph (3)(a) or the amount payable to the Department under sub-paragraph (3)(b) shall consist of a sum not exceeding such proportion of the value of the replaced premises as the proportion that the amount of the grant is or was of the approved cost of the provision of the new or altered premises together with interest on that sum from the date on which the premises ceased to be used as aforesaid until the date of the payment of the grant under sub-paragraph (3)(a) or, as the case may be, the payment to the Department under sub-paragraph (3)(b).

(5) For the purposes of sub-paragraphs (1), (2) and (4) the value of premises or a site shall be taken to be the amount which the premises or site might be expected to realise if sold in the open market on the date on which the premises ceased to be used or the site ceased to be required as aforesaid and where the Department certifies that it is not possible to reach agreement as to such value, the dispute as to such value may be referred to and determined by the Lands Tribunal for Northern Ireland.

*Status: This is the original version (as it was originally made).*

(6) Where any equipment in respect of which the Department has paid a grant under paragraph 15(1)(b) ceases to be used for approved purposes of the Council, there shall be payable to the Department by the Council such sum as the Department considers equitable, regard being had to the length of the period during which the equipment was used for those purposes.

(7) For the purposes of sub-paragraphs (1), (2) and (4) interest shall be at such rate as may from time to time be determined by the Department of Finance and Personnel under paragraph 18(2) of Schedule 6 to the Local Government Act (Northern Ireland) 1972(20).

(8) Any sum payable to the Department under this paragraph may be recovered as a debt due to the Department.

17.—(1) The Council shall—

- (a) keep, in such form as the Department may direct, proper accounts of all moneys received and of all moneys paid out by it and such other records as the Department may direct;
- (b) submit to the Department, on or before such date in each year as the Department may determine, a statement of its accounts in respect of the financial year then last previously occurring, in such form and containing such information as the Department, after consultation with the Department of Finance and Personnel, may determine.

(2) The accounts, books and records of the Council shall be open at all times to inspection by the Comptroller and Auditor General for Northern Ireland and by officers of the Department.

(3) The statement of accounts shall be examined and certified by auditors appointed by the Council and approved by the Department and the report of the auditors thereon shall be sent to the Council and the Department.

(4) The Department shall lay before the Assembly a copy of the statement of accounts together with the report of the auditors thereon.

#### *Transfer of assets and liabilities of Interim Council*

18. On the appointed day all the assets and liabilities of the body referred to in paragraph 12(1) shall be transferred to the Council; and accordingly, as from that day by virtue of this Order and without any further conveyance, transfer or assignment, those assets shall vest in, and those liabilities shall become liabilities of, the Council.

#### *Interpretation*

19. References in this Schedule to an Archbishop or a Bishop are to a Roman Catholic Archbishop or Bishop and references to an Archdiocese or a diocese are to a Roman Catholic Archdiocese or diocese.

## SCHEDULE 9

Article 166.

## AMENDMENTS

### *The Exchequer and Financial Provisions Act(Northern Ireland) 1950 (c. 3)*

In section 33(1) after “1986” insert “or grant-maintained integrated schools under Article 77(8) of the Education Reform (Northern Ireland) Order 1989” and for “that Order” substitute “the 1986 Order”.

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(20) 1954 c. 33 (N.I.)



*The Commissioner for Complaints Act(Northern Ireland) 1969 (c. 25)*

In Part II of Schedule 1 for the entry relating to the Northern Ireland Schools Examinations Council substitute—

“The Northern Ireland Schools Examinations and Assessment Council.”

and at the appropriate place in alphabetical order insert—

“The Council for Catholic Maintained Schools.”.

*The Planning (Northern Ireland) Order 1972 (NI 17)*

In Article 17A(2) in the definition of “educational institution” in sub-paragraph (e) for “Article 27 of that Order” substitute “Article 100 of the Education Reform (Northern Ireland) Order 1989”.

*The Fair Employment (Northern Ireland) Act 1976 (c. 25)*

In section 57(1) in the definition of “training” in paragraph (b) for “Article 27(3) of that Order” substitute “Article 100(8) of the Education Reform (Northern Ireland) Order 1989”.

*The Sex Discrimination (Northern Ireland) Order 1976 (NI 15)*

In Article 24 in paragraph 5 of the Table for the words from “under” to “1986” substitute “under Article 100(8)(b) of the Education Reform (Northern Ireland) Order 1989”.

*The Industrial Relations (No. 2) (Northern Ireland) Order 1976 (NI 28)*

In Article 39(1)(f) after “1986)” insert “or a committee thereof” and for “management committee” substitute “governing body”.

In Article 39(1) after sub-paragraph (f) insert—

- “(g) a member of any of the following bodies established under the Education Reform (Northern Ireland) Order 1989 or a committee or sub-committee thereof, namely—
- (i) the Northern Ireland Curriculum Council;
  - (ii) the Northern Ireland Schools Examinations and Assessment Council;
  - (iii) the Council for Catholic Maintained Schools.”.

In Article 39(2) for “sub-paragraphs (b) to (f)” substitute “sub-paragraphs (b) to (g)”.

*The Rates (Northern Ireland) Order 1977 (NI 28)*

In Schedule 13 after “maintained school” insert “or a grant-maintained integrated school”.

*The Chronically Sick and Disabled Persons(Northern Ireland) Act 1978 (c. 53)*

In section 8(2) for paragraph (b) substitute—

- “(b) schools and colleges of education within the meaning of the Education and Libraries (Northern Ireland) Order 1986 and institutions of further education and other institutions providing further education under Article 100 of the Education Reform (Northern Ireland) Order 1989.”.

*The Education and Libraries (Northern Ireland) Order 1986 (NI 3)*

In each of the following provisions for “this Order” substitute “the Education Orders”—

Article 2(1), in the last two places where they occur;

Article 2(2), in the definitions of “grant-aided” and “pupil”;  
Article 3(1);  
Article 7;  
Article 12(1);  
Article 44;  
Article 47;  
Article 48(1);  
Article 62(1);  
Article 92(2)(a) and (b);  
Article 99;  
Article 103(1) and (2);  
Article 105(1) and (4);  
Article 106(2) and (6);  
Article 108;  
Article 109;  
Article 111(1) and (2);  
Article 113(1);  
Article 128;  
Article 129(1) and (2);  
Article 130(1).

In Article 2(2), at the appropriate places in alphabetical order, insert the following definitions—

- ““Catholic maintained school” has the meaning assigned to it by Article 141(3) of the 1989 Order;
- “the Education Orders” means this Order and the 1989 Order;
- “grant-maintained integrated school” has the meaning assigned to it by Article 65(3) of the 1989 Order;
- “modifications” includes additions, alterations and omissions;
- “part-time senior education” has the meaning assigned to it by Article 100(5) of the 1989 Order;
- “post-school age education” has the meaning assigned to it by Article 100(5) of the 1989 Order;
- “scheme of management” has the meaning assigned to it by Article 9A(1);
- “the 1989 Order” means the Education Reform (Northern Ireland) Order 1989;”.

In Article 2(2) for the definitions of “controlled integrated school” and “grammar school” substitute, respectively—

- ““controlled integrated school” means a school which has become, or has been established as, a controlled integrated school in accordance with Articles 90 to 92 of the 1989 Order;
- “grammar school” means a secondary school which—
  - (a) immediately before the coming into operation of Article 128 of the 1989 Order was a school in which fees were charged or could have been charged in respect of pupils admitted to the school, or a school which replaces such a school or schools; or

- (b) is established after the coming into operation of that Article and is designated by the Department as a grammar school;”.

In Article 2(2)—

- (a) in the definition of “contributory school” for “intermediate school” wherever it occurs substitute “secondary school”;
- (b) in the definition of “further education” for “Article 5(c)” substitute “Article 100 of the 1989 Order”;
- (c) in the definition of “managers” after sub-paragraph (c) insert—
  - “(cc) in relation to a grant-maintained integrated school, the Board of Governors of the school;”;
- (d) in the definition of “nursery school” for “the age of five years” substitute “the lower limit of compulsory school age”;
- (e) in the definition of “supply teacher” at the end add “or, in relation to a teacher employed by the Council for Catholic Maintained Schools, by Article 143(1)(b) of the 1989 Order”;
- (f) in the definition of “technical intermediate school” for “intermediate” where it twice occurs substitute “secondary”;
- (g) in the definition of “trustees” after “voluntary” insert “or grant-maintained integrated”;
- (h) in the definition of “voluntary school” at the end add “or a grant-maintained integrated school”.

In Article 2 after paragraph (2) insert—

“(2A) For the purposes of the Education Orders, an institution which provides part-time senior education or post-school age education shall be regarded as providing such education to a significant extent if the provision of such education by the institution is not merely incidental to the provision of education which is not part-time senior education or post-school age education.

(2B) For the purpose of determining whether an institution is a school as defined by paragraph (2), the provision by the institution of part-time senior education or post-school age education shall be disregarded if the institution does not provide such education to a significant extent.

(2C) If in the case of any institution a question arises as to whether any current or proposed provision of part-time senior education or post-school age education by that institution amounts or would amount to the provision of such education to a significant extent, that question shall be determined by the Department.”.

In Article 3(4) for “Article 106” substitute “Articles 83 and 106”.

In Article 4(4) after “purposes” insert “of the committee”.

In Article 4(6) for “paragraph (5) or Article 10 or 28” substitute “a scheme under Article 153 of the 1989 Order”.

In Article 5 for paragraphs (a), (b) and (c) substitute—

- “(a) primary education;
- (b) secondary education; and
- (c) further education;”;

and for “mental” substitute “cultural, intellectual”.

In Article 6 after paragraph (1) insert—

*Status: This is the original version (as it was originally made).*

“(1A) In fulfilling its duty under this Article to secure that there are available in its area sufficient schools for providing secondary education a board shall have regard to any facilities for full time education which are—

- (a) provided for senior pupils in an institution of further education; and
- (b) available for use by such pupils living in its area.”.

In Article 8 for paragraph (2) substitute—

“(2) A board shall, in relation to a voluntary school which is not a maintained school or a voluntary grammar school, be responsible for meeting the cost of—

- (a) the salaries and allowances of teachers employed on the staff of the school; and
- (b) employers' superannuation contributions in respect of such teachers,

and shall also—

- (i) pay to the managers of such a school contributions amounting to sixty-five per cent. of the amount of the expenditure incurred or to be incurred by them in the payment of secondary Class 1 contributions under the Social Security (Northern Ireland) Act 1975 in respect of teachers employed on the staff of the school; and
- (ii) subject to and in accordance with regulations, pay to the managers of such a school contributions amounting to sixty-five per cent. of the approved net expenditure on the lighting, heating, cleaning and internal and external maintenance of the school premises and the maintenance of equipment of the school.”.

Renumber Article 9 as paragraph (1) of that Article and after that paragraph add—

“(2) A board, with the approval of the Department, may give financial or other assistance to the Board of Governors of a grant-maintained integrated school on such terms and conditions as may be arranged between the board and the Board of Governors of the school.”.

In Article 10 for paragraphs (1) to (3) substitute—

“(1) Subject to paragraph (2), a board shall make provision by means of a Board of Governors to be appointed by the board for the management of each controlled school under its management, other than a technical secondary school.

(2) Two or more controlled primary schools, other than controlled integrated primary schools or nursery schools, under the management of a board may, if the board so determines and the Department approves, be grouped under one Board of Governors.

(3) The scheme of management for a controlled school—

- (a) shall, in so far as it relates to the membership of the Board of Governors of the school, comply with the provisions of Schedule 4;
- (b) may provide for the carrying out by the Board of Governors in relation to the school of specified functions on behalf of, and in the name of, the board.”.

In Article 10 for paragraph (5) substitute—

“(5) Without prejudice to the generality of paragraph (3)(b), the scheme of management for a controlled school shall provide for the functions of the Board of Governors in relation to the appointment of teachers under a scheme under Article 153 of the 1989 Order and the appointment of other staff under Article 88 of this Order to be carried out on behalf of, and in the name of, the board.”.

In Article 11(1) for “paragraph 1(2)” substitute “paragraph 1(5)”.

In Article 12(2)(a) for “(5)(c) or (d)” substitute “5(1)(c) or (d)”.

In Article 13(1) for “constituted under this Order” substitute “of a grant-aided school”.

In Article 13(2) for “under this Order members of a Board of Governors” substitute “members of the Board of Governors of a grant-aided school” and after “yet” insert “been”.

In Article 13(4) and (5) after “more than one” insert “grant-aided”.

In Article 13(6) after “the principal of a” insert “grant-aided”.

In Article 13 at the end add—

“(7) Any question as to the right of any person to be, or to appoint or nominate, a member of the Board of Governors of a grant-aided school shall be decided by the Department whose decision shall be final.”.

In Article 14(1)(a) and (3)(a) at the end add “, other than a controlled integrated school”.

In Article 14(1)(b) for “grant-aided” substitute “controlled school, other than a controlled integrated”.

In Article 14(2)(b) for “grant-aided” substitute “voluntary”.

In Article 15(1) for “grant-aided” substitute “controlled or voluntary”.

In Article 15(3) for “or recognition of a school under voluntary management as a grant-aided school” substitute “of a new voluntary school or the recognition of an existing school as a voluntary school”.

In Article 15(4) for “grant-aided” substitute “controlled or voluntary”.

In Article 17A(2)(c) after “day” insert “, school term”.

In Article 17A(3) after “the Department” insert “or a prescribed body or person”.

In Article 18(1) after “controlled school” insert “, the Board of Governors of a grant-maintained integrated school”.

In Article 21(1) for “controlled and voluntary” substitute “grant-aided”.

In Article 21(2) after “controlled school” insert “, other than a controlled integrated school,”.

In Article 21(3) for the words “In a voluntary school” substitute “Subject to paragraph (3A), in—

- (a) a controlled integrated school;
- (b) a voluntary school;
- (c) a grant-maintained integrated school.”

In Article 21(7) for “controlled or voluntary” substitute “grant-aided”.

In Article 21(9) for “controlled and voluntary” substitute “grant-aided”.

In Article 22(1) after “other than” insert “a controlled integrated school or”.

In Articles 23(2) and 32(3) after “voluntary” insert “or grant-maintained integrated”.

In Article 33(2)(c) for “five” substitute “four”.

In Article 49 after paragraph (2) insert—

“(2A) The Board of Governors of a grant-maintained integrated school shall prepare a scheme specifying the procedure to be followed in relation to the suspension or expulsion of pupils from the school.”.

In Article 49(3) for “paragraph (1) or (2)” substitute “this Article”.

In Article 58(1)(a) after “voluntary grammar schools” insert “and grant-maintained integrated schools”.

In Article 58(5), (6) and (7) after “voluntary grammar school” insert “and the Board of Governors of a grant-maintained integrated school”.

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In Article 58 at the end add—

“(8) Where a school has a delegated budget under Part V of the 1989 Order and an allowance is made for expenditure on, or in connection with, the provision of milk, meals or other refreshment in determining the school’s budget share under that Part—

- (a) paragraph (1) shall not apply in relation to pupils in attendance at the school; but
- (b) paragraphs (5), (6) and (7) and Article 59 (except paragraph (4)) shall apply to the school as those provisions apply to a voluntary grammar school.”.

In Article 59(2) and (4) for the words from the beginning to “grammar school” substitute “A board, the trustees or Board of Governors of a voluntary grammar school and the Board of Governors of a grant-maintained integrated school”.

In Article 59(3) for the words from “direct that” to the end substitute “direct—

- (a) that paragraph (1) of Article 58 shall not apply to a board;
- (b) that paragraph (5) of Article 58 shall not apply to the trustees or Board of Governors of a voluntary grammar school or to the Board of Governors of a grant-maintained integrated school.”.

In Article 63(2)(a) and (b) after “beginning on” and “ending on” insert “(and including)”.

In Article 65 at the end add—

“(3) The number of peripatetic teachers employed by a board and the purposes for which they are employed shall be in accordance with arrangements made by the board and approved by the Department and a board shall not employ such teachers otherwise than in accordance with arrangements so made and approved.

(4) Peripatetic and supply teachers employed by a board may, with the approval of the board, work in a voluntary school or a grant-maintained integrated school if so requested by the managers of that school.”.

For Article 69 substitute—

**“Salaries, etc. of teachers**

**69.—**(1) The Department shall prescribe the rates of salaries which, except as provided by regulations under paragraph (3), are to be paid to—

- (a) teachers employed in grant-aided schools;
- (b) teachers employed in institutions of further education;
- (c) teachers employed in colleges of education;
- (d) supply teachers; and
- (e) peripatetic teachers.

(2) Regulations under paragraph (1) may make provision—

- (a) for such allowances in addition to salary as are specified in the regulations;
- (b) for salaries and allowances to be calculated in such cases as the Department thinks proper by reference to a determination of the Department (however expressed).

(3) The Department may by regulations provide that, in prescribed circumstances and subject to prescribed conditions—

- (a) the rates of salaries which are to be paid to teachers mentioned in paragraph (1) of a prescribed class or description;

(b) prescribed allowances in addition to salary to be paid to teachers so mentioned of a prescribed class or description;

shall be such as may be determined by a prescribed body or person.

(4) Where any question arises as to the rate of salary or allowance to be paid under this Article to a teacher—

(a) where that rate of salary or allowance falls in accordance with regulations under paragraph (3) to be determined by a body or person prescribed by those regulations, the decision of that body or person shall, except on a question of law, be final;

(b) in any other case, the decision of the Department shall, except on a question of law, be final.

(5) Before making any regulations under paragraph (3), the Department shall consult—

(a) such representatives of employing authorities and such representatives of teachers as appear to it to be concerned; and

(b) any other person with whom consultation appears to it to be desirable.

(6) In paragraph (5) “employing authority” means—

(a) in relation to teachers employed in controlled schools and institutions of further education, the board by which they are employed;

(b) in relation to teachers (including supply teachers) employed by the Council for Catholic Maintained Schools, that Council;

(c) in relation to teachers employed in a voluntary school (other than a Catholic maintained school), the managers of that school;

(d) in relation to teachers employed in a grant-maintained integrated school, the Board of Governors of the school;

(e) in relation to teachers employed in a college of education, the managers of that college;

(f) in relation to peripatetic teachers, the board by which they are employed;

(g) in relation to supply teachers (other than those mentioned in subparagraph (b)), the board by which they are employed.

### **Payment of salaries, etc. of teachers**

**69A.**—(1) Except where regulations otherwise provide, the Department shall pay—

(a) the salaries and allowances (if any) of—

(i) teachers employed by the Board of Governors of a voluntary grammar school;

(ii) teachers employed by the Board of Governors of a grant-maintained integrated school; and

(b) secondary Class 1 contributions under the Social Security (Northern Ireland) Act 1975 and employers' superannuation contributions in respect of such teachers.

(2) Except where regulations otherwise provide, the Department shall, on behalf of a board, issue payment of—

(a) the salaries and allowances (if any) of—

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- (i) teachers employed by the board;
- (ii) teachers employed on the staff of a maintained school maintained by the board;
- (iii) relevant supply teachers employed by the Council for Catholic Maintained Schools;
- (b) secondary Class 1 contributions under the Social Security (Northern Ireland) Act 1975 and employers' superannuation contributions in respect of such teachers.
- (3) In paragraph (2)(a)(iii) "relevant supply teachers" has the meaning assigned to it by Article 59(4) of the 1989 Order.
- (4) Except where regulations otherwise provide, the Department shall, on behalf of a board, issue payment of—
  - (a) the salaries and allowances (if any) of teachers employed on the staff of a voluntary school, other than a maintained school or voluntary grammar school; and
  - (b) employers' superannuation contributions in respect of such teachers."

For Article 72 substitute—

**"Redundancy payments to teachers in certain voluntary schools and in grant-maintained integrated schools**

**72.—**(1) Where the managers of a voluntary school, other than a voluntary grammar school or a maintained school, have made a redundancy payment under the 1965 Act to a teacher who has been employed by them, the board for the area in which the school is situated may pay to those managers a sum equal to sixty-five per cent. of the sum paid by the managers as a redundancy payment less the amount of any rebate in respect of the payment which the managers are entitled to under that Act.

(2) Where the Board of Governors of a grant-maintained integrated school has made a redundancy payment under the 1965 Act to a teacher who has been employed by it, the Department may pay to the Board of Governors a sum equal to the amount of the sum paid by the Board of Governors less the amount of any rebate in respect of the payment which the Board of Governors is entitled to under that Act.

(3) The duty of a board under Article 59(1)(d) of the 1989 Order to meet the cost of a redundancy payment in respect of a teacher ceasing to be employed on the staff of a maintained school is a duty to pay to—

- (a) the Council for Catholic Maintained Schools, where the teacher was employed on the staff of a Catholic maintained school;
- (b) the Board of Governors of the school, in any other case,

a sum equal to the amount of the redundancy payment less the amount of any rebate in respect of the payment which the Council or Board of Governors is entitled to under that Act.

(4) The duty of a board under Article 59(2)(c) to meet the cost of a redundancy payment in respect of a supply teacher ceasing to be employed by the Council for Catholic Maintained Schools is a duty to pay to that Council a sum equal to the amount of the redundancy payment less the amount of any rebate in respect of the payment which the Council is entitled to under that Act.



(5) In this Article “the 1965 Act” means the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965(21) and “redundancy payment” and “rebate” have the same meanings as in that Act.”.

In Article 79(2) after “members of ” insert “, or of a committee of,” and for “management committee” substitute “governing body”.

In Article 83(1)(a) and (2) for “chief officer” substitute “chief executive”.

In Article 88(1) for the words “, other than teachers or persons employed in connection with the school meals service, required in or about” substitute “to which this paragraph applies for”.

In Article 88 after paragraph (1) insert—

“(1A) Paragraph (1) applies to all staff required in or about a controlled or maintained school, except—

- (a) teachers;
- (b) in the case of a school to which paragraph (1B) applies, persons employed in connection with the provision of a schools meals service.

(1B) This paragraph applies to a school which—

- (a) does not have a delegated budget under Part V of the 1989 Order; or
- (b) has such a budget, but no allowance is made for expenditure on or in connection with the provision of a school meals service in determining the school’s budget share under that Part.”.

In Article 88(6) for the words from “not” to the end substitute “be carried out on behalf of, and in the name of, the board”.

In Article 88A(3) after “managers of” insert “a grant-maintained integrated school or of”.

In Article 92 for paragraph (1) substitute—

“(1) A board may, in connection with the exercise of any of its functions under the Education Orders, either alone or together with any other board or person,—

- (a) carry out, or commission, or assist in any way, the carrying out by any other body or person of, any programme of research and development;
- (b) carry out any project appearing to the board to be associated with the provision of educational or library services or recreational, social, cultural, physical or youth service activities or services ancillary to education.

(1A) A board shall—

- (a) notify the Northern Ireland Curriculum Council of its intention to exercise any of its powers under paragraph (1) in relation to any matter concerned with the curriculum for grant-aided schools;
- (b) provide the Council with such reports in connection with the exercise of that power as the Council may reasonably request.”.

In Article 94(7) for “chief officer” substitute “chief executive”.

In Article 103(1) after “institution” insert “and the Council for Catholic Maintained Schools”.

In Article 103(2) after “school” insert “and the governing body of every institution of further education”.

In Article 116(1) for sub-paragraph (b) substitute—

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- “(b) incurred for the provision of equipment for a voluntary school other than a maintained school or a voluntary grammar school, a sum equal to sixty-five per cent. of that expenditure;
- (c) incurred for the provision of equipment provided in connection with the provision or alteration of the premises of a voluntary grammar school, a sum equal to—
  - (i) eighty-five per cent. of that expenditure where, when the expenditure is incurred, the trustees or Board of Governors of the school have entered into an agreement with the Department under Schedule 6;
  - (ii) sixty-five per cent. of that expenditure in any other case.”.

In Articles 130(1) and (2) and 131(a) and paragraphs 7 and 11 of Schedule 2 for “chief officer” substitute “chief executive”.

The following head, namely—

“persons co-opted under Articles 122 and 139 of the 1989 Order who shall be entitled to attend and take part in meetings of the Board of Governors but not to vote on any question.”,

shall be inserted—

- (a) in Schedule 4 to the principal Order, in paragraph 1(1) as head (c);
- (b) in Schedule 5 to the principal Order, in paragraph 2(2) as head (c);
- (c) in Schedule 6 to the principal Order, in paragraph 3(1) as head (c);
- (d) in Schedule 7 to the principal Order, in paragraph 2(1) as head (e);
- (e) in Schedule 8 to the principal Order, in paragraph 2(1) as head (c).

In Schedule 4 for paragraph 3(1) and the cross-heading immediately before it substitute—

*“Controlled secondary schools (other than controlled grammar or integrated schools or technical secondary schools)*

**3.—**(1) There shall be 9, 16 or 24 voting members appointed to the Board of Governors of a controlled secondary school, other than a controlled grammar or integrated school or a technical secondary school.”.

In Schedule 4, in paragraph 3(2)(a) for “the transferors and superseded managers of the contributory schools” substitute “transferors and superseded managers”.

In Schedule 5, in paragraph 2(3)(a)(ii) after “scheme” insert “of management”.

In Schedule 6, in paragraph 3(2)(a) for “approved under Article 11(2)” substitute “of management”.

In Schedule 7, in paragraph 2(1)(a) for “approved under Article 11(2)” substitute “of management”.

In Schedule 8, in paragraph 1 for “under Article 11(2)” substitute “of management”.

In Schedule 13, in paragraphs 1(5) and 2(3) after “voluntary school” insert “or grant-maintained integrated school”.

In Schedule 15, in paragraph 2(1)(c) and (e) for “chief officers” substitute “chief executives”.

In Schedule 16, in paragraph 1 of Part II for “chief officer” substitute “chief executive”.

## SCHEDULE 10

Article 167.

## REPEALS

Number	Short Title	Extent of Repeal
<a href="#">1968 c. 34 (N.I.)</a> .	The Children and Young Persons Act (Northern Ireland) 1968.	In section 180(1) in the definition of “compulsory school age” the words from “except” to the end of the definition.
<a href="#">1976 NI 15</a> .	The Sex Discrimination (Northern Ireland) Order 1976.	In Article 26(2) the words in brackets.
<a href="#">1986 NI 3</a> .	The Education and Libraries (Northern Ireland) Order 1986.	In Article 2(2)— (a) the definition of “direct grant voluntary intermediate school”; (b) the definition of “intermediate school”; (c) in the definition of “secondary education” the words from “other than” to the end. In Article 4(3) the words “the functions to be performed and” where they first occur. In Article 4(5) the words “its teaching appointments committee or”. Article 8(1)(b) and (c). In Article 8(2) the words “or a direct grant voluntary intermediate school”. In Article 9(1) the words “or a direct grant voluntary intermediate school” and “or of a direct grant voluntary intermediate school”. Article 10(4). Article 11(2) and (5). Articles 19 and 20. Article 23(1). Articles 24 to 28. Article 56. Article 57(1). In Article 58(1)(a) the words “and direct grant voluntary intermediate schools”. In Article 58(5), (6) and (7) the words “or a direct grant voluntary intermediate school”. In Article 59(2) the words “or direct grant voluntary intermediate school”. In Article 59(3), (4) and (5) the words “or a direct grant voluntary intermediate school”. Article 68. In Article

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Number	Short Title	Extent of Repeal
		72(2) the words “or a direct grant voluntary intermediate school”.Article 83(5).Article 91.In Article 103(1) the words “and the Northern Ireland Schools Examinations Council”.In Article 106(2) the words “or for the purposes of a direct grant voluntary intermediate school”.In Article 116(1)(a)(i) and (b) (i) the words “or is a direct grant voluntary intermediate school”.Articles 117 and 118.Part IX.In Schedule 2, in paragraph 6(4) the words in brackets.In Schedule 3, paragraph 4.In Schedule 4 in paragraph 1(1)(a) the word “and”.In Schedule 5 in paragraph 2(2)(a) the word “and”.In Schedule 6 — (a) paragraph 1(1)(b) and the word “or” immediately preceding it; (b) paragraph 1(2)(b) and the word “or” immediately preceding it; (c) paragraph 1(4); (d) paragraph 2(b) and the word “or” immediately preceding it; (e) in paragraph 3(1)(a) the word “and”.In Schedule 8 in paragraph 2(1)(a) the word “and”.Schedule 10. Schedule 14. Schedule 17. In Schedule 18 the amendment to the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978.
1987 NI 2.	The Education (Northern Ireland) Order 1987. Article 13.	

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

In this Order—

- (a) Part II sets out the general duty of the Department in relation to education;
- (b) Part III makes provision for the curriculum in grant-aided schools and for the establishment and functions of the Northern Ireland Curriculum Council and the Northern Ireland Schools Examinations and Assessment Council;
- (c) Part IV regulates the admission of children to grant-aided schools;
- (d) Part V provides for the financing by boards of controlled and maintained schools and for the delegation to the Boards of Governors of those schools of the management of all or part of the school's budget share and of certain responsibilities in relation to staff and makes new provision for the funding of voluntary grammar schools;
- (e) Part VI provides for the establishment and management of grant-maintained integrated schools and controlled integrated schools;
- (f) Part VII restates the functions of boards in relation to further and higher education, makes new provision for the management of institutions of further education, provides for the financing by boards of institutions of further education and for the delegation to the governing bodies of such institutions of the management of the institution's budget and of certain responsibilities in relation to staff;
- (g) Part VIII makes provision in relation to the management of grant-aided schools and regulates the making of charges in such schools;
- (h) Part IX provides for the constitution and functions of the Council for Catholic Maintained Schools;
- (i) Part X contains miscellaneous provisions relating to education.