

STATUTORY INSTRUMENTS

1996 No. 274

The Education (Northern Ireland) Order 1996

PART II

CHILDREN WITH SPECIAL EDUCATIONAL NEEDS

Special educational provision otherwise than in a grant-aided school

Special educational provision otherwise than in a grant-aided school

10.—(1) Subject to paragraphs (2) and (3) and to Articles 11 and 12, [^{F1}the Authority] may arrange for the special educational provision (or any part of it) which any learning difficulty of a child ^{F2}... calls for to be made—

- (a) in an institution outside Northern Ireland, or
- (b) in Northern Ireland otherwise than in a grant-aided school.

(2) A board shall not make any arrangements under paragraph (1) unless it is satisfied that—

- (a) the interests of the child require such arrangements to be made; and
- (b) those arrangements are compatible with the efficient use of resources.

(3) Before making any arrangements under this Article, [^{F1}the Authority] shall consult the child's parent.

(4) This Article is without prejudice to any other powers of [^{F1}the Authority] .

F1 Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 3 para. 1(1)(a)** (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)

F2 Words in art. 10(1) repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 4** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

Modifications etc. (not altering text)

C1 Arts. 6-21B: power to disapply or modify conferred (temp.) (25.3.2020) by [Coronavirus Act 2020 \(c. 7\)](#), s. 87(1), **Sch. 17 para. 17** (with ss. 88-90)

C2 Arts. 6-21B expiry of earlier affecting provision 2020 c. 7, Sch. 16 para. 17 (25.3.2022) by [Coronavirus Act 2020 \(c. 7\)](#), s. 89 (with s. 90)

Special educational provision in institutions outside Northern Ireland

11.—(1) No person shall so exercise his functions under this Part that the special educational provision (or any part of it) which any learning difficulty of a child calls for is made in an institution outside Northern Ireland unless the institution is one which specialises in providing for children with special needs.

Changes to legislation: *The Education (Northern Ireland) Order 1996, Cross Heading: Special educational provision otherwise than in a grant-aided school is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(2) In paragraph (1), “children with special needs” means children who have particular needs which would be special educational needs if those children were in Northern Ireland.

(3) Where [F1the Authority] arranges under Article 10(1)(a) for special educational provision in respect of a child to be made in an institution outside Northern Ireland, [F1the Authority] shall pay—

- (a) the fees charged by the institution;
- (b) the expenses reasonably incurred in maintaining him while he is at the institution or travelling to or from it;
- (c) his reasonable travelling expenses; and
- (d) the expenses reasonably incurred by any person accompanying him while he is travelling or staying at the institution.

F1 Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\), Sch. 3 para. 1\(1\)\(a\)](#) (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)

Modifications etc. (not altering text)

- C1** Arts. 6-21B: power to disapply or modify conferred (temp.) (25.3.2020) by [Coronavirus Act 2020 \(c. 7\), s. 87\(1\), Sch. 17 para. 17](#) (with [ss. 88-90](#))
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Special educational provision in institutions in Northern Ireland other than grant-aided schools

12.—(1) No person shall so exercise his functions under this Part that the special educational provision (or any part of it) which any learning difficulty of a child calls for is made in an institution in Northern Ireland other than a grant-aided school unless—

- (a) the institution is for the time being approved by the Department under Article 26 as suitable for the admission of children with special educational needs, or
- (b) the Department consents to the child being educated there.

[F3(1A) But that does not apply to [F1the Authority] deciding, for the purposes of Article 16(5), whether a parent has made suitable arrangements.]

(2) Where [F1the Authority] arranges under Article 10(1)(b) for special educational provision in respect of a child to be made at an independent school in Northern Ireland, [F1the Authority] —

- (a) shall pay the fees payable in respect of the education provided for the child at the school;
- (b) may pay any fees payable in respect of board and lodging provided for the child at the school; and
- (c) may provide transport for the child to facilitate his attendance at the school.

(3) Where [F1the Authority] arranges under Article 10(1)(b) for special education provision in respect of a child to be made at an institution in Northern Ireland other than a school, [F1the Authority] may contribute to the costs of providing education to the child at the institution or assist the institution in the provision of that education, and may in particular—

- (a) pay the fees payable in respect of the education provided for the child at the institution;
- (b) pay any fees payable in respect of board and lodging provided for the child at the institution;
- (c) provide transport for the child to facilitate his attendance at the institution; and

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(d) provide equipment and services to the institution.

- F1** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 3 para. 1(1)(a)** (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)
- F3** [2005 NI 6](#)

Modifications etc. (not altering text)

- C1** Arts. 6-21B: power to disapply or modify conferred (temp.) (25.3.2020) by [Coronavirus Act 2020 \(c. 7\)](#), s. 87(1), **Sch. 17 para. 17** (with ss. 88-90)
- C2** Arts. 6-21B expiry of earlier affecting provision 2020 c. 7, Sch. 16 para. 17 (25.3.2022) by [Coronavirus Act 2020 \(c. 7\)](#), s. 89 (with s. 90)

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Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 1 para. 3(1)(b)(i)(ii) and preceding word inserted by [2016 c. 8 \(N.I.\) Sch. para. 14\(2\)](#)
- Sch. 1 para. 4(1)(a)(b) and preceding word inserted by [2016 c. 8 \(N.I.\) Sch. para. 14\(4\)](#)
- Sch. 2 para. 2(1)(a)(b) and preceding word inserted by [2016 c. 8 \(N.I.\) Sch. para. 15\(2\)](#)
- Sch. 2 para. 9(1)(a)(b) and preceding word substituted by [2016 c. 8 \(N.I.\) Sch. para. 15\(12\)](#)
- Sch. 2 para. 13(2)(a)(i)(ii) and preceding word substituted by [2016 c. 8 \(N.I.\) Sch. para. 15\(20\)](#)
- Sch. 2 para. 11(1)(a)(aa) substituted for Sch. 2 para. 11(1)(a) by [2016 c. 8 \(N.I.\) Sch. para. 15\(14\)](#)
- art. 5A inserted by [2016 c. 8 \(N.I.\) s. 1](#)
- art. 6A inserted by [2016 c. 8 \(N.I.\) s. 2](#)
- art. 8(1)(d)-(f) inserted by [2016 c. 8 \(N.I.\) s. 3\(2\)\(c\)](#)
- art. 8(1A)-(1C) inserted by [2016 c. 8 \(N.I.\) s. 3\(3\)](#)
- art. 8(2A) inserted by [2016 c. 8 \(N.I.\) s. 3\(4\)](#)
- art. 8ZA inserted by [2016 c. 8 \(N.I.\) s. 3\(5\)](#)
- art. 10(3)(a)(b) substituted for words by [2016 c. 8 \(N.I.\) Sch. para. 4](#)
- art. 12A inserted by [2016 c. 8 \(N.I.\) s. 4](#)
- art. 14(4A)(4B) inserted by [2016 c. 8 \(N.I.\) s. 5\(3\)](#)
- art. 15(4)(a)(b) and preceding word inserted by [2016 c. 8 \(N.I.\) Sch. para. 5\(4\)](#)
- art. 15(6)(a)(b) and preceding word inserted by [2016 c. 8 \(N.I.\) Sch. para. 5\(5\)](#)
- art. 17(1)(a)(b) and preceding word substituted for words by [2016 c. 8 \(N.I.\) Sch. para. 7\(2\)](#)
- art. 18A(4)(ba) inserted by [2016 c. 8 \(N.I.\) s. 9\(4\)\(b\)](#)
- art. 19(1A)-(1C) inserted by [2016 c. 8 \(N.I.\) s. 8\(3\)\(a\)](#)
- art. 19(2)(ba) inserted by [2016 c. 8 \(N.I.\) s. 8\(3\)\(b\)\(ii\)](#)
- art. 20A(7)(a)(b) and preceding word inserted by [2016 c. 8 \(N.I.\) Sch. para. 11\(4\)](#)
- art. 20A(8)(a)(i)(ii) and preceding word substituted for words by [2016 c. 8 \(N.I.\) Sch. para. 11\(5\)](#)
- art. 21(5)-(10) added by [2016 c. 8 \(N.I.\) s. 9\(2\)](#)
- art. 21A(4)-(7) inserted by [2016 c. 8 \(N.I.\) Sch. para. 12\(4\)](#)
- art. 21B(3A)-(4) substituted for art. 21B(4) by [2016 c. 8 \(N.I.\) s. 10\(2\)](#)
- art. 21C inserted by [2016 c. 8 \(N.I.\) s. 10\(4\)](#)
- art. 21ZA inserted by [2016 c. 8 \(N.I.\) s. 9\(3\)](#)