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STATUTORY INSTRUMENTS

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**1997 No. 1772**

**The Further Education (Northern Ireland) Order 1997**

*Duties and powers of governing bodies*

**General duties of governing bodies**

13.—(1) It shall be the duty of the governing body of an institution of further education—

- (a) to secure the efficient and effective management of the institution; and
- (b) to ensure that the institution provides, or secures the provision of, suitable and efficient further education to students of the institution.

(2) In carrying out its duty under paragraph (1), the governing body of an institution of further education shall have regard to the requirements of persons over compulsory school age who have learning difficulties.

(3) In carrying out its duty under paragraph (1)(b), the governing body of an institution of further education shall have regard to—

- (a) the provision of education in the area in which the institution is situated; and
- (b) the educational needs of industry and commerce, and the community, in that area.

**Principal powers of governing body**

14.—(1) The governing body of an institution of further education shall have the power—

- (a) to provide or secure the provision of further education and (subject to Article 16) higher education;
- (b) to charge fees for or in connection with the provision by virtue of sub-paragraph (a) of any form of further or higher education;
- (c) to provide to students of the institution such assistance of a financial or other nature (including waiving or granting remission of fees) as it may consider appropriate;
- (d) to manage the institution, and for that purpose to receive any property, rights and liabilities transferred to it under this Order;
- (e) to provide, or secure the provision of, facilities of any description appearing to it to be necessary or expedient for the purpose of or in connection with the carrying on of any activities it has power to carry on (including residential accommodation and recreational facilities for students and staff of the institution and facilities to meet the needs of students who have learning difficulties and disabled students and staff);
- (f) to provide meals and refreshments for students and staff of the institution;
- (g) to supply goods and services in connection with the provision of education by it and make charges for such goods and services;
- (h) to acquire, hold and dispose of land and other property;
- (i) to enter into contracts, including in particular—

- (i) contracts for the employment of teachers and other staff for the purpose of or in connection with the carrying on of any activities it has power to carry on;
  - (ii) contracts with respect to the carrying on by it of any such activities; and
  - (iii) contracts to secure the provision by others of facilities in connection with the carrying on by it of any such activities, including externally financed development agreements as defined in Article 15(3)(c).
- (j) to form or promote, or to join with any other person in forming or promoting, companies (within the meaning of the Companies (Northern Ireland) Order 1986);
  - (k) to borrow such sums as it thinks fit for the purpose of carrying on any activities it has power to carry on or meeting any liability transferred to it under this Order and, in connection with such borrowing, to grant such security or give such guarantee or indemnity as it thinks fit;
  - (l) to invest any sums not immediately required by it for the purpose of carrying on any activities it has power to carry on or meeting any liability transferred to it under this Order;
  - (m) to raise funds, accept gifts of money, land or other property and apply it to, or hold or administer it in trust for, the purpose of carrying on any activities it has power to carry on; and
  - (n) to do all such other things as are calculated to facilitate or are incidental or conducive to the carrying on of any activities it has power to carry on.
- (2) For the purposes of paragraph (1)(g), goods and services are supplied in connection with the provision of education by a governing body if—
- (a) they result from the provision of education or anything done by the governing body under this Order for the purpose of or in connection with the provision of education,
  - (b) they result from the use of, or are provided by making available, the facilities of the governing body or the expertise of persons employed by it in the fields in which they are so employed, or
  - (c) they result from ideas of a person employed by the governing body, or of one of its students, arising out of the provision of education by it.
- (3) The Department may by order—
- (a) amend the provisions of paragraph (1) by varying, adding to or removing the powers for the time being conferred by that paragraph; or
  - (b) direct that paragraph (1) shall apply, in relation to any governing body specified in the order, with such variations, additions or omissions as may be so specified.
- (4) Before making any order under paragraph (3), the Department shall consult—
- (a) the governing bodies of institutions of further education to which the order applies; and
  - (b) any other bodies with which consultation appears to the Department to be appropriate.
- (5) The exercise by a governing body of any power conferred by this Article is subject to Article 15; and an order under paragraph (3) may make such consequential amendments to Article 15 as appear to the Department to be necessary or expedient.

### **Restrictions on exercise of principal powers of governing body**

- 15.—(1) The powers of a governing body under—
- (a) Article 14(1)(b) (charging of fees for education);
  - (b) Article 14(1)(j) (formation of companies);
  - (c) Article 14(1)(l) (investment),

shall be exercised in accordance with any arrangements approved or determined by the Department.

(2) The powers of a governing body under Article 14(1)(f) (provision of meals and refreshments) shall be so exercised as to give effect to arrangements approved or determined by the Department for the remission in whole or in part of charges which would otherwise be made in respect of meals or refreshments provided to students of the institution.

(3) A governing body of an institution of further education shall not, without the prior consent of the Department—

- (a) borrow money from any source, give any guarantee or indemnity or create any trust or security over or in respect of any of its property;
- (b) effect any material change in the character of the institution;
- (c) enter into an externally financed development agreement, that is to say an agreement—
  - (i) the purpose or main purpose of which is the provision of facilities in connection with the carrying on of any activities which the governing body has power to carry on; and
  - (ii) in connection with which a person proposes to make a loan to, or provide any other form of finance for, any party to the agreement other than the governing body.

(4) The consent of the Department under paragraph (3) may be given subject to such conditions as the Department may determine.

(5) Subject to paragraph (8), the governing body of an institution of further education shall not dispose of any property to which this paragraph applies without the prior consent of the Department.

(6) Property to which paragraph (5) applies is—

- (a) property transferred to the governing body under this Order;
- (b) property acquired by the governing body wholly or partly with assets which represent or in any way derive from any part of the proceeds of or any consideration for the disposal of property so transferred; and
- (c) property acquired, improved or maintained wholly or partly, directly or indirectly, out of funds provided under this Order by the Department or from the proceeds of or any consideration for the disposal of any property so acquired, improved or maintained.

(7) The consent of the Department under paragraph (5) may be given in respect of a particular disposal of property or of disposals of any class or description and may be given subject to such conditions as the Department may determine.

(8) The consent of the Department is not required for the disposal of land which is or forms part of property to which paragraph (5) applies where the disposal is in consequence of the compulsory acquisition of such land by any authority in pursuance of any power of compulsory acquisition under any statutory provision; but the governing body shall inform the Department of any such compulsory acquisition.

(9) Where any property to which paragraph (5) applies is disposed of, the governing body shall pay to the Department such portion of the proceeds or value of the consideration for the disposal, after deduction of such expenses as appear to the Department to have been reasonably incurred in the disposal, as the Department may, after consultation with the governing body, determine.

### **Provision of higher education by institutions of further education**

**16.—**(1) Subject to paragraphs (2) and (3), the governing body of an institution of further education shall have power, in accordance with any arrangements approved or determined by the Department, to provide, or secure the provision of, higher education.

(2) Paragraph (1) does not apply to higher education provided by means of—

- (a) a course for the initial training of teachers;

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(b) a full-time higher degree course; or

(c) a course of a description prescribed for the purposes of this paragraph.

(3) Paragraph (1) does not apply to higher education provided by means of a course of a description prescribed for the purposes of this paragraph unless it is provided under arrangements of a prescribed description with a university or other prescribed institution.