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## STATUTORY INSTRUMENTS

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# 1998 No. 1759

## Education (Northern Ireland) Order 1998

### PART IX

#### MISCELLANEOUS AND SUPPLEMENTARY

##### *Miscellaneous*

#### **Approval of courses leading to external qualifications**

**81.**—(1) No course of study leading to an external qualification shall be provided for pupils of compulsory school age by or on behalf of a grant-aided school unless the qualification is for the time being approved by the Department.

(2) No course of study leading to an external qualification shall be provided for pupils who have attained the upper limit of compulsory school age by or on behalf of a grant-aided school unless the qualification is for the time being approved by the Department.

(3)<sup>F1</sup> No course of study leading to an external qualification shall be provided for persons under the age of 19 who are in full time attendance at an institution of further education by or on behalf of the institution unless the qualification is for the time being approved by the Department.

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

(5) In relation to any grant-aided school, 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 paragraphs (1) and (2) are not contravened.

(6)<sup>F1</sup> In relation to any institution of further education, it shall be the duty of the governing body to exercise its functions with a view to securing and the duty of the principal to secure that paragraph (3) is not contravened.

(7) In this Article—

“external qualification” means any academic or vocational qualification authenticated or awarded by an outside person;

“outside person” means—

- (a) in relation to a school, a person other than a member of staff of the school;
- (b) in relation to an institution of further education, a person other than a member of staff of the institution.

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**F1** functions transf. by SR 1999/481

#### **Commencement Information**

**II** Art. 81(2) in operation at 6.3.2015 by S.R. 2015/127, art. 2

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**Work experience for school children**

**82.**—(1) Article 63 of the 1986 Order (employment of children for purposes of work experience) shall be amended as follows.

(2) In paragraph (2) for the words from “but may be so employed” to the end there shall be substituted the words

“but may be so employed only—

- (a) in the school year in which he ceases to be of compulsory school age; and
- (b) in the school year immediately preceding that year.” .

(3) In paragraph (3) the definition of “summer term” shall be omitted and before the definition of “work experience” there shall be inserted—

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

**Provision of secondary education for pupils in key stage 4 by institutions of further education**

*Para. (1) rep. by 2003 NI 12*

[<sup>F2</sup>(2) [<sup>F3</sup>The Authority] may arrange for secondary education to be provided by an institution of further education—

- (a) <sup>F4</sup> .....
- (b) to meet the needs of any child over the age of 14 but under compulsory school age who <sup>F5</sup>... is not a registered pupil at any grant-aided school.]

(3) Before making any arrangements under paragraph (2) in relation to a registered pupil at a Catholic maintained school, [<sup>F3</sup>the Authority] shall consult the Council for Catholic Maintained Schools.

<b>F2</b>	2003 NI 12
<b>F3</b>	Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), <b>Sch. 3 para. 1(1)(a)</b> (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
<b>F4</b>	Art. 83(2)(a) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(d), 44(2), <b>Sch. 3 Pt. III</b> ; S.R. 2007/197, <b>art. 2(b)</b> , Sch.
<b>F5</b>	Words in art. 83(2)(b) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), <b>Sch. 4</b> (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

**Recovery of wasted examination fees**

**84.**—(1) Chapter II of Part VIII of the 1989 Order (charges in grant-aided schools) shall be amended as follows.

(2) After Article 136 there shall be inserted the following Article—

**“Recovery of wasted examination fees**

**136A.**—(1) Notwithstanding Article 128(5) or Article 133(3), where—

- (a) the Board of Governors of a grant-aided school has paid or is liable to pay a fee in respect of the entry of a registered pupil at the school for a public examination in any syllabus for that examination; and
- (b) the pupil fails without good reason to meet any examination requirement for that syllabus,

the Board of Governors may recover the amount of the fee from the pupil's parent.

(2) It shall be for the Board of Governors which has paid or is liable to pay the fee in question to determine for the purposes of this Article any question whether a pupil who has failed to meet an examination requirement had good reason for the failure.”.

(3) In Article 137(6) after “135” there shall be inserted “or 136A”.

### Statement of special educational needs

**85.** In Schedule 2 to the Education (Northern Ireland) Order 1996 in paragraph 6 (statement of special educational needs to be accompanied by certain information) for sub-paragraph (b) there shall be substituted—

“(b) of the name of an officer of [<sup>F3</sup>the Authority] from whom further information may be obtained.” .

**F3** 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)

### Exceptional provision of education

**86.**—(1) [<sup>F3</sup>The Authority] shall make arrangements for the provision of suitable education at school or otherwise than at school for those children of compulsory school age who by reason of illness, [<sup>F6</sup>or expulsion] from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them.

(2) [<sup>F3</sup>The Authority] may make arrangements for the provision of suitable education otherwise than at school for those children over compulsory school age who—

(a) have not attained the age of 19; and

(b) by reason of illness, [<sup>F7</sup>or expulsion] from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them.

[<sup>F8</sup>(2A) Paragraphs (1) and (2) do not apply in relation to a child who is suspended from school.]

(3) In determining what arrangements to make under this Article in the case of any child [<sup>F3</sup>the Authority] shall have regard to any guidance given from time to time by the Department.

(4) In this Article—

“child” has the same meaning as in Part II of the Education (Northern Ireland) Order 1996;

“suitable education”, in relation to a child, means efficient education suitable to his age, ability and aptitude and to any special educational needs he may have.

**F3** 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)

**F6** Words in art. 86(1) substituted (16.12.2011) by *Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11))*, arts. 1(4)(b), **34(3)(a)**; S.R. 2011/406, **art. 2**

**F7** Words in art. 86(2) substituted (16.12.2011) by *Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11))*, arts. 1(4)(b), **34(3)(b)**; S.R. 2011/406, **art. 2**

**F8** Art. 86(2A) inserted (16.12.2011) by *Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11))*, arts. 1(4)(b), **34(3)(c)**; S.R. 2011/406, **art. 2**

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**Pupil referral units**

87.—(1) In the Education Orders “pupil referral unit” means a controlled or maintained school (other than a special school or a school established in a hospital) which—

- (a) is specially organised to provide education for children to whom Article 86(1) applies; and
- (b) is approved by the Department as a pupil referral unit.

(2) The Department may by regulations subject to affirmative resolution—

- (a) provide for any statutory provision relating to grant-aided schools (or to a class or description of grant-aided schools)—
  - (i) not to apply in relation to pupil referral units; or
  - (ii) to apply in relation to such units with such modifications as may be prescribed; and
- (b) make such other provision in relation to pupil referral units or pupils attending such units as it thinks necessary or appropriate.

(3) [F3The Authority] may, in the case of any child registered at a grant-aided school F9 ..., give a direction that, for such period as may be specified in the direction, suitable education shall be provided for the child at a pupil referral unit so specified.

(4) [F3The Authority] may at any time amend or revoke a direction under paragraph (3).

(5) Where a pupil referral unit is specified in a direction for the time being in force under paragraph (3), it shall be the duty of the managers of the unit to comply with the direction.

(6) Before giving, amending or revoking any direction under paragraph (3), [F3the Authority] shall consult—

- (a) the parent of the child;
- (b) the managers of the pupil referral unit specified (or to be specified) in the direction;
- F10(c) .....
- (d) if that unit is a Catholic maintained school, the Council for Catholic Maintained Schools.

(7) In this Article “child” and “suitable education” have the same meanings as in Article 86.

<p><b>F3</b> Words in <i>Order</i> substituted (1.4.2015) by <i>Education Act (Northern Ireland) 2014</i> (c. 12), <b>Sch. 3 para. 1(1)(a)</b> (with <i>Sch. 2 para. 4(3)</i>, <i>Sch. 3 para. 1(2)</i>); S.R. 2015/35, art. 2(b)</p> <p><b>F9</b> Words in art. 87(3) repealed (1.4.2015) by <i>Education Act (Northern Ireland) 2014</i> (c. 12), <b>Sch. 4</b> (with <i>Sch. 2 para. 4(3)</i>); S.R. 2015/35, art. 2(b)</p> <p><b>F10</b> Art. 87(6)(c) repealed (1.4.2015) by <i>Education Act (Northern Ireland) 2014</i> (c. 12), <b>Sch. 4</b> (with <i>Sch. 2 para. 4(3)</i>); S.R. 2015/35, art. 2(b)</p>
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**Power of boards to enter contracts for provision of assets or services**

88.—(1) Every statutory provision conferring or imposing a function on [F3the Authority] confers power on [F3the Authority] to enter into a contract with another person for the provision or making available of assets or services, or both, for the purposes of, or in connection with, the discharge of the function by [F3the Authority].

(2) Where—

- (a) [F3the Authority] enters into a contract such as is mentioned in paragraph (1) ( “the provision contract”) under any statutory provision; and

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- (b) in connection with the provision contract, a person (“the financier”) makes a loan to, or provides any other form of finance for, a party to the provision contract other than [F3the Authority],

the statutory provision also confers power on [F3the Authority] to enter into a contract with the financier, or any insurer of or trustee for the financier, in connection with the provision contract.

(3) Schedule 4 (which contains provision for the certification of contracts entered into by [F3the Authority] and the effect of such certification) shall have effect.

(4) This Article and Schedule 4 apply to any contract which [F3the Authority] enters into after 12th June 1997.

**F3** 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)

### Irish-medium education

**89.**—(1) It shall be the duty of the Department to encourage and facilitate the development of Irish-medium education.

(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 Irish-medium education.

(3) The approval of the Department to a proposal under article 14 of the 1986 Order to establish a new Irish speaking voluntary school may be granted upon such terms and conditions as the Department may determine.

(4) In this article “Irish-medium education” means education provided in an Irish speaking school.

[F11(5) Article 3(2) of the Education (Northern Ireland) Order 2006 applies for the purposes of this Article as it applies for the purposes of Part II of that Order.]

**F11** Art. 89(5) substituted (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), Sch. 2 para. 20

### Supplementary

### Regulations and orders

**90.**—(1) Subject to paragraph (2), regulations and orders made by the Department under this Order shall be subject to negative resolution.

(2) Paragraph (1) does not apply to—

- (a) orders under Article 1(3) (commencement orders);
- (b) orders under Article 44(6) (orders subject to affirmative resolution);
- (c) regulations under Article 87(2) or paragraph 2(7) of Schedule 4 (regulations subject to affirmative resolution).

(3) Regulations and orders made by the Department under this Order may contain such incidental, supplementary and transitional provisions as appear to the Department to be appropriate.

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## Amendments, repeals and savings

*Para. (1)—Amendments*

*Para. (2)—Repeals*

(3) The repeal of the statutory provisions set out in Part II of Schedule 6 does not affect their operation in relation to any financial year ending before the day on which the repeal of those provisions comes into operation.

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### Commencement Information

**I2** Art. 91 partly in operation; art. 91(1)(2) in operation for certain purposes at 22.8.1998 and art. 91(3) in operation at 22.8.1998 see art. 1(2); art. 91(1)(2) in operation for certain purposes at 31.5.2009 by S.R. 2009/183, art. 3(a)(b)

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

- Order words substituted by [2014 c. 12 \(N.I.\) Sch. 3 para. 1\(1\)\(b\)](#)

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

- art. 89A inserted by [2022 c. 45 s. 5](#)