
STATUTORY INSTRUMENTS

1984 No. 1156 (N.I. 6)

NORTHERN IRELAND

The Education
(Northern Ireland) Order
1984

Laid before Parliament in draft.

Made

31st July 1984

Coming into operation in accordance with Article 1(2) to (5)



LONDON
HER MAJESTY'S STATIONERY OFFICE
1984

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At the Court at Buckingham Palace, the 31st day of July 1984

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 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:—

1974 c. 28

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PART I
INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Education (Northern Ireland) Order 1984.

(2) Except as provided by paragraphs (3) to (5), this Order shall come into operation on 1st August 1984.

(3) The following provisions shall come into operation on 1st December 1984, namely—

(a) Article 34;

(b) Schedule 7;

(c) in Schedule 9 paragraph 12;

1969 c. 25 (N.I.)

(d) Schedule 10 in so far as it relates to the Commissioner for Complaints Act (Northern Ireland) 1969, Articles 111, 112, 115 and 121 of, and Schedule 14 to, the principal Order and Articles 14 and 15 of the Education (Northern Ireland) Order 1978.

1978 NI 10

(4) The following provisions shall come into operation on 1st July 1985, namely—

(a) Article 3;

(b) Article 21;

(c) Schedule 1;

(d) in Schedule 8, paragraph 2;

(e) in Part I of Schedule 9, paragraph 2;

1976 NI 2

1978 c. 13

(f) Schedule 10, in so far as it relates to Article 2(2) of the principal Order, Article 3 of, and paragraph 10 of the Schedule to, the Education (Northern Ireland) Order 1976 and the Education (Northern Ireland) Act 1978.

(5) The following provisions shall come into operation on such date as the Head of the Department may by order appoint, namely—

(a) Part IV;

(b) Schedule 6;

(c) Part II of Schedule 9;

(d) Schedule 10, in so far as it relates to Article 26(1) of, and Schedule 8 to, the principal Order and the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978.

1978 c. 53

Interpretation

1954 c. 33 (N.I.) **2.**—(1) The Interpretation Act (Northern Ireland) 1954 shall apply

to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly. PART I

(2) In this Order—

“the Department” means the Department of Education;

“the principal Order” means the Education and Libraries (Northern Ireland) Order 1972.

1972 NI 12

(3) This Order and the principal Order shall be construed as one.

PART II

SCHOOL MANAGEMENT

Management of controlled schools

3.—(1) For Article 8 of the principal Order there shall be substituted the following Article—

“Management of controlled schools

8.—(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—

- (a) controlled primary school, other than a controlled nursery school or controlled integrated primary school;
- (b) controlled intermediate school, other than a technical intermediate school or controlled integrated intermediate school;
- (c) controlled nursery school;
- (d) controlled grammar school;
- (e) controlled special school;
- (f) controlled integrated school;

under its management.

(2) Two or more controlled primary schools, other than 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 membership, procedure and functions of the Board of Governors of a controlled school or controlled schools shall, subject to the provisions of Schedule 4 as to membership and to the other provisions of this Order and the Education (Northern Ireland) Order 1984, be such as may be provided by a scheme prepared by the board and approved by the Department and such a scheme may provide for the carrying out by the Board of Governors in relation to the school or schools under its management of specified functions on behalf of, and in the name of, the board.

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(4) Any question as to the right of any person to be, or to nominate, a member of a Board of Governors shall be decided by the Department, whose decision shall be final.

(5) A Board of Governors shall, when carrying out specified functions on behalf of and in the name of the board, be regarded as a committee of the board but shall not be so regarded for any other purpose and the functions of a Board of Governors in relation to the appointment of teachers under Schedule 10 or the appointment of other staff under Article 77 shall not be regarded as being carried out on behalf of, or in the name of, the board.”.

(2) For Schedules 4 and 4A to the principal Order there shall be substituted the Schedule set out in Schedule 1 to this Order.

Management of voluntary schools

4.—(1) For Article 9 of the principal Order there shall be substituted the following Article—

“Management of voluntary schools

9.—(1) Subject to paragraph (8) below and to paragraph 1(2) of Schedule 5, each voluntary school shall be under the control and management of a Board of Governors.

(2) The membership, procedure and functions of the Board of Governors of a voluntary school or voluntary schools shall, subject to the provisions of Schedules 5, 6, 6A and 6B as to membership and to the other provisions of this Order and the Education (Northern Ireland) Order 1984, be such as may be provided by a scheme approved by the Department.

(3) A voluntary school for which a Board of Governors is constituted in accordance with Part I of Schedule 5 (in this Order referred to as “a maintained school”) shall be under the control and management of that Board of Governors and may be withdrawn from the control and management of that Board of Governors in accordance with the provisions of Part II of that Schedule.

(4) Each voluntary grammar school whose trustees or Board of Governors have entered into an agreement under Schedule 6 with the Department or a board or boards shall be under the control and management of a Board of Governors constituted in accordance with the provisions of Schedule 6.

(5) Each direct grant voluntary intermediate school shall be under the control and management of a Board of Governors constituted in accordance with the provisions of Schedule 6.

(6) Each voluntary grammar school whose trustees or Board of Governors have not entered into an agreement under Schedule 6 shall be under the control and management of a Board of

Governors constituted in accordance with the provisions of Schedule 6A. PART II

(7) Each voluntary school which has, under paragraph 4 of Schedule 5, ceased to be a maintained school shall be under the control and management of a Board of Governors constituted in accordance with the provisions of Schedule 6B.

(8) Each voluntary primary school which is not, and has never at any time been, a maintained school shall be under the control and management of a person approved by the Department.”.

(2) In Schedule 5 to the principal Order—

(a) for Part I there shall be substituted the Part set out in Schedule 2 to this Order;

(b) in Part III in paragraph 7 the following definition shall be inserted at the appropriate place in alphabetical order—

““assistant teacher” means a teacher, other than the principal or a temporary or part-time teacher, employed on the staff of a school;”

and in the definition of “nominating trustees” for the words “paragraph 2(2)” there shall be substituted the words “paragraph 2(3)”.

(3) For Schedule 6 to the principal Order there shall be substituted the Schedule set out in Schedule 3 to this Order.

(4) After Schedule 6 to the principal Order there shall be inserted—

(a) as Schedule 6A, the Schedule set out in Schedule 4 to this Order;

(b) as Schedule 6B, the Schedule set out in Schedule 5 to this Order.

Limitation on membership of Boards of Governors

5.—(1) Subject to paragraph (2), no person shall at the same time hold office as a member of more than five Boards of Governors constituted under the principal Order.

(2) For the purposes of this Article there shall be disregarded any appointment or nomination to a Board of Governors made under the following provisions of the principal Order, namely—

(a) paragraph 2(2)(a), 3(2)(a) or 5(c) or (d) of Schedule 4,

(b) paragraph 2(3)(a) of Schedule 5,

(c) paragraph 3(2)(a) of Schedule 6 or paragraph 2(1)(a) of Schedule 6A, if the appointment is made solely by reference to the office held by the person appointed,

(d) paragraph 2(2)(a) of Schedule 6B.

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Miscellaneous provisions relating to Boards of Governors

6.—(1) The proceedings of a Board of Governors constituted under the principal Order shall not be invalidated by any vacancy among its members or by any defect in the appointment, election or nomination of any member.

(2) Without prejudice to the generality of paragraph (1), where under the principal Order members of a Board of Governors are required to be elected or nominated by other persons then if, for whatever reason, such members have not yet, or cannot be, so elected or nominated the Board of Governors shall notwithstanding such vacancies be regarded as fully constituted.

(3) Nothing in paragraph (1) or (2) affects the operation of any provision relating to the quorum for meetings of a Board of Governors.

(4) An assistant teacher elected as a member of the Board of Governors of one or more than one school shall, on ceasing to be an assistant teacher at the school or one of the schools, cease to hold office as a member of the Board of Governors.

(5) A parent elected as a member of the Board of Governors of one or more than one school shall not by reason only of ceasing to be a parent of a pupil attending the school or one of the schools cease to hold office as a member of the Board of Governors.

(6) Where the principal of a school is absent or otherwise unavailable, the Board of Governors of the school may invite the vice-principal or other person for the time being performing the duties of the principal to attend a meeting of the Board of Governors; and any person so invited shall be entitled to attend and take part in the meeting but not to vote on any question.

PART III

VOLUNTARY GRAMMAR SCHOOL BECOMING VOLUNTARY INTERMEDIATE
SCHOOL

Schools to which this Part applies

Schools to which this Part applies

7. This Part applies to a school if—

- (a) the Department, after 1st August 1984, approves under Article 11A(6) of the principal Order a proposal that the school should become a voluntary intermediate school; and
- (b) the school is, immediately before the date of such approval, a voluntary grammar school.

School to which this Part applies must become either maintained or direct grant voluntary intermediate school

8. The trustees or Board of Governors of a school to which this Part applies shall, within the period of two months after the date on which the proposal that the school should become a voluntary intermediate school is approved by the Department, give notice to the Department and the board for the area in which the school is situated indicating whether they wish the school to become—

- (a) a maintained intermediate school; or
- (b) a direct grant voluntary intermediate school.

School to which this Part applies becoming a maintained school

9.—(1) Where the trustees or Board of Governors of a school to which this Part applies give notice to the Department in accordance with Article 8(a) that they wish the school to become a maintained school—

- (a) they shall make a request to the board under paragraph 1(1) of Schedule 5 to the principal Order before such date as the Department may direct;
- (b) paragraph 1(5) of the said Schedule 5 shall not apply to the request so made;
- (c) where, in pursuance of the request so made, the board makes provision in accordance with Part I of the said Schedule 5 for the constitution of a Board of Governors for the school as a maintained school, Part II of the said Schedule 5 shall not apply to the school;
- (d) where the board refuses under paragraph 1(4) of the said Schedule 5 to make provision for the constitution of a Board of Governors for the school as a maintained school, Article 10 shall apply to the school as if the trustees or Board of Governors had given notice to the Department in accordance with Article 8(b) that they wish the school to become a direct grant voluntary intermediate school.

(2) Notwithstanding anything in Article 44(1) of the principal Order, the Board of Governors of a school to which this Part applies which in accordance with paragraph (1) or Article 11(4) and (5) becomes a maintained school may charge a fee, not exceeding such amount as may be prescribed, for the purpose of meeting expenditure incurred or to be incurred for the provision or alteration of the premises of the school.

(3) In this Article “board” has the same meaning as in Schedule 5 to the principal Order.

School to which this Part applies becoming a direct grant voluntary intermediate school

10.—(1) Where the trustees or Board of Governors of a school to

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which this Part applies give notice to the Department in accordance with Article 8(b) that they wish the school to become a direct grant voluntary intermediate school—

- (a) they shall, unless there is in existence an agreement between them and the Department under Schedule 6 to the principal Order, enter into such an agreement with the Department before such date as the Department may direct;
 - (b) the school shall on such date as the Department may approve become a direct grant voluntary intermediate school.
- (2) The Department shall not approve a date under paragraph (1)(b) unless there is in existence an agreement between the trustees or Board of Governors of the school and the Department under Schedule 6 to the principal Order.

School to which this Part applies altering from maintained to direct grant and vice versa

11.—(1) The trustees or Board of Governors of a school to which this Part applies which becomes a maintained school by virtue of Article 9 may, within the period of two months after the expiry of the period of five years from the date on which the school becomes a voluntary intermediate school, give notice to the Department and the board responsible for the maintenance of the school that they wish the school to become a direct grant voluntary intermediate school.

(2) Where the trustees or Board of Governors of a school give notice to the Department in accordance with paragraph (1)—

- (a) they shall, before such date as the Department may direct, enter into an agreement with the Department under Schedule 6 to the principal Order;
- (b) the school shall on such date as the Department may approve cease to be a maintained school and become a direct grant voluntary intermediate school.

(3) The Department shall consult with the board responsible for the maintenance of the school before approving a date under paragraph (2)(b) and shall not approve a date unless there is in existence an agreement between the trustees or Board of Governors of the school and the Department under Schedule 6 to the principal Order.

(4) The trustees or Board of Governors of a direct grant voluntary intermediate school shall, if they request a board to make provision in accordance with Part I of Schedule 5 to the principal Order for the constitution of a Board of Governors for the school as a maintained school, immediately inform the Department of that request.

(5) Where, at the request of the trustees or Board of Governors of a direct grant voluntary intermediate school, provision is made in accordance with Part I of Schedule 5 to the principal Order for the constitution of a Board of Governors for the school as a maintained school, Part II of that Schedule shall not apply to the school.

Provisions relating to direct grant voluntary intermediate schools

PART III

Grants to direct grant voluntary intermediate schools

12.—(1) The Department may make grants to the Board of Governors of a direct grant voluntary intermediate school towards expenditure incurred in carrying on the school, except—

- (a) expenditure incurred for the provision or alteration of the premises of the school;
- (b) expenditure incurred for the provision of equipment for the school which is approved expenditure for the purposes of Article 106(1)(b) of the principal Order;
- (c) expenditure incurred in the payment of employers' superannuation contributions and secondary Class 1 contributions under the Social Security (Northern Ireland) Act 1975 in respect of teachers employed on the staff of the school; and
- (d) expenditure incurred in making a redundancy payment under section 11 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 to a teacher who has been employed on the staff of the school.

1975 c.15

1965 c. 19 (N.I.)

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

Certain provisions of principal Order to apply to direct grant voluntary intermediate schools

13.—(1) Article 19 of the principal Order (assistance by boards to voluntary grammar schools) shall apply to a direct grant voluntary intermediate school as it applies to a voluntary grammar school.

(2) Article 60 of the principal Order (contributions by Department in respect of redundancy payments to teachers) shall apply to a direct grant voluntary intermediate school as it applies to a maintained school.

(3) Article 95(2) of the principal Order (acquisition of land for purposes of school otherwise than by agreement) shall apply to a direct grant voluntary intermediate school as it applies to a voluntary grammar school the trustees or Board of Governors of which have entered into an agreement under Schedule 6 to that Order.

(4) In the case referred to in Article 14(4)(b), Article 105(3) of the principal Order shall apply to the Board of Governors of a direct grant voluntary intermediate school as it applies to the managers of a maintained school.

(5) Article 106(1) of the principal Order (building and equipment grants by Department) shall apply to a direct grant voluntary intermediate school as it applies to a voluntary grammar school the trustees or Board of Governors of which have entered into an agreement under Schedule 6 to that Order.

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Certain provisions of principal Order not to apply to direct grant voluntary intermediate schools

14.—(1) Article 10(2) of the principal Order (board to pay sixty-five per cent. of net expenditure on lighting, heating, cleaning, maintenance and insurance) shall not apply to a direct grant voluntary intermediate school.

(2) Notwithstanding anything in Article 44(1) of the principal Order (prohibition of fees in intermediate schools) the Board of Governors of a direct grant voluntary intermediate school may charge a fee not exceeding such amount as may be prescribed for the purpose of meeting expenditure incurred or to be incurred for—

- (a) the provision or alteration of the premises of the school, or
- (b) the provision of equipment for the school.

(3) Article 45(1) of the principal Order (provision of books and materials by board) shall not apply to a direct grant voluntary intermediate school.

(4) Article 105 of the principal Order (grants by Department for the purposes of educational or library services, services ancillary to education, etc.) shall not apply to the trustees or Board of Governors of a direct grant voluntary intermediate school except in so far as it empowers the Department to pay grants in respect of expenditure incurred or to be incurred—

- (a) for the purposes of the provision of milk, meals or other refreshment and facilities in accordance with Articles 46 and 47 of the principal Order;
- (b) in the payment of employers' superannuation contributions or secondary Class 1 contributions under the Social Security (Northern Ireland) Act 1975 in respect of teachers employed by them.

1975 c. 15

PART IV

EDUCATION OF CHILDREN WITH SPECIAL EDUCATIONAL NEEDS

Provision of primary and secondary education for children with special educational needs

15. In Article 6 of the principal Order—

- (a) in paragraph (1) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) to the need for securing that special educational provision is made for pupils who have special educational needs;”;

- (b) after paragraph (2) there shall be added the following paragraph—

“(3) Where a board is satisfied that, in relation to a child who has special educational needs, it would be inappropriate for the special educational provision re-

quired for that child, or for any part of that provision, to be made at a school, the board may, with the approval of the Department and after consulting the child's parent, arrange for the special educational provision or, as the case may be, for that part of it, to be made otherwise than at a school."

PART IV

Identification and assessment of children with special educational needs

16.—(1) For Article 25 of the principal Order there shall be substituted the following Articles—

"General duty of boards to identify and assess children with special educational needs

25.—(1) It shall be the duty of each board to secure that, of the children in its area to whom this Article applies, those with special educational needs which call for the board to determine the special educational provision that should be made for them are identified by the board.

(2) Where, in the case of any child to whom this Article applies, the board is of the opinion that he has, or probably has, special educational needs which call for the board to determine the special educational provision that should be made for him, it shall make an assessment of his educational needs under this Article.

(3) Assessments under this Article shall be made in accordance with Part I of Schedule 7A and the other provisions of that Part shall apply to assessments under this Article.

(4) This Article applies to a child who—

(a) has attained the age of two years; and

(b) is either in attendance at a grant-aided school or has been brought to the attention of the board as having, or probably having, special educational needs.

Children under two years of age

25A.—(1) Where, in the case of a child in its area who has not attained the age of two years, a board is of the opinion that he has, or probably has, special educational needs which call for the board to determine the special educational provision that should be made for him, the board may, with the consent of the child's parent, and shall, at the request of the parent, make an assessment of the child's educational needs.

(2) An assessment under this Article shall be made in such manner as the board considers appropriate.

(3) After making an assessment under this Article, a board may make a statement of the child's special educational needs and maintain that statement in such manner as it considers appropriate.

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Statement of child's special educational needs

25B.—(1) Where a board has made an assessment of a child's educational needs under Article 25 and is of the opinion that it should determine the special educational provision that should be made for him, the board shall make a statement of his special educational needs and maintain that statement in accordance with Part II of Schedule 7A and the other provisions of that Part shall apply to statements under this Article.

(2) In any case where a board maintains a statement under this Article in respect of a child, the board shall arrange for the special educational provision specified in the statement to be made for him.

(3) A board may, subject to the approval of the Department, arrange under paragraph (2) for the special educational provision for a child to be made otherwise than at a grant-aided school.

Provision of special education in ordinary schools

25C.—(1) Where a board arranges special educational provision for a child for whom it maintains a statement under Article 25B it shall be the duty of the board, if the conditions mentioned in paragraph (2) are satisfied, to secure that he is educated at an ordinary school.

(2) The conditions referred to in paragraph (1) are that account has been taken, in accordance with Part II of Schedule 7A, of the views of the child's parent and that educating the child at an ordinary school is compatible with—

- (a) his receiving the special educational provision that he requires;
- (b) the provision of efficient education for the children with whom he will be educated; and
- (c) the efficient use of resources.

(3) A board, in the case of a controlled school, or the managers, in the case of a voluntary school, shall—

- (a) use their best endeavours, in exercising their functions in relation to 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;
- (b) secure that, where the principal of the school has been informed by the board that a child attending the school has special educational needs, those needs are made known to all who are likely to teach him; and
- (c) secure that the teachers in the school are aware of the importance of identifying, and providing for, those children attending the school who have special educational needs.

(4) Where a child who has special educational needs is being educated at an ordinary school, those concerned with making special educational provision for that child shall, so far as is both compatible with the objectives mentioned in sub-paragraphs (a) to (c) of paragraph (2) and reasonably practicable, secure that the child engages in the activities of the school together with children who do not have special educational needs.

Interpretation of "special educational needs" and related expressions

25D.—(1) In this Order "special educational provision" means educational provision for a child which is additional to, or otherwise different from, the educational provision made generally for children of his age at ordinary schools.

(2) For the purposes of this Order a child has "special educational needs" if he has a learning difficulty which calls for special educational provision to be made for him; and a child has a "learning difficulty" if—

- (a) he has a significantly greater difficulty in learning than the majority of children of his age; or
- (b) he has a disability which either prevents or hinders him from making use of educational facilities of a kind generally provided at ordinary schools for children of his age; or
- (c) he is under the age of five years and is, or would be if special educational provision were not made for him, likely to fall within sub-paragraph (a) or (b) when over that age.

(3) In Articles 25 to 25C, this Article and Schedule 7A and in any other provision of this Order relating to a child who has special educational needs, "child" includes any person who has not attained the age of 19 years and is in attendance at a school.

(4) In Article 25C and this Article "ordinary school" means a grant-aided school which is not a special school.

Duties of boards as to children unsuitable for education at school

25E. Each board shall, in accordance with the provisions of Schedule 8, determine the children in its area who are unsuitable for education at school and shall comply with that Schedule in relation to such children."

(2) After Schedule 7 to the principal Order there shall be inserted the Schedule set out in Schedule 6 to this Order.

(3) In the principal Order—

- (a) in Article 2(2) in the definition of "child" before the word "means" there shall be inserted the words "subject to Article 25D(3),";

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(b) in Article 2(2) for the definitions of “special educational treatment” and “special school” there shall be substituted the following definitions—

““special educational provision” and “special educational needs” have the meanings assigned to those expressions by Article 25D;

“special school” means a school which is specially organised to make special educational provision for pupils with special educational needs and which is approved by the Department as such;”;

(c) in Article 26, paragraph (1) shall cease to have effect;

(d) in Article 53(2)(a) for the words “providing special educational treatment” there shall be substituted the words “making special educational provision”;

(e) in Schedule 8 the following provisions shall cease to have effect, namely—

(i) paragraph 1(1)(a);

(ii) in paragraph 1(2) the words from “requires special” to “development or”;

(iii) paragraphs 2 and 4.

1978 c. 53 (4) Sections 15, 16 and 17 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 shall cease to have effect.

Duties of health and social services boards

17. After Article 26 of the principal Order there shall be inserted the following Article—

“Duties of health and social services boards

26A.—(1) If a health and social services board, in the course of exercising any of its functions in relation to a child who has not attained the age of five years, forms the opinion that he has, or probably has, special educational needs or that he is suffering from a disability of mind that may make him unsuitable for education at school that board shall—

(a) inform the child’s parent of its opinion and of its duty under this Article; and

(b) after giving the parent an opportunity to discuss that opinion with an officer of the health and social services board, bring it to the attention of the appropriate education and library board.

(2) If, in a case falling within paragraph (1), the health and social services board is of the opinion that a particular voluntary organisation is likely to be able to give the parent advice or assistance in connection with any disability of mind or any special

educational needs that the child may have, that board shall inform the parent accordingly. PART IV

(3) Where a child or young person in the area of a board is about to leave or has left school and it appears to the board that his physical, intellectual, emotional or social development is such as to require that in his interests further care, treatment or supervision should be provided, the board shall notify the health and social services board for the area in which the child resides and furnish such report or information relating to him as that board may require.”.

Duties of parents to secure education suitable to special educational needs of their children

18.—(1) In Article 35(1) of the principal Order after the word “aptitude” there shall be inserted the words “and to any special educational needs he may have”.

(2) In Schedule 9 to the principal Order—

(a) in paragraph 1—

(i) the words “and to any special educational needs he may have” shall be added at the end of sub-paragraph (1) and inserted in sub-paragraph (2) after the word “aptitude”;

(ii) for sub-paragraph (4) there shall be substituted the following sub-paragraphs—

“(4) Where the board is of the opinion that—

(a) the school selected by a parent as the school to be named in a school attendance order is unsuitable to the age, ability, aptitude or special educational needs of the child with respect to whom the order is to be made; or

(b) the attendance of the child at the school selected by the parent would prejudice the provision of efficient education or the efficient use of resources;

the board may, after giving to the parent notice of its intention to do so, apply to the Department for a direction determining the school to be named in the order.

(4A) Where the board maintains a statement of special educational needs for the child under Article 25B, the board or, in the case of a voluntary school, the managers shall admit the child to the school named in the order in pursuance of a direction of the Department under sub-paragraph (4).”.

(b) in paragraph 2—

(i) in sub-paragraph (1) after the words “and aptitude” there shall be inserted the words “and to any special education-

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al needs he may have” and for the words from “unless” to the end there shall be substituted the words—

“unless it is of the opinion that—

(a) the proposed school is unsuitable to the age, ability, aptitude or special educational needs of the child; or

(b) the attendance of the child at the school would prejudice the provision of efficient education or the efficient use of resources; or

(c) where the board maintains a statement of special educational needs for the child under Article 25B, the proposed change of school is against the interests of the child; or

(d) no satisfactory arrangements have been made for the education of the child otherwise than at school.”;

(ii) after sub-paragraph (2) there shall be added the following sub-paragraph—

“(3) Where in the case of a child for whom a board maintains a statement of special educational needs under Article 25B the Department gives a direction under sub-paragraph (2) directing the board to substitute another school for that named in the order the board or, in the case of a voluntary school, the managers shall admit the child to the school so substituted.”;

(c) the words “and to any special educational needs he may have” shall be added at the end of paragraphs 4(1) and 5(1) and inserted after the word “aptitude” in paragraphs 5(3) and 7.

1968 c. 34 (N.I.) (3) In section 27(1) of the Children and Young Persons Act (Northern Ireland) 1968 after the word “aptitude” there shall be inserted the words “and to any special educational needs (within the meaning of the Education and Libraries (Northern Ireland) Order 1972) he may have”.

Power of Department as to medical, etc., examination

19. In Article 50 of the principal Order—

(a) in paragraph (1)—

(i) for the words “by a registered medical practitioner” there shall be substituted the words “by a person appointed by the Department for the purpose”;

(ii) for the words “examination by such a medical practitioner” there shall be substituted the words “such an examination”;

(b) after paragraph (1) there shall be inserted the following paragraph—

“(1A) The parent of a child or young person examined under paragraph (1) shall be entitled to be present at the examination if he so desires.”.

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MISCELLANEOUS AND SUPPLEMENTARY

Miscellaneous amendments to principal Order

Age limit for attendance at institution of further education

20. Further education shall be provided under the principal Order only for persons over compulsory school age and accordingly the following provisions of that Order shall cease to have effect, namely—

- (a) in Article 5 in paragraph (c) the words from “or in” to the end of the paragraph;
- (b) in Article 23(1) the words from “and such facilities” to the end.

Controlled integrated schools

21. After Article 9 of the principal Order there shall be inserted the following Article—

“Controlled integrated schools

9A.—(1) In order to facilitate the establishment of schools likely to be attended by pupils of different religious affiliations or cultural traditions, a school to which this Article applies may, in accordance with the following provisions of this Article, become a controlled integrated school.

(2) This Article applies to all grant-aided schools other than—

- (a) a controlled nursery school;
- (b) a controlled grammar school;
- (c) a controlled special school.

(3) Where not less than two-thirds of the persons appointed under paragraph 2(2)(a) or 3(2)(a) of Schedule 4 to the Board of Governors of a controlled school to which this Article applies make a request to the board responsible for the management of the school that the school should become a controlled integrated school, or that, where two or more controlled schools to which this Article applies are grouped under a Board of Governors, one or more of those schools should become a controlled integrated school or controlled integrated schools, the board shall, subject to

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paragraph (5), proceed to ascertain the views of the parents of the pupils attending the school or schools.

(4) Where the trustees of a voluntary school wish to transfer the school to the Department under Article 14 and request that the school should become a controlled integrated school, the board for the area in which the school is situated shall, subject to paragraph (5), proceed to ascertain the views of the parents of the pupils attending the school.

(5) If before the time when a request is made under paragraph (3) or (4) that a school should become a controlled integrated school the board has published a notice under Article 11A(5)(b) stating that a proposal that the school should be discontinued has been submitted to the Department, then the board shall not proceed as mentioned in paragraph (3) or (4) unless the Department has decided under Article 11A not to approve that proposal.

(6) Subject to paragraph (7), where a board is required under paragraph (3) or (4) to ascertain the views of the parents of pupils attending a school, it shall do so in accordance with a scheme prepared by the board and approved by the Department.

(7) If the Department cannot approve a scheme prepared by a board, the views of the parents shall be ascertained by the board in accordance with a scheme prepared by the Department.

(8) A scheme prepared under paragraph (6) or (7) shall in particular provide that the parents of the pupils attending the school in question shall be given an opportunity, so far as practicable in such a way that their identity is not revealed, to state whether they would be prepared to send them to the school if it became a controlled integrated school.

(9) Where a board has ascertained the views of the parents in accordance with a scheme under paragraph (6) or (7), the board shall within such time as the Department may fix send to the Department particulars of the information received from the parents.

(10) The Department, after consultation with the board, shall either—

(a) determine that the school shall not become a controlled integrated school; or

(b) subject to paragraph (11), give a direction to the board to submit a proposal under Article 11A(2) giving effect to the request that the school should become a controlled integrated school.

(11) The Department shall not give a direction under paragraph (10)(b) in relation to a request that a school should become a controlled integrated school unless satisfied that at least three-quarters of the parents of the pupils attending that school whose views have been ascertained would be prepared to send them to the school if it became a controlled integrated school.

(12) Where a proposal giving effect to a request under paragraph (3) that a school should become a controlled integrated school is approved by the Department under Article 11A the board for the area in which the school is situated shall make provision by means of a Board of Governors for the management of the school as a controlled integrated school.

(13) Where a proposal giving effect to a request under paragraph (4) that a school should become a controlled integrated school is approved by the Department under Article 11A, Article 14(3) shall, in its application to the school, have effect with the substitution for the words "controlled school" of the words "controlled integrated school".

(14) The provisions of this Order 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."

Proposals as to primary and secondary education

22.—(1) Article 11A of the principal Order shall have effect subject to the following provisions of this Article.

(2) For paragraphs (1) and (2) there shall be substituted the following paragraphs—

“(1) Where a board proposes—

- (a) to establish a new controlled school;
- (b) to have an existing school recognised as a grant-aided school;
- (c) to discontinue a controlled school;
- (d) to make a significant change in the character or size of a controlled school;
- (e) to make any other change in a controlled school which would have a significant effect on another grant-aided school,

the board shall submit the proposal to the Department.

(1A) Where a person other than a board proposes—

- (a) to establish a new voluntary school;
- (b) to have an existing school recognised as a grant-aided school;
- (c) to discontinue a voluntary school;
- (d) to make a significant change in the character or size of a voluntary school;
- (e) to make any other change in a voluntary school which would have a significant effect on another grant-aided school,

that person shall submit the proposal to the board for the area in

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which the school is or is to be situated and that board shall submit the proposal to the Department together with its views thereon.

(2) It shall, where the Department so directs, be the duty of a board to submit to the Department a proposal—

- (a) to establish a new controlled school;
- (b) that a controlled or voluntary school should be discontinued;
- (c) that a significant change should be made in the character or size of a controlled or voluntary school.”.

(3) In paragraphs (3), (4), (5) and (7) after the words “paragraph (1)” there shall be inserted “, (1A) or (2)”.

(4) In paragraph (4) for the words “managers or persons representing the managers” there shall be substituted the words “trustees and managers or persons representing them”.

(5) In paragraph (5)(a) after the words “to the” there shall be inserted the words “trustees and”.

(6) After paragraph (6) there shall be inserted the following paragraph—

“(6A) In relation to a proposal made under paragraph (2), paragraph (6) shall have effect with the substitution for the references to the person making the proposal of references to the trustees and managers of the school to which the proposal relates.”.

(7) In paragraph (8) after the words “significant change” there shall be inserted the words “or would have a significant effect on another grant-aided school”.

Fees in grammar schools

23. For Article 22 of the principal Order there shall be substituted the following Article—

“Fees in grammar schools

22.—(1) Subject to regulations made by the Department, the managers of a grammar school may determine the fees to be charged in respect of pupils admitted to the school.

(2) Without prejudice to the generality of paragraph (1), regulations under that paragraph may prescribe—

- (a) the types of fee which may be charged under this Article;
- (b) the pupils in respect of whom any type of fee may be charged under this Article;
- (c) the maximum fee which may be charged by the Board of Governors of a voluntary grammar school of a prescribed description for the purpose of meeting expenditure incurred or to be incurred for the provision or alteration of the premises of the school or for the provision of equipment for the school.”.

Registration of new independent school

24. In Article 28 of the principal Order at the end there shall be added the following paragraph—

“(7) A person shall not be guilty of an offence under paragraph (6)(a) by reason of conducting a school at any time within the period of one month from the date on which it was first conducted (whether by that person or another) if an application for the registration of the school has been duly made within that period.”.

Suspension and expulsion of pupils

25. After Article 38 of the principal Order there shall be inserted the following Article—

“Suspension and expulsion of pupils

38A.—(1) Each board shall prepare a scheme specifying the procedure to be followed in relation to the suspension or expulsion of pupils from schools under its management.

(2) The managers of a voluntary school shall prepare a scheme specifying the procedure to be followed in relation to the suspension or expulsion of pupils from the school under their management.

(3) A scheme prepared under paragraph (1) or (2) shall include provision for such matters as may be prescribed.”.

Board and lodging otherwise than at school

26. For Articles 42 and 42A of the principal Order there shall be substituted the following Articles—

“Provision of board and lodging otherwise than at school

42.—(1) Where a board is satisfied with respect to any pupil who has not attained the age of eighteen years and is ordinarily resident within its area—

(a) that primary or secondary education suitable to his age, ability and aptitude and to any special educational needs he may have can best be provided for him at a particular grant-aided school; and

(b) that such education cannot be so provided for him unless board and lodging is provided for him otherwise than at that school,

the board may provide such board and lodging for him.

(2) In providing board and lodging for a pupil under paragraph (1) a board shall, so far as practicable, give effect to the wishes of the parent of the pupil with respect to the religious denomination of the person with whom he is to reside.

(3) Where a board provides board and lodging under paragraph (1) for a pupil, the parent of the pupil shall, subject to paragraphs (4) and (5), pay to the board the cost to the board of providing the board and lodging.

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(4) A board may remit the whole or part of the cost payable under paragraph (3).

(5) Paragraph (3) shall not apply where the board and lodging is provided for a pupil to facilitate special educational provision for him.

(6) Any sums payable to a board by virtue of paragraph (3) may be recovered summarily by the board as a debt due to it.

Payment of whole or part of cost of board and lodging otherwise than at school for pupils aged 18 and over

42A. Where a board is satisfied with respect to any pupil who has attained the age of eighteen years and is ordinarily resident within its area—

- (a) that secondary education suitable to his age, ability and aptitude and to any special educational needs he may have can best be provided for him at a particular grant-aided school; and
- (b) that such education cannot be so provided for him unless board and lodging is provided for him otherwise than at that school,

the board—

- (i) shall, in any case where the board and lodging is provided for a pupil to facilitate special educational provision for him, pay the whole of the cost of such board and lodging;
- (ii) may, in any other case, pay the whole or part of the cost of such board and lodging.”.

Provision of milk, meals and related facilities

27. For Articles 46 and 47 of the principal Order there shall be substituted the following Articles—

“Provision of milk, meals and related facilities

46.—(1) A board shall, in accordance with arrangements approved by the Department, provide—

- (a) milk, meals or other refreshment for pupils of such description as the Department may determine in attendance at grant-aided schools, other than voluntary grammar schools and direct grant voluntary intermediate schools;
- (b) such facilities as the Department may determine for the consumption of any meals or other refreshment brought to the school by pupils.

(2) A board may, in accordance with arrangements approved by the Department, provide—

- (a) milk, meals or other refreshment for pupils of such

description as the Department may determine in attendance at institutions of further education;

- (b) such facilities as the Department may determine for the consumption of any meals or other refreshment brought to the institution by pupils.

(3) A board may, with the consent of the proprietor of any independent school in its area, and on such financial and other terms, if any, as may be agreed between the board and the proprietor of the school, make arrangements for securing the provision of milk, meals or other refreshment for pupils in attendance at the school but any such arrangements shall be such as to secure, so far as is practicable, that the expense incurred by a board in connection with the provision under the arrangements of any service or article shall not exceed the expense which would have been incurred by it in the provision thereof if the pupil had been a pupil at a grant-aided school.

(4) A board may, in accordance with arrangements approved by the Department, provide milk, meals or other refreshment for persons (including pupils) of such description as the Department may determine not being pupils for whom the board is required to make provision under paragraph (1) or may make provision under paragraph (2) or (3).

(5) The trustees or Board of Governors of a voluntary grammar school or a direct grant voluntary intermediate school shall, in accordance with arrangements approved by the Department, provide—

- (a) milk, meals or other refreshment for pupils of such description as the Department may determine in attendance at the school;
- (b) such facilities as the Department may determine for the consumption of any meals or other refreshment brought to the school by pupils.

(6) The trustees or Board of Governors of a voluntary grammar school or a direct grant voluntary intermediate school may, in accordance with arrangements approved by the Department, provide milk, meals or other refreshment for persons (including pupils) of such description as the Department may determine, not being pupils for whom they are required to make provision under paragraph (5).

(7) A board may assist the trustees or Board of Governors of a voluntary grammar school or a direct grant voluntary intermediate school in the carrying out of their functions under paragraphs (5) and (6).

Provisions supplementary to Article 46

47.—(1) The approval of the Department to any arrangements under paragraph (1), (2), (4), (5) or (6) of Article 46 may be

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granted subject to such conditions for securing the proper and efficient operation of those arrangements as the Department may determine.

(2) The board or (as the case may be) the trustees or Board of Governors of a voluntary grammar school or direct grant voluntary intermediate school shall in connection with the exercise of any functions under Article 46—

(a) make such charges, if any, or charges calculated on such basis; and

(b) remit the whole or part of such charges in such cases or such circumstances,

as the Department may determine.

(3) The Department may, in such circumstances as it thinks fit, direct that paragraph (1) or (5) of Article 46 shall not apply to a board or (as the case may be) to the trustees or Board of Governors of a voluntary grammar school or a direct grant voluntary intermediate school.

(4) The board or (as the case may be) the trustees or Board of Governors of a voluntary grammar school or a direct grant voluntary intermediate school shall take such steps and provide such premises, equipment, materials and facilities (including transport) as are necessary in connection with the provision of milk, meals or other refreshment in accordance with Article 46.

(5) The trustees and managers of every voluntary school, other than a voluntary grammar school or a direct grant voluntary intermediate school, shall afford a board all such reasonable facilities at the school, including the use of school buildings and equipment, as are necessary for the proper and efficient operation of any arrangements approved under Article 46.”.

Training of teachers

28. For Article 55 of the principal Order there shall be substituted the following Articles—

“Training of teachers

55.—(1) The Department shall make such arrangements as it considers expedient for securing that there shall be available sufficient facilities for the initial and further training of teachers for service in schools and other educational establishments in Northern Ireland.

(2) The Department may—

(a) pay grants at such rate or of such amount and subject to such conditions as it may determine in respect of expenditure incurred or to be incurred by any persons in connec-

tion with the initial or further training of teachers, other than expenditure in respect of which a grant may be paid under paragraph (3);

- (b) pay to teachers undergoing further training travelling and other allowances at such rate or of such amount and subject to such conditions as the Department may determine.

(3) The Department may, in accordance with regulations made by it, pay grants to the trustees of a college of education in respect of approved expenditure incurred or to be incurred for the provision or alteration of the premises of a college or for the provision of equipment for a college.

(4) Regulations made under paragraph (3) may make provision for the repayment, in such circumstances as are specified in the regulations, of the whole or part of any moneys paid under that paragraph, but such regulations shall not apply to cases to which paragraph (5), (6) or (7) applies.

(5) Where any premises of a college of education in respect of which the Department, at any time after 1st August 1984, has paid a grant under paragraph (3) cease to be used for approved purposes of a college of education there shall be payable to the Department by the persons to whom the grant was paid or their 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.

(6) Where any site which has been acquired for the purposes of a college of education and in respect of which site the Department has, at any time after 1st August 1984, paid a grant under paragraph (3) ceases in the opinion of the Department to be required for such purposes, there shall be payable to the Department by the persons to whom the grant was paid or their 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.

(7) Where the Department proposes to pay a grant under paragraph (3) in respect of premises for a new college of education or of alterations of premises used or to be used as or for a college of education and the new or altered premises in the opinion of the

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Department replace any premises of an existing college of education 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 a college of education, there shall be payable to the Department by the persons to whom the grant was paid or their successors in title such amount as the Department considers equitable.

(8) The amount by which a grant may be reduced under paragraph (7)(a) or the amount payable to the Department under paragraph (7)(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 paragraph (7)(a) or, as the case may be, the payment to the Department under paragraph (7)(b).

(9) For the purposes of paragraphs (5), (6) and (8) 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.

(10) For the purposes of paragraphs (5), (6) and (8) 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.

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(11) Any sum payable to the Department under this Article may be recovered as a debt due to the Department.

Control of numbers, qualifications, etc. of students

55A.—(1) The Department shall make such arrangements as it considers expedient for the determination of the numbers and qualifications and for the selection of students to be admitted to the initial and further training of teachers.

(2) The managers or governing body of an institution providing courses for the initial or further training of teachers shall not admit a student to a course for the initial training of teachers unless satisfied—

- (a) as to his good character and health, his physical capacity

for teaching and his suitability for the teaching profession in other respects; and

(b) that he satisfies the minimum educational qualifications for the course determined under paragraph (1).

(3) The managers of a college of education or the board responsible for the management of an institution of further education shall comply with any directions of the Department, given after consultation with them, as to—

(a) the total number of students to be admitted in any period specified in the directions to all such courses provided by them;

(b) the number of students to be admitted in any period specified in the directions to any particular course so specified; and

(c) the discontinuance of any particular course so specified.”.

Payments to members of boards, etc.

29. For Article 67 of the principal Order there shall be substituted the following Article—

“Payments to members of boards, etc.

67.—(1) A board shall make payments by way of travelling allowance or subsistence allowance, on such conditions and at such rates as the Department may determine, to any member of the board or of a committee of the board or a sub-committee thereof who necessarily incurs expenditure on travelling or, as the case may be, subsistence for the purpose of enabling him to perform any duty specified in the conditions.

(2) Paragraph (1) shall apply to members of—

(a) a Board of Governors of a controlled school;

(b) a Board of Governors of a maintained school appointed in accordance with Schedule 5; and

(c) a management committee of an institution of further education,

in like manner as it applies to members of a board.

(3) A board shall make payments to—

(a) the chairman of the board for or in relation to his functions as chairman of the board, of amounts or at rates not exceeding such amounts or rates and on such conditions as the Department, with the approval of the Department of Finance and Personnel, may determine;

(b) the members of the board for or in relation to their functions as members of the board, of amounts or at rates not exceeding such amounts or rates and on such conditions as the Department may determine.”.

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Grants to voluntary grammar schools

30.—(1) After Article 106 of the principal Order there shall be inserted the following Article—

“Grants to voluntary grammar schools

106A.—(1) The Department may make grants to the Board of Governors of a voluntary grammar school towards expenditure incurred in carrying on the school, except—

- (a) expenditure incurred for the provision or alteration of the premises of the school; and
- (b) expenditure incurred for the provision of equipment for the school which is approved expenditure for the purposes of Article 106(1)(b).

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

(2) Except in so far as it empowers the Department to pay grants in respect of expenditure incurred or to be incurred for the purposes of the provision of milk, meals or other refreshment and facilities in accordance with Articles 46 and 47 of the principal Order, Article 105 of that Order (grants by Department for the purposes of educational or library services, services ancillary to education, etc.) shall not apply to the trustees or Board of Governors of a voluntary grammar school.

Power of board to enter into arrangement with other bodies for supply of goods and materials

31. In Schedule 2 to the principal Order in paragraph 13 after sub-paragraph (1) there shall be inserted the following sub-paragraphs—

“(1A) A board may enter into an agreement with a public body for the supply by the board to the public body of any goods or materials and a board may purchase and store any goods or materials which in its opinion it may require for the purposes of this sub-paragraph.

(1B) In sub-paragraph (1A) “public body” means a body established by or under a transferred provision.”.

Teaching appointments committee

32. In Part I of Schedule 3 to the principal Order after paragraph 3 there shall be inserted the following paragraph—

“3A.—(1) Where a meeting of the teaching appointments committee is to be held to exercise any of the functions conferred on the committee by Part I of Schedule 10 in relation to a post in a school, the committee shall invite representatives of the school to attend the meeting for the purpose of advising the committee generally on matters relating to the school and the nature of the post.

(2) Representatives of the school invited to attend a meeting of the committee under this paragraph shall be entitled to be present at the meeting only for the purpose mentioned in sub-paragraph (1) and shall not be present during the interview of any candidate for the post nor during any discussion or decision relating to the appointment of any particular candidate to the post.

(3) In this paragraph—

(a) references to a post shall be construed in accordance with paragraph 1 of Schedule 10;

(b) “representatives of the school” means—

(i) where the meeting is held in relation to the post of principal of the school, two members of the Board of Governors of the school, other than the principal;

(ii) where the meeting is held in relation to any other post in the school, one member of the Board of Governors of the school and the principal of the school or, where the principal is absent or otherwise unavailable, a teacher on the staff of the school.

Appointment of teachers

33.—(1) Schedule 10 to the principal Order shall have effect subject to the following provisions of this Article.

(2) For paragraph 2 there shall be substituted the following paragraph—

“2. Subject to the provisions of any regulations made by the Department, a board may, without advertisement, appoint a teacher to a vacant post if—

(a) the teacher is a teacher in the school to which the appointment is to be made and the Board of Governors of the school has given to the board its prior consent to the appointment; or

(b) the teacher is a person employed in any grant-aided school in a post of principal or such other post as may be prescribed and the Board of Governors of the school to which the appointment is to be made has given to the board its prior consent to the appointment.”.

(3) In paragraphs 3 and 6 for the words “school management committee” and “committee” wherever they occur there shall be substituted the words “Board of Governors”.

(4) After paragraph 3 there shall be inserted the following paragraph—

“3A. Where, at a meeting of the Board of Governors of a school, the principal disagrees with any decision of the Board of Governors taken in the exercise of its functions under this Part in relation to his school, that disagreement and the reasons for it shall, if the principal so requests, be recorded in the minutes of the

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meeting and notified to the board at the same time as the decision of the Board of Governors.”.

(5) In paragraph 6 for sub-paragraph (7) there shall be substituted the following sub-paragraphs—

“(7) A board may, with the prior consent of the Board of Governors of the school to which a teacher is being appointed and without complying with the foregoing provisions of this paragraph, appoint to a post of assistant teacher in a controlled school under its management a teacher who is employed by that or another board or is employed in any grant-aided school.

(7A) Where, at a meeting of the Board of Governors of a school, the principal disagrees with any decision of the Board of Governors taken in the exercise of its functions under this paragraph in relation to his school, that disagreement and the reasons for it shall, if the principal so requests, be recorded in the minutes of the meeting and notified to the board at the same time as the decision of the Board of Governors.”.

(6) In paragraph 9 for the words “management committee of a controlled school or institution of further education” there shall be substituted the words “Board of Governors of a controlled school or the management committee of an institution of further education” and for the words “or the management committee” there shall be substituted the words “or the Board of Governors or the management committee”.

(7) In paragraph 10 for the words “management body” there shall be substituted the word “managers”.

Functions of Examinations Boards to be exercisable by Examinations Council

34.—(1) The Northern Ireland General Certificate of Education Examinations Board and the Northern Ireland Certificate of Secondary Education Examinations Board are hereby abolished and the assets and liabilities of those Boards are hereby transferred to the Northern Ireland Schools Examinations Council.

(2) The principal Order shall have effect subject to the amendments specified in Schedule 7, being amendments which—

- (a) provide for the functions of the Boards abolished by paragraph (1) to be exercised by the Northern Ireland Schools Examinations Council;
- (b) alter the constitution of the Council;
- (c) otherwise extend the powers of the Council in relation to the conduct of examinations; and
- (d) relate to financial provisions concerning the Council.

Repeal of spent and unnecessary provisions

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35. The following provisions of the principal Order shall cease to have effect, namely—

- (a) in Article 2(1) the words “and the Local Government Act (Northern Ireland) 1972”;
- (b) Article 7(2);
- (c) Article 11;
- (d) Article 12(5)(a) and (c);
- (e) in Article 14(6) the words from “at the date” to “education authority”;
- (f) Article 19(2);
- (g) in Article 24(1) the words “unless the Ministry otherwise directs”;
- (h) Article 27(5);
- (i) Article 28(2);
- (j) in Article 28(3) the words “or the corresponding Part of any enactment repealed by this Order”;
- (k) in Article 33(1) the words “or the corresponding provisions of any enactment repealed by this Order”;
- (l) in Article 38(3) the words “or by a former local education authority”;
- (m) Article 44(5);
- (n) Article 54;
- (o) Article 72;
- (p) Article 73;
- (q) Article 77(4);
- (r) Article 83(3);
- (s) in Article 83(8) the words “or deemed to have been made”;
- (t) Article 94(1) and (2);
- (u) in Article 94(15) the words “this Order or” and “to the Ministry under paragraph (1) or”;
- (v) Article 95(7);
- (w) Article 96(1), (2) and (5);
- (x) Article 106(4);
- (y) in Article 106(5) the words “or deemed to be paid”;
- (z) in Schedule 2 in paragraph 9(1) the words “subject to paragraph 1(7)”.

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PART V

Supplementary provisions

Amendments

36. The principal Order shall have effect subject to the amendments set out in Part I of Schedule 8 and the statutory provisions specified in Part II of that Schedule shall have effect subject to the amendments set out in that Part.

Transitional provisions

37. The transitional provisions set out in Schedule 9 shall have effect.

Repeals

38. The statutory provisions set out in Schedule 10 are hereby repealed to the extent specified in column 3 of that Schedule.

N. E. Leigh,
Clerk of the Privy Council.

SCHEDULES

SCHEDULE 1

Article 3(2).

SCHEDULE 4 TO PRINCIPAL ORDER, AS SUBSTITUTED

“SCHEDULE 4

MEMBERSHIP OF BOARD OF GOVERNORS OF CONTROLLED SCHOOLS

1.—(1) The Board of Governors of one or more than one controlled school shall consist of—

- (a) such number of persons (in this Schedule referred to as “voting members”) as the board may, subject to paragraphs 2 to 5, determine; and
- (b) the principal of the school, or each of the schools, who, subject to sub-paragraph (2), shall be entitled to attend and take part in meetings of the Board of Governors but not to vote on any question.

(2) Where two or more schools are grouped under one Board of Governors, the principal of a school shall not be entitled to attend or take part in any meeting of the Board of Governors whenever a matter relating exclusively to one or more of the other schools is being discussed.

Controlled primary schools (other than nursery or integrated schools)

2.—(1) There shall be 9, 16 or 24 voting members appointed to the Board of Governors of one or more than one controlled primary school, other than a controlled nursery school or controlled integrated primary school.

(2) Subject to paragraph 6, where there are 9 voting members appointed to such a Board of Governors, then of those members—

- (a) four shall be nominated by the transferors and superseded managers of the school or schools;
- (b) two shall be elected by parents of pupils attending the school or schools from amongst the parents of such pupils;
- (c) two shall be chosen by the board responsible for the management of the school or schools;
- (d) one shall be elected by assistant teachers at the school or schools from amongst such assistant teachers.

(3) Where there are 16 or 24 voting members appointed to such a Board of Governors, sub-paragraph (2) shall apply as if for the numbers mentioned in heads (a), (b), (c) and (d) of that sub-paragraph there were substituted the fractions three-eighths, one-quarter, one-quarter and one-eighth respectively.

Controlled intermediate schools (other than technical or integrated schools)

3.—(1) There shall be 9, 16 or 24 voting members appointed to the Board of Governors of a controlled intermediate school, other than a technical intermediate school or a controlled integrated intermediate school.

(2) Subject to paragraph 6, where there are 9 voting members appointed to such a Board of Governors, then of those members—

- (a) four shall be nominated by the Boards of Governors of contributory schools from amongst members of those Boards of Governors who have been nominated by the transferors and superseded managers of the contributory schools;

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

(3) Where there are 16 or 24 voting members appointed to such a Board of Governors, sub-paragraph (2) shall apply as if for the numbers mentioned in heads (a), (b), (c) and (d) of that sub-paragraph there were substituted the fractions three-eighths, one-quarter, one-quarter and one-eighth respectively.

Controlled nursery, grammar and special schools

4. There shall be 8, 16 or 24 voting members appointed to the Board of Governors of a controlled nursery school, a controlled grammar 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. There shall be 14 or 21 voting members appointed to the Board of Governors of one or more than one controlled integrated school and, subject to paragraph 6, of those members—

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

Provisions supplementary to paragraphs 2 to 5

6.—(1) Where the board proposes to appoint persons to a Board of Governors under paragraph 2(2)(a) it shall serve on the transferors and superseded managers who are to nominate persons for that purpose a notice—

- (a) stating the board's intention to appoint such persons; and
- (b) requesting the transferors and superseded managers to make nominations to the board within a period of 21 days from the date on which the notice is served;

and where the transferors and superseded managers fail to make any nomination requested by such a notice within that period the board may appoint

such persons as it considers to be suitable for appointment, being persons who, so far as possible, are resident in the locality served by the school or schools under the management of the Board of Governors and the persons so appointed shall be deemed to have been duly nominated for the purposes of paragraphs 2(2)(a) and 3(2)(a).

(2) Where the board proposes to appoint persons to a Board of Governors under paragraph 3(2)(a) it shall serve on the Boards of Governors of contributory schools who are to nominate persons for that purpose a notice—

- (a) stating the board's intention to appoint such persons; and
- (b) requesting the Boards of Governors to make nominations to the board within a period of 21 days from the date on which the notice is served;

and where such Boards of Governors fail to make any nomination requested by such a notice within that period the board may appoint such persons as it considers to be representative of the transferors and superseded managers of the contributory schools and the persons so appointed shall be deemed to have been duly nominated for the purposes of paragraph 3(2)(a).

(3) Where the board proposes to appoint persons to a Board of Governors under paragraph 5(c) or (d) it shall serve on the transferors and superseded managers or the nominating trustees (as the case may be) who are to nominate persons for that purpose a notice—

- (a) stating the board's intention to appoint such persons; and
- (b) requesting the transferors, superseded managers or nominating trustees to make nominations to the board.

(4) The board shall, with the approval of the Department, make arrangements for the election of persons under paragraphs 2(2)(b) and (d), 3(2)(b) and (d), 4(c) and (d) and 5(a) and (e) and such arrangements shall ensure that any vote taken for the purpose of any such election shall be by secret ballot.

(5) Where it is not practicable to appoint to a Board of Governors under paragraph 2(2)(a) persons nominated by the transferors or superseded managers because a school is not a transferred school or does not supersede any other school or schools, the board shall appoint in their place an equivalent number of persons appearing to the board to be representative of transferors and superseded managers in the area of the board as a whole and those persons shall, so far as possible, be persons resident in the locality served by the school or schools under the management of the Board of Governors and shall be deemed to have been duly nominated for the purposes of paragraphs 2(2)(a) and 3(2)(a).

Interpretation

7. In this Schedule—

- “assistant teacher” means a teacher, other than the principal or a temporary or part-time teacher, employed on the staff of a school;
- “superseded managers” means the persons who were formerly trustees or managers of any schools which have been superseded by schools under the management of boards or, if those persons were recognised by the Department as such trustees or managers by virtue of any office, then, their successors in such office;
- “nominating trustees” has the meaning assigned to it by paragraph 2(3) of Schedule 5.”

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Article 4(2).

SCHEDULE 2

PART I OF SCHEDULE 5 TO THE PRINCIPAL ORDER, AS SUBSTITUTED

“SCHEDULE 5

MAINTAINED SCHOOLS

PART I

CONSTITUTION OF BOARD OF GOVERNORS FOR MAINTAINED SCHOOL

1.—(1) Subject to sub-paragraphs (4) and (5), a board shall, if requested by the managers or trustees of a voluntary school other than a voluntary grammar school, make provision in accordance with this Part for the constitution of a Board of Governors for that school.

(2) A board may, with the approval of the Department, make provision for the constitution of one Board of Governors for two or more voluntary primary schools, other than nursery schools, where the managers or trustees of the schools so request.

(3) 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 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 (2) of the managers or trustees of that school or the application of that sub-paragraph to that school.

(4) 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 to make provision for the constitution of a Board of Governors for a school 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.

(5) The managers or trustees of a school or schools may, at any time before they have signified their agreement to a scheme complying with paragraph 2 for the school or schools, withdraw their request under this paragraph.

2.—(1) A scheme under Article 9(2) for one or more than one maintained school shall be framed by the board, after consultation with the managers or trustees of the school or schools, and shall, so far as it relates to the constitution of a Board of Governors, comply with the following provisions of this paragraph.

(2) The Board of Governors of one or more than one maintained school shall consist of—

(a) 10, 18 or 27 persons (in this paragraph referred to as voting members); and

(b) the principal of the school, or each of the schools, who, subject to sub-paragraph (5), shall be entitled to attend and take part in meetings of the Board of Governors but not to vote on any question.

(3) Where there are 10 voting members of the Board of Governors of one or more than one maintained school, then of those members—

(a) six shall be nominated—

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- (i) when appointments are first made to the Board of Governors, by the managers or trustees of the school or schools,
- (ii) on any subsequent appointment to the Board of Governors, by such persons (to be known as “nominating trustees”) and in such manner as the scheme may provide,

at least one of whom shall, at the time of his appointment, be a parent of a pupil attending the school or one of the schools;

- (b) two shall be nominated by the board;
- (c) one shall be elected by parents of pupils attending the school or schools from amongst the parents of such pupils;
- (d) one shall be elected by assistant teachers at the school or schools from amongst such assistant teachers.

(4) Where there are 18 or 27 voting members of the Board of Governors of one or more than one maintained school, sub-paragraph (3) shall apply as if for the numbers mentioned in heads (a), (b), (c) and (d) of that sub-paragraph there were substituted the fractions five-ninths, two-ninths, one-ninth and one-ninth respectively.

(5) Where two or more schools are grouped under one Board of Governors, the principal of a school shall not be entitled to attend or take part in any meeting of the Board of Governors whenever a matter relating exclusively to one or more of the other schools is being discussed.

(6) The Board of Governors shall, with the approval of the Department, make arrangements for the election of persons under sub-paragraph (3)(c) and (d) and such arrangements shall ensure that any vote taken for the purpose of any such election shall be by secret ballot.”.

SCHEDULE 3

Article 4(3).

SCHEDULE 6 TO THE PRINCIPAL ORDER, AS SUBSTITUTED

“SCHEDULE 6

MEMBERSHIP OF BOARD OF GOVERNORS OF VOLUNTARY GRAMMAR SCHOOL ENTERING INTO AGREEMENT WITH DEPARTMENT OR BOARD AND OF DIRECT GRANT VOLUNTARY INTERMEDIATE SCHOOL

1.—(1) The trustees or Board of Governors of—

- (a) a voluntary grammar school; or
- (b) a school to which, by virtue of Article 7 of the Education (Northern Ireland) Order 1984, Part III of that Order applies,

shall, notwithstanding anything in any instrument of government of the school, have power to enter into an agreement with the Department conferring on the Head of the Department the right to appoint members to the Board of Governors of the school in accordance with paragraph 3(2)(b).

(2) The trustees or Board of Governors of—

- (a) a voluntary grammar school; or
- (b) a direct grant voluntary intermediate school,

shall, notwithstanding anything in any instrument of government of the school, have power to enter into an agreement, approved by the Department,

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with one or more than one board conferring on the board or boards the right to appoint members to the Board of Governors of the school in accordance with paragraph 3(2)(b).

(3) An agreement under sub-paragraph (1) shall provide that the Head of the Department, before making an appointment to the Board of Governors of the school, shall consult the Board of Governors of the school and the board for the area in which the school is situated and may consult any other board which he considers appropriate.

(4) Any agreement made or having effect as if made under this paragraph by the trustees or Board of Governors of a voluntary grammar school shall continue to have effect in relation to the school if it becomes a school to which Part III of the Education (Northern Ireland) Order 1984 applies and if it then becomes a direct grant voluntary intermediate school.

2. Notwithstanding anything in any instrument of government of—

(a) a voluntary grammar school the trustees or Board of Governors of which have entered into an agreement under paragraph 1(1) or 1(2);
or

(b) a direct grant voluntary intermediate school,

the Board of Governors of the school shall be constituted in accordance with paragraph 3.

3.—(1) The Board of Governors of the school shall consist of—

(a) 10, 18, 27 or 36 persons (in this paragraph referred to as voting members); and

(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.

(2) Where there are 10 voting members of the Board of Governors of the school, then of those members—

(a) six shall be appointed as provided by the scheme approved under Article 9(2), at least one of whom shall, at the time of his appointment, be a parent of a pupil attending the school;

(b) two shall be appointed—

(i) where the trustees or Board of Governors have entered into an agreement under paragraph 1(1), by the Head of the Department;

(ii) where the trustees or Board of Governors have entered into an agreement under paragraph 1(2), by the board or boards;

(iii) where the trustees or Board of Governors have entered into agreements both under paragraphs 1(1) and 1(2), by the Head of the Department and the board or boards in accordance with the terms of such agreements but subject to sub-paragraph (6);

(c) one shall be elected by parents of pupils attending the school from amongst parents of such pupils;

(d) one shall be elected by assistant teachers at the school from amongst such assistant teachers.

(3) Where there are 18, 27, or 36 members of the Board of Governors of the school, sub-paragraph (2) shall apply as if for the numbers mentioned in heads (a), (b), (c) and (d) of that sub-paragraph there were substituted the fractions five-ninths, two-ninths, one-ninth and one-ninth respectively.

(4) Subject to sub-paragraph (5), persons elected to the Board of Governors under sub-paragraph (2)(c) and (d) shall hold office for a period of four years from the date on which they were elected. SCH. 3

(5) If a person referred to in sub-paragraph (4) ceases to hold office before the end of the period referred to in that sub-paragraph, any person elected to replace him shall hold office only for the remainder of that period.

(6) Where the trustees or Board of Governors of the school—

(a) enter into an agreement under paragraph 1(1) at a time when members have been appointed by one or more than one board to the Board of Governors of the school under a prior agreement entered into under paragraph 1(2); or

(b) enter into an agreement under paragraph 1(2) at a time when members have been appointed by the Head of the Department to the Board of Governors of the school under a prior agreement entered into under paragraph 1(1),

then, until the expiration of the period for which those members have been appointed under the prior agreement and notwithstanding sub-paragraphs (1)(a) and (2)(b)(iii), such number of members may be appointed for that period to the Board of Governors of the school by the Head of the Department or, as the case may be, the board or boards as is provided for in the subsequent agreement.

(7) The Board of Governors shall, with the approval of the Department, make arrangements for the election of persons under sub-paragraph (2)(c) and (d) and such arrangements shall ensure that any vote taken for the purpose of any such election shall be by secret ballot.

(8) Where under any instrument of government of a school assets of a capital nature held for the purposes of or in connection with the school are vested in the Board of Governors of the school, the persons elected to the Board of Governors of the school under sub-paragraph (2)(c) and (d) shall, unless the other members of the Board of Governors otherwise determine, not be entitled to attend or take part in any meeting of the Board of Governors whenever a matter relating to the acquisition, disposal or management of such assets is being discussed or to vote on any question relating to such a matter.

4. In this Schedule “assistant teacher” has the meaning assigned to it by paragraph 7 of Schedule 5.”.

SCHEDULE 4

Article 4(4).

SCHEDULE 6A TO THE PRINCIPAL ORDER, AS INSERTED

“SCHEDULE 6A

MEMBERSHIP OF BOARD OF GOVERNORS OF VOLUNTARY GRAMMAR SCHOOL NOT ENTERING INTO AGREEMENT WITH DEPARTMENT OR BOARD

1. Notwithstanding anything in any instrument of government of a voluntary grammar school the trustees or Board of Governors of which have not entered into an agreement under paragraph 1 of Schedule 6, the Board of Governors of the school shall be constituted in accordance with paragraph 2.

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- 2.—(1) The Board of Governors of the school shall consist of—
- (a) the persons appointed as provided by the scheme approved under Article 9(2), at least one of whom shall, at the time of his appointment, be a parent of a pupil attending the school;
 - (b) either one or two persons elected in accordance with sub-paragraphs (2) and (5) by parents of pupils attending the school from amongst the parents of such pupils;
 - (c) either one or two persons elected in accordance with sub-paragraphs (2) and (5) by assistant teachers at the school from amongst such assistant teachers;
 - (d) 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.

(2) Where the number of persons who are members of the Board of Governors by virtue of sub-paragraph (1)(a) is 13 or less, one person shall be elected to the Board of Governors under sub-paragraph (1)(b) and one person under sub-paragraph (1)(c); and where the number of such persons is 14 or more, two persons shall be elected to the Board of Governors under sub-paragraph (1)(b) and two persons under sub-paragraph (1)(c).

(3) Subject to sub-paragraph (4), persons elected to the Board of Governors under sub-paragraph (1)(b) and (c) shall hold office for a period of four years from the date on which they were elected.

(4) If a person referred to in sub-paragraph (3) ceases to hold office before the end of the period referred to in that sub-paragraph, any person elected to replace him shall hold office only for the remainder of that period.

(5) The Board of Governors shall, with the approval of the Department, make arrangements for the election of persons under sub-paragraph (1)(b) and (c) and such arrangements shall ensure that any vote taken for the purpose of any such election shall be by secret ballot.

(6) Where under any instrument of government of a school assets of a capital nature held for the purposes of or in connection with the school are vested in the Board of Governors of the school, the persons elected to the Board of Governors of the school under sub-paragraph (1)(b) and (c) shall, unless the other members of the Board of Governors otherwise determine, not be entitled to attend or take part in any meeting of the Board of Governors whenever a matter relating to the acquisition, disposal or management of such assets is being discussed or to vote on any question relating to such a matter.

3. In this Schedule “assistant teacher” has the meaning assigned to it by paragraph 7 of Schedule 5.”.

Article 4(4).

SCHEDULE 5

SCHEDULE 6B TO THE PRINCIPAL ORDER, AS INSERTED

“SCHEDULE 6B

**MEMBERSHIP OF BOARD OF GOVERNORS OF VOLUNTARY SCHOOL WHICH
HAS CEASED TO BE MAINTAINED SCHOOL**

1. Notwithstanding anything in any other instrument of government of a voluntary school to which Article 9(7) applies, the scheme under Article 9(2)

for the school shall, so far as it relates to the constitution of the Board of Governors of the school, comply with the provisions of paragraph 2. SCH. 5

- 2.—(1) The Board of Governors of the school shall consist of—
- (a) 9, 18 or 27 persons (in this paragraph referred to as voting members); and
 - (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.
- (2) Of the voting members of the Board of Governors of the school—
- (a) seven-ninths shall be nominated by the nominating trustees and at least one of the persons so nominated shall, at the time of his nomination, be a parent of a pupil attending the school;
 - (b) one-ninth shall be elected by parents of pupils attending the school from amongst the parents of such pupils;
 - (c) one-ninth shall be elected by assistant teachers at the school from amongst such assistant teachers.
- (3) Subject to sub-paragraph (4), persons elected to the Board of Governors under sub-paragraph (2)(b) and (c) shall hold office for a period of four years from the date on which they were elected.
- (4) If a person referred to in sub-paragraph (3) ceases to hold office before the end of the period referred to in that sub-paragraph, any person elected to replace him shall hold office only for the remainder of that period.
- (5) The Board of Governors shall, with the approval of the Department, make arrangements for the election of persons under sub-paragraph (2)(b) and (c) and such arrangements shall ensure that any vote taken for the purpose of any such election shall be by secret ballot.

3. In this Schedule—

“assistant teacher” has the meaning assigned to it by paragraph 7 of Schedule 5;

“nominating trustees” means—

- (a) when appointments are first made to the Board of Governors, the persons who were the nominating trustees provided for in the scheme for the school when it was a maintained school;
- (b) on any subsequent appointment to the Board of Governors, such persons as the scheme for the school complying with the provisions of paragraph 2 may provide.”.

SCHEDULE 6

Article 16(2).

SCHEDULE 7A TO THE PRINCIPAL ORDER, AS INSERTED

“SCHEDULE 7A

ASSESSMENTS AND STATEMENTS OF SPECIAL EDUCATIONAL NEEDS

PART I

ASSESSMENTS

1.—(1) If a board proposes to make an assessment of the educational needs of a child under Article 25, it shall, before doing so, serve notice on the child’s parent informing him—

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- (a) that the board proposes to make an assessment;
- (b) of the procedure to be followed in making it;
- (c) of the name of the officer of the board from whom further information may be obtained; and
- (d) of his right to make representations, and submit written evidence, to the board within such period (not less than 29 days beginning with the date on which the notice is served) as may be specified in the notice.

(2) When the board has served a notice under sub-paragraph (1) and the period specified in the notice in accordance with sub-paragraph (1)(d) has expired, the board shall, if it considers it appropriate after taking into account any representations made and any evidence submitted to it in response to the notice, assess the educational needs of the child concerned.

(3) A board shall notify the child's parent in writing—

- (a) where the board decides to make an assessment, of that decision and the board's reasons for making it;
- (b) where, at any time after serving a notice under sub-paragraph (1), the board decides not to make an assessment, of that decision.

(4) If, after making an assessment of the educational needs of a child under Article 25, a board decides that it is not required to determine the special educational provision that should be made for him, then—

- (a) the board shall notify the child's parent in writing of its decision and of the parent's right of appeal under this sub-paragraph;
- (b) the parent may appeal in writing to the Department against the board's decision; and
- (c) the Department may, on such an appeal, direct the board to reconsider its decision.

2.—(1) The Department shall by regulations make provision as to the advice which a board is to seek in making assessments.

(2) Without prejudice to the generality of sub-paragraph (1), regulations made under that sub-paragraph shall require the board to seek medical, psychological and educational advice and such other advice as may be prescribed.

(3) The Department may by regulations make provision—

- (a) as to the manner in which assessments are to be conducted; and
- (b) in connection with such other matters relating to the making of assessments as the Department considers appropriate.

3.—(1) Where a board proposes to make an assessment it may serve a notice on the parent of the child to be assessed requiring the child's attendance for examination in accordance with the provisions of the notice.

(2) The parent of a child examined under this paragraph shall be entitled to be present at the examination if he so desires.

(3) A notice under this paragraph shall—

- (a) state the purpose of the examination;
- (b) state the time and place at which the examination will be held;
- (c) name an officer of the board from whom further information may be obtained;

(d) inform the parent that he may submit such information to the board as he may wish; and SCH. 6

(e) inform the parent of his right to be present at the examination.

(4) A parent on whom a notice has been served under this paragraph and who, without reasonable excuse, fails to comply with any of the requirements of the notice shall, if the notice relates to a child who was not over compulsory school age at the time stated in the notice as the time for holding the examination, be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

4.—(1) If the parent of a child in the area of a board for whom no statement is maintained by the board under Article 25B asks the board to arrange for an assessment to be made of the child's educational needs, the board shall comply with the request unless in its opinion the request is unreasonable.

(2) If the parent of a child for whom a statement is maintained by a board under Article 25B asks the board to arrange for an assessment of the child's educational needs under Article 25 and such an assessment has not been made within the period of six months ending with the date on which the request is made, the board shall comply with the request unless the board is satisfied that an assessment would be inappropriate.

PART II

STATEMENTS

5.—(1) Before making a statement under Article 25B a board shall serve on the parent of the child concerned—

(a) a copy of the proposed statement; and

(b) a written explanation of the effect of sub-paragraphs (2) to (6).

(2) If the parent on whom a copy of a proposed statement has been served under sub-paragraph (1) disagrees with any part of the proposed statement, he may, before the expiry of the appropriate period,—

(a) make representations, or further representations, to the board about the content of the proposed statement;

(b) require the board to arrange a meeting between him and an officer of the board at which the proposed statement can be discussed.

(3) Where a parent, having attended a meeting arranged by a board under sub-paragraph (2)(b), disagrees with any part of the assessment in question, he may, before the expiry of the appropriate period, require the board to arrange one or more meetings under sub-paragraph (4).

(4) Where a board receives a request duly made under sub-paragraph (3), it shall arrange such meeting or meetings as it considers will enable the parent to discuss the relevant advice with the appropriate person or persons.

(5) In sub-paragraph (4)—

“relevant advice” means such of the advice given to the board in connection with the assessment as it considers to be relevant to that part of the assessment with which the parent disagrees;

“appropriate person” means the person who gave the relevant advice or any other person who, in the opinion of the board, is the appropriate person to discuss it with the parent.

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(6) In this paragraph “appropriate period” means the period of 15 days beginning—

- (a) in the case of a request under sub-paragraph (2)(b), with the date on which the proposed statement mentioned in sub-paragraph (1)(a) was served on the parent;
- (b) in the case of a request under sub-paragraph (3), with the date fixed for the meeting arranged under sub-paragraph (2)(b); and
- (c) in the case of representations, or further representations, under sub-paragraph (2)(a)—
 - (i) with the date mentioned in head (a); or
 - (ii) if one or more meetings have been arranged under the preceding provisions of this paragraph, with the date fixed for the last of those meetings.

(7) Where any such representations are made to a board, it may, after considering those representations—

- (a) make a statement in the form originally proposed;
- (b) make a statement in a modified form; or
- (c) determine not to make a statement;

and shall notify the parent in writing of its decision.

(8) On making a statement under Article 25B a board shall serve on the parent of the child concerned—

- (a) a copy of the statement;
- (b) notice in writing of his right under sub-paragraph (9), to appeal to the Department against the special educational provision specified in the statement; and
- (c) notice in writing of the name of the person to whom he may apply for information and advice about the child’s special educational needs.

(9) A parent of a child for whom a statement is maintained under Article 25B may, following the first or any subsequent assessment of the child’s educational needs under Article 25, appeal to the Department against the special educational provision specified in the statement.

(10) On an appeal under paragraph (9) the Department may, after consulting the board concerned—

- (a) confirm the special educational provision specified in the statement;
- (b) amend the statement so far as it specifies the special educational provision and make such other consequential amendments to the statement as it considers appropriate;
- (c) direct the board to cease to maintain the statement.

6.—(1) A statement under Article 25B shall be in the prescribed form and contain the prescribed information and shall, in particular—

- (a) give details of the board’s assessment of the special educational needs of the child; and
- (b) specify the special educational provision to be made for the purpose of meeting those needs.

(2) The Department may by regulations—

- (a) make provision with respect to the keeping, disclosure and transfer of statements;

(b) prescribe the frequency with which assessments are to be repeated in respect of children for whom statements are maintained under Article 25B. SCH. 6

7. Every statement shall, on the making of an assessment of the educational needs of the child concerned under Article 25, be reviewed by a board and shall be reviewed in any event within the period of twelve months beginning with the making of the statement or, as the case may be, with the previous review.

8.—(1) If a board proposes to amend, or to cease to maintain, a statement, the board shall, before doing so, serve on the parent of the child concerned notice in writing of its proposal and of the right of the parent to make representations under this paragraph.

(2) Any parent on whom a notice has been served under this paragraph may, within the period of 15 days beginning with the date on which the notice is served, make representations to the board about the proposal.

(3) A board shall consider any representations made to it under this paragraph and on taking a decision on the proposal to which those representations relate shall inform the parent in writing of its decision.

(4) This paragraph does not apply in any case where a board ceases to maintain a statement for a child who is no longer in its area or where amendments which are made to a statement are consequential upon the making, amendment or revocation of a school attendance order under Schedule 9.”.

SCHEDULE 7

Article 34(2).

AMENDMENTS TO THE PRINCIPAL ORDER IN RELATION TO NEW CONSTITUTION AND POWERS OF NORTHERN IRELAND SCHOOLS EXAMINATIONS COUNCIL

For Article 109 substitute the following Article—

“Functions of Council

109. Without prejudice to any other provision of this Order, the functions of the Council shall be—

- (a) to advise the Head of the Department on such matters relating to examinations for pupils receiving secondary education as he may from time to time refer to it or as the Council may think fit;
- (b) to conduct, and award the appropriate certificates for, the relevant examinations, in accordance with such rules as the Council may determine.”.

Article 111 shall cease to have effect.

Article 112(3) and (4) shall cease to have effect.

For Article 113 substitute the following Article—

“Grants to Council

113. The Department may pay to the Council grants of such amount as the Department may determine towards expenditure incurred or to be incurred by the Council.”.

In Article 114 for paragraph (3) substitute the following paragraph—

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“(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 consider necessary for the proper performance of those functions.”.

In Article 114(4) for the words “the examinations for the Northern Ireland General Certificate of Education and the Northern Ireland Certificate of Secondary Education” substitute the words “the relevant examinations” and for the words “and the G.C.E. and C.S.E. Boards of their functions” substitute the words “of its functions”.

In Article 115(1)—

- (a) for the words “Schedules 13 and 14” substitute the words “Schedule 13”;
- (b) the definitions of “the C.S.E. Board” and “the G.C.E. Board” shall cease to have effect;
- (c) at the end add—
 - “the relevant examinations” means—
 - (a) examinations for the Northern Ireland General Certificate of Education;
 - (b) examinations for the Northern Ireland Certificate of Secondary Education; and
 - (c) such other examinations as the Department, after consultation with the Council, may determine.”.

In Article 115(2) for the words “or 14” substitute the words “or the definition of “the relevant examinations” in paragraph (1)”.

In Article 121 the words from “The Northern Ireland General Certificate” to the end shall cease to have effect.

For Schedule 13 substitute the following Schedule—

“SCHEDULE 13

THE NORTHERN IRELAND SCHOOLS EXAMINATIONS COUNCIL

PART I

THE CONSTITUTION OF THE COUNCIL

1.—(1) The Council shall consist of a Chairman appointed by the Head of the Department and not less than 37 nor more than 40 other members appointed by the Head of the Department in accordance with subparagraph (2).

(2) The other members shall be—

- 15 persons representing teachers in secondary schools;
- 3 persons representing teachers in institutions of further education;
- 12 persons representing universities and other institutions of higher education;
- 5 persons representing education and library boards;
- 2 persons representing industry and commerce;

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and not more than 3 additional persons who in the opinion of the Head of the Department are suitable for appointment to the Council. SCH. 7

2.—(1) The Head of the Department may appoint three assessors to the Council and the Head of the Department of Economic Development may appoint one such assessor.

(2) An assessor 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.

(3) 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 this paragraph. 1954 c. 33 (N.I.)

3.—(1) The term of office of the Chairman and the other members of the Council shall be three years or such shorter period as may be determined by the Head of the Department at the time the appointment is made but a person appointed to fill a casual vacancy shall hold office only for the remainder of the term for which the member he replaces was appointed.

(2) A member of the Council shall be eligible for re-appointment on the expiry of his period of office.

(3) 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—
 - (i) becomes incapacitated to hold office, or
 - (ii) ceases to represent the interest for which he was appointed, 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 twelve consecutive months.

PART II

SUPPLEMENTARY PROVISIONS AS TO THE COUNCIL

4. The Council shall make arrangements for the consideration by the Council of appeals against any decision or complaints against any action of the Council.

5.—(1) The Council shall appoint a Finance Committee not less than one-third of the members of which shall be members for the time being appointed to the Council as representing education and library boards.

(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.

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(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.

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.

1954 c. 33 (N.I.)

7. Without prejudice to section 19(1)(a)(v) of the Interpretation Act (Northern Ireland) 1954, 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.

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 or charge real property shall not be exercised without the approval of the Department.

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 the approval of the Department of Finance and Personnel, 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 shall be appointed at such rates of remuneration as the Council may, with the consent of the Department given subject to the approval of the Department of Finance and Personnel, determine.

(3) The Council may, in accordance with arrangements determined by the Department with the approval of the Department of Finance and Personnel, 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, after consultation with the Department, appoint a fit person to be its chief officer.

(5) Before making any appointment under sub-paragraph (4), the Council shall supply to the Department particulars of the names, previous experience and qualifications of the persons from whom it proposes to make a selection, and if the Department considers that any person whose

name is submitted is not a fit person to be the chief officer of the Council, the Department may give directions prohibiting his appointment. SCH. 7

(6) A person who is an officer of the Council shall not be qualified to be a member of the Council.

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.

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

- (a) for the conduct of external examinations on syllabuses prescribed by the Council;
- (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;
- (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.

(2) The Council may enter into arrangements to perform functions or provide services 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.

(3) The Council may arrange for the relevant examinations, or part thereof, to be conducted on its behalf by any other examining body or authority and may make payments to that body or authority in respect of the expenditure incurred by it in carrying out the arrangements.

(4) The Council shall seek to ensure that the standards of the relevant examinations are recognised as equivalent to the standards of examinations conducted by other examining bodies exercising similar functions elsewhere in the United Kingdom.

(5) The Council may conduct investigations into methods of examining and such other matters as the Council may determine, may take part in investigations into such matters conducted by another body, and may make to such body payments in respect of the expenditure incurred by it in conducting such investigations.

(6) The Council shall appoint such examiners, moderators and other persons as it considers necessary and shall pay them such salaries, fees or other allowances as the Council may, with the approval of the Department, determine.

(7) The Council shall publish rules and syllabuses for the relevant examinations and may publish specimen examination papers and such other material as it considers desirable.

(8) The Council shall charge examination fees at rates approved by the Department.

(9) Every certificate awarded by the Council shall be signed on behalf of the Council.”

Schedule 14 shall cease to have effect.

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Article 36.

SCHEDULE 8

AMENDMENTS

PART I

AMENDMENTS TO THE PRINCIPAL ORDER

1. In Article 2(2)—

(a) at the appropriate place in alphabetical order insert the following definitions—

““direct grant voluntary intermediate school” means a school which in accordance with Article 10 or 11 of the Education (Northern Ireland) Order 1984 has become a direct grant voluntary intermediate school;

“instrument of government of a school” means any statutory provision or any charter, deed, memorandum of association, articles of association or other document constituting the school or under which the land used for the school is vested or which otherwise relates to the school or land used for the school;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

“trustees”, in relation to a voluntary school or college of education, means the person or persons in whom the premises of the school or college of education are, or are to be, vested;”;

(b) for the definition of “intermediate school” substitute the following definition—

““intermediate school” means a secondary school which, apart from any fees which may be charged under Articles 9(2) and 14(2) of the Education (Northern Ireland) Order 1984, provides free education;”;

(c) in the definition of “college of education” for the words “Article 55(2)” substitute the words “Article 55(2) or (3)”;

(d) for the definitions of “maintained school” and “managers” substitute, respectively, the following definitions—

““maintained school” has the meaning assigned to it by Article 9(3);

“managers” means—

(a) in relation to a controlled school, the board responsible for its management;

(b) in relation to a voluntary school (other than a school referred to in Article 9(8)), the Board of Governors of the school;

(c) in relation to a voluntary school referred to in Article 9(8), the person approved by the Department under that provision in relation to the school;

(d) in relation to an independent school, the proprietor of the school;

(e) in relation to an institution of further education, the board responsible for its management;

(f) in relation to a college of education, the person or body responsible for its management.” SCH. 8

2. In Article 2(2)—

(a) for the definitions of “controlled school” and “controlled integrated school” substitute, respectively, the following definitions—

“controlled school” means a grant-aided school under the management of a board;

“controlled integrated school” means a controlled school which in accordance with Articles 9A and 11A has become a controlled integrated school;”;

(b) the definitions of “district council”, “financial year”, “former library authority”, “local authority”, “maintained school committee” and “school management committee” shall cease to have effect.

3. In Article 4(7), at the beginning insert the words “Except as provided by Articles 8 and 24.”.

4. In Article 5(b) for the words “provided in an institution of further education” substitute the words “at an institution or establishment providing further education”.

5. In Article 10(2), for the words “or body controlling” substitute the word “of” and after the words “maintained school” insert the words “or a direct grant voluntary intermediate school”.

6. In Articles 12(5), 19(1), 95(2) and (2A) and 106(1), for the words “or governing body” substitute the words “or Board of Governors”.

7. In Article 13(2) and (4) for the word “managers” substitute the word “trustees”.

8. In Article 15(1) for the words “managers of a grant-aided school” substitute the words “board responsible for the management of a controlled school and the trustees of a voluntary school”.

9. In Article 17(2), for the words “the management committee” and “the committee” substitute the words “the Board of Governors”.

10. In Article 19(1) for the word “managers” where it twice occurs substitute the words “trustees or Board of Governors” and after the words “voluntary grammar school” insert the words “or a direct grant voluntary intermediate school”.

11. In Article 20(1) for the words “managers of any school under voluntary management” substitute the words “trustees or managers of any voluntary school”, in Article 20(1)(b) and (2) for the word “managers” substitute the words “trustees or managers” and in Article 20(2) for the words “managers of the school under voluntary management” substitute the words “trustees or managers of the voluntary school”.

12. In Article 32, for the words from “Part IV” to “1962” substitute the words “Part V of the Education (Scotland) Act 1980”.

13. For Article 36 substitute the following Article—

“Compulsory school age

36.—(1) Subject to the following provisions of this Article, in this Order the expression “compulsory school age” means any age between five years and sixteen years and accordingly a person shall be of compulsory school age if he has attained the age of five years and has not attained the age of sixteen years.

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(2) Where a person attains the age of sixteen years—

(a) on any date occurring in the period beginning on 1st September in any year and ending on 31st January in the following year he shall be deemed not to have attained the upper limit of compulsory school age until the date on which the spring term at his school in that following year ends 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 1st February in any year and ending on 31st August in that 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, the Friday before the last Monday in May in that year or such other date as the Department may, by order subject to affirmative resolution, prescribe.

(3) The Department may by regulations prescribe dates for the commencement of school attendance of a child on attaining the lower limit of compulsory school age.

(4) This Article shall have effect for the purposes of any statutory provision whereby the definition of compulsory school age in this Order or in any earlier enactment superseded by this Order is applied or incorporated.

(5) In this Article—

“school” in relation to a person means the last school at which he is a registered pupil for the term in question or for part of that term;

“spring term” in any year means the last term to end before 1st May in that year.”.

14. In Article 38(3) the words from “by whom the arrangements” to “of the board” shall cease to have effect.

15. In Article 40(1) before the word “training” insert the words “initial or further”.

16. In Article 43(1)(b), for the words “that college or” substitute the words “the Ulster Polytechnic or that”.

17. In Article 44(1), at the beginning insert the words “Except as provided by Articles 9(2) and 14(2) of the Education (Northern Ireland) Order 1984”.

18. In Article 45(1), after the word “intermediate” insert the words “(except direct grant voluntary intermediate)”.

19. In Article 49(1) for the word “Managers” substitute the words “Trustees and managers” and for the words “schools under their management” substitute the words “such schools”.

20. In Article 51(3), for the definitions of “summer term” and “autumn term” substitute the following definitions—

““autumn term” in any year means the last term to end before 31st December in that year;

“summer term” in any year means the last term to end before 1st September in that year.”.

21. The following provisions shall cease to have effect, namely—

(a) in Article 56(1) the words from “and to” to “of that board”;

(b) Article 62(1);

(c) in Article 62(4) the words “a development scheme or”; and

- (d) in Article 63 the words from “and shall be” to the end.
22. In Article 60(2) for the words from “where” to “Schedule 5” substitute the words “where the school is a maintained school or a direct grant voluntary intermediate school”.
23. In Article 62(2) for the words “The scheme under paragraph (1)” substitute the words “A revised development scheme or an amendment to an existing scheme”.
24. In Article 71(5) for the words from the beginning to “the regulations” substitute the words “The Department may direct that officers of a board of such class or description as may be specified in the direction” and the words “salaries or” shall cease to have effect.
25. In Article 71A for the words from “, on such conditions” to the end substitute the words “make loans to officers of the board on such conditions and at such rates of interest as the Department may, with the approval of the Department of Finance and Personnel, determine.”.
26. In Article 77 the words “Board of Governors” shall be substituted—
- (a) in paragraph (1) for the words “school management committee, or in the case of a maintained school, the maintained school committee” and the words “school management committee or, as the case may be, the maintained school committee”;
 - (b) in paragraphs (2), (5)(a) and (6) for the words “school management committee or maintained school committee”;
 - (c) in paragraphs (3) and (7) for the words “school management committee or a maintained school committee”;
 - (d) in paragraph (5) for the words “school management committee or, in the case of a maintained school, the maintained school committee”.
27. In Article 84(7) for the words from “other than” to “in like manner” substitute the words “other than a teaching appointments committee or a committee which is not authorised to perform functions on behalf of, or in the name of, the board”.
28. In Article 89 for the words “managers of a grant-aided school” substitute the words “trustees or managers of a voluntary school” and before the word “managers” in the other two places where it occurs insert the words “trustees or”.
29. In Article 90(1), (2) and (3) for the words “managers of a grant-aided school” substitute the words “trustees or managers of a voluntary school” and in Article 90(1) before the word “managers” in the other place where it occurs insert the words “trustees or”.
30. In Article 91 after the word “school” insert the words “, every college of education”.
31. In Article 92(1) and (2) for the words “the managers of” substitute the words “the trustees and managers of”.
32. In Article 95(2) after the words “under Schedule 6” insert the words “or for the purposes of a direct grant voluntary intermediate school”.
33. In Article 95(2A) for the words “or that body” substitute the words “or Board of Governors”.
34. In Article 105(3)(a) for the words “in respect of” substitute the words “equal to the amount of the”.

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35. In Article 105(3)(b) for the words from the beginning to “not maintained schools” substitute the words “to the Boards of Governors of maintained schools or of direct grant voluntary intermediate schools grants equal to, and to the managers of other voluntary schools”.

36. In Article 105, at the end add the following paragraphs—

“(4) This Article does not apply to the trustees or Board of Governors of a direct grant voluntary intermediate school, except in so far as it empowers the Department—

(i) to pay grants in respect of expenditure incurred or to be incurred for the purposes of the provision of milk, meals or other refreshment and facilities in accordance with Articles 46 and 47;

(ii) to make such grants as are referred to in paragraph (3)(a) and (b).

(5) This Article does not apply to the trustees or Board of Governors of a voluntary grammar school, except in so far as it empowers the Department to pay grants in respect of expenditure incurred or to be incurred for the purposes of the provision of milk, meals or other refreshment and facilities in accordance with Articles 46 and 47.”.

37. In Article 106(1)(a)(i) and (b)(i) after the words “Schedule 6” insert the words “or is a direct grant voluntary intermediate school”.

38. In Article 107(2)—

(a) sub-paragraph (b) shall cease to have effect;

(b) in sub-paragraph (c) the words from “and the summary” to “by the Department” shall cease to have effect;

(c) in sub-paragraph (d) the words “and of the certified summary” shall cease to have effect and at the end add the words “and a copy of a summary of the certified statements of accounts of the boards prepared by the Department in such form as the Department of Finance and Personnel may approve.”.

39. In Schedule 5 at the beginning of paragraph 4(3) insert the words “Subject to Articles 9(1)(c) and 11(5) of the Education (Northern Ireland) Order 1984.”.

40. In Schedule 10 in paragraph 6(3)(a), for the word “do” substitute the word “so”.

41. In Schedule 11 in paragraph 2, for sub-paragraph (5) substitute the following sub-paragraph—

“(5) The Staff Commission may pay—

(a) to its chairman such remuneration as may be determined by the Department with the approval of the Department of Finance and Personnel;

(b) to its chairman and its other members such reasonable allowances in respect of expenses properly incurred in the performance of their duties as may be determined by the Department.”.

42. In Schedule 11 in paragraph 5 after the word “Articles” insert “75”.

43. In Part II of Schedule 12 after paragraph 4 insert the following paragraphs—

“4A. For any reference to a matter prescribed by regulations made by the Department of the Environment there shall be substituted a reference to a matter prescribed by regulations made by the Department of Education.

4B. In paragraphs 2(c) and 5(2) for the words “as may be prescribed” there shall be substituted the words “as appear to the board to have an interest in the matter”.

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PART II

MISCELLANEOUS AMENDMENTS

The Health and Personal Social Services (Northern Ireland) Order 1972
(NI 14)

44. In Article 9(1)(a) and (8) for the words “Article 6(2)” wherever they occur substitute the words “Article 6(2) or (3)”.

The Fair Employment (Northern Ireland) Act 1976 (c.25)

45. In section 57(1) in the definition of “training” for paragraph (c) substitute the following paragraph—

“(c) a college of education within the meaning of that Order;”.

The Sex Discrimination (Northern Ireland) Order 1976 (NI 15)

46.—(1) In Article 24 in the Table after paragraph 1 insert the following paragraph—

“1A. College of education, other than an establishment referred to in Article 82(3). The managers.”.

(2) In Article 26(4)(b) after the words “paragraph 1” insert “, (1A)”.

The Industrial Relations (No.2) (Northern Ireland) Order 1976 (NI 28)

47. In Article 39(1) for sub-paragraph (f) substitute the following sub-paragraph—

“(f) a member of any of the following (within the meaning of the Education and Libraries (Northern Ireland) Order 1972), namely—

- (i) the Board of Governors of a grant-aided school;
- (ii) the management committee of an institution of further education;
- (iii) the managers of a college of education.”.

The Rates (Northern Ireland) Order 1977 (NI 28)

48. In Schedule 13 for the words “maintained school committee” substitute the words “Board of Governors of a maintained school”.

The Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981
(NI 20)

49. In Article 11(5)(f) for head (iv) substitute the following head—

“(iv) a college of education within the meaning of that Order;”.

SCHEDULE 9
TRANSITIONAL PROVISIONS
PART I
SCHOOL MANAGEMENT

1. In this Part—

- (a) a reference to a “new” provision of the principal Order is a reference to that provision as substituted or inserted by this Order;
- (b) a reference to a “former” provision of the principal Order is a reference to that provision as it had effect immediately before the coming into operation of the provision of this Part in which the reference occurs.

Controlled Schools

2.—(1) It shall be the duty of every board not later than 31st December 1985 to make the provision required by new Article 8 and Schedule 4 for the management of all controlled schools under its management.

(2) Until a board makes the provision required by new Article 8 and Schedule 4 for the management of a controlled school, the school management committee of the school appointed in accordance with a scheme under former Article 8(2) shall continue in being and may exercise, in relation to the school, the functions of a Board of Governors under the principal Order.

Maintained Schools

3.—(1) Subject to sub-paragraph (2) it shall be the duty of every board not later than 31st December 1985 to make provision in accordance with new Article 9(2) and (3) and Part I of Schedule 5 for the management of all maintained schools situated in its area.

(2) No such provision for the management of a maintained school which is in existence as such on 1st August 1984 shall be made by a board before 1st July 1985.

(3) Until a board makes such provision for the management of a maintained school, the maintained school committee of the school appointed in accordance with a scheme under former Part I of Schedule 5 shall continue in being and may exercise, in relation to the school, the functions of a Board of Governors under the principal Order.

(4) Where a maintained school committee has been appointed in accordance with a scheme under former Part I of Schedule 5 for two or more schools, and provision is made by a board in accordance with new Article 9(2) and (3) and Part I of Schedule 5 for the management of one or more, but not all, of those schools then the maintained school committee shall continue in being by virtue of sub-paragraph (3) in relation to any remaining school or schools for which such provision has not yet been made.

*Voluntary grammar schools which have entered into agreements with
Department or boards under former Schedule 6*

4.—(1) This paragraph applies to a voluntary grammar school the trustees or governing body of which have entered into an agreement with the Department or a board or boards under former Schedule 6 which is existing immediately before 1st August 1984.

(2) Subject to sub-paragraphs (3) and (4), an agreement made, or having effect as if made, by the trustees or governing body of a school with the Department or a board or boards under former paragraph 1 of Schedule 6 and existing immediately before 1st August 1984 shall continue to have effect as if made under new paragraph 1 of Schedule 6.

(3) Any reference in any such agreement to a period of years for which a person appointed to the Board of Governors of the school by the Head of the Department or by a board or boards is to hold office shall, in relation to any appointment made on or after 1st August 1984, have effect as if it were a reference to a period of four years.

(4) Notwithstanding anything in any such agreement, any person appointed to the governing body of the school by the Head of the Department or by a board or boards and holding office immediately before 1st August 1984 shall continue to hold office until immediately before the date on which a Board of Governors is constituted for the school in accordance with new Article 9(2) and (4) and Schedule 6 and shall then cease to hold that office but shall be eligible to be appointed to the Board of Governors.

(5) Any scheme approved under former Article 9(2) by the Department for a school to which this paragraph applies shall continue to have effect as if approved under new Article 9(2) but, so far as it relates to the constitution of the Board of Governors of the school, shall have effect, in relation to any appointment of a Board of Governors made on or after 1st August 1984, subject to the provisions of new paragraph 3 of Schedule 6.

(6) It shall be the duty of the governing body of a school to which this paragraph applies and of any other party to an agreement relating to that school under new Schedule 6 to ensure that a Board of Governors is constituted for the school in accordance with new Article 9(2) and (4) and Schedule 6 not later than 31st December 1985.

(7) Until such a Board of Governors is constituted for a school to which this paragraph applies, the governing body of the school appointed in accordance with former Article 9(2) and (4) and Schedule 6 shall continue in being and may exercise, in relation to the school, the functions of a Board of Governors under the principal Order.

*Voluntary grammar schools which have not entered into agreements with
Department or boards under former Schedule 6*

5.—(1) This paragraph applies to a voluntary grammar school, the trustees or governing body of which have not entered into an agreement with the Department or a board or boards under former Schedule 6 which is existing immediately before 1st August 1984.

(2) Any scheme approved under former Article 9(2) by the Department for a school to which this paragraph applies shall continue to have effect as if approved under new Article 9(2) but, so far as it relates to the constitution of the Board of Governors of the school, shall have effect, in relation to any appointment of a Board of Governors made on or after 1st August 1984, subject to the provisions of new paragraph 2 of Schedule 6A.

(3) It shall be the duty of the governing body of a school to which this paragraph applies to ensure that a Board of Governors is constituted for the school in accordance with new Article 9(2) and (6) and Schedule 6A not later than 31st December 1985.

(4) Until such a Board of Governors is constituted for a school to which this paragraph applies the governing body of the school appointed in accord-

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ance with a scheme under former Article 9(2) shall continue in being and may exercise, in relation to the school, the functions of a Board of Governors under the principal Order.

General

6. Until a Board of Governors is appointed or constituted for a school in accordance with the new provisions of the principal Order referred to in paragraphs 2 to 5, references in the principal Order and in any other statutory provision to the Board of Governors of a school shall be construed as, or as including, references—

- (a) in relation to a controlled school, to the school management committee;
- (b) in relation to a maintained school, to the maintained school committee;
- (c) in relation to a voluntary grammar school, to the governing body.

7. Articles 5 and 6 of this Order apply only in relation to Boards of Governors constituted under new Articles 8 and 9 and Schedules 4 to 6B.

PART II

SPECIAL EDUCATIONAL TREATMENT

- 8.—(1) The following provisions of this paragraph apply in relation to—
- (a) any child for whom, immediately before the coming into operation of Article 16, a board had secured the provision of special educational treatment under the principal Order; and
 - (b) any child in whose case a board, within the period of 12 months immediately before the coming into operation of Article 16, had decided in accordance with paragraph 2(1) of Schedule 8 to the principal Order that he required special educational treatment under that Order, but for whom the board was not securing the provision of such treatment immediately before the coming into operation of that Article.
- (2) The child shall be taken to have special educational needs and the board shall be taken to have made an assessment of his educational needs under Article 25 of the principal Order and to have formed the opinion that his special educational needs call for the board to determine the special educational provision that should be made for him.
- (3) During the period of 12 months beginning with the coming into operation of Article 16 the board shall not be under the duty imposed by Article 25B of the principal Order to make and maintain a statement of the child's special educational needs.
- (4) A statement made in respect of the child under Article 25B of the principal Order but before an assessment of his educational needs is made under Article 25 of that Order, need not give details of the board's assessment of those needs until such time as an assessment has been made under Article 25.
- (5) Until such time as the board makes a statement in respect of the child under Article 25B of the principal Order it shall be under a duty—
- (a) in the case of a child to whom sub-paragraph (1)(a) applies, to continue to secure the provision of the special educational treatment which the child was receiving immediately before the coming into operation of Article 16; and

(b) in the case of a child to whom sub-paragraph (1)(b) applies, to secure, either in a grant-aided school or otherwise, the provision of special educational treatment; SCH. 9

but head (a) shall not require the board to act in any way which would be incompatible with the provisions of a school attendance order in force under Schedule 9 to the principal Order.

(6) Paragraph 5(9) and (10) of Schedule 7A to the principal Order shall not apply in relation to a statement of the child's special educational needs under Article 25B of that Order unless—

(a) the special educational provision specified in the statement differs (otherwise than to take account of a school attendance order) from the special educational treatment which the child was receiving—

(i) in the case of a child to whom sub-paragraph (1)(a) applies, immediately before the coming into operation of Article 16; or

(ii) in the case of a child to whom sub-paragraph (1)(b) applies, immediately before the statement was made; or

(b) an assessment of the child's educational needs has been made under Article 25 following the making of the statement.

(7) In Schedule 9 to the principal Order, paragraphs 1(4A), 2(1)(c) and 2(3) shall apply irrespective of whether the board is maintaining a statement for the child under Article 25B.

(8) In this paragraph, paragraph 9 and the provisions of the principal Order referred to in paragraph 9(2) "special educational treatment" means education under special arrangements appropriate for persons suffering from a disability of mind or body.

9.—(1) The following provisions of this paragraph apply in relation to any child who, within the period of 12 months immediately before the coming into operation of Article 16, had been examined under paragraph 1(2) of Schedule 8 to the principal Order but in respect of whom a board had immediately before the coming into operation of Article 16 taken no decision under paragraph 2(1) of that Schedule as to whether he required special educational treatment under the principal Order.

(2) Subject to sub-paragraph (3), Articles 25 and 26 of, and paragraphs 2(1) and (2) of Schedule 8 to, the principal Order shall, during the period of 6 months from the coming into operation of Article 16, continue to apply to the child as if this Order had not been made.

(3) If, during the said period, the board gives the parent notice under the said paragraph 2(1) of Schedule 8 that it has decided that the child requires special educational treatment, sub-paragraphs (2) to (7) of paragraph 8 shall apply as they apply in the case of a child to whom sub-paragraph (1)(b) of that paragraph applies.

(4) A board shall when giving any such notice notify the parent of the effect of paragraph 4(1) of Schedule 7A to the principal Order.

PART III

MISCELLANEOUS

Board and lodging otherwise than at school

10. Until the coming into operation of Article 16—

(a) Article 42 of the principal Order shall have effect with the omission of the words "and to any special educational needs he may have" in

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paragraph (1) and with the substitution in paragraph (5) for the words "special educational provision" of the words "the provision of special educational treatment";

- (b) Article 42A of the principal Order shall have effect with the omission of the words "and to any special educational needs he may have" and with the substitution for the words "special educational provision" of the words "the provision of special educational treatment".

Integrated schools

1978 c. 13

11.—(1) Until the coming into operation of Article 21, the Education (Northern Ireland) Act 1978 shall have effect subject to the following provisions of this paragraph.

(2) In section 1(2) for the words from "proceed" to the end there shall be substituted the words " , subject to subsection (3A), proceed to ascertain the views of the parents of the pupils attending the school or schools".

(3) In section 1(3) for the words from "ascertain" to the end there shall be substituted the words " , subject to subsection (3A), proceed to ascertain the views of the parents of the pupils attending the school".

(4) In section 1 for subsections (4) to (8) there shall be substituted the following subsections—

"(3A) If before the time when a request is made under subsection (2) or (3) that a school should become a controlled integrated school the board has published a notice under Article 11A(5)(b) of the principal Order stating that a proposal that the school should be discontinued has been submitted to the Department, then the board shall not proceed as mentioned in subsection (2) or (3) unless the Department has decided under the said Article 11A not to approve that proposal.

(4) Subject to subsection (5), where a board is required under subsection (2) or (3) to ascertain the views of the parents of pupils attending a school, it shall do so in accordance with a scheme prepared by the board and approved by the Department.

(5) If the Department cannot approve a scheme prepared by a board, the views of the parents shall be ascertained by the board in accordance with a scheme prepared by the Department.

(5A) A scheme prepared under subsection (4) or (5) shall in particular provide that the parents of the pupils attending the school in question shall be given an opportunity, so far as practicable in such a way that their identity is not revealed, to state whether they would be prepared to send them to the school if it became a controlled integrated school.

(6) Where a board has ascertained the views of the parents in accordance with a scheme under subsection (4) or (5), the board shall within such time as the Department may fix send to the Department particulars of the information received from the parents.

(6A) The Department, after consultation with the board, shall either—

(a) determine that the school shall not become a controlled integrated school; or

(b) subject to subsection (7), give a direction to the board to submit a proposal under Article 11A(2) of the principal Order giving effect to the request that the school should become a controlled integrated school.

(7) The Department shall not give a direction under subsection (6A)(b) in relation to a request that a school should become a controlled integrated school unless satisfied that at least three-quarters of the parents of the pupils attending that school whose views have been ascertained would be prepared to send them to the school if it became a controlled integrated school. SCH. 9

(8) Where a proposal giving effect to a request under subsection (3) that a school should become a controlled integrated school is approved by the Department under Article 11A of the principal Order, Article 14(3) of that Order shall, in its application to the school, have effect with the substitution for the words "controlled school" of the words "controlled integrated school".

(5) In section 2 for the words from the beginning to "the board" there shall be substituted the words "Where a proposal giving effect to a request under section 1(2) that a school should become a controlled integrated school is approved by the Department under Article 11A of the principal Order the board".

(6) In section 3 for the words from the beginning to "that school" there shall be substituted the words "The provisions of the principal Order shall apply to a controlled integrated school".

Northern Ireland Schools Examinations Council

12.—(1) The chairman and other members of the Northern Ireland Schools Examinations Council holding office immediately before the date on which Article 34 comes into operation shall cease to hold office on that date but shall be eligible for appointment to the Council under Schedule 13 to the principal Order as substituted by Article 34(2) and Schedule 7.

(2) The Northern Ireland Schools Examinations Council shall, in respect of the period beginning immediately after the date to which the accounts of the Boards were last prepared and ending immediately before the date on which Article 34 comes into operation, prepare and submit to the Comptroller and Auditor-General for Northern Ireland the accounts of the Boards abolished by paragraph (1) of that Article and the Comptroller and Auditor-General shall audit those accounts.

Accounts of boards

13. Paragraph 38 of Schedule 8 has effect in respect of the financial year ending on 31st March 1984 and each succeeding financial year.

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Article 38.

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REPEALS

Chapter or Number	Short Title	Extent of Repeal
1969 c. 25 (N.I.).	The Commissioner for Complaints Act (Northern Ireland) 1969.	In Part II of Schedule 1 the entries relating to— The Northern Ireland General Certificate of Education Examinations Board. The Northern Ireland Certificate of Secondary Education Examinations Board.
1972 NI 12.	The Education and Libraries (Northern Ireland) Order 1972.	In Article 2(1) the words “and the Local Government Act (Northern Ireland) 1972”. In Article 2(2) the definitions of “district council”, “financial year”, “former library authority”, “local authority”, “maintained school committee” and “school management committee”. In Article 4(4) the words from “and the preparation” to the end. In Article 5, in paragraph (c) the words from “or in” to the end of the paragraph. Article 7(2). Article 11. In Article 12(5), sub-paragraph (a), sub-paragraph (c) and the word “or” immediately preceding it. In Article 14(6) the words from “at the date” to “education authority”. Article 19(2). In Article 23(1) the words from “and such facilities” to the end. In Article 24(1) the words “unless the Ministry otherwise directs”. Article 26(1). Article 27(5). Article 28(2). In Article 28(3) the words “or the corresponding Part of any enactment repealed by this Order”. In Article 33(1) the words “or the corresponding provisions of any enactment repealed by this Order”.

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Chapter or Number	Short Title	Extent of Repeal
		<p>In Article 38(3) the words “or by a former local education authority” and the words from “by whom the arrangements” to “of the board”.</p> <p>Article 44(5).</p> <p>Article 54.</p> <p>In Article 56(1) the words from “and to” to “of that board”.</p> <p>Article 62(1).</p> <p>In Article 62(4) the words “a development scheme or”.</p> <p>In Article 63 the words from “and shall be” to the end.</p> <p>In Article 71(5) the words “salaries or”.</p> <p>Article 72.</p> <p>Article 73.</p> <p>Article 77(4).</p> <p>Article 83(3).</p> <p>In Article 83(8) the words “or deemed to have been made”.</p> <p>Article 94(1) and (2).</p> <p>In Article 94(15) the words “this Order or” and “to the Ministry under paragraph (1) or”.</p> <p>Article 95(7).</p> <p>Article 96(1), (2) and (5).</p> <p>Article 106(4).</p> <p>In Article 106(5) the words “or deemed to be paid”.</p> <p>In Article 107(2)—</p> <p>(a) sub-paragraph (b);</p> <p>(b) in sub-paragraph (c) the words from “and the summary” to “by the Department”;</p> <p>(c) in sub-paragraph (d) the words “and of the certified summary”.</p> <p>Article 111.</p> <p>Article 112(3) and (4).</p> <p>In Article 115(1) the definitions of “the C.S.E. Board” and “the G.C.E. Board”.</p> <p>In Article 121 the words from “The Northern Ireland General Certificate” to the end.</p> <p>Article 127.</p> <p>In Schedule 2 in paragraph 9(1), the words “, subject to paragraph 1(7),”.</p>

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Chapter or Number	Short Title	Extent of Repeal
1976 NI 2.	The Education (Northern Ireland) Order 1976.	In Schedule 7 in paragraph 4 the words "or owners". In Schedule 8— (a) paragraph 1(1)(a); (b) in paragraph 1(2) the words from "requires" to "development or"; (c) paragraphs 2 and 4. Schedule 14. Schedule 16. Article 3. Article 4. Article 6. Article 8(2). Article 10. In the Schedule, paragraphs 1, 3, 4, 9(a) and 10.
1978 c. 13.	The Education (Northern Ireland) Act 1978.	The whole Act.
1978 c. 53.	The Chronically Sick and Disabled Persons (Northern Ireland) Act 1978.	Sections 15, 16 and 17.
1978 NI 10.	The Education (Northern Ireland) Order 1978.	In Article 3(2) the words from the beginning to the first "and". Article 5(1). Article 7. Article 12(4). Article 13(1). Article 14. Article 15. Article 18(2). In Schedule 1, paragraphs 2 and 3. Schedule 2.
1978 NI 11.	The Financial Provisions (Northern Ireland) Order 1978.	Article 10.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes miscellaneous amendments to the Education and Libraries (Northern Ireland) Order 1972. The principal purposes of the Order are—

- (a) to amend the management structure of grant-aided schools;
- (b) to make new provision for voluntary grammar schools which become voluntary intermediate schools;
- (c) to make new provision with respect to children with special educational needs;
- (d) to remove the provision whereby pupils may spend their last year of compulsory education at an institution of further education;
- (e) to require schemes to be prepared as to the procedure for the suspension or expulsion of pupils in grant-aided schools;
- (f) to amend the law relating to the provision of milk, meals and related facilities;
- (g) to revise the arrangements for payment of grants to voluntary grammar schools; and
- (h) to abolish the Northern Ireland General Certificate of Education Examinations Board and the Northern Ireland Certificate of Secondary Education Examinations Board and transfer their functions to the Northern Ireland Schools Examinations Council.

STATUTORY INSTRUMENTS

1984 No. 1156 (N.I. 6)
NORTHERN IRELAND
The Education
(Northern Ireland) Order 1984

Printed in Northern Ireland and published by Her Majesty's Stationery Office

Dd.717965 Z40 C15 8/84

ISBN 0 11 047156 3

HER MAJESTY'S STATIONERY OFFICE

Government Bookshops

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