

## SCHEDULES

### <sup>F1</sup>SCHEDULE 13

Article 45.

#### ENFORCEMENT OF DUTY IMPOSED BY ARTICLE 45 AS TO EDUCATION OF CHILDREN OF COMPULSORY SCHOOL AGE

**F1** mod. by 1986 NI 3 sch. 13 para. 1B(3A) as inserted by 2005 NI 6

### PART I

#### SCHOOL ATTENDANCE ORDERS

<sup>F2</sup>1.—(1) If it appears to [<sup>F3</sup>the Authority] that a parent of a child of compulsory school age <sup>F4</sup>... is failing to perform the duty imposed on him by Article 45, it shall serve a notice in writing on the parent requiring him to satisfy [<sup>F3</sup>the Authority], within such period (not being less than fourteen days beginning with the day on which the notice is served) as is specified in the notice, that the child is, by regular attendance at school or otherwise, receiving suitable education.

(2) If—

(a) a parent on whom a notice has been served under sub-paragraph (1) fails to satisfy [<sup>F3</sup>the Authority], within the period specified in the notice, that the child is receiving suitable education, and

(b) in the opinion of [<sup>F3</sup>the Authority] it is expedient that the child should attend school,

[<sup>F3</sup>the Authority] shall serve in the prescribed manner on the parent an order (referred to in this Order as a “school attendance order”), in the prescribed form, requiring him to cause the child to become a registered pupil at a school named in the order.

(3) Unless it is revoked by [<sup>F3</sup>the Authority] or a direction is made in respect of it by a court under paragraph 6, a school attendance order shall (subject to any amendment made by [<sup>F3</sup>the Authority]) continue in force—

(a) where the school named in the order provides education for pupils up to the upper limit of compulsory school age or beyond, for so long as the child is of compulsory school age;

(b) where the school does not provide education up to or beyond that age, until the pupil has reached the age at which he would normally leave that school.

(4) Where a grant-aided school is named in a school attendance order the Board of Governors of the school shall admit the child to the school.

(5) Sub-paragraph (4) does not affect any power to suspend or expel from a school a pupil who is already a registered pupil there.

(6) In this Part “suitable education”, in relation to a child, means efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have.]

**F2** 1996 NI 1

**Status:** Point in time view as at 09/12/2021.

**Changes to legislation:** The Education and Libraries (Northern Ireland) Order 1986, SCHEDULE 13 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F3** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F4** Words in Sch. 13 para. 1(1) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

**Modifications etc. (not altering text)**

- C1** Sch. 13 para. 1(4) power to disapply or modify conferred (temp.) (25.3.2020) by Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 17 para. 17** (with ss. 88-90)

**1A.—**(1) Sub-paragraphs (2) to (5) apply where [<sup>F3</sup>the Authority] is required by virtue of paragraph 1(2) to serve a school attendance order in respect of a child, other than a child for whom it maintains a statement under Article 16 of the Education (Northern Ireland) Order 1996.

(2) Before serving the order, [<sup>F3</sup>the Authority] shall serve on the parent a notice in writing—

- (a) informing him of its intention to serve the order,
- (b) specifying the school which [<sup>F3</sup>the Authority] intends to name in the order and, if it thinks fit, one or more other schools which it regards as suitable alternatives, and
- (c) stating the effect of sub-paragraphs (4) and (5).

(3) A voluntary or grant-maintained integrated school shall not be specified in a notice under sub-paragraph (2) unless [<sup>F3</sup>the Authority] has consulted the managers of the school.

(4) If the notice specifies one or more alternative schools and the parent selects one of them and notifies [<sup>F3</sup>the Authority] accordingly before the expiration of the period of fourteen days beginning with the day on which the notice is served, the school selected by him shall be named in the order.

(5) If before the expiration of the period mentioned in sub-paragraph (4) the parent—

- (a) applies for the child to be admitted to a school other than the school or schools specified in the notice; and
- (b) notifies [<sup>F3</sup>the Authority] accordingly,

then, if as a result of the application the child is offered a place at that school, that school shall, subject to sub-paragraph (7), be named in the order.

(6) If at any time while a school attendance order is in force with respect to a child, other than a child for whom [<sup>F3</sup>the Authority] maintains a statement under Article 16 of the Education (Northern Ireland) Order 1996.

- (a) the parent applies for the child to be admitted to a school other than the school named in the order; and
- (b) as a result of the application the child is offered a place at a school,

[<sup>F3</sup>the Authority] shall, subject to sub-paragraph (7), at the request of the parent amend the order by substituting that school for the one previously named.

(7) Sub-paragraphs (5) and (6) do not apply where the school at which the child is offered a place is an independent school unless, in the opinion of [<sup>F3</sup>the Authority], the school is suitable to his age, ability and aptitude and to any special educational needs he may have.

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

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**1B.**—(1) Sub-paragraphs (2) and (3) apply where [<sup>F3</sup>the Authority] is required by virtue of paragraph 1(2) to serve a school attendance order in respect of a child for whom it maintains a statement under Article 16 of the Education (Northern Ireland) Order 1996.

(2) Where the statement specifies the name of a School that school shall be named in the order.

(3) Where the statement does not specify the name of a school—

(a) [<sup>F3</sup>the Authority] shall, [<sup>F5</sup> . . . ], amend the statement so that it specifies the name of a school, and

(b) that school shall then be named in the order.

[<sup>F5</sup>(3A) An amendment to a statement required to be made under sub-paragraph (3)(a) shall be treated for the purposes of Schedule 2 to the Education (Northern Ireland) Order 1996 as if it were an amendment proposed following a periodic review (within the meaning of that Schedule).]

(4) Where—

(a) a school attendance order is in force in respect of a child for whom [<sup>F3</sup>the Authority] maintains a statement under Article 16 of the Education (Northern Ireland) Order 1996, and

(b) the name of the school specified in the statement differs (for whatever reason) from that specified in the order,

[<sup>F3</sup>the Authority] shall amend the order so that it names the school specified in the statement.

**F3** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)  
**F5** 2005 NI 6

**2.**—(1) This paragraph applies where a school attendance order is in force in respect of a child.

(2) If at any time the parent applies to [<sup>F3</sup>the Authority] requesting that the order be revoked on the ground that arrangements have been made for the child to receive suitable education otherwise than at school, [<sup>F3</sup>the Authority] shall comply with the request, unless it is of the opinion that no satisfactory arrangements have been made for the education of the child otherwise than at school.

(3) If a parent is aggrieved by a refusal of [<sup>F3</sup>the Authority] to comply with a request under sub-paragraph (2), he may refer the question to the Department.

(4) Where a question is referred to the Department under sub-paragraph (3), it shall give such direction determining the question as it thinks fit.

(5) Where the child in question is one for whom [<sup>F3</sup>the Authority] maintains a statement under Article 16 of the Education (Northern Ireland) Order 1996.

(a) sub-paragraphs (2) to (4) do not apply if the name of a school is specified in the statement, and

(b) in any other case a direction under sub-paragraph (4) may require [<sup>F3</sup>the Authority] to make such amendments in the statement as the Department considers necessary or expedient in consequence of its determination.

**F3** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)

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## PART II

### DUTY OF PARENT OF REGISTERED PUPIL TO SECURE HIS REGULAR ATTENDANCE AT SCHOOL

3.—(1) Subject to the following provisions of this paragraph, it shall be the duty of a parent of a registered pupil at a school to secure his regular attendance at that school.

[<sup>F6</sup>(1A) For the purposes of sub-paragraph (1) and of any proceedings under paragraph 4, attendance by a pupil at a school or other place in pursuance of arrangements under Article 21 of the Education (Northern Ireland) Order 2006 shall be taken to be attendance at the school at which he is a registered pupil.]

(2) For the purposes of sub-paragraph (1) and of any proceedings brought under paragraph 4 in respect of a child who is not a boarder at the school at which he is a registered pupil, the child shall not be deemed to have failed to attend regularly at the school only by reason of his absence therefrom—

(a) at any time when he was prevented from attending by reason of sickness or other unavoidable cause;

[<sup>F7</sup>(b) if the parent proves—

(i) that the school at which the child is a registered pupil is not within walking distance of the child's home; and

(ii) that the child is one for whom [<sup>F3</sup>the Authority] is required to make provision under Article 52(1), but no suitable arrangements have been made by [<sup>F3</sup>the Authority] for his transport to and from school; and

(iii) that no suitable arrangements have been made by [<sup>F3</sup>the Authority] for boarding accommodation for the child at or near the school or for enabling him to become a registered pupil at a school nearer to his home;]

(c) at any time when he is employed in accordance with the provisions of Article 63(2).

(3) Where, in any proceedings brought against a parent on the ground that a child who is a registered pupil at a school has failed to attend that school regularly, it is proved that the child has no fixed abode, sub-paragraph (2)(b) shall not apply but the parent shall be entitled to be acquitted if he proves that he is engaged in any trade or business of such a nature as to require him to travel from place to place and that the child has attended (at the school at which he was a registered pupil) as regularly as the trade or business of the parent permitted provided that, in the case of a child who has attained the age of six years, he has so attended on at least one hundred days during the period of twelve months ending with the date on which the proceedings were instituted.

(4) In any proceedings as aforesaid in respect of a child who is a boarder at the school at which he is a registered pupil, the child shall be deemed to have failed to attend regularly at the school if he is absent therefrom at a time when he was not prevented from being present by reason of sickness or other unavoidable cause.

(5) For the purpose of determining whether a child of compulsory school age who is a registered pupil at a school has failed to attend regularly because of sickness, [<sup>F3</sup>the Authority] may cause the child to be examined either at his home or elsewhere by a medical practitioner and where the parent of a child unreasonably prevents [<sup>F3</sup>the Authority] from exercising its power to have a child so examined he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(6) In this paragraph “walking distance” means, in relation to a child [<sup>F7</sup> who is a registered pupil at a primary school], two miles and, in the case of any other child, three miles measured by the nearest available route.

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- F3** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F6** Sch. 13 para. 3(1A) inserted (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4)(c), 44(1), **Sch. 2 para. 29**; S.R. 2007/197, **art. 2(a)**
- F7** 1997 NI 5

**Modifications etc. (not altering text)**

- C2** Sch. 13 para. 3(1) power to disapply or modify conferred (temp.) (25.3.2020) by Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 17 para. 17** (with ss. 88-90)

## PART III

### OFFENCES, PENALTIES AND ENFORCEMENT

4.—(1) Where a parent on whom a school attendance order has been served fails to comply with the requirements of the order or, subject to paragraph 3, where a child of compulsory school age who is a registered pupil at a school fails to attend regularly at that school, the parent shall be guilty of an offence unless he proves that he is causing the child to receive, otherwise than at school, efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have.

(2) A person guilty of an offence under sub-paragraph (1) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale<sup>F8</sup> ...

- F8** 1995 NI 2

5.—<sup>F9</sup>(1) Before instituting proceedings against a parent for an offence under paragraph 4(1) [<sup>F3</sup>the Authority] shall consider whether it would be appropriate, instead of or as well as instituting the proceedings, to apply for an education supervision order with respect to the child.]  
*Sub#para. (2) rep. by 1995 NI 2*

(3) <sup>F9</sup>... Where it appears to [<sup>F3</sup>the Authority] that a child of compulsory school age<sup>F10</sup>... is a child whom a person habitually wandering from place to place takes with him, [<sup>F3</sup>the Authority] may, if satisfied that it is necessary to do so in order to secure that the child receives efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have, [<sup>F9</sup> apply for an education supervision order].

<sup>F9</sup>(4) In this Schedule “education supervision order” means an education supervision order under the Children (Northern Ireland) Order 1995.]

- F3** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 1(1)(a)** (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
- F9** 1995 NI 2
- F10** Words in Sch. 13 para. 5(3) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

<sup>F11</sup>6.—(1) The court before which a prosecution is brought for an offence under paragraph 4 may direct [<sup>F3</sup>the Authority] to apply for an education supervision order unless [<sup>F3</sup>the Authority], having consulted the appropriate authority, decides that the child's welfare will be satisfactorily safeguarded even though no education supervision order is made.

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(2) Where, following such a direction, [<sup>F3</sup>the Authority] decides not to apply for an education supervision order, [<sup>F3</sup>the Authority] shall inform the court of its reasons for the decision.

(3) Unless the court directs otherwise, [<sup>F3</sup>the Authority] shall so inform the court within eight weeks from the date on which the direction was given.

(4) Where—

- (a) [<sup>F3</sup>the Authority] applies for an education supervision order with respect to a child who is the subject of a school attendance order; and
- (b) the court decides that Article 55(2) of the Children (Northern Ireland) Order 1995 prevents it from making the order,

the court may direct that the school attendance order shall cease to have effect.

(5) In sub-paragraph (1) “the appropriate authority” means the appropriate authority within the meaning of paragraph 9 of Schedule 4 to the Children (Northern Ireland) Order 1995.]

**F3** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 1(1)(a) (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)  
**F11** 1995 NI 2

*Para. 7 rep. by 1995 NI 2*

**8.** For the purposes of a prosecution of the parent of a child for an offence under paragraph 4, the parent of the child shall be required to give to the court such information as he possesses regarding the date and place, and place of registration, of the birth of the child and where the parent refuses or is unable to give such information, the child shall, in so far as his having been of compulsory school age at any time is material, be presumed to have been of compulsory school age at that time.

*Para. 9 rep. by 1995 NI 2*

**10.**—(1) Proceedings for an offence under this Schedule shall not be taken except by or on behalf of the Authority or by an officer appointed for the purpose and authorised in that behalf by [<sup>F3</sup>[<sup>F3</sup>the Authority] ] .

- (2) Any such officer appointed and authorised as aforesaid may, on behalf of [<sup>F3</sup>the Authority] ,—
  - (a) perform the functions of [<sup>F3</sup>the Authority] under sub-paragraph<sup>F12</sup> . . . (3) of paragraph 5 or carry out any direction of a court given under paragraph 6(1);
  - (b) although not of counsel or a solicitor, prosecute or conduct any proceedings brought under this Schedule before a court of summary jurisdiction<sup>F12</sup> . . . ]

**F3** Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 1(1)(a) (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)  
**F12** 1995 NI 2

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