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STATUTORY INSTRUMENTS

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**1989 No. 2406**

**The Education Reform (Northern Ireland) Order 1989**

**PART VIII**

**SCHOOLS—GENERAL PROVISIONS**

**CHAPTER I**

**MANAGEMENT OF GRANT#AIDED SCHOOLS**

**Appointment of parent governors**

**121.** In Article 13 of the principal Order after paragraph (3) there shall be inserted—

“(3A) Where, at any grant#aided school,—

- (a) one or more vacancies for parent members are required to be filled by election; and
- (b) the number of parents standing for election as parent members is less than the number of vacancies,

the required number of parent members shall be made up by persons appointed by the voting members of the Board of Governors of the school.

(3B) Where it is reasonably practicable to do so, it shall be the duty of the voting members of the Board of Governors in appointing any person under paragraph (3A) to appoint a person who is the parent of a registered pupil at the school.

(3C) In paragraph (3A) “parent member” means a member of the Board of Governors of a grant#aided school who but for that paragraph would be required to be elected by parents of pupils attending the school from amongst the parents of such pupils.

(3D) A person appointed under paragraph (3A) shall for all purposes of the Education Orders except Schedule 8 to the 1989 Order be treated as if he had been duly elected as a member of the Board of Governors by parents of pupils attending the school.

(3E) In paragraphs (3A) and (3B) “voting members” has the meaning assigned to it by Article 122(3) of the 1989 Order.” .

**Co#option of persons to Board of Governors of grant#aided school**

**122.**—(1) The voting members of the Board of Governors of a grant#aided school may co#opt not more than three persons to be members of the Board of Governors of the school.

(2) It shall be the duty of the voting members in co#opting any person to be a member of the Board of Governors to co#opt a person who appears to them to be a member of the local business community if it appears to the voting members—

- (a) that no member of the Board of Governors is a member of the local business community; or
- (b) that it is desirable to increase the number of members of the Board of Governors who are members of that community.

(3) In this Article “voting members”

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- (a) in relation to the Board of Governors of a grant#maintained integrated school, has the same meaning as in Schedule 5;
- (b) in relation to the Board of Governors of a school to which Schedule 7 to the principal Order applies, means the members of the Board of Governors referred to in paragraph 2(1) (a), (b) and (c) of that Schedule;
- (c) in relation to the Board of Governors of any other grant#aided school, has the meaning assigned to it for the purposes of whichever of Schedules 4, 5<sup>[F1]</sup> or 6] to the principal Order applies in relation to the membership of that Board of Governors.

**F1** 1996 NI 1

### Schemes of management

**123.** After Article 9 of the principal Order and after the cross#heading “School management” there shall be inserted the following Articles—

#### “Schemes of management

**9A.—**(1) For every grant#aided school (other than a technical secondary school) there shall be a scheme (to be known as a “scheme of management”) providing for—

- (a) the membership and procedure of the Board of Governors of the school;
- (b) the management of the school, and in particular the functions to be exercised in relation to the school by the Board of Governors, the principal and any other person or body specified in the scheme;
- (c) such other matters as are required or authorised by the Education Orders to be included in or regulated by the scheme of management.

(2) The scheme of management for a grant#aided school may provide for the establishment by the Board of Governors of the school of committees (whether or not including persons who are not members of the Board of Governors) and for—

- (a) the membership and procedure of such committees;
- (b) the delegation to such committees of such functions of the Board of Governors of the school as may be specified in or determined in accordance with the scheme.

(3) The scheme of management for a grant#aided school may provide for the delegation to the principal of the school of such functions of the Board of Governors as may be specified in or determined in accordance with the scheme.

(4) The scheme of management for a grant#aided school shall—

- (a) contain no provision which is inconsistent with any provision of the Education Orders or any other statutory provision;
- (b) except in so far as any provision of the Education Orders requires or authorises, comply with any instrument of government of the school.

(5) The scheme of management for—

- (a) a controlled integrated school, shall be a scheme applying only to that school;
- (b) any other controlled school, may be either a scheme applying only to that school or a scheme applying to that school and to other controlled schools, all being schools specified, or of a description specified, in the scheme.

(6) The scheme of management for a Catholic maintained school may be a scheme applying only to that school or a scheme applying to that school and to other Catholic maintained schools, all being schools specified, or of a description specified, in the scheme.

(7) In its application to a voluntary school referred to in Article 11(8), this Article shall have effect with the omission of paragraphs (1)(a) and (2) and the substitution for the references in paragraphs (1)(b) and (3) to the Board of Governors of references to the person approved in relation to that school by the Department under the said Article 11(8).

### **Preparation of schemes of management**

**9B.**—(1) It shall be the duty of a board to prepare a scheme or schemes of management for controlled schools under the management of the board; but before preparing a scheme of management applying to any school the board shall consult the Board of Governors of that school.

(2) It shall be the duty of a board, after consultation with the managers or trustees of a maintained school (other than a Catholic maintained school) maintained by it, to prepare a scheme of management for the school.

(3) It shall be the duty of the Council for Catholic Maintained Schools to prepare a scheme or schemes of management for Catholic maintained schools; but before preparing a scheme of management applying to any school the Council shall consult the trustees or managers of the school and the board by which the school is maintained.

(4) It shall be the duty—

- (a) in the case of a voluntary school referred to in Article 11(8), of the person approved in relation to that school by the Department under the said Article 11(8),
- (b) in the case of any other voluntary school (not being a maintained school), of the Board of Governors of the school,

to prepare a scheme of management for the school.

(5) It shall be the duty of the Board of Governors of a grant-maintained integrated school to prepare a scheme of management for the school.

(6) In preparing a scheme of management under this Article a body or person shall take into account any guidance given by the Department as to the provisions it regards as suitable for inclusion in that scheme.

(7) The Department shall publish any guidance given by it for the purposes of this Article in such manner as it thinks fit.

### **Approval or imposition of scheme of management by Department**

**9C.**—(1) Every body or person required by Article 9B to prepare a scheme of management shall, on or before such date as the Department may direct, submit the scheme to the Department for its approval, and in this Article and Article 9D “the submitting authority”, in relation to a scheme, means the body by which or person by whom the scheme is required to be prepared.

(2) In the case of a scheme prepared under paragraph (1) or (3) of Article 9B the submitting authority shall also submit to the Department such information as to the results of consultations under that paragraph as the Department may require.

(3) A scheme of management submitted under paragraph (1) shall not come into operation until it has been approved by the Department or until such date as the Department may, in giving its approval, specify; and the Department may approve such a scheme

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either without modifications or with such modifications as it thinks fit after consulting the submitting authority.

(4) Where—

- (a) a submitting authority fails to submit a scheme to the Department as required by paragraph (1); or
- (b) it appears to the Department that a scheme submitted by a submitting authority as required by that paragraph does not accord with any guidance given by it for the purposes of Article 9B and cannot be made to do so merely by modifying it,

the Department may impose a scheme of management making such provision of a description required or authorised to be made by a scheme of management as it considers appropriate.

(5) A scheme of management imposed by the Department by virtue of paragraph (4)—

- (a) shall be treated for all purposes as if it had been prepared by the submitting authority and approved by the Department under this Article; and
- (b) shall come into operation on such date as may be specified therein.

(6) Before imposing a scheme under paragraph (4) the Department shall consult the submitting authority and—

- (a) in the case of a scheme of management applying to a controlled school or controlled schools, the Board of Governors of the school or schools to which the scheme applies;
- (b) in the case of a scheme of management applying to a maintained school (other than a Catholic maintained school) the managers or trustees of the school; and
- (c) in the case of a scheme of management applying to a Catholic maintained school or schools, the managers or trustees of the school or schools to which the scheme applies and the board or boards by which any such school is maintained.

(7) The Council for Catholic Maintained Schools shall provide each board with a copy of the scheme or schemes of management approved under this Article and applying to the Catholic maintained schools maintained by that board.

### **Revision of schemes of management**

**9D.**—(1) A submitting authority may at any time, and shall if the Department so directs, prepare a revised scheme of management and submit it to the Department for its approval.

(2) Article 9B(6) and (7) shall apply in relation to the preparation of a revised scheme of management as it applies in relation to the preparation of the initial scheme.

(3) A revised scheme of management submitted under paragraph (1) shall not come into operation until it has been approved by the Department or until such date as the Department may, in giving its approval, specify; and the Department may approve such a scheme either without modifications or with such modifications as it thinks fit after consulting the submitting authority.”.

*Art. 124 rep. by 1998 NI 13*

### **Annual report of Board of Governors**

**125.**—(1) The scheme of management for every grant#aided school shall provide for it to be the duty of the Board of Governors to prepare, once in every school year, a report containing—

- (a) a summary of the steps taken by the Board of Governors in the discharge of its functions during the period since its last report; and

- (b) such other information as the scheme of management may require.
- (2) The scheme of management for every such school shall, in particular, require that report—
  - (a) to be as brief as is reasonably consistent with the requirements as to its contents;
  - (b) <sup>F2</sup> .....
  - (c) to give the name of each member of the Board of Governors and indicate into which of the following categories he falls, namely—
    - (i) members nominated by transferors and superseded managers;
    - (ii) members elected by parents;
    - (iii) members elected by assistant teachers;
    - (iv) members chosen, nominated or appointed by a board;
    - (v) members nominated by the Boards of Governors of contributory schools;
    - (vi) members nominated or appointed by the Head of the Department;
    - (vii) members nominated by trustees or nominating trustees;
    - (viii) foundation members;
    - (ix) co#opted members;
    - (x) the principal;
    - (xi) members not falling under any preceding category;
  - (d) to give, in relation to each member (other than the principal) the date on which his term of o#ce comes to an end;
  - (e) to name the chairman of the Board of Governors and its secretary;
  - (f) to give such information as is available to the Board of Governors about arrangements for the next election of parents to the Board of Governors;
  - (g) to contain a financial statement—
    - (i) reproducing or summarising any financial statement of which a copy has been furnished to the Board of Governors by the board under Article 54 or 57 or by the Department under Article 61 or 78 since the last report was prepared;
    - (ii) indicating, in general terms, how any grants made to the Board of Governors under the Education Orders in the period covered by the report were used and how any sum made available to the Board of Governors by the board in respect of the school's budget share (within the meaning of Part V) or in accordance with Article 51 in that period was used;
    - (iii) giving details of the application of any gifts or bequests made to the school in that period;
  - [<sup>F3</sup>(ga) to describe in general terms—
    - (i) the arrangements made for the security of the pupils and staff at the school and the school premises; and
    - (ii) any changes to those arrangements since the last report was prepared;]
    - (h) to describe what steps have been taken by the Board of Governors to develop or strengthen the school's links with the community and, in particular, to promote the attainment of the objectives of the educational theme called Education for Mutual Understanding; and
    - (i) to give such information as is required to be made available in accordance with regulations under [<sup>F4</sup>Article 24(2)(a) of the Education (Northern Ireland) Order 2006] .

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(3) The scheme of management for every such school shall enable the Board of Governors to produce its report in such language or languages (in addition to English) as it considers appropriate.

(4) The scheme of management for every such school shall provide for it to be the duty of the Board of Governors to take such steps as are reasonably practicable to secure that—

- (a) the parents of all registered pupils at the school and all persons employed at the school are given (free of charge) a copy of its report;
- (b) copies of that report are available for inspection (at all reasonable times and free of charge) at the school; and
- (c) <sup>F5</sup>.....

*Para. (5) rep. by 1993 NI 12*

*Para. (6) rep. by 1997 NI 15*

[<sup>F6</sup>(7) This Article does not apply to a school established in a hospital.]

<b>F2</b>	Art. 125(2)(b) repealed (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44, Sch. 2 para. 6, <b>Sch. 3 Pt. 1</b>
<b>F3</b>	1998 NI 13
<b>F4</b>	Words in art. 125(2)(i) substituted (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), <b>Sch. 2 para. 7</b>
<b>F5</b>	Art. 125(4)(c) repealed (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44, Sch. 2 para. 6, <b>Sch. 3 Pt. 1</b>
<b>F6</b>	1993 NI 12

**Annual parents' meeting**

**126.** <sup>F7</sup>.....

<b>F7</b>	Art. 126 repealed (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 41, 44(2), <b>Sch. 3 Pt. 1</b>
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CHAPTER II

CHARGES IN GRANT#AIDED SCHOOLS

**Application of Articles 128 to 131**

**127.**—(1) Subject to paragraphs (2) to (5)[<sup>F8</sup> and Article 137(7)], Articles 128 to 131 apply to all grant#aided schools.

[<sup>F9</sup>(2) Articles 128 to 131 do not apply to a voluntary grammar school if no agreement with the Department is, or has at any time on or after 1st April 1992 been, in force in relation to the school under paragraph 1(1) of Schedule 6 to the 1986 Order.

(3) The application of those Articles to certain other voluntary grammar schools is subject to Articles 132 and 132A.]

(4) Those Articles[<sup>F9</sup> do not apply] to a grammar school in relation to an excepted pupil, that is to say—

- (a) any pupil who is not resident in Northern Ireland;
- (b) any pupil whose parents are[<sup>F9</sup> neither resident in Northern Ireland nor] nationals of a member State;

- (c) in the case of a grammar school having a preparatory department, any pupil in that department of the school;
- (d) any pupil who—
  - (i) was admitted to the grammar school or, in the case of a grammar school having a preparatory department, admitted to the secondary department of the grammar school before the appointed day; and
  - [<sup>F9</sup>(ii) on 31st March 1992 was a specified pupil, as defined by regulation 4(c) of the Grammar Schools (Fees) Regulations (Northern Ireland) 1990 (as in operation on that date).]

[<sup>F10</sup>(4A) Those Articles do not apply to a special school in relation to a pupil admitted to the school in accordance with arrangements under Article 22 of the Education and Libraries (Northern Ireland) Order 2003.]

(5) The board for the area in which a grammar school is situated may, in accordance with arrangements approved by the Department, direct that a pupil registered at the school who is an excepted pupil solely by reason of falling within paragraph (4)(d) shall cease to be an excepted pupil; and, accordingly, Articles 128 to 131 shall apply in relation to any pupil in respect of whom such a direction is given.

(6) In paragraph (4)(b) “national”, in relation to a member State, means the same as in the Community Treaties, but does not include a person who by virtue of Article 2 of Protocol No. 3 (Channel Islands and Isle of Man) to the Treaty of Accession is not to benefit from Community provisions relating to the free movement of persons and services.

<b>F8</b>	1993 NI 12
<b>F9</b>	1993 NI 12
<b>F10</b>	2003 NI 12

### **Prohibition of charges, etc., in certain grant#aided schools**

**128.**—(1) No charge shall be made in respect of admission to any grant#aided school to which this Article applies.

(2) Subject to paragraph (3) and Article 129, no charge shall be made in respect of the education provided for <sup>F11</sup> . . . pupils at any such school during school hours.

(3) Paragraph (2) shall not apply in relation to individual tuition in playing any musical instrument.

(4) No charge shall be made in respect of education provided for a <sup>F12</sup> . . . pupil at any grant#aided school to which this Article applies where the education is education to which paragraph (2) does not apply if it is—

- (a) required as part of any [<sup>F13</sup>specification] for[<sup>F14</sup> a] public examination which is a [<sup>F13</sup>specification] for which the pupil is being prepared at the school; or
- (b) provided in pursuance of any of the duties imposed by [<sup>F15</sup>Article 13 (1)(a) or (b) of the Education (Northern Ireland) Order 2006] .

(5) No charge shall be made in respect of the entry of a <sup>F16</sup> . . . pupil at any grant#aided school to which this Article applies for any<sup>F17</sup> . . . public examination in any [<sup>F18</sup>specification] for that examination for which the pupil has been prepared at the school.

(6) Neither the parent of any such pupil nor the pupil himself shall be required to pay for or supply any materials, books, instruments or other equipment for use for the purposes of or in connection with—

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- (a) education provided for the pupil at the school in respect of which by virtue of this Article no charge may be made; or
  - (b) any [<sup>F19</sup>specification] for [<sup>F14</sup> a] public examination which is a [<sup>F19</sup>specification] for which the pupil has been prepared at the school.
- (7) No charge shall be made in respect of transport provided for a <sup>F20</sup> . . . pupil at any such school where the transport is either—
- (a) incidental to education provided for the pupil at the school in respect of which by virtue of this Article no charge may be made; or
  - (b) provided for the purpose of enabling him to meet any examination requirement for any [<sup>F21</sup>specification] for [<sup>F14</sup> a] public examination which is a [<sup>F21</sup>specification] for which he has been prepared at the school.
- (8) For the purposes of paragraph (7)(a) transport is incidental to education provided for <sup>F22</sup> . . . pupils at any such school if it is provided for the purpose of carrying such pupils—
- (a) to or from any part of the school premises in which education is provided for those pupils, from or to any other part of those premises; or
  - (b) to or from any place outside the school premises in which education is provided for those pupils under arrangements made by or on behalf of the Board of Governors of the school or the board, from or to the school premises or any other such place.
- (9) Nothing in this Article shall be read as prohibiting the making of a charge in respect of board and lodging provided for a <sup>F23</sup> . . . pupil at any such school on a residential trip.
- (10) In this Chapter “residential trip” means any trip—
- (a) which is arranged for <sup>F24</sup> . . . pupils at any grant#aided school to which this Article applies by or on behalf of the managers of the school; and
  - (b) which requires the pupils taking part to spend one or more nights away from their usual overnight accommodation.
- (11) For the purposes of this Chapter, a pupil shall be regarded as having been prepared at a school for a [<sup>F25</sup>specification] for any<sup>F17</sup> . . . public examination if any part of the education provided with a view to preparing him for that examination in that [<sup>F25</sup>specification] has been provided for him at that school.

**F11** Word in art. 128(2) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 30, **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.

**F12** Word in art. 128(4) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 30, **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.

**F13** Word in art. 128(4) substituted (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), **Sch. 2 para. 8(a)**

**F14** 1993 NI 12

**F15** Words in art. 128(4) substituted (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), **Sch. 2 para. 8(b)**

**F16** Word in art. 128(5) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 30, **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.

**F17** 1993 NI 12

**F18** Word in art. 128(5) substituted (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), **Sch. 2 para. 8(a)**

**F19** Word in art. 128(6) substituted (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), **Sch. 2 para. 8(a)**



- F20** Word in art. 128(7) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 30, **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.
- F21** Word in art. 128(7) substituted (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), **Sch. 2 para. 8(a)**
- F22** Word in art. 128(8) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 30, **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.
- F23** Word in art. 128(9) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 30, **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.
- F24** Word in art. 128(10) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 30, **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.
- F25** Word in art. 128(11) substituted (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), **Sch. 2 para. 8(a)**

### **Provision for cases where education is provided partly during and partly outside school hours**

**129.**—(1) Where a period allowed for any educational activity at a school falls partly during school hours and partly outside school hours—

- (a) if fifty per cent. or more of the time occupied by that period together with any connected school travelling time falls during school hours, so much of the education provided during that period as is provided outside school hours shall be treated for the purposes of Article 128(2) as provided during school hours; and
- (b) in any other case, so much of the education provided during that period as is provided during school hours shall be treated for those purposes as provided outside school hours.

(2) In this Article “school travelling time” means time spent on travel during school hours; and for the purposes of paragraph (1)(a) such time is connected school travelling time in relation to any educational activity if it is spent by the pupils taking part in the activity in getting to or from the place where the activity takes place.

(3) Where any education provided at a school is provided on a residential trip—

- (a) if the number of school sessions taken up by the trip is equal to or greater than fifty per cent. of the number of half days spent on the trip, any education provided on the trip which is provided outside school hours shall be treated for the purposes of Article 128(2) as provided during school hours; and
- (b) in any other case, any education provided on the trip which is provided during school hours shall be treated for those purposes as provided outside school hours.

(4) In this Article a “half day” means any period of twelve hours ending with noon or midnight on any day.

(5) Where fifty per cent. or more of a half day is spent on a residential trip, the whole of that half day shall be treated for the purposes of paragraph (3) as spent on the trip.

(6) For the purposes of that paragraph, a school session on any day on which such a session takes place at the school concerned shall be treated as taken up by a residential trip on which education is provided for registered pupils at the school if the time spent on the trip occupies fifty per cent. or more of the time allowed for that session at the school.

### **Permitted charges**

**130.**—(1) Subject to paragraph (2), a charge may be made in respect of—

- (a) education or transport provided for a <sup>F26</sup> . . . pupil at any grant#aided school to which this Article applies<sup>F27</sup> other than—

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- (i) education or transport in respect of which by virtue of Article 128 no charge may be made; or
  - (ii) transport provided by a board under Article 52 of the principal Order.]
  - (b) the entry of any such pupil for a public examination in any [<sup>F28</sup>specification] for that examination otherwise than in circumstances in which by virtue of Article 128(5) no charge may be made; and
  - (c) board and lodging provided for any such pupil on a residential trip.
- (2) A charge may not be made—
- (a) by virtue of paragraph (1)(a) in respect of the provision for a pupil of education or transport; or
  - (b) by virtue of paragraph (1)(b) in respect of the entry of a pupil for an examination in any [<sup>F29</sup>specification] for that examination,
- unless the education or transport is provided or the pupil is entered for the examination in that [<sup>F29</sup>specification] by agreement with his parent; and any education, transport or examination entry in respect of which a charge may be made by virtue of either of those provisions is referred to below in this Article as an “optional extra”.
- (3) The following provisions of this Article apply in relation to any charge permitted under this Article and any such charge is referred to in those provisions as a regulated charge.
- (4) The amount of any regulated charge shall be payable by the parent of the pupil concerned.
- (5) A regulated charge shall not exceed the cost of the provision of the optional extra or the board and lodging in question.
- (6) Without prejudice to the generality of paragraph (5), the cost of the provision of an optional extra includes costs, or an appropriate proportion of the costs—
- (a) incurred in respect of the provision of any materials, books, instruments or other equipment used for the purposes of or in connection with the provision of the optional extra;
  - (b) attributable to the provision of non-teaching sta# for any purpose connected with the provision of the optional extra; or
  - (c) attributable to the provision of teaching sta# engaged under contracts for services for the purpose of providing it.
- (7) Subject to paragraph (8), the cost of the provision of an optional extra shall not be taken as including any costs attributable to the provision of teaching sta# other than sta# engaged as mentioned in paragraph (6)(c).
- (8) Where the optional extra in question consists of tuition in playing any musical instrument the cost of its provision shall include costs, or an appropriate proportion of the costs, attributable to the provision of teaching sta# employed for the purpose of providing the tuition.
- (9) Where charging is permitted under this Article and the charge would be a regulated charge, the question of whether any charge in respect of the optional extra or the board and lodging should be made, and the amount of any charge to be made, shall be determined—
- (a) in a case where the cost of the provision of the optional extra or board and lodging is met by, or from funds at the disposal of, the Board of Governors, by the Board of Governors;
  - (b) in any other case, by the board.
- (10) The whole or any part of the amount of any charge the board determines under paragraph (9) (b) to make—
- (a) shall, if the Board of Governors so determines, be met by, or from funds at the disposal of, the Board of Governors; and

(b) shall not, to the extent that it is so met, be payable by the parent of the pupil concerned.

- F26** Word in art. 130(1)(a) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 31, **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch. 1997 NI 5
- F27** 1997 NI 5
- F28** Word in art. 130(1)(b) substituted (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), **Sch. 2 para. 9**
- F29** Word in art. 130(2) substituted (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), **Sch. 2 para. 9**

### Charges and remissions policies

**131.**—(1) Every Board of Governors of a grant#aided school to which this Article applies and every board shall determine and keep under review a policy with respect to the provision of, and the classes or descriptions of case in which it proposes to make charges for, any optional extra or board and lodging in respect of which charges are permitted by Article 130.

- (2) No such Board of Governors or board shall make such a charge unless it has both—
- (a) determined a policy under paragraph (1) with respect to the making of such charges (its “charging policy”); and
  - (b) determined a policy (its “remissions policy”)—
    - (i) setting out any circumstances in which it proposes to remit (in whole or in part) any charge which would otherwise be payable to it in accordance with its charging policy; and
    - (ii) in the case of such a policy determined by the Board of Governors, setting out also any circumstances in which the Board of Governors proposes to meet (in whole or in part) any charge payable to the board in accordance with the board's charging policy for any optional extra or board and lodging provided for a registered pupil at the school.
- (3) Any remissions policy determined by the Board of Governors of a school or by a board shall provide for complete remission of any charges otherwise payable in respect of board and lodging provided for a pupil on a residential trip if—
- (a) the education provided on the trip is education in respect of which by virtue of Article 128 no charge may be made; and
  - (b) his parents are in receipt of income support<sup>F30</sup>, any element of child tax credit other than the family element, working tax credit<sup>F31</sup> or an income-based jobseeker's allowance (payable under the Jobseekers (Northern Ireland) Order 1995)<sup>F32</sup>. . . in respect of any period wholly or partly comprised in the time spent on the trip.
- (4) Any such Board of Governors or board shall keep under review any remissions policy determined by it under this Article.
- (5) In this Article “optional extra” has the same meaning as in Article 130.

- F30** 2002 c. 21
- F31** 1995 NI 15
- F32** 2002 c. 21

*Status: Point in time view as at 23/03/2007.*

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**[<sup>F33</sup>Capital charges in voluntary grammar schools to which Articles 128 to 131 apply where agreement under paragraph 1(1)(b) of Schedule 6 to the principal Order is, or has been, in force**

**132.**—(1) This Article applies to a voluntary grammar school to which Articles 128 to 131 apply if—

- (a) an agreement with the Department under paragraph 1(1)(b) of Schedule 6 to the principal Order is in force in relation to the school; or
- (b) such an agreement was in force in relation to the school at any time on or after 1 April 1992.

(2) Notwithstanding anything in Articles 128 to 131, the Board of Governors of such a school may make a charge in respect of any pupil registered at the school for the purpose of meeting expenditure incurred or to be incurred—

- (a) for the provision or alteration of the premises of the school;
- (b) for the provision of equipment provided in connection with the provision or alteration of the premises of the school.

(3) A charge under paragraph (2) shall, in the case of pupils of a prescribed description, not exceed such amount as may be prescribed.

(4) References in paragraph (2) to the premises of the school do not include premises used wholly or mainly for boarding purposes.]

**F33** 1993 NI 12

**[<sup>F34</sup>Capital charges in voluntary grammar schools to which Articles 128 to 131 apply where agreement is in force under paragraph 1(1)(a) of Schedule 6 to the principal Order**

**132A.**—(1) This Article applies to a voluntary grammar school to which Articles 128 to 131 apply if—

- (a) an agreement with the Department under paragraph 1(1)(a) of Schedule 6 to the 1986 Order is in force in relation to the school; and
- (b) immediately before the coming into force of that agreement, an agreement with the Department was in force under paragraph 1(1)(b) of Schedule 6 to the 1986 Order.

(2) Notwithstanding anything in Articles 128 to 131, the Board of Governors of such a school may, for such period after the date on which the agreement mentioned in paragraph (1)(a) comes into force as the Department may direct, make a charge in respect of any pupil registered at the school for the purpose of meeting expenditure incurred—

- (a) for the provision or alteration of the premises of the school;
- (b) for the provision of equipment provided in connection with the provision or alteration of the premises of the school.

(3) Paragraphs (3) and (4) of Article 132 shall apply for the purposes of paragraph (2) of this Article as they apply for the purposes of paragraph (2) of that Article.]

**F34** 1993 NI 12

**Charges in voluntary grammar schools to which Articles 128 to 131 do not apply**

**133.**—(1) This Article applies to a voluntary grammar school to which, by virtue of Article 127(2), Articles 128 to 131 do not apply.

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(2) The Board of Governors of such a school may, subject to regulations, make charges of such amounts as it may determine in respect of any pupil registered at the school for the purpose of meeting expenditure required to carry on the school.

(3) No charge shall be made in respect of the entry of a registered pupil at such a school for any<sup>F35</sup> . . . public examination in any [<sup>F36</sup>specification] for that examination for which the pupil has been prepared at the school.

(4) Paragraphs (2) and (3) do not apply in relation to excepted pupils.

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

- (a) the types of charges which may be made under that paragraph;
- (b) the pupils in respect of whom any type of charge may be made under that paragraph.

**F35** 1993 NI 12

**F36** Word in art. 133(3) substituted (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), **Sch. 2 para. 10**

### Charges in respect of excepted pupils

**134.**—(1) The Board of Governors of a grammar school in which an excepted pupil is registered may, subject to regulations, make charges of such amounts as it may determine in respect of that pupil.

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

- (a) the types of charges which may be made under that paragraph;
- (b) the pupils in respect of whom any type of charge may be made under that paragraph.

### Charges for board and lodging at boarding schools

**135.**—(1) Subject to the following provisions of this Article where any registered pupil at any grant#aided school is provided at the school with board and lodging at the expense of a board or the Board of Governors of the school, charges shall be payable in respect of the board and lodging by the parent of the pupil concerned to that board or Board of Governors.

(2) Where a board is satisfied with respect to any pupil who is ordinarily resident in its area that education suitable to his age, ability, aptitude and any special educational needs he may have cannot be provided for him otherwise than by the provision of board and lodging at a particular grant#aided school, the board shall—

- (a) where the school is under its management, remit the whole of the charges payable under this Article; and
- (b) where the school is not under its management, pay to the board or Board of Governors to whom the charges are payable under this Article, the whole of those charges.

(3) Where a board is satisfied that payment of the full charges payable under this Article would involve financial hardship to the parent of a pupil who is ordinarily resident in its area, the board—

- (a) in the case of charges payable to the board, shall remit so much of those charges as falls in accordance with paragraph (4) to be so remitted; and
- (b) in the case of charges payable to another board or to the Board of Governors of a school, shall pay so much of those charges as falls in accordance with that paragraph to be so paid.

*Status: Point in time view as at 23/03/2007.*

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(4) In the case of any such charges, the amount that falls to be remitted or paid by a board by virtue of paragraph (3)(a) or (b) is—

- (a) such part of those charges as the board considers ought not to be paid by the pupil's parent in order to avoid such hardship as is mentioned in that paragraph; or
- (b) if in its opinion such hardship cannot otherwise be avoided, the whole of those charges.

### **Obligation to enter pupils for approved public examinations**

**136.**—(1) Subject to the following provisions of this Article, the Board of Governors of every grant#aided school shall secure that each <sup>F37</sup>. . . pupil at the school is entered, at such time as it considers appropriate, for each <sup>F38</sup>. . . public examination for which he is being prepared at the school at the time in question in each [<sup>F39</sup>specification] for that examination for which he is being so prepared.

(2) Paragraph (1) shall not require a Board of Governors to secure that a pupil is entered for any examination, or for any examination in any [<sup>F39</sup>specification] for that examination, if <sup>F40</sup>. . . —

- (a) the Board of Governors considers that there are educational reasons in the case of that particular pupil for not entering him for that examination or (as the case may be) for not entering him for that examination in that [<sup>F39</sup>specification] and the parent of the pupil agrees that he should not be so entered; or
- (b) the parent of the pupil requests in writing that the pupil should not be entered for that examination or (as the case may be) for that examination in that [<sup>F39</sup>specification] .
- <sup>F41</sup>(c) the pupil is also being prepared for that examination or (as the case may be) for that examination in that specification at another school in pursuance of arrangements under Article 21 of the Education (Northern Ireland) Order 2006 and those arrangements provide for the Board of Governors of that other school to comply with the duty under paragraph (1) in relation to the examination in question.]

(3) Paragraph (1) shall not require a Board of Governors to secure that a pupil is entered for any examination in any [<sup>F42</sup>specification] for that examination if the Board of Governors has secured that pupil's entry for another <sup>F38</sup>. . . public examination in a corresponding [<sup>F39</sup>specification] .

(4) For the purposes of paragraph (3), a [<sup>F39</sup>specification] for any such examination shall be regarded as corresponding to a [<sup>F39</sup>specification] for another such examination if the same course of study is provided at the school concerned in preparation for both [<sup>F43</sup>specifications] .

(5) As soon as practicable after determining whether or not to secure the entry of any pupil for<sup>F44</sup> a] public examination in any [<sup>F39</sup>specification] for which he is being prepared at the school the Board of Governors of a grant#aided school shall notify the parent of the pupil in writing of its determination in relation to each such [<sup>F39</sup>specification].

**F37** Word in art. 136(1) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 32(a), **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.

**F38** 1993 NI 12

**F39** Word in art. 136 substituted (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), **Sch. 2 para. 11(a)**

**F40** Word in art. 136(2) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 32(b), **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.

**F41** Art. 136(2)(c) added (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44(1), **Sch. 2 para. 32(b)**; S.R. 2007/197, **art. 2(a)**

**F42** Word in art. 136 substituted (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), **Sch. 2 para. 11(a)**



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- F43** Word in art. 136(4) substituted (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), **Sch. 2 para. 11(b)**
- F44** 1993 NI 12

#### [<sup>F45</sup>Recovery of wasted examination fees

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

- (a) the Board of Governors of a grant-aided school has paid or is liable to pay a fee in respect of the entry of a <sup>F46</sup> . . . pupil at the school for a public examination in any [<sup>F47</sup>specification] for that examination; and
- (b) the pupil fails without good reason to meet any examination requirement for that [<sup>F47</sup>specification] ,

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

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

- F45** 1998 NI 13
- F46** Word in art. 136A(1) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 33, **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.
- F47** Word in art. 136A(1) substituted (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), **Sch. 2 para. 12**

#### General and supplementary provisions relating to charges

**137.**—(1) Nothing in the provisions of this Chapter relating to charges shall be read as prohibiting or in any way restricting or regulating any request or invitation by or on behalf of the Board of Governors of any grant-aided school or any board for voluntary contributions for the benefit of the school or any school activities.

(2) Any request or invitation made by or on behalf of any such Board of Governors or board for contributions for the benefit of any school or school activities shall not be regarded for the purposes of paragraph (1) as a request or invitation for voluntary contributions unless it is clear from the terms in which it is made—

- (a) that there is no obligation to make any contribution; and
- (b) that <sup>F48</sup> . . . pupils at the school will not be treated differently according to whether or not their parents have made any contribution in response to the request or invitation.

(3) Nothing in Article 128(6) shall prevent the parent of a <sup>F49</sup> . . . pupil at a grant-aided school to which this Article applies from being required to pay for or supply any materials for use for the purposes of the production in the course of the provision of education for the pupil at the school of any article incorporating those materials, where the parent has indicated before that requirement is made that he wishes the article to be owned by him or by the pupil.

(4) Nothing in this Chapter relating to charges with respect to a <sup>F50</sup> . . . pupil at a grant-aided school shall be read as relating to—

- (a) charges made by persons other than the Board of Governors or the board; or
- (b) charges to be paid by persons other than the parent of the pupil or the pupil himself.

[<sup>F51</sup>(4A) Nothing in the provisions of this Chapter relating to charges applies in relation to charges made by a board under Article 52 of the principal Order.]

**Status:** Point in time view as at 23/03/2007.

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(5) The Department may make regulations requiring, in relation to every grant#aided school to which Articles 128 to 131 apply, the board, the Board of Governors or the principal to make available either generally or to prescribed persons, in such form and manner and at such time as may be prescribed—

- (a) such information relevant for the purposes of this Chapter as to the school hours<sup>F52</sup>, terms and holidays] at the school; and
- (b) such information as to the policies determined under Article 131 which apply in relation to the school,

as may be prescribed.

(6) Any sum payable under Article 130 or 132 to 135<sup>F53</sup> or 136A] by the parent of any <sup>F54</sup> . . . pupil at a grant#aided school shall be recoverable summarily as a civil debt.

<sup>F55</sup>(7) Nothing in this Chapter shall apply in relation to a school established in a hospital; but no charge shall be made in respect of admission to, or education or equipment provided to a pupil at, any such school.]

<b>F48</b>	Word in art. 137(2)(b) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 34, <b>Sch. 3 Pt. III</b> ; S.R. 2007/197, <b>art. 2</b> , Sch.
<b>F49</b>	Word in art. 137(3) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 34, <b>Sch. 3 Pt. III</b> ; S.R. 2007/197, <b>art. 2</b> , Sch.
<b>F50</b>	Word in art. 137(4) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 34, <b>Sch. 3 Pt. III</b> ; S.R. 2007/197, <b>art. 2</b> , Sch.
<b>F51</b>	1997 NI 5
<b>F52</b>	1993 NI 12
<b>F53</b>	1998 NI 13
<b>F54</b>	Word in art. 137(6) repealed (23.3.2007) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(4), 44, Sch. 2 para. 34, <b>Sch. 3 Pt. III</b> ; S.R. 2007/197, <b>art. 2</b> , Sch.
<b>F55</b>	1993 NI 12

## Interpretation of Chapter II

**138.**—(1) In this Chapter—

- (a) “equipment” does not include clothing;
- (b) “excepted pupil” has the meaning assigned to it by Article 127(4);
- (c) references to a public examination<sup>F56</sup> . . . are references to such an examination as it applies in relation to persons entered for any [<sup>F57</sup>specification] for that examination with a view to meeting the examination requirements for that [<sup>F57</sup>specification] so as to qualify for assessment for the purposes of determining their achievements in that examination on any particular occasion in any year when an assessment for the purposes of determining the achievements of persons entered for that examination takes place;
- (d) references to an examination requirement for a [<sup>F57</sup>specification] for any such examination are references to any requirements a pupil must meet in order to qualify for assessment for the purposes of determining his achievements in that examination in that [<sup>F57</sup>specification] ; and
- (e) “residential trip” has the meaning given by Article 128(10).

(2) For the purposes of paragraph (1) an assessment for the purposes of determining the achievements of persons entered for any examination is to be regarded as taking place on any occasion on which it is determined in relation to each person entered for any [<sup>F57</sup>specification] in



that examination who has met the examination requirements for that [<sup>F57</sup>specification] whether that person has passed or failed and, if grades are assigned for the purposes of the examination, the grade to be assigned in his case.

Para. (3) rep. by 1997 NI 15

**F56** 1993 NI 12

**F57** Word in art. 138 substituted (1.8.2006) by Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), arts. 1(2), 44(1), **Sch. 2 para. 13**

### CHAPTER III

#### COMMUNITY USE OF SCHOOL PREMISES

##### Community schools

**139.**—(1) The Department may, on the application of the managers of a grant#aided school, designate that school as a community school.

(2) The Department shall not designate a school as a community school unless it appears to the Department that—

- (a) activities other than school activities (“non#school activities”) are carried on on the school premises; and
- (b) the activities which are so carried on are carried on wholly or mainly under the management or control of the Board of Governors of the school.

(3) A designation by the Department under paragraph (1) may be subject to such terms and conditions as the Department thinks fit.

(4) Before deciding whether to designate a grant#aided school as a community school in pursuance of an application by the managers of the school the Department shall ensure that—

- (a) particulars of the application have been furnished to any board and the trustees or managers of any school which would, in the opinion of the Department, be a#ected by the designation;
- (b) an opportunity is given to any such board, trustees or managers to make representations to the Department; and
- (c) any representations so made are taken into account by the Department.

(5) The voting members of the Board of Governors of a grant#aided school which is designated under paragraph (1) as a community school shall co#opt not less than one and not more than three appropriate persons to be members of the Board of Governors of the school.

(6) In paragraph (5) “appropriate persons” means persons appearing to the voting members to be representative of the persons who take part in the non#school activities carried on on the school premises.

(7) Members co#opted to the Board of Governors of a school under this Article shall be additional to any members co#opted under Article 122 and in this Article “voting members” has the same meaning as in that Article.

(8) This Article does not apply to [<sup>F58</sup>a school established in a hospital.]

**F58** 1993 NI 12

**Status:** Point in time view as at 23/03/2007.

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## Community use of school premises

140. Subject to regulations—

- (a) the managers and Board of Governors of every controlled school;
- (b) the trustees and managers of every voluntary school and grant#maintained integrated school,

shall, in exercising their respective powers in relation to the school premises<sup>F59</sup> (including, without prejudice to the generality of the foregoing words, any powers under Article 62 or under Article 32 of the Education and Libraries (Northern Ireland) Order 1993)], have regard to the desirability of the premises being made available (when not required by or in connection with the school) for use by members of the community served by the school.

**F59** 1993 NI 12

**Status:**

Point in time view as at 23/03/2007.

**Changes to legislation:**

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