

STATUTORY INSTRUMENTS

**1996 No. 274**

**The Education (Northern Ireland) Order 1996**

**PART II**

**CHILDREN WITH SPECIAL EDUCATIONAL NEEDS**

*Special educational provision: general*

**Review of arrangements**

6.—(1) A board shall—

- (a) determine, and keep under review, its policy in relation to special educational provision; and
- (b) keep under review the arrangements made by it for special educational provision.

(2) In exercising its functions under paragraph (1)(a), [<sup>F1</sup>the Authority] shall consult—

- (a) the Boards of Governors of grant-aided schools <sup>F2</sup> ...;
- <sup>F3</sup>(b) .....
- (c) the Council for Catholic Maintained Schools; and
- (d) such other persons as it thinks fit.

- F1** 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)
- F2** Words in art. 6(2)(a) repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\), Sch. 4](#) (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)
- F3** Art. 6(2)(b) repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\), Sch. 4](#) (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)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** Arts. 6-21B: 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](#))
- C2** [Arts. 6-21B](#) expiry of earlier affecting provision 2020 c. 7, Sch. 16 para. 17 (25.3.2022) by [Coronavirus Act 2020 \(c. 7\), s. 89](#) (with [s. 90](#))

**[<sup>F4</sup>Duty to educate children with special educational needs in ordinary schools**

7.—(1) This Article applies to a child with special educational needs who should be educated in a grant-aided school.

(2) If no statement is maintained under Article 16 for the child, he shall be educated in an ordinary school.

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**Changes to legislation:** *The Education (Northern Ireland) Order 1996, Cross Heading: Special educational provision: general is up to date with all changes known to be in force on or before 10 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) View outstanding changes*

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(3) If a statement is maintained under Article 16 for the child, he shall be educated in an ordinary school unless that is incompatible with—

- (a) the wishes of his parent, or
- (b) the provision of efficient education for other children.]

**F4** 2005 NI 6

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

- C1** Arts. 6-21B: 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)
- C2** Arts. 6-21B expiry of earlier affecting provision 2020 c. 7, Sch. 16 para. 17 (25.3.2022) by [Coronavirus Act 2020 \(c. 7\)](#), s. 89 (with s. 90)

**Education otherwise than in ordinary schools**

**7A.**—(1) Article 7(2) does not require a child to be educated in an ordinary school during any period in which—

- (a) he is admitted to a special school for the purposes of an assessment under Article 15 of his educational needs and his admission to that school is with the agreement of—
    - (i) [<sup>F1</sup>the Authority] ;
    - (ii) the Board of Governors of the school;
    - (iii) his parent; and
    - (iv) any person whose advice is to be sought in accordance with regulations made under paragraph 2 of Schedule 1;
  - (b) he remains admitted to a special school, in prescribed circumstances, following an assessment under Article 15 at that school;
  - (c) he is admitted to a special school, following a change in his circumstances, with the agreement of—
    - (i) [<sup>F1</sup>the Authority] ;
    - (ii) the Board of Governors of the school; and
    - (iii) his parent.
- (2) Article 7 does not affect the operation of—
- (a) Article 10; or
  - (b) paragraph 5 of Schedule 2.
- (3) If [<sup>F1</sup>the Authority] decides—
- (a) to make a statement for a child under Article 16, but
  - (b) not to name in the statement the school for which a parent has expressed a preference under paragraph 5 of Schedule 2,

it shall, in making the statement, comply with Article 7(3).

(4) A board may, in relation to its ordinary controlled schools taken as a whole, rely on the exception in Article 7(3)(b) only if it shows that there are no reasonable steps that it could take to prevent the incompatibility.

(5) A board or a Board of Governors may, in relation to a particular ordinary school, rely on the exception in Article 7(3)(b) only if it shows that there are no reasonable steps that either of them could take to prevent the incompatibility.

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(6) The exception in Article 7(3)(b) does not permit a Board of Governors to fail to comply with the duty imposed by Article 16(5)(b).

(7) Boards and Boards of Governors of grant-aided schools shall have regard to guidance about Article 7 and this Article issued by the Department.

(8) That guidance shall, in particular, relate to steps which may, or may not, be regarded as reasonable for the purposes of paragraphs (4) and (5).

**F1** 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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**C1** Arts. 6-21B: 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)

**C2** Arts. 6-21B expiry of earlier affecting provision 2020 c. 7, Sch. 16 para. 17 (25.3.2022) by [Coronavirus Act 2020 \(c. 7\), s. 89](#) (with s. 90)

### **Duties in relation to pupils with special educational needs in ordinary schools**

**8.—(1)** The Board of Governors of an ordinary school shall—

- (a) use its best endeavours, in exercising its functions in relation to the school, to secure that if any [<sup>F5</sup>pupil attending the school] has special educational needs the special educational provision which his learning difficulty calls for is made,
- (b) secure that, where a [<sup>F5</sup>pupil 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 [<sup>F6</sup>pupils attending the school] who have special educational needs.

(2) Where a child who has special educational needs is being educated in an ordinary school, those concerned with making special educational provision for the child shall secure, so far as is reasonably practicable and is compatible with—

- (a) the child receiving the special educational provision which his learning difficulty calls for,
- (b) the provision of efficient education for the children with whom he will be educated, and
- (c) the efficient use of resources,

that the child engages in the activities of the school together with children who do not have special educational needs.

(3) The annual report for an ordinary school prepared under Article 125 of the 1989 Order shall describe—

- (a) any special arrangements made for the admission of pupils to whom paragraph (4) applies;
- (b) the steps taken to prevent pupils with special educational needs from being treated less favourably than other pupils;
- (c) the facilities provided to assist access to the school by pupils with special educational needs.

(4) This paragraph applies to a pupil if—

- (a) he has special educational needs; but
- (b) no statement is maintained in respect of him under Article 16.

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- F5** Words in art. 8(1)(a)(b) substituted (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. 35(a)**; S.R. 2007/197, **art. 2(a)**
- F6** Words in art. 8(1)(c) substituted (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. 35(b)**; S.R. 2007/197, **art. 2(a)**

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

- C1** Arts. 6-21B: 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)
- C2** [Arts. 6-21B](#) expiry of earlier affecting provision 2020 c. 7, Sch. 16 para. 17 (25.3.2022) by [Coronavirus Act 2020 \(c. 7\)](#), **s. 89** (with s. 90)

**[<sup>F7</sup>Duty to inform parent where special educational provision made**

**8A.** If—

- (a) a child for whom no statement is maintained under Article 16 is a registered pupil at an ordinary grant-aided school;
- (b) special educational provision is made for him [<sup>F8</sup>(whether at the school or elsewhere in pursuance of arrangements under Article 21 of the Education (Northern Ireland) Order 2006)] because it is considered that he has special educational needs; and
- (c) his parent has not previously been informed under this Article of special educational provision made for him <sup>F9</sup>. . . ,

the Board of Governors of the school shall inform the child's parent that special educational provision is being made for him <sup>F9</sup>. . . because it is considered that he has special educational needs.]

- F7** [2005 NI 6](#)
- F8** Words in art. 8A(b) substituted (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. 36(a)**; S.R. 2007/197, **art. 2(a)**
- F9** Words in art. 8A repealed (23.3.2007) by [Education \(Northern Ireland\) Order 2006 \(S.I. 2006/1915 \(N.I. 11\)\)](#), arts. 1(4)(c)(d), 44, Sch. 2 para. 36(b), **Sch. 3 Pt. III**; S.R. 2007/197, **art. 2**, Sch.

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- C2** [Arts. 6-21B](#) expiry of earlier affecting provision 2020 c. 7, Sch. 16 para. 17 (25.3.2022) by [Coronavirus Act 2020 \(c. 7\)](#), **s. 89** (with s. 90)

**Determination by Boards of Governors of policy in relation to provision of education for children with special educational needs**

**9.—(1)** The Board of Governors of a grant-aided school shall determine, and keep under review, its policy in relation to the provision of education for children with special educational needs.

(2) In exercising its functions under paragraph (1), a Board of Governors of a school shall, to the extent that it may appear necessary or desirable for the purpose of co-ordinating provision for children with special educational needs, consult with—

- (a) [<sup>F1</sup>the Authority]<sup>F10</sup>...;
- (b) the Boards of Governors of other grant-aided schools; and
- (c) the Council for Catholic Maintained Schools (in the case of a Catholic maintained school).

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(3) The policy determined by a Board of Governors under paragraph (1) shall be compatible with the statutory provisions relating to education (including, in particular, those relating to children with special educational needs).

(4) In carrying out its functions under the Education Orders in relation to a school under its management, a Board of Governors shall have regard to its policy in relation to the provision of education for children with special educational needs.

(5) The annual report for a grant-aided school prepared under Article 125 of the 1989 Order shall describe what steps have been taken by the Board of Governors to secure the implementation of its policy in relation to the provision of education for children with special educational needs.

- F1** 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)
- F10** Words in art. 9(2)(a) 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)

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- C2** [Arts. 6-21B](#) expiry of earlier affecting provision 2020 c. 7, Sch. 16 para. 17 (25.3.2022) by [Coronavirus Act 2020 \(c. 7\), s. 89](#) (with s. 90)

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**Changes and effects yet to be applied to :**

- [art. 8A heading words substituted by 2016 c. 8 \(N.I.\) Sch. para. 3\(2\)](#)

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

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

- [Sch. 1 para. 3\(1\)\(b\)\(i\)\(ii\) and preceding word inserted by 2016 c. 8 \(N.I.\) Sch. para. 14\(2\)](#)
- [Sch. 1 para. 4\(1\)\(a\)\(b\) and preceding word inserted by 2016 c. 8 \(N.I.\) Sch. para. 14\(4\)](#)
- [Sch. 2 para. 2\(1\)\(a\)\(b\) and preceding word inserted by 2016 c. 8 \(N.I.\) Sch. para. 15\(2\)](#)
- [Sch. 2 para. 9\(1\)\(a\)\(b\) and preceding word substituted by 2016 c. 8 \(N.I.\) Sch. para. 15\(12\)](#)
- [Sch. 2 para. 13\(2\)\(a\)\(i\)\(ii\) and preceding word substituted by 2016 c. 8 \(N.I.\) Sch. para. 15\(20\)](#)
- [Sch. 2 para. 11\(1\)\(a\)\(aa\) substituted for Sch. 2 para. 11\(1\)\(a\) by 2016 c. 8 \(N.I.\) Sch. para. 15\(14\)](#)
- [art. 5A inserted by 2016 c. 8 \(N.I.\) s. 1](#)
- [art. 6A inserted by 2016 c. 8 \(N.I.\) s. 2](#)
- [art. 8\(1\)\(d\)-\(f\) inserted by 2016 c. 8 \(N.I.\) s. 3\(2\)\(c\)](#)
- [art. 8\(1A\)-\(1C\) inserted by 2016 c. 8 \(N.I.\) s. 3\(3\)](#)
- [art. 8\(2A\) inserted by 2016 c. 8 \(N.I.\) s. 3\(4\)](#)
- [art. 8ZA inserted by 2016 c. 8 \(N.I.\) s. 3\(5\)](#)
- [art. 10\(3\)\(a\)\(b\) substituted for words by 2016 c. 8 \(N.I.\) Sch. para. 4](#)
- [art. 12A inserted by 2016 c. 8 \(N.I.\) s. 4](#)
- [art. 14\(4A\)\(4B\) inserted by 2016 c. 8 \(N.I.\) s. 5\(3\)](#)
- [art. 15\(4\)\(a\)\(b\) and preceding word inserted by 2016 c. 8 \(N.I.\) Sch. para. 5\(4\)](#)
- [art. 15\(6\)\(a\)\(b\) and preceding word inserted by 2016 c. 8 \(N.I.\) Sch. para. 5\(5\)](#)
- [art. 17\(1\)\(a\)\(b\) and preceding word substituted for words by 2016 c. 8 \(N.I.\) Sch. para. 7\(2\)](#)
- [art. 18A\(4\)\(ba\) inserted by 2016 c. 8 \(N.I.\) s. 9\(4\)\(b\)](#)
- [art. 19\(1A\)-\(1C\) inserted by 2016 c. 8 \(N.I.\) s. 8\(3\)\(a\)](#)
- [art. 19\(2\)\(ba\) inserted by 2016 c. 8 \(N.I.\) s. 8\(3\)\(b\)\(ii\)](#)
- [art. 20A\(7\)\(a\)\(b\) and preceding word inserted by 2016 c. 8 \(N.I.\) Sch. para. 11\(4\)](#)
- [art. 20A\(8\)\(a\)\(i\)\(ii\) and preceding word substituted for words by 2016 c. 8 \(N.I.\) Sch. para. 11\(5\)](#)
- [art. 21\(5\)-\(10\) added by 2016 c. 8 \(N.I.\) s. 9\(2\)](#)
- [art. 21A\(4\)-\(7\) inserted by 2016 c. 8 \(N.I.\) Sch. para. 12\(4\)](#)
- [art. 21B\(3A\)-\(4\) substituted for art. 21B\(4\) by 2016 c. 8 \(N.I.\) s. 10\(2\)](#)
- [art. 21C inserted by 2016 c. 8 \(N.I.\) s. 10\(4\)](#)
- [art. 21ZA inserted by 2016 c. 8 \(N.I.\) s. 9\(3\)](#)