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## STATUTORY INSTRUMENTS

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# 1998 No. 1759

## Education (Northern Ireland) Order 1998

### PART V

#### PRE-SCHOOL EDUCATION

##### CHAPTER II

##### ADMISSION TO PRE-SCHOOL EDUCATION AT GRANT-AIDED SCHOOLS

###### *Admission to full-time pre-school education*

#### **Duties of Board of Governors in relation to admission to full-time pre-school education**

**24.**—(1) The Board of Governors of a school shall not cause or permit the number of full-time registered pupils at the school at any time to exceed the school's full-time enrolment number.

(2) In calculating for the purposes of paragraph (1) the number of full-time registered pupils at a school at any time, no account shall be taken of any child registered at the school in compliance with—

- (a) a direction of an appeal tribunal; or
- (b) a direction under Article 42 of the Education (Northern Ireland) Order 1996.

#### **Determination of full-time enrolment number for a school**

**25.**—(1) In this Chapter any reference to a school's full-time enrolment number is a reference to the number for the time being applying under the following provisions of this Article to the school.

(2) The full-time enrolment number applying to a school shall be such number as the Department may determine having regard in particular to—

- (a) the requirements of directions under Article 18 of the 1986 Order which apply in relation to the school;
- (b) the accommodation available for use by pupils in pre-school education at the school; and
- (c) the extent to which part-time pre-school education is to be provided in the school.

(3) The full-time enrolment number of a school may be nil.

(4) The Department may at any time vary a school's full-time enrolment number.

(5) Before making any determination under paragraph (2) or variation under paragraph (4) in relation to a school, the Department shall consult the bodies mentioned in paragraph (8).

(6) Paragraph (5) does not require consultation with the Board of Governors of a school in relation to a variation of the school's full-time enrolment number made by the Department at the request of the Board of Governors.

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**Changes to legislation:** Education (Northern Ireland) Order 1998, Cross Heading: Admission to full-time pre-school education is up to date with all changes known to be in force on or before 04 July 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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(7) After making any determination under paragraph (2) or variation under paragraph (4) in relation to a school, the Department shall send notice of the determination or variation to the bodies mentioned in paragraph (8).

(8) The bodies referred to in paragraphs (5) and (7) are—

- (a) the Board of Governors of the school;
- (b) [<sup>F1</sup>the Authority]<sup>F2</sup>...; and
- (c) where the school is a Catholic maintained school, the Council for Catholic Maintained Schools.

**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. 25(8) 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)

### Admission decisions in relation to full-time pre-school education

**26.—**(1) In this Article and Article 27 any reference to the admission of a child to a school is a reference to the admission of a child to full-time pre-school education at the school.

(2) In this Article—

- (a) paragraph (3) applies to an application for the admission of a child to a school where the proposed admission is to take effect at the beginning of the first term of the school year; and
- (b) paragraph (4) applies to an application for the admission of a child to a school where the proposed admission is to take effect at any later time in the school year.

(3) Where an application to which this paragraph applies is made, the Board of Governors—

- (a) shall admit the child to the school if the total number of such applications does not exceed the full-time enrolment number of the school;
- (b) in any other case, shall—
  - (i) apply the criteria drawn up under Article 32(1) to select for admission to the school a number of children equal to the school's full-time enrolment number; and
  - (ii) admit, or refuse to admit, the child to the school accordingly.

(4) Where an application to which this paragraph applies is made, the Board of Governors shall—

- (a) if, at the time the application is considered there are vacant full-time places at the school—
  - (i) admit the child to the school, if the total number of such applications falling to be considered at that time does not exceed the number of vacant full-time places;
  - (ii) in any other case, apply the criteria drawn up under Article 32(1) to select for admission to the school a number of children equal to the number of vacant full-time places and admit, or refuse to admit, the child to the school accordingly;

(b) if, at that time, there are no vacant full-time places at the school refuse to admit the child to the school.

(5) For the purposes of this Article—

- (a) there are vacant full-time places at a school at any time if at that time the full-time enrolment number of the school exceeds the number of full-time pupils registered at the school;

- (b) the number of vacant full-time places at a school at any time is the number obtained by subtracting the number of full-time pupils registered at the school at that time from the full-time enrolment number of the school.

### Appeals against certain admission decisions under Article 26

27.—(1) [<sup>F1</sup>The Authority] shall make arrangements for enabling the parent of a child to appeal against any decision made under Article 26 by the Board of Governors of a school <sup>F3</sup>... refusing the child admission to the school.

(2) An appeal under this Article shall be to an appeal tribunal constituted in accordance with regulations under paragraph (8) of Article 15 of the Education (Northern Ireland) Order 1997; and paragraphs (9) to (11) of that Article apply in relation to appeals under this Article as they apply in relation to appeals under that Article.

(3) An appeal under this Article may be brought only on the ground that the criteria drawn up under Article 32(1) by the Board of Governors of a school—

- (a) were not applied; or
- (b) were not correctly applied,

in deciding to refuse the child admission to the school.

(4) On the hearing of an appeal under this Article—

- (a) if it appears to the tribunal that the criteria were not applied, or were not correctly applied, in deciding to refuse the child admission to the school, the tribunal shall, subject to paragraph (5), allow the appeal and direct the Board of Governors of the school to admit the child to the school;
- (b) in any other case, the tribunal shall dismiss the appeal.

(5) If, in any case mentioned in paragraph (4)(a), it appears to the tribunal that had the criteria been applied, or (as the case may be) been correctly applied, the child would have been refused admission to the school, the tribunal shall dismiss the appeal.

(6) It shall be the duty of the Board of Governors of a school to comply with any direction given under paragraph (4)(a).

**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)

**F3** Words in art. 27(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)

**Changes to legislation:**

Education (Northern Ireland) Order 1998, Cross Heading: Admission to full-time pre-school education is up to date with all changes known to be in force on or before 04 July 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.

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

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

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

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