

## STATUTORY INSTRUMENTS

# 2006 No. 1915

## The Education (Northern Ireland) Order 2006

### PART III

#### MISCELLANEOUS AND SUPPLEMENTARY

VALID FROM 16/12/2011

#### *Suspension and expulsion of pupils from grant-aided schools*

PROSPECTIVE

#### **Suspension and expulsion of pupils**

**31.**—(1) The Department shall prepare and issue a scheme specifying the procedure to be followed in relation to the suspension and expulsion of registered pupils from grant-aided schools.

(2) A scheme under this Article—

(a) shall provide that—

(i) a registered pupil at a controlled school may be expelled from that school only by [<sup>F1</sup>the Authority] on the application of the Board of Governors of the school;

(ii) a registered pupil at any other grant-aided school may be expelled from that school only by the Board of Governors of the school;

(b) shall provide that a registered pupil at a grant-aided school may be suspended from that school only by a person or body specified in the scheme;

(c) shall specify the maximum period—

(i) for which a pupil may be suspended in any one school year;

(ii) for which a pupil may be suspended on any one occasion;

(d) may provide for the extension of a period of suspension (subject to any provision made by virtue of sub-paragraph (c));

(e) may include provision for such other matters as the Department thinks appropriate.

(3) It is the duty of—

(a) [<sup>F2</sup>the Authority] and the Board of Governors (in relation to a controlled school); and

(b) the Board of Governors (in relation to any other grant-aided school),

to comply with a scheme under this Article.

(4) The Department—

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- (a) shall review a scheme issued under this Article not later than five years after the issue of the scheme (or, as the case may be, after the last review under this paragraph); and
  - (b) may revise the scheme and issue the revised scheme.
- (5) Before making or revising a scheme under this Article the Department shall consult—
- (a) <sup>F3</sup>the Authority] ;
  - (b) the Board of Governors of a number of grant-aided schools selected by the Department as being a representative sample of all such schools; and
  - (c) any other person with whom consultation appears to it to be desirable.
- <sup>F4</sup>(6) .....

**Textual Amendments**

- F1** Words in art. 31(2)(a)(i) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 25(5)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F2** Words in art. 31(3)(a) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 25(5)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- 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** Art. 31(6) 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)

PROSPECTIVE

**Appeals against expulsion**

- 32.**—(1) Where <sup>F5</sup>the Authority] decides to expel a registered pupil from a controlled school—
- (a) <sup>F3</sup>the Authority] shall immediately—
    - (i) inform the Board of Governors of the school concerned of that decision; and
    - (ii) inform the relevant person of that decision and of his right of appeal; and
  - (b) the relevant person may appeal against that decision to the appeal tribunal constituted in accordance with regulations under paragraph (6).
- (2) Where the Board of Governors of any grant-aided school other than a controlled school decides to expel a registered pupil from that school—
- (a) the Board of Governors shall immediately inform the relevant person of that decision and of his right of appeal; and
  - (b) the relevant person may appeal against that decision to the appeal tribunal constituted in accordance with regulations under paragraph (6).
- (3) In this Article “the relevant person” means—
- (a) in relation to a pupil under the age of 18, a parent of his;
  - (b) in relation to a pupil who has attained that age, the pupil himself.
- (4) On the hearing of an appeal under this Article the appeal tribunal may—
- (a) allow the appeal and direct that the pupil be re-admitted to the school; or
  - (b) dismiss the appeal.

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

(6) The Department shall by regulations provide for the constitution and procedure of an appeal tribunal to hear and determine appeals under this Article.

(7) Regulations under paragraph (6) may in particular—

(a) provide for the tribunal to consist of a prescribed number of persons selected in the prescribed manner from a panel or panels of persons appointed by the Department to act as members of the tribunal;

(b) provide for disqualifying prescribed persons or descriptions of person for membership of the tribunal;

(c) contain provision requiring—

(i) the appeal to be brought; and

(ii) the tribunal to hear and determine an appeal,

within such period as may be specified in, or determined in accordance with, the regulations;

(d) provide for representations to be made to the tribunal by or on behalf of the Board of Governors of the school concerned, the relevant person and (in the case of a controlled school) [F6the Authority ] ;

(e) provide for the tribunal in determining an appeal to have regard in particular to any prescribed matters;

(f) provide for the tribunal to sit in private, except in such circumstances as may be specified in, or determined in accordance with, the regulations;

(g) provide that all matters relating to the procedure of a tribunal which are not specifically regulated by the regulations are to be determined by the Department.

(8) The Department may make payments by way of travelling and subsistence allowances to members of the appeal tribunal.

(9) Payments under paragraph (8) shall be made at such rates and on such conditions as may be determined by the Department.

#### Textual Amendments

**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** Words in art. 32(1) substituted (1.4.2015) by *Education Act (Northern Ireland) 2014* (c. 12), **Sch. 3 para. 25(6)** (with *Sch. 2 para. 4(3)*); S.R. 2015/35, art. 2(b)

**F6** Words in art. 32(7)(d) substituted (1.4.2015) by *Education Act (Northern Ireland) 2014* (c. 12), **Sch. 3 para. 25(6)** (with *Sch. 2 para. 4(3)*); S.R. 2015/35, art. 2(b)

PROSPECTIVE

#### Appeals against suspension

**33.—(1)** The Department may by regulations provide for appeals against decisions to suspend a registered pupil from a grant-aided school.

(2) Regulations under this Article may in particular include provision as to—

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- (a) the persons who may appeal;
- (b) the person by whom, or body by which, the appeal is to be heard;
- (c) the circumstances under which, and time within which, an appeal may be brought;
- (d) the procedure to be followed on an appeal;
- (e) the matters to which the person or body hearing the appeal is to have regard in determining the appeal;
- (f) such other matters as the Department thinks appropriate.

### **Education of suspended pupils**

**34.**—(1) It is the duty of the Board of Governors of a grant-aided school to make arrangements for the provision of suitable education to a registered pupil of the school at any time when the pupil is suspended from the school.

(2) In such circumstances as the Department may determine, a board may make arrangements to assist the Board of Governors of a grant-aided school in its area in providing suitable education for a pupil in pursuance of paragraph (1).

(3) In consequence of paragraphs (1) and (2), Article 86 of the 1998 Order is amended as follows—

- (a) in paragraph (1) (duty of board to make arrangements for the provision of suitable education for children of compulsory school age who by reason of illness, expulsion or suspension from school or otherwise, may not receive suitable education) for “expulsion or suspension” substitute “ or expulsion ”;
- (b) in paragraph (2) (power of board to make arrangements for the provision of suitable education for certain children over compulsory school age who by reason of illness, expulsion or suspension from school or otherwise, may not receive suitable education) for “expulsion or suspension” substitute “ or expulsion ”;
- (c) after paragraph (2) insert—

“(2A) Paragraphs (1) and (2) do not apply in relation to a child who is suspended from school.”.

(4) In this Article “suitable education”, in relation to a pupil, means efficient education suitable to his age, ability and aptitude and to any special educational needs he may have.

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**Changes to legislation:**

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