

SCHEDULES

SCHEDULE 17

TEMPORARY CONTINUITY DIRECTIONS ETC: EDUCATION, TRAINING AND CHILDCARE

PART 3

NORTHERN IRELAND

Temporary continuity directions

- 14 (1) The Department may give a temporary continuity direction that applies to—
- (a) the Education Authority;
 - (b) one or more named schools in Northern Ireland;
 - (c) all schools in Northern Ireland (or any part of Northern Ireland);
 - (d) schools in Northern Ireland (or any part of Northern Ireland) of a particular description.
- (2) A temporary continuity direction under this paragraph is a direction that requires the Education Authority, or the managers of the school or schools to which it applies, to take steps specified in the direction in connection with the provision, for a specified period, of education or services relating to education.
- (3) Before giving a temporary continuity direction under this paragraph—
- (a) the Department must have regard to any advice from the Chief Medical Officer or any of the Deputy Chief Medical Officers of the Department of Health in Northern Ireland relating to the incidence or transmission of coronavirus, and
 - (b) the Department must be satisfied that giving the direction is a necessary and proportionate action for or in connection with the continued provision of education or services relating to education for the specified period.
- (4) A temporary continuity direction under this paragraph may—
- (a) require the taking of reasonable steps in general terms, or require the taking of particular steps that the Department considers reasonable;
 - (b) in the case of a school, require the school to open, to stay open, to re-open, or to open at times when it would not usually be open;
 - (c) in the case of a school, require the school to allow specified pupils to attend that school for the purpose of receiving education or services relating to education provided by or on behalf of that school;
 - (d) in the case of a school, require the alteration of term dates, holiday dates or examination dates;
 - (e) in the case of a school, require the school to provide or make arrangements for the provision of education or services relating to education;

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- (f) make different provision for different purposes, or be framed by reference to whatever matters the Department considers appropriate;
 - (g) make transitional, transitory or saving provision;
 - (h) make such other provision as the Department considers appropriate in connection with the giving of a direction.
- (5) Subject to sub-paragraph (6), the Department must publish a temporary continuity direction under this paragraph.
- (6) Where a direction relates to a person specified by name—
- (a) the Department must give a copy of the direction to that person, and
 - (b) the published version of the direction must not identify any individual without their consent.
- (7) The Education Authority, or (as the case may be) the managers of a school or schools to which a temporary continuity direction under this paragraph applies, must have regard to any guidance given by the Department about how to comply with such a direction.
- (8) The duty of the Education Authority or the managers of a school to comply with a temporary continuity direction under this paragraph is enforceable, by the Department making an application to the High Court or a county court for an injunction.
- (9) An application under sub-paragraph (8) may be made without notice being given to the Education Authority or (as the case may be) the managers of the school.
- (10) Where a temporary continuity direction under this paragraph applies to a school, there is no breach of the following provisions to the extent that a breach is attributable to the direction—
- (a) regulations 14 and 15 of the Primary Schools Regulations and regulations 11 and 12 of the Secondary Schools Regulations (terms and days of operation of school and dates of school holidays, etc);
 - (b) regulation 18 of the Primary Schools Regulations (child who is not a registered pupil at a school not permitted to attend the school).
- (11) In this paragraph—
- “child”, “managers” and “school” have the meaning given in the Education and Libraries (Northern Ireland) Order 1986 ([S.I. 1986/594 \(N.I. 3\)](#));
 - “the Department” means the Department of Education in Northern Ireland;
 - “the Education Authority” means the Authority established by section 1(1) of the [Education Act \(Northern Ireland\) 2014 \(c. 12 \(N.I.\)\)](#);
 - “the Primary Schools Regulations” means the Primary Schools (General) Regulations (Northern Ireland) 1973 ([S.R. & O. \(N.I.\) 1973 No. 402](#));
 - “the Secondary Schools Regulations” means the Secondary Schools (Grant Conditions) Regulations (Northern Ireland) 1973 ([S.R. & O. \(N.I.\) 1973 No. 403](#));
 - “specified” means specified in a temporary continuity direction under this paragraph, or falling within a description specified in a temporary continuity direction under this paragraph.

- 15 (1) The Department may give a temporary continuity direction that applies to—
- (a) one or more named relevant institutions in Northern Ireland;
 - (b) all relevant institutions in Northern Ireland (or any part of Northern Ireland);
 - (c) relevant institutions in Northern Ireland (or any part of Northern Ireland) of a particular description.
- (2) A temporary continuity direction under this paragraph is a direction that requires the governing body of the relevant institution to which it applies to take steps specified in the direction in connection with the provision, for a specified period, of further or higher education or services relating to further or higher education.
- (3) Before giving a temporary continuity direction under this paragraph—
- (a) the Department must have regard to any advice from the Chief Medical Officer or any of the Deputy Chief Medical Officers of the Department of Health in Northern Ireland relating to the incidence or transmission of coronavirus, and
 - (b) the Department must be satisfied that giving the direction is a necessary and proportionate action for or in connection with the continued provision of further or higher education or services relating to further or higher education for the specified period.
- (4) A temporary continuity direction under this paragraph may—
- (a) require the taking of reasonable steps in general terms, or require the taking of particular steps that the Department considers reasonable;
 - (b) require the institution to open, to stay open, to re-open, or to open at times when it would not usually be open;
 - (c) require the institution to allow specified persons to attend that institution for the purpose of receiving further or higher education or services relating to further or higher education provided by or on behalf of that institution;
 - (d) require the alteration of term dates, holiday dates or examination dates;
 - (e) require the institution to provide or make arrangements for the provision of further or higher education or services relating to further or higher education;
 - (f) make different provision for different purposes, or be framed by reference to whatever matters the Department considers appropriate;
 - (g) make such other provision as the Department considers appropriate in connection with the giving of a direction.
- (5) Subject to sub-paragraph (6), the Department must publish a temporary continuity direction under this paragraph.
- (6) Where a direction relates to a person specified by name—
- (a) the Department must give a copy of the direction to that person, and
 - (b) the published version of the direction must not identify any individual without their consent.
- (7) The governing body of an institution to which a temporary continuity direction under this paragraph applies must have regard to any guidance given by the Department about how to comply with that direction.
- (8) The duty of the governing body of an institution to comply with a temporary continuity direction under this paragraph is enforceable by the Department making an application to the High Court or a county court for an injunction.

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- (9) An application under sub-paragraph (8) may be made without notice being given to the governing body of the institution.
- (10) In this paragraph—
- “the Department” means the Department for the Economy in Northern Ireland;
- “governing body”, in relation to a higher education institution, has the same meaning as in Article 30 of the Education and Libraries (Northern Ireland) Order 1993 (S.I. 1993/2810 (N.I. 12)) (the “1993 Order”);
- “relevant institution” means—
- (a) a further education institution recognised by the Department under Article 8 of the Further Education (Northern Ireland) Order 1997 (S.I. 1997/1772 (N.I. 15)), or
- (b) a higher education institution within the meaning of Article 30 of the 1993 Order;
- “specified” means specified in a temporary continuity direction under this paragraph, or falling within a description specified in a temporary continuity direction under this paragraph.
- 16 (1) The Department may give a temporary continuity direction that applies to—
- (a) one or more named persons registered under Article 118 of the 1995 Order (child minders and those who provide day care);
- (b) all persons registered under that Article in Northern Ireland (or any part of Northern Ireland);
- (c) persons registered under that Article of a particular description in Northern Ireland (or any part of Northern Ireland).
- (2) A temporary continuity direction under this paragraph is a direction that requires any person to whom it applies to take steps specified in the direction in connection with the provision, for a specified period, of child minding or day care or services relating to child minding or day care.
- (3) Before giving a temporary continuity direction under this paragraph—
- (a) the Department must have regard to any advice from the Chief Medical Officer or any of the Deputy Chief Medical Officers of the Department relating to the incidence or transmission of coronavirus, and
- (b) the Department must be satisfied that giving the direction is a necessary and proportionate action for or in connection with the continued provision of child minding or day care or services relating to child minding or day care for the specified period.
- (4) A temporary continuity direction under this paragraph may—
- (a) require the taking of reasonable steps in general terms, or require the taking of particular steps that the Department considers reasonable;
- (b) require a person registered under Article 118 of the 1995 Order to provide services, to continue to provide services, to provide services again or to provide services when the person would not usually do so.
- (5) The references in sub-paragraph (4)(b) to providing services are to the provision of child minding or day care.

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- (6) Subject to sub-paragraph (7), the Department must publish a temporary continuity direction under this paragraph.
- (7) Where a direction relates to a person specified by name—
 - (a) the Department must give a copy of the direction to that person, and
 - (b) the published version of the direction must not identify any individual without their consent.
- (8) A person to whom a temporary continuity direction under this paragraph applies must have regard to any guidance given by the Department about how to comply with that direction.
- (9) The duty of a person registered under Article 118 of the 1995 Order to comply with a temporary continuity direction under this paragraph is enforceable by the Department making an application to the High Court or a county court for an injunction.
- (10) An application under sub-paragraph (9) may be made without notice being given to the registered person.
- (11) In this paragraph—
 - “the 1995 Order” means the Children (Northern Ireland) Order 1995 ([S.I. 1995/755 \(N.I. 2\)](#));
 - “child minding” and “day care” have the same meaning as in the 1995 Order;
 - “the Department” means the Department of Health in Northern Ireland;
 - “specified” means specified in a temporary continuity direction under this paragraph, or falling within a description specified in a temporary continuity direction under this paragraph.

Notices temporarily removing or relaxing education duties

- 17 (1) The Department may by notice make provision disapplying or modifying, for a specified period, any one or more of the provisions listed in sub-paragraph (2).
- (2) This is the list referred to in sub-paragraph (1)—
 - (a) the following provisions of the Education and Libraries (Northern Ireland) Order 1986 ([S.I. 1986/594 \(N.I. 3\)](#))—
 - (i) Article 45(1) (duty of parents to secure full-time education);
 - (ii) Articles 58 and 59 (provision of milk, meals and related facilities);
 - (iii) paragraph 1(4) of Schedule 13 (duty of managers of grant-aided school to admit child in accordance with attendance order);
 - (iv) paragraph 3(1) of Schedule 13 (duty of parents to secure attendance of pupil at school);
 - (b) Articles 6 to 21B of the Education (Northern Ireland) Order 1996 ([S.I. 1996/274 \(N.I. 1\)](#)) (duties in relation to special educational needs);
 - (c) Article 16(2) of the Education (Northern Ireland) Order 1998 ([S.I. 1998/1759 \(N.I. 13\)](#)) (class size in primary schools);
 - (d) regulations 5 to 22 of the Education (Special Educational Needs) Regulations (Northern Ireland) 2005 ([S.R. \(N.I.\) 2005 No. 384](#)) (duties in relation to assessments and statements);
 - (e) any provision of, or made under, Part 2 of the Education (Northern Ireland) Order 2006 ([S.I. 2006/1915 \(N.I. 11\)](#)) (duties in relation to the curriculum).

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- (3) The Department may by regulations amend the list in sub-paragraph (2).
- (4) A notice under sub-paragraph (1) may limit the disapplication or modification of a provision by reference to—
 - (a) a specified person or description of persons;
 - (b) a specified area;
 - (c) any other matter.
- (5) In particular, a notice under sub-paragraph (1) that disapplies any provision of, or made under, Part 2 of the Education (Northern Ireland) Order 2006 may—
 - (a) relate to the curriculum generally or to specified aspects of the curriculum;
 - (b) relate to all key stages or specified key stages;
 - (c) make different provision for different key stages;
 - (d) relate to all areas of learning or to contributory elements;
 - (e) be framed by reference to such other matters as the Department considers appropriate.
- (6) A notice under sub-paragraph (1) must state why the Department considers that the issuing of the notice is an appropriate and proportionate action in all the circumstances.
- (7) The specified period in a notice under sub-paragraph (1) must not exceed one month.
- (8) The Department may by notice (a “cancellation notice”) cancel a notice under sub-paragraph (1) with effect from the time specified in the cancellation notice.
- (9) A cancellation notice may contain transitional or saving provision.
- (10) Nothing in sub-paragraph (7) or (8) prevents the issuing of a further notice in relation to any provision.
- (11) Subject to sub-paragraph (12), the Department must—
 - (a) publish a notice under this paragraph;
 - (b) take such other steps as the Department considers reasonable to bring the notice to the attention of those likely to be affected by it.
- (12) Where the notice relates to a person specified by name—
 - (a) the Department must give a copy of the notice to that person, and
 - (b) the published version of the notice must not identify any individual without their consent.
- (13) In this paragraph—

“the Department” means the Department of Education in Northern Ireland;

“specified”, in relation to a notice under sub paragraph (1), means specified in the notice.
- (14) The power to make regulations under sub-paragraph (3) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)) (and not by statutory instrument).
- (15) Regulations under sub-paragraph (3) may make different provision for different purposes.

- (16) Regulations under sub-paragraph (3) must be laid before the Northern Ireland Assembly as soon as reasonably practicable after being made.
- (17) Regulations laid before the Assembly by virtue of sub-paragraph (16) cease to have effect at the end of the period of 40 days beginning with the day on which the instrument is made, unless within that period the instrument is approved by a resolution of the Assembly.
- (18) In calculating the period of 40 days, no account is to be taken of any time during which the Assembly is dissolved or during which it is in recess for more than four days.
- (19) Where regulations cease to have effect as a result of sub-paragraph (17), that does not—
- (a) affect anything previously done under the regulations (except as set out in sub-paragraph (20)), or
 - (b) prevent the making of new regulations.
- (20) Where—
- (a) a notice has been given under sub-paragraph (1) disapplying or modifying a provision that has been added to the list in sub-paragraph (2) by virtue of the regulations, and
 - (b) the regulations cease to have effect during the specified period set out in that notice,
- the notice ceases to have effect at the time the regulations cease to have effect.