Draft Order in Council laid before Parliament under paragraph 2(1)(a) of the Schedule to the Northern Ireland Act 2000, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2003 No. (N.I.)

NORTHERN IRELAND

The Education and Libraries (Northern Ireland) Order 2003

Made - - - - 2003
Coming into operation in accordance with Article 1(2) and (3)

At the Court at Buckingham Palace, the day of 2003

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Education and Libraries (Northern Ireland) Order 2003.

(2) Except as provided by the following provisions of this Article, this Order comes into operation on 1st April 2003.

(3) The following provisions come into operation on such day or days as the Department may by order appoint—

(a) Part II (together with Schedule 1);

(b) Part II of Schedule 3 and Article 40(2) so far as relating thereto.

(4) An order under paragraph (3) may make such transitional and saving provisions as appear to the Department to be necessary or expedient.

(5) The following provisions of this Order do not apply in relation to, or affect the operation of any other statutory provision in relation to, a financial year ending on or before 31st March 2003—

(a) Articles 10, 12 and 38; and

(b) in Part I of Schedule 3, the repeal of—

(i) Articles 113, 114 and 119 of the 1986 Order; and

(ii) Article 29 of the Education and Libraries (Northern Ireland) Order 1993 Order (NI 12).

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

"the 1986 Order" means the Education and Libraries (Northern Ireland) Order 1986 (NI 3);

"the 1989 Order" means the Education Reform (Northern Ireland) Order 1989 (NI 20);

"the 1997 Order" means the Education (Northern Ireland) Order 1997 (NI 5);

"the 1998 Order" means the Education (Northern Ireland) Order 1998 (NI 13).

(3) This Order shall be construed as one with the 1986 Order; and accordingly Article 2 of the 1986 Order, in so far as it relates to the interpretation of words or expressions used in that Order and in this Order, applies for the purposes of this Order as it applies for the purposes of that Order.

(4) In this Order and in any of the Orders mentioned in paragraph (1) a reference to "the Education Orders" includes a reference to this Order.

PART II

FUNDING OF GRANT-AIDED SCHOOLS

The common funding scheme for grant-aided schools

3.—(1) There shall be a scheme ("the common funding scheme") for the funding of relevant schools.

(2) In this Part "relevant school" means a grant-aided school, other than a special school or a school established in a hospital.

(3) The common funding scheme—

(a) shall be prepared and adopted, and

(b) may be varied or replaced,

by the Department in accordance with the following provisions of this Article.

(4) The Department shall prepare a draft scheme after consultation with—

(a) the boards;

(b) the Council for Catholic Maintained Schools; and

(c) such other bodies and persons as it thinks fit.

(5) The Department shall send a copy of the draft scheme to—

(a) each board;

(b) the Council for Catholic Maintained Schools; and

(c) each body or person consulted by it under paragraph (4)(c).

(6) Each board shall, in such manner as the Department may direct—

(a) consult the Board of Governors of every relevant controlled and maintained school in its area about the draft scheme; and

(b) inform the Department of the outcome of those consultations.

(7) The Department shall consult the Board of Governors of every voluntary grammar school and grant maintained integrated school about the draft scheme.

(8) The Department shall consider —

(a) any views submitted to it by a body or person mentioned in paragraph (5); and

(b) the outcome of the consultations mentioned in paragraph (6) and (7),

and shall then—

(i) adopt the scheme (either in the form of the draft or with such modifications as the Department thinks appropriate); and

(ii) publish the scheme.

(9) Subject to the paragraph (10), the scheme may be varied or replaced by a subsequent scheme made under this Article.

(10) If in the opinion of the Department a subsequent scheme prepared by it does not make any significant change to the previous scheme, paragraphs (5) to (8) do not apply in relation to that scheme and the Department may adopt and publish the scheme.

(11) It shall be the duty of every board to give effect to the common funding scheme for the time being adopted under this Article.

(12) On such day as the Department may by order appoint the following provisions of this Article shall cease to have effect—

(a) in paragraph (6), the words "controlled and maintained"; and

(b) paragraph (7).

Contents of the common funding scheme

4.—(1) The common funding scheme shall include—

(a) provision requiring the budget share of each relevant school for a financial year to be determined by the application of a formula ("the common funding formula") set out in the scheme;

(b) provision requiring the delegation by the board to the Board of Governors of each relevant controlled or maintained school of the management of the school's budget share for each financial year; and

(c) such other provisions as are required by this Part or Part VII of the 1998 Order to be included in the scheme.

(2) The common funding scheme may include such other provisions—

(a) as are authorised by this Part or Part VII of the 1998 Order to be included in the scheme; or

(b) as appear to the Department to be necessary or expedient in connection with the funding of relevant schools.

(3) For the purposes of this Part and Part VII of the 1998 Order a school's budget share in respect of a financial year is—

(a) in relation to a controlled or maintained school, the amount management of which falls to be delegated to the Board of Governors of the school under the common funding scheme in respect of that year;

(b) in relation to a voluntary grammar school, the amount of the grant to be made to that school under Article 60(3)(a) of the 1989 Order or Article 61(2)(a) of the 1998 Order in respect of that year; and

(c) in relation to a grant-maintained integrated school, the amount of the grant to be made to that school under Article 77(2)(a) of the 1989 Order or Article 63(2)(a) of the 1998 Order in respect of that year.

(4) In this Article "formula" includes methods, principles and rules of any description, however expressed.

(5) The common funding formula—

(a) shall include provision for taking into account, in the case of each relevant school, the number and ages of pupils who—

(i) are, or are expected to be, registered at the school on such date or dates (whether before or during that year) as may be determined by or under the scheme; and

(ii) are not of a class or description excluded by the scheme from being taken into account for the purposes of any such provision;

(b) may include provision for taking into account factors affecting the particular needs of any class or description of school;

(c) may include provision for taking into account factors affecting the needs of individual schools which are subject to variation from school to school.

(6) The common funding formula may, in relation to a grammar school having a preparatory department, make special provision for the determination of the budget share of that school in so far as it relates to the preparatory department.

(7) The special provision made by virtue of paragraph (6) may include provision the effect of which is that the budget share of the school, in so far as it relates to the preparatory department—

(a) is substantially less than it would have been but for that provision; or

(b) is nil.

(8) In paragraphs (6) and (7) "preparatory department", in relation to a grammar school, means that part of the school in which primary education is provided.

(9) The common funding scheme—

(a) shall provide for a school's budget share for a financial year to be determined initially before the beginning of that year; but

(b) may provide for that budget share to be revised from time to time.

(10) The common funding scheme may provide for amounts determined by or in accordance with the common funding scheme to be allocated to relevant schools (in addition to their budget share).

(11) The common funding scheme may provide for it to apply with such modifications as may be specified therein in relation to a school which becomes a relevant school at any time during the course of a financial year (whether by virtue of being newly established as such a school or by virtue of becoming such a school where it was previously an independent school).

Conditions as to financial delegation

5.—(1) The delegation under the common funding scheme of the management of a school's budget share shall be subject to such conditions—

(a) as may be imposed by the scheme; or

(b) as may be imposed in accordance with the scheme by the board.

(2) The common funding scheme shall require the board in imposing any conditions by virtue of paragraph (1)(b) to have regard to any guidance issued by the Department as to the conditions it regards as appropriate for imposition by a board.

Effect of financial delegation

6.—(1) In the case of each controlled and maintained school with a delegated budget, the board shall put at the disposal of the Board of Governors in respect of each financial year a sum equal to the school's budget share for that year, to be spent for the purposes of the school.

(2) The times at which, and the manner in which, any such sum is put at the disposal of the Board of Governors shall be such as may be provided by or under the scheme.

(3) A board may not delegate to the Board of Governors of a relevant controlled or maintained school the power to spend any amount appropriated by the board for the purposes of the school otherwise than as required or authorised by or under the scheme.

(4) The Board of Governors of a school which has a delegated budget—

(a) shall be entitled, subject to any provision made by or under the scheme, to spend any sum made available to it in respect of the school's budget share for a financial year as it thinks fit for the purposes of the school; and

(b) may delegate to the principal, to such extent as may be permitted by or under the scheme, its power under sub-paragraph (a) in relation to any part of that sum.

(5) The members of the Board of Governors of a school shall not incur any personal liability in respect of anything done in good faith in the exercise or purported exercise of their powers under paragraph (4).

Publication of financial statements

7.—(1) The common funding scheme shall require each board—

(a) before the beginning of each financial year to prepare and publish a statement of the financial provision it plans to make in that year for relevant controlled and maintained schools in its area;

(b) after the end of each financial year to prepare and publish a statement of—

(i) resources actually used in that year for the purposes of all relevant controlled and maintained schools; and

(ii) resources so used which were used, or are treated by the board as having been used, for the purposes of each such school.

(2) A statement prepared under this Article shall—

(a) be prepared in such form and at such times, and

(b) contain such particulars,

as may be required by or under the scheme.

(3) The board shall furnish—

(a) the Board of Governors of each relevant school, and

(b) the Council for Catholic Maintained Schools,

with a copy of each statement prepared by the board under this Article.