PROPOSAL FOR A DRAFT ORDER IN COUNCIL UNDER PARAGRAPH 1 OF SCHEDULE 1 TO THE NORTHERN IRELAND ACT 1974

DRAFT STATUTORY INSTRUMENTS

1998 No. (N.I.)

NORTHERN IRELAND

Education (Northern Ireland) Order 1998

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

At the Court at the day of 1998

Present,

The Queen's Most Excellent Majesty in Council

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

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 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 (Northern Ireland) Order 1998.

(2) Except as provided by paragraph (3), this Order comes into operation on the expiration of two months from the day on which it is made.

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

(a) Chapter I of Part III;

(b) Article 13;

(c) Chapter I of PartVI;

(d) Part VII;

(e) Article 81(2), (3) and (6);

(f) Article 87(3) and Schedule 4;

(g) Part II of Schedule 5 and so much of Article 89(1) as relates thereto;

(h) Part II of Schedule 6 and so much of Article 89(2) as relates thereto.

(4) An order under paragraph (3) may make such transitional provisions as appear to the Department to be necessary or expedient in connection with the provisions brought into operation by the order.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

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

"the 1989 Order" means the Education Reform (Northern Ireland) Order 1989.

(3) This Order shall be construed as one with the 1986 Order and the 1989 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, shall apply for the purposes of this Order as it applies for the purposes of that Order.

PART II

DISCIPLINE

Responsibility of Board of Governors and principal for discipline

3.—(1) The scheme of management for every grant-aided school shall provide for it to be the duty of the Board of Governors to ensure that policies designed to promote good behaviour and discipline on the part of its pupils are pursued at the school.

(2) In particular the scheme of management shall require the Board of Governors—

(a) after consulting the principal, to make, and from time to time review, a written statement of general principles to which the principal is to have regard in determining any measures under paragraph (3)(a); and

(b) where it considers it desirable that any particular measures should be so determined by the principal or that he should have regard to any particular matters—

(i) to notify him of those measures or matters; and

(ii) to give him such guidance as it considers appropriate.

(3) The scheme of management for every grant-aided school shall provide for it to be the duty of the principal—

(a) to determine measures (which may include the making of rules and provision for enforcing them) to be taken with a view to—

(i) promoting, among pupils, self-discipline and proper regard for authority;

(ii) encouraging good behaviour and respect for others on the part of pupils;

(iii) securing that the standard of behaviour of pupils is acceptable; and

(iv) otherwise regulating the conduct of pupils;

(b) in determining such measures—

(i) to act in accordance with the current statement made by the Board of Governors under paragraph (2)(a); and

(ii) to have regard to any notification or guidance given to him under paragraph (2)(b);

(c) to prepare a written statement of such measures and to secure that—

(i) a copy of that statement is given (free of charge) to the parents of all registered pupils at the school; and

(ii) copies of the statement are available for inspection (at all reasonable times and free of charge) at the school.

(4) The scheme of management for every grant-aided school shall provide for the standard of behaviour which is to be regarded as acceptable at the school to be determined by the principal so far as it is not determined by the Board of Governors.

(5) This Article does not apply to a school established in a hospital.

Power of member of staff to restrain pupils

4.—(1) A member of the staff of a grant-aided school may use, in relation to any pupil at the school, such force as is reasonable in the circumstances for the purpose of preventing the pupil from doing (or continuing to do) any of the following, namely—

(a) committing any offence;

(b) causing personal injury to, or damage to the property of, any person (including the pupil himself); or

(c) engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils, whether that behaviour occurs during a teaching session or otherwise.

(2) Paragraph (1) applies where a member of the staff of a grant-aided school is—

(a) on the premises of the school; or

(b) elsewhere at a time when, as a member of its staff, he has lawful control or charge of the pupil concerned;

but it does not authorise anything to be done in relation to a pupil which constitutes the giving of corporal punishment within the meaning of Article 49A of the 1986 Order.

(3) Paragraph (1) shall not be taken to prevent any person from relying on any defence available to him otherwise than by virtue of this Article.

(4) In this Article—

"member of the staff", in relation to a grant-aided school, means any teacher who works at the school and any other person who, with the authority of the principal, has lawful control or charge of pupils at the school;

"offence" includes anything that would be an offence but for the operation of any presumption that a person under a particular age is incapable of committing an offence.

Detention of pupil outside school hours

5.—(1) Where a pupil to whom this Article applies is required on disciplinary grounds to spend a period of time in detention at his school after the end of any school session, his detention shall not be rendered unlawful by virtue of the absence of his parent's consent to it if the conditions set out in paragraph (3) are satisfied.

(2) This Article applies to any pupil who—

(a) is attending a grant-aided school; and

(b) has not attained the age of 18.

(3) The conditions referred to in paragraph (1) are as follows—

(a) the principal of the school must have previously determined, and have—

(i) generally made known within the school; and

(ii) taken steps to bring to the attention of the parent of every person who is for the time being a pupil there,

that the detention of pupils after the end of a school session is one of the measures that may be taken with a view to regulating the conduct of pupils;

(b) the detention must be imposed by the principal or by another teacher at the school specifically or generally authorised by him for the purpose;

(c) the detention must be reasonable in all the circumstances;

(d) the pupil's parent must have been given at least 24 hours' notice in writing that the detention was due to take place.

(4) In determining for the purpose of paragraph (3)(c) whether a pupil's detention is reasonable, the following matters in particular shall be taken into account—

(a) whether the detention constitutes a proportionate punishment in the circumstances of the case; and

(b) any special circumstances relevant to its imposition on the pupil which are known to the person imposing it (or of which he ought reasonably to be aware) including in particular—

(i) the pupil's age;

(ii) any special educational needs he may have;

(iii) any religious requirements affecting him; and

(iv) where arrangements have to be made for him to travel from the school to his home, whether suitable alternative arrangements can reasonably be made by his parent.

(5) Without prejudice to section 18 of the Interpretation Act (Northern Ireland) 1954 (which provides for the methods by which documents may be served) notice under this Article may be given to a pupil's parent by any other effective method.

Duty of board to prepare plan relating to children with behavioural difficulties

6.—(1) Every board shall prepare a statement setting out the arrangements made or proposed to be made by the board in connection with the education of children with behavioural difficulties.

(2) The arrangements to be covered by the statement include in particular—

(a) the arrangements made or to be made by the board for the provision of advice and resources to grant-aided schools situated in its area, and other arrangements made or to be made by the board with a view to—

(i) meeting requests by such schools for support and assistance in connection with the promotion of good behaviour and discipline on the part of their pupils; and

(ii) assisting such schools to deal with general behavioural problems and the behavioural difficulties of individual pupils;

(b) the arrangements made or to be made by the board in pursuance of Article 86(1); and

(c) any other arrangements made or to be made by the board for assisting children with behavioural difficulties to find places at suitable schools.

(3) The statement shall also deal with the interaction between the arrangements referred to in paragraph (2) and those made by the board in relation to pupils with behavioural difficulties who have special educational needs.

(4) A board—

(a) shall at least once in every year review the statement; and

(b) may at any time revise the statement.

(5) In the course of preparing the statement or reviewing it a board shall consult—

(a) the other boards;

(b) the Board of Governors of all grant-aided schools situated in its area; and

(c) such other persons as the board considers appropriate.

(6) A board shall—

(a) publish the current statement under this Article;

(b) send a copy of the current statement to the Board of Governors of every grant-aided school situated in its area; and

(c) secure that copies of the current statement are available for inspection (at all reasonable times and free of charge) at the headquarters of the board.

(7) In discharging its functions under this Article a board shall have regard to any guidance given from time to time by the Department.

PART III

ASSESSMENT AND PUPILS' PERFORMANCE

CHAPTER I

BASELINE ASSESSMENTS

Introductory

7.—(1) In this Chapter—

"baseline assessment scheme" means a scheme designed to enable pupils at a primary school to be assessed for the purpose of assisting the future planning of their education and the measurement of their future educational achievements;

"school year" means a year ending on 31st July.

(2) References in this Chapter to the baseline assessment scheme applicable to a school are references—

(a) where an order under Article 9(1) includes the provision mentioned in sub-paragraph (a) of paragraph (2) of that Article, the single baseline assessment scheme referred to in that sub-paragraph; and

(b) where an order under Article 9(1) includes the provision mentioned in sub-paragraph (b) of paragraph (2) of that Article, the baseline assessment scheme adopted for the school in accordance with the provisions of that order.

(3) For the purposes of this Chapter the first year of compulsory education of a child is the school year in which he attains the lower limit of compulsory school age.