Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Education (Special Educational Needs) Regulations (Northern Ireland) 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY RULES OF NORTHERN IRELAND

2005 No. 384

EDUCATION

The Education (Special Educational Needs) Regulations (Northern Ireland) 2005

Made - - - - 10th August 2005

Coming into operation 1st September 2005

The Department of Education, in exercise of the powers conferred on it by Articles 7A(1)(b) [F1], 14(5), 16(2), 17(2A) and (2B) [F2], 18A(4) [F3], 19(2), 20(3A) [F4], 20A(9)(b) [F5], 23A [F6] and 28(2) of and paragraphs 2(1) and (2) and 3(1), (3) and (4) of Schedule 1 [F7] and paragraphs 2(2)(a), 4(3), 8(5), 9(3), 10(1) and (2), 11(4) and (6), and 13(3) and (5) of Schedule 2 [F8] to the Education (Northern Ireland) Order 1996 [F9] and of all other powers enabling it in that behalf, hereby makes the following Regulations:

F1 Article 7 was substituted and Article 7A added by Article 3 of S.I. 2005/1117 (N.I. 6)
F2 As inserted by paragraph 4(2) of Schedule 5 to S.I. 2005/1117 (N.I. 6)
F3 Article 18A was inserted by Article 8 of S.I. 2005/1117 (N.I. 6)
F4 As inserted by paragraph 5(2) of Schedule 5 to S.I. 2005/1117 (N.I. 6)
F5 Article 20A was inserted by Article 10 of S.I. 2005/1117 (N.I. 6)
F6 Article 23A was inserted by Article 6 of S.I. 2005/1117 (N.I. 6)
F7 Paragraph 3 of Schedule 1 was amended by paragraph 8(1) to (4) of Schedule 5 to S.I. 2005/1117 (N.I. 6)
F8 Schedule 2 was substituted by Schedule 1 to S.I 2005/1117 (N.I. 6)
F9 S.I. 1996/274 (N.I. 1)

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the Education (Special Educational Needs) Regulations (Northern Ireland) 2005 and shall come into operation on 1st September 2005.

Interpretation

2.—(1) In these Regulations—

"assessment" means an assessment of a child's educational needs under Article 15 of the 1996 Order;

"board" means an education and library board;

"Northern Ireland curriculum" means the curriculum for every grant-aided school as described in Articles 5, 6 and 8 of and Schedules 1 and 2 to the Education Reform (Northern Ireland) Order 1989 [F10];

"registered medical practitioner" means a fully registered person within the meaning of the Medical Act 1983 [F11];

"principal" includes any person to whom the duties or functions of a principal under these Regulations have been delegated by the principal in accordance with regulation 3;

"qualified teacher" means a person who is eligible to be employed as a teacher in a grant-aided school;

"the responsible body" has the meaning as given by Article 20A(11);

"statement" means a statement of a child's special educational needs made under Article 16 of the 1996 Order;

"target" means the knowledge, skills and understanding which a child is expected to have by the end of a particular period;

"transition plan" means a document prepared which sets out the arrangements which a board considers appropriate for a young person during the period when he is aged 14 to 19 years, including arrangements for special education provision and for any other necessary provision, for suitable employment and accommodation and for leisure activities, and which will facilitate a satisfactory transition from childhood to adulthood;

"the Tribunal" means the Special Educational Needs and Disability Tribunal for Northern Ireland having the jurisdiction conferred on it by Part II of the 1996 Order and Chapter I of Part III of the 2005 Order [F12];

"the 1996 Order" means the Education (Northern Ireland) Order 1996;

"the 1997 Regulations" means the Education (Special Educational Needs) Regulations (Northern Ireland) 1997 [F13];

"the 2005 Order" means the Special Educational Needs and Disability (Northern Ireland) Order 2005.

(2) In these Regulations any reference to a numbered Article is a reference to the Article of the 1996 Order bearing that number.

(3) In these Regulations any reference to the health and social services authority is, in relation to a particular child, a reference to the health and social services authority in whose area the child lives.

F10 S.I. 1989/2406 (N.I. 20) as amended by S.I. 1996/274 (N.I.) Article 35 and Schedule 3
F11 1983 c. 54
F12 S.I. 2005/1117 (N.I. 6) Article 21(1) and (3)
F13 S.R. 1997 No. 327 as amended by S.R. 1998 No. 217

Delegation of functions or duties of a principal

3. Where a principal has any functions or duties under these Regulations he may delegate those functions or duties—

(a) generally to a member of staff of the school who is a qualified teacher; or

(b) in a particular case to a member of staff of the school who teaches the child in question.

Notices

4. Any notice required to be given by these Regulations shall be in writing.

PART II

ASSESSMENTS

Notices relating to assessment

5.—(1) Paragraph (2) applies where—

(a) under Article 15(1) [F14] or 20A(3) a board serves a notice on a child's parent that it is considering whether to make an assessment, or

(b) under Article 15(4) or 20A(7) a board gives notice to a child's parent of its decision to make an assessment.

(2) Where this paragraph applies a board shall send copies of the relevant notice to—

(a) the health and social services authority, and

(b) if the child is registered at a school, the principal of that school.

(3) Where a copy of a notice is sent under paragraph (2), an endorsement on the copy or a notice accompanying that copy shall inform the recipient what advice the board is likely to seek.

(4) Where—

(a) under Article 20(1) a child's parent asks a board to arrange for an assessment, and

(b) no assessment has been made for that child within the period of 6 months ending with the date on which the request is made,

the board shall give notice to the persons referred to in paragraph (2)(a) and (b) that the request for an assessment has been made and inform them what advice the board is likely to seek.

(5) Where—

(a) under Article 20A(1) a responsible body asks a board to arrange for an assessment, and

(b) no assessment has been made for that child within the period of 6 months ending with the date on which the request is made,

the board shall give notice to the persons referred to in paragraph (2)(a) and (b) that the request for an assessment has been made and inform them what advice the board is likely to seek.

F14 Article 15(1) was amended by S.I. 2005/1117 (N.I. 6) Schedule 5 paragraph 3

Modifications etc. (not altering text)

C1 Regs. 5-22 power to disapply or modify conferred (temp.) (25.3.2020) by Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 17 para. 17** (with ss. 88-90)

Advice to be sought by a board

6.—(1) For the purpose of making an assessment under Article 15 a board shall seek—

(a) advice from a child's parent;

(b) educational advice as provided for in regulation 7;

(c) medical advice as provided for in regulation 8;

(d) psychological advice as provided for in regulation 9;

(e) social services advice from the health and social services authority; and

(f) any other advice which the board considers appropriate for the purpose of arriving at a satisfactory assessment.

(2) The advice referred to in paragraph (1) shall be written advice relating to—

(a) the educational, medical, psychological or other features of the case (according to the nature of the advice sought) which appear to be relevant to the child's educational needs (including his likely future needs);

(b) how those features could affect the child's educational needs, and

(c) the provision which is appropriate for the child in light of those features of the child's case, whether by way of special education provision or non-educational provision, but not relating to any matter which is required to be specified in a statement by virtue of Article 16(4)(b).

(3) A person from whom the advice referred to in paragraph (1) is sought may in connection therewith consult such persons as it appears to him expedient to consult; and he shall consult such persons, if any, as are specified in the particular case by the board as the persons who have relevant knowledge of, or information relating to, the child.

(4) When seeking the advice referred to in paragraphs (1)(b) to (f) a board shall provide the person from whom it is sought with copies of—

(a) any representations made by the parent, and

(b) any evidence submitted by, or at the request of, the parent

under Article 15(1)(d) or Article 20A(3)(d) as the case may be.

(5) The board need not seek the advice referred to in paragraph (1)(b) to (f) if—

(a) it has obtained advice under paragraph (1)(b) to (f) respectively within the preceding 12 months, and

(b) the board, the person from whom the advice was obtained and the child's parent are satisfied that the existing advice is sufficient for the purpose of arriving at a satisfactory assessment.

Modifications etc. (not altering text)

C1 Regs. 5-22 power to disapply or modify conferred (temp.) (25.3.2020) by Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 17 para. 17** (with ss. 88-90)

Educational advice

7.—(1) The educational advice referred to in regulation 6(1)(b) shall, subject to paragraphs (2) to (5), be sought—

(a) from the principal of each school which the child is currently attending or which he has attended at any time within the preceding 18 months;

(b) if advice cannot be obtained from a principal of a school which the child is currently attending (because the child is not attending a school or otherwise), then from a person who the board is satisfied has experience of teaching children with special educational

needs or knowledge of the differing provision which may be called for in different cases to meet those needs;

(c) if the child is not currently attending a school and if advice obtained under sub-paragraph (b) is not advice from such a person, then from a person responsible for educational provision for him; and

(d) if any of the child's parents is a serving member of Her Majesty's armed forces, from Service Children's Education.

(2) The advice sought as provided in paragraph (1)(a) to (c) shall not be sought from any person who is not a qualified teacher.

(3) The advice sought from a principal as provided in paragraph (1)(a) shall, if the principal has not himself taught the child within the preceding 18 months, be advice given after consultation with a teacher who has so taught the child.

(4) The advice sought from a principal as provided in paragraph (1)(a) shall include advice relating to the steps which have been taken by the school to identify and assess the special educational needs of the child and to make provision for the purpose of meeting those needs.

(5) Where it appears to the board, in consequence of medical advice or otherwise, that the child in question is—

(a) hearing impaired; or

(b) visually impaired; or

(c) both hearing impaired and visually impaired,

and any such person from whom advice is sought as provided in paragraph (1) is not qualified to teach pupils who are so impaired then the advice sought shall be advice given after consultation with a person who is so qualified.

(6) For the purposes of paragraph (5) a person shall be considered to be qualified to teach pupils who are hearing impaired or visually impaired or who are both hearing impaired and visually impaired if he is qualified to be employed at a school as a teacher of a class for pupils who are so impaired otherwise than to give instruction in a craft, trade or domestic subject.

(7) Paragraphs (3) and (5) are without prejudice to regulation 6(3).

Modifications etc. (not altering text)

C1 Regs. 5-22 power to disapply or modify conferred (temp.) (25.3.2020) by Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 17 para. 17** (with ss. 88-90)

Medical advice

8. The medical advice referred to in regulation 6(1)(c) shall be sought from the health and social services authority, who shall obtain the advice from a registered medical practitioner.

Modifications etc. (not altering text)

C1 Regs. 5-22 power to disapply or modify conferred (temp.) (25.3.2020) by Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 17 para. 17** (with ss. 88-90)

Psychological advice

9.—(1) The psychological advice referred to in regulation 6(1)(d) shall be sought from a person—