STATUTORY RULES OF NORTHERN IRELAND

1997 No. 327

EDUCATION

Education (Special Educational Needs) Regulations (Northern Ireland) 1997

Made - - - -	*4th July 1997*
Coming into operation	*1st September 1997*

The Department of Education, in exercise of the powers conferred on it by Articles 14(5), 16(2), 19(2) and 28(2) of and paragraphs 2 and 3(1) of Schedule 1 and paragraphs 2, 7, 10(5) and 11(4) of Schedule 2 to the Education (Northern Ireland) Order 1996(**1**) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Part I

General

Citation and commencement

1. These Regulations may be cited as the Education (Special Educational Needs) Regulations (Northern Ireland) 1997 and shall come into operation on 1st September 1997.

Interpretation

2.—(1) In these Regulations—

"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(**2**);

"registered medical practitioner" means a fully registered person within the meaning of the Medical Act 1983(**3**);

"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;

(**1**) S.I.1996/274 (N.I. 1)
(**2**) S.I. 1989/2406 (N.I. 20) as amended by S.I. 1996/274 (N.I.) Article 35 and Schedule 3
(**3**) 1983 c. 54

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

"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 pursuant to regulation 14(9) or 15(9) 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 educational 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;

"working day" means a day other than a Saturday, Sunday or public holiday;

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

"the 1985 Regulations" means the Education (Special Educational Needs) Regulations (Northern Ireland) 1985(**4**).

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

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

Delegation of functions

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 the staff of the school who is a qualified teacher; or

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

Part II

Assessments

Notices relating to assessment

4.—(1) Where under Article 15(1) a board serves a notice on a child's parent that it proposes to make an assessment, or under Article 15(4) gives notice to a child's parent of its decision to make an assessment, it shall send copies of the relevant notice to—

(a) the health and social services authority;

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

(2) Where a copy of a notice is sent under paragraph (1), an endorsement on the copy or a notice accompanying that copy shall inform the recipient what advice the board is likely to seek.

(3) Where under Article 20(1) a child's parent asks the board to arrange for an assessment to be made the board shall give notice in writing to the persons referred to in paragraph (1)(*a*) and (*b*) of the fact that the request has been made and inform them what advice it is likely to seek.

Advice to be sought

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

(**4**) S.R. 1985 No. 365

(a) advice from the child's parent;

(b) educational advice as provided for in regulation 6;

(c) medical advice as provided for in regulation 7;

(d) psychological advice as provided for in regulation 8;

(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 educational 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 persons who have relevant knowledge of, or information relating to, the child.

(4) When seeking the advice referred to in paragraph (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*).

(5) The board need not seek the advice referred to in paragraph (1)(*b*), (*c*), (*d*), (*e*) or (*f*) if—

(a) it has obtained advice under paragraph (1)(*b*), (*c*), (*d*), (*e*) or (*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.

Educational advice

6.—(1) The educational advice referred to in regulation 5(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), 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, 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 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 5(3).

Medical advice

7. The advice referred to in regulation 5(1)(*c*) shall be sought from the health and social services authority, who shall obtain the advice from a registered medical practitioner.

Psychological advice

8.—(1) The psychological advice referred to in regulation 5(1)(*d*) shall be sought from a person—

(a) regularly employed by the board as an educational psychologist; or

(b) engaged by the board as an educational psychologist in the case in question.

(2) The advice sought from a person as provided in paragraph (1) shall, if that person has reason to believe that another psychologist has relevant knowledge of, or information relating to, the child, be advice given after consultation with that other psychologist.

(3) Paragraph (2) is without prejudice to regulation 5(3).

Matters to be taken into account in making an assessment

9. When making an assessment a board shall take into consideration—

(a) any representations made by the child's parent under Article 15(1)(*d*);

(b) any written evidence submitted by, or at the request of, the child's parent under Article 15(1)(*d*); and

(c) the advice obtained under regulation 5.

Part III

Statements

Notice accompanying a proposed statement

10. The notice which shall accompany a copy of a proposed statement served on the parent pursuant to paragraph 2 of Schedule 2 to the 1996 Order shall be in a form substantially corresponding to that set out in Part A of the Schedule and shall contain the information therein specified.

Statement of special educational needs

11. A statement of a child's special educational needs made under Article 16(1) shall be a form substantially corresponding to that set out in Part B of the Schedule, shall contain the information therein specified, and shall be dated and authenticated by the signature of an officer of the board concerned authorised in that behalf.

Period for amending or ceasing to maintain a statement

12.—(1) Where under paragraph 10(1) of Schedule 2 to the 1996 Order a board serves a notice on the child's parent informing him of its proposal to amend a statement it shall not amend the statement after the expiry of 8 weeks from the date on which the notice was served.

(2) Where under paragraph 11(2) of Schedule 2 to the 1996 Order a board gives notice to the child's parent that it has decided to cease to maintain a statement it shall not cease to maintain the statement—

(a) before the expiry of the period referred to in regulation 7(3) of the Special Educational Needs Tribunal Regulations (Northern Ireland) 1997(**5**) during which the parent may appeal to the Tribunal against the decision; or

(b) after the expiry of 4 weeks from the end of that period.

Review of statement where child not aged 14 attends school

13.—(1) This regulation applies where—

(a) a board reviews a statement under Article 19(1) other than on the making of an assessment;

(b) the child concerned attends a school; and

(c) regulation 14 does not apply.

(2) The Board shall by notice in writing require the principal of the child's school to submit a report to it under this regulation by a specified date not less than two months from the date on which the notice is given and shall send a copy of the notice to the child's parent.

(3) The principal shall for the purpose of preparing the report referred to in paragraph (2) seek advice as to the matters referred to in paragraph (4) from—

(a) the child's parent;

(b) any person whose advice the board considers appropriate for the purpose of arriving at a satisfactory report and whom it specifies in the notice referred to in paragraph (2); and

(c) any person whose advice the principal considers appropriate for the purpose of arriving at a satisfactory report.

(**5**) S.R. 1997 No. 315