1994 No. 325

EDUCATION

Education and Libraries (Defined Activities) (Exemptions) Order (Northern Ireland) 1994

Made	*17th August 1994*
Coming into operation . .	*26th September 1994*

The Department of Education, in exercise of the powers conferred on it by Articles 2(3), 4(8) and 17(3) of the Education and Libraries (Northern Ireland) Order 1993(**a**) and of all other powers enabling it in that behalf, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Education and Libraries (Defined Activities) (Exemptions) Order (Northern Ireland) 1994 and shall come into operation on 26th September 1994.

(2) In this Order—

"the Order" means the Education and Libraries (Northern Ireland) Order 1993;

"relevant work" means work which would, but for this Order, fall within either of the defined activities mentioned in paragraph (*a*) (cleaning of buildings) or (*c*) (maintenance of ground) of Article 4(1) of the Order;

"specified board" means a board listed in the Schedule;

and for the purposes of this Order a full-time employee is an employee whose average weekly working hours (including any overtime worked) in the immediately preceding financial year did not exceed 39 hours.

Activities not to be treated as defined activities

2.—(1) An activity falling within Article 4(1) of the Order shall not, if carried out by a specified board, be treated as a defined activity, so long as the condition mentioned in paragraph (2) is fulfilled.

(2) The condition mentioned in paragraph (1) is that the amount estimated by the board as the gross cost of carrying out the activity in question through its direct labour organisation or a similar organisation in the immediately preceding financial year, did not exceed £100,000.

(3) For the purposes of paragraph (2) the gross cost of carrying out any activity shall—

(**a**) S.I. 1993/2810 (N.I. 12) Article 2(3) is cited because it contains a definition of the "Department" *see* S.I. 1986/594 (N.I. 3) Article 2(2)

(*a*) include such proportion of the board's administrative expenses, other than expenses that would be incurred by the board whether the activity were carried out by it or by another person, as is properly attributable to the carrying out of the activity;

(*b*) exclude the cost of any work which is treated as carried out by the board by virtue of Article 3 of the Order; and

(*c*) exclude the cost of any work which by virtue of Article 3 does not fall within a defined activity.

3. An activity falling within Article 4(1) of the Order shall not, if carried out by a specified board, be treated as a defined activity so long as it constitutes work carried out through an employee who is required as a condition of his employment to live in particular accommodation for the better performance of his duties and the work forms part of his duties.

4.—(1) An activity falling within Article 4(1)(*a*) or (*c*) of the Order shall not, if carried out by a specified board, be treated as a defined activity so long as each of the conditions set out in paragraphs (2), (3) and (4) are fulfilled.

(2) The first condition is that the relevant work is carried out on the premises of a school where the board has for the time being delegated to the Board of Governors of that school the management of the school's budget share by or under a scheme prepared in accordance with Part V of the Education Reform (Northern Ireland) Order 1989(**a**).

(3) The second condition is that, before the beginning of the financial year in question, the board has estimated that not more than the equivalent of three full-time employees will be required to carry out, on the premises of that school and in that financial year—

(*a*) any relevant work;

(*b*) any work which would be relevant work but for Article 3; and

(*c*) any work which would be relevant work but for Article 4(5) of the Order.

(4) The third condition is that the board has made the estimate referred to in paragraph (3) after having regard to—

(*a*) the advice of the Board of Governors of the school concerned; and

(*b*) the number of persons required in previous financial years to carry out the work mentioned in that paragraph.

Transitional provisions

5. In relation to work mentioned in Article 4(3) carried out in the financial year beginning in 1994, this Order shall have effect as if, in that paragraph—

(**a**) S.I. 1989/2406 (N.I. 20) to which there are amendments not relevant to the subject matter of this Order