STATUTORY RULES OF NORTHERN IRELAND

1991 No. 127

EDUCATION

The Education (Modification of Statutory Provisions Relating to Employment) Order (Northern Ireland) 1991

Made - - - -	*26th March 1991*
Coming into operation	*1st April 1991*

The Department of Education, in exercise of the powers conferred on it by Article 116 of, and paragraph 9 of Schedule 4 to, the Education Reform (Northern Ireland) Order 1989(**1**), and of every other power enabling it in that behalf, and after consulting—

(a) the boards;

(b) the Council for Catholic Maintained Schools;

(c) the Boards of Governors of maintained schools (other than Catholic maintained schools) or a body representing their interests;

(d) such organisations representing staff in schools required to be covered by schemes under Article 46 of that Order or in institutions of further education as appeared to the Department to be concerned;

(e) such other persons as the Department thought fit,

hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Education (Modification of Statutory Provisions Relating to Employment) Order (Northern Ireland) 1991 and shall come into operation on 1st April 1991.

Interpretation

2. In this Order—

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

"Board of Governors" means the Board of Governors for the time being of a controlled or maintained school and references to a board in relation to Boards of Governors are references to the board responsible for the management of the school

(**1**) S.I. 1989/2406 (N.I. 20).

if the school is a controlled school or the board by which the school is maintained if the school is a maintained school; and

"governing body" means the governing body for the time being of an institution of further education (including any technical secondary school conducted in association with the institution) and references to a board in relation to governing bodies are references to the board for the area in which the institution of further education is situated;

(b) references to employment powers are references, in the case of Boards of Governors, to the powers as to the determination of staff complements, discipline, suspension and dismissal of staff conferred by or under Article 58 of, and Schedule 4 to, the 1989 Order and, in the case of governing bodies, to the powers in relation to staff conferred by or under Articles 114 and 115 of that Order;

(c) references to Boards of Governors with delegated budgets are references to Boards of Governors to which powers as to the expenditure of the budget share of the school for which they are responsible are for the time being delegated by virtue of Articles 50 and 52 of the 1989 Order; and

(d) references to governing bodies with delegated budgets are references to governing bodies to which powers as to the expenditure of the budget share of the institution for which they are responsible are for the time being delegated by virtue of Article 109 of the 1989 Order.

General modifications of statutory provisions relating to employment

3.—(1) In their application to Boards of Governors with delegated budgets or, as the case may be, governing bodies with delegated budgets, the statutory provisions set out in the Schedule shall have effect as if—

(a) any reference (however expressed) to an employer or a principal included a reference to the Board of Governors or, as the case may be, governing body acting in the exercise of its employment powers and as if that Board of Governors or, as the case may be, governing body had at all material times been such an employer or principal;

(b) in relation to the exercise of the employment powers of the Board of Governors or, as the case may be, governing body, employment by the board at a school or institution of further education or, in relation to a teacher at a Catholic maintained school, employment by the Council for Catholic Maintained Schools were employment by the Board of Governors of that school or, as the case may be, governing body of that institution;

(c) references to employees were references to employees at the school or institution in question;

(d) references to dismissal by an employer included references to dismissal by the board or, in relation to a teacher at a Catholic maintained school, the Council for Catholic Maintained Schools following notification of a determination by a Board of Governors under paragraph 5(1) of Schedule 4 to the 1989 Order or a governing body under Article 114(4) of that Order; and

(e) references to trade unions recognised by an employer were references to trade unions recognised by the board, the Council for Catholic Maintained Schools (in relation to teachers at Catholic maintained schools), or the Board of Governors or, as the case may be, governing body.

(2) Nothing in paragraph (1) shall be taken as causing the Board of Governors or, as the case may be, governing body to meet the conditions stated in—

(a) Article 24A(1) of the Industrial Relations (Northern Ireland) Order 1976(**2**);

(b) Article 30A(1)(s) of the Industrial Relations (No. 2) (Northern Ireland) Order 1976(**3**); or

(c) Article 4(3)(b) of the Industrial Relations (Northern Ireland) Order 1982(**4**),

if it would not have done so but for the operation of that paragraph.

Dismissals

4. Without prejudice to the generality of Article 3, where an employee employed at a school with a Board of Governors with a delegated budget or, as the case may be, an institution of further education with a governing body with a delegated budget is dismissed by the board or, in the case of a teacher at a Catholic maintained school, the Council for Catholic Maintained Schools following notification of such a determination by a Board of Governors or governing body as is mentioned in Article 3(1)(d)—

(a) Article 48 of the Industrial Relations (Northern Ireland) Order 1976(**5**) shall have effect as if the Board of Governors or, as the case may be, governing body had dismissed him and as if references to the employer's reasons for dismissing the employee were references to the reasons for which the Board of Governors or, as the case may be, governing body made its determination; and

(b) Articles 20 to 41 (excluding Article 24A(2)(c)) and 59(5) and (6) of the Industrial Relations (Northern Ireland) Order 1976(**6**)(**7**) and Articles 9(4), 13, 14, 30, 30A(1) to (3) and (5)

(**2**) S.I. 1976/1043 (N.I. 16). Article 24A was inserted by Article 10(1) of the Industrial Relations (Northern Ireland) Order 1982 (S.I. 1982/528 (N.I. 8)) and amended by paragraph 4(3) of Schedule 3 to the Industrial Relations (Northern Ireland) Order 1987 (S.I. 1987/936 (N.I. 9)).

(**3**) S.I. 1976/2147 (N.I. 28). Article 30A(1)(s) was inserted by Article 14 of the Industrial Relations (Northern Ireland) Order 1982.

(**4**) S.I. 1982/528 (N.I. 8).

(**5**) Article 48(2) was amended by paragraph 6 of Schedule 2 to the Industrial Relations (Northern Ireland) Order 1987 (S.I. 1987/936 (N.I. 9)).

(**6**) Paragraphs (5) to (7) of Article 21 were substituted by paragraph 4(1) of Schedule 3 to the Industrial Relations (Northern Ireland) Order 1987 and paragraphs (3) to (11) of Article 22 were substituted by Article 5(1) of that Order. Article 22A was substituted by Article 5(2) of the Industrial Relations (Northern Ireland) Order 1987. Articles 22B and 22C were inserted, and Article 23 substituted, by Article 5(2) of the Industrial Relations (Northern Ireland) Order 1987. Article 24(1) was amended by Schedule 3 to the Industrial Relations (Northern Ireland) Order 1982, Article 3(1) of the Unfair Dismissal (Variation of Qualifying Period) Order (Northern Ireland) 1985 (S.R. 1985 No. 279), paragraph 5(1) of Schedule 2 to the Industrial Relations (Northern Ireland) Order 1987 and Article 5(1) of the Sex Discrimination (Northern Ireland) Order 1988 (S.I. 1988/1303 (N.I. 13)). Article 24(2) was amended by paragraph 4(2) of Schedule 3 to the Industrial Relations Northern Ireland Order 1987 and Article 24(3) by Schedule 2 to the Industrial Relations Northern Ireland Order 1982. Article 24A was inserted by Article 10(1) of the I 1 Industrial Relations (Northern Ireland) Order 1982 and amended by paragraph 4(3) of Schedule 3 to the Industrial Relations (Northern Ireland) Order 1987. The operation of Article 24A(1) is excluded by Article 3(2) of the Unfair Dismissal (Variation of Qualifying Period) Order (Northern Ireland) 1985. Article 25 was amended by Article 10(2) of the Industrial Relations (Northern Ireland) Order 1982. Article 27(1) was repealed by Schedule 3 and Article 27(2) was amended by Schedule 2 to that Order. Article 29 was amended by paragraph 5(5) of Schedule 4 to the Industrial Relations (No. 2) (Northern Ireland) Order 1974, by paragraph 4(4) of Schedule 3 to the Industrial Relations (Northern Ireland) Order 1987 and by paragraph 31 of Schedule 2 to the Fair Employment (Northern Ireland) Act 1989 (c. 32). Article 32(2) was amended by Article 7(1) of, and paragraph 4(5) of Schedule 3 to, the Industrial Relations (Northern Ireland) Order 1987.

(**7**) Article 32(3)(a) was repealed by Schedule 4 to that Order and Article 32(3)(c was inserted by paragraph 32 of Schedule 2 to the Fair Employment (Northern Ireland Act 1989. Paragraphs (5 and (6) of Article 32 were amended by paragraph 4(5) 1 P of Schedule 3 to the Industrial Relations (Northern Ireland) Order 1987 and paragraph (8) by the Industrial Relations (Variation of Limits) Order (Northern Ireland) 1991 (S. !I 1991 No. 65). Article 33 was substituted by Article 7(2) of the Industrial Relations (Northern Ireland) Order 1987 and Article 33A was inserted by Article 8 of that Order. Article 34 was amended by Article 11 of, and Schedule 3 to, the Industrial Relations (Northern Ireland) Order 1982, by Article 6(1) of, and paragraph 5(3) of Schedule 2, paragraph 4(6) of Schedule 3 and Schedule 4 to, the Industrial Relations (Northern Ireland) Order 1987, by Article 5(2) and (3) of the Sex Discrimination (Northern Ireland Order 1988 and by the Unfair Dismissal (Increase of Limits of Basic and Special Award:,1 Order (Northern Ireland) 1991 (S.R. 1991 NO. 66). Article 35 was amended by Article 11(5) of the Industrial Relations (Northern Ireland) Order 1982, Article 6(2 of, and paragraph 4(4) of Schedule 3 and Schedule 4 to, the Industrial Relations Northern 2 Ireland) Order 1987 and by the Industrial Relations (Variation of Limits) Order (Northern Ireland) 1991. Article 34(3) was amended by paragraph 4(7) of Schedule 3 to the Industrial Relations (Northern Ireland) Order 1987. Article 37(1) was amended b the Unfair Dismissal (Increase of Compensation Limit) Order (Northern Ireland) 1991 S.R. r 1991 No. 47). Article 37A was inserted by Article 7(3) of the Industrial Relations (Northern Ireland) Order 1987 and paragraphs (1) and (2) were amended by the Unfair Dismissal (Increase of Limits of Basic and Special Awards) Order