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STATUTORY INSTRUMENTS

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**1997 No. 1772 (N.I. 15)**

**The Further Education (Northern Ireland) Order 1997 <sup>F1</sup>**

- - - - - 22nd July 1997

**F1** functions transf. by SR 1999/481

*Introductory*

**Title and commencement**

- 1.—(1) This Order may be cited as the Further Education (Northern Ireland) Order 1997.
- (2) Subject to paragraph (3), this Order shall come into operation on such day as the Department may by order appoint<sup>F2</sup>.
- (3) This Article, Articles 2, 10 and 24 and Schedule 2 shall come into operation on the expiration of 2 months from the day on which this Order is made.
- (4) An order under paragraph (2) may contain such transitional provisions as the Department thinks necessary or expedient.

**F2** fully exercised by SR 1998/82

**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—
- “facilities” includes land, goods and services;
  - “further education” has the meaning assigned by Article 3;
  - “higher education” means education provided by means of a course of any description mentioned in Schedule 1;
  - “institution of further education” means, subject to paragraph (3), an institution which is recognised as such by the Department under Article 8;
  - “liability” includes obligation;
  - “the transfer date” means the day appointed by the Department under Article 1(2);
  - “the 1986 Order” means the Education and Libraries (Northern Ireland) Order 1986;
  - “the 1989 Order” means the Education Reform (Northern Ireland) Order 1989.

<sup>F3</sup>(3) .....

(4) The Department may by order amend Schedule 1.

(5) Subject to paragraph (6), for the purposes of this Order a person has a “learning difficulty” if—

(a) he has a significantly greater difficulty in learning than the majority of persons of his age; or

(b) he has a disability which either prevents or hinders him from making use of facilities of a kind generally provided by institutions of further education for persons of his age.

(6) A person is not to be taken as having a learning difficulty solely because the language (or form of the language) in which he is, or will be, taught is different from a language (or form of a language) which has at any time been spoken in his home.

(7) Any direction, consent or determination given by the Department under this Order shall be in writing.

<sup>F4</sup>(8) .....

(9) This Order shall be construed as one with the 1986 Order and accordingly Article 2(2) of the 1986 Order, in so far as it relates to the definition 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.

**F3** Art. 2(3) repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), s. 7(2)(c), [Sch. 4](#) (with [Sch. 2 para. 4\(3\)](#)); [S.R. 2015/35](#), art. 2(b)

**F4** Art. 2(8) repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), s. 7(2)(c), [Sch. 4](#) (with [Sch. 2 para. 4\(3\)](#)); [S.R. 2015/35](#), art. 2(b)

### Definition of “further education”

**3.—**(1) Subject to the following provisions of this Article, in this Order “further education” means—

(a) full-time and part-time education suitable to the requirements of persons over compulsory school age (including vocational training); and

(b) organized leisure-time occupation provided in connection with the provision of such education.

(2) In this Order “further education” does not include—

(a) higher education; or

(b) full-time education suitable to the requirements of senior pupils over compulsory school age where provided at a school.

(3) For the purposes of this Order—

(a) “organized leisure-time occupation” means leisure-time occupation, in such organized cultural, training and recreative activities as are suited to their requirements, for any persons over compulsory school age who are able and willing to profit by facilities provided for that purpose;

(b) “vocational training” includes continuing education for persons already in employment or already engaged in a vocation as well as education with a view to entry into any employment or vocation.

### *Duties and powers of the Department*

#### **Powers of Department in relation to further education**

4.—(1) The Department shall have the power to do all that is necessary or expedient for the purposes of the exercise of its duty under Article 3 of the 1989 Order in so far as it relates to further education.

(2) In particular, the Department may—

- (a) make grants, loans and other payments in accordance with Article 5—
  - (i) to the governing bodies of institutions of further education; or
  - (ii) to others for the purposes of, or in connection with, the provision of further education;
- (b) establish a new institution of further education in accordance with Article 6;
- (c) amalgamate two or more institutions of further education to form a single new institution of further education in accordance with Article 7;
- (d) recognise an educational establishment as an institution of further education in accordance with Article 8;
- (e) provide for the discontinuance of an institution of further education in accordance with Article 9.

(3) In discharging its functions under this Order, the Department shall have regard to the requirements of persons over compulsory school age who have learning difficulties.

#### **Funding of further education**

5.—(1) The Department may make grants, loans or other payments—

- (a) to the governing body of an institution of further education in respect of any expenditure incurred or to be incurred by it in connection with its functions under this Order in relation to the institution; and
- (b) to such other persons as appear to it to be appropriate in respect of the expenditure of such persons incurred or to be incurred for the purposes of, or in connection with, the provision of further education.

(2) Grants, loans and other payments under this Article shall be of such amounts as the Department may determine.

(3) A grant, loan or other payment under this Article may be made subject to such conditions as the Department thinks appropriate and such conditions—

- (a) may be imposed before, after or at the time the grant, loan or other payment is made; and
- (b) may relate to any time, whether before or after such time.

(4) The terms and conditions on which the Department may make any grants, loans or other payments under this Article may, in particular, include conditions—

- (a) enabling the Department to require the repayment, in whole or in part, of sums paid by it if any other condition subject to which the sums were paid is not complied with; and
- (b) requiring the payment of interest in respect of any period during which a sum due to the Department in accordance with any other condition remains unpaid,

but shall not relate to the application by the person to whom the grants, loans or other payments are made of any sums derived otherwise than from the Department.

(5) A condition imposed under paragraph (3) shall not have effect as regards anything done, or omitted to have been done, before the date the condition was imposed.

**Modifications etc. (not altering text)**

**C1** Art. 5(3) modified (13.2.2006) by [Higher Education \(Northern Ireland\) Order 2005 \(S.I. 2005/1116 \(N.I. 5\)\)](#), arts. 1(3), 4(1)(c); S.R. 2006/30, **art. 2**

**Establishment of new institution of further education**

6.—(1) The Department may establish a new institution of further education.

(2) Before establishing a new institution of further education under this Article the Department shall consult—

[<sup>F5</sup>(a) the Authority; and]

(b) the governing bodies of such institutions of further education and such other persons as appear to the Department to be appropriate.

(3) Where the Department proposes to establish a new institution of further education, it shall, as soon as reasonably practicable, ensure—

(a) that an instrument of government and articles of government are made for the new institution; and

(b) that a governing body is established for the new institution under this Order.

**F5** Art. 6(2)(a) substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), s. 7(2)(c), **Sch. 3 para. 18(1)** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

**Amalgamations of institutions of further education**

7.—(1) The Department may direct that two or more institutions of further education shall be amalgamated to form a single new institution of further education (in this Article referred to as “the new institution”).

(2) Before giving any direction under this Article affecting any institutions of further education, the Department shall consult—

(a) the governing bodies of those institutions;

[<sup>F6</sup>(b) the Authority; and]

(c) the governing bodies of such institutions of further education and such other persons as appear to the Department to be appropriate.

(3) A direction under this Article providing for the amalgamation of two or more institutions of further education shall specify the date (referred to in this Article as “the implementation date”) on which the amalgamation is to take effect.

(4) Where the Department issues a direction under this Article, it shall be the duty of the governing bodies of the institutions of further education affected by the direction to take all such steps as are necessary to give effect to the direction.

(5) The Department shall, not later than the implementation date, ensure—

(a) that an instrument of government and articles of government are made for the new institution; and

(b) that a governing body is established for the new institution under this Order.

- (6) On the implementation date—
- (a) all property, rights and liabilities of the governing bodies of the institutions affected by the direction shall be transferred to, and by virtue of this Article vest in, the governing body of the new institution;
  - (b) the institutions affected by the direction shall cease to exist; and
  - (c) the governing bodies of those institutions shall be dissolved.
- (7) A contract of employment between a person and the governing body of an institution of further education affected by a direction under this Article shall have effect from the implementation date as if originally made between that person and the governing body of the new institution.
- (8) Without prejudice to paragraph (7)—
- (a) all the rights, powers, duties and liabilities of the governing body of the institution affected by the direction under or in connection with a contract to which that paragraph applies shall by virtue of this Article be transferred to the governing body of the new institution on the implementation date; and
  - (b) anything done before that date by or in relation to the governing body of the institution affected by the direction in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to the governing body of the new institution.
- (9) Paragraphs (7) and (8) are without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right shall arise by reason only of the change in employer effected by this Article.
- (10) Any land or other property transferred to the governing body of the new institution under this Article which immediately before the implementation date was held on trust shall vest in that body as trustee on the trusts applicable immediately before that date under any trust deed regulating the use of the land or other property for the purposes of an institution of further education.
- (11) Stamp duty shall not be chargeable in respect of any transfer effected by this Article.
- (12) For the purposes of this Article an institution of further education is affected by a direction under this Article if, and only if, it is one of the institutions which are to be amalgamated in pursuance of the direction.

**F6** Art. 7(2)(b) substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), s. 7(2)(c), [Sch. 3 para. 18\(2\)](#) (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

### Recognition of institutions of further education

- 8.—**(1) Subject to paragraphs (2) and (3), the Department may recognise an educational establishment as an institution of further education for the purposes of this Order.
- (2) The Department may not recognise an educational establishment except with the consent of the body responsible for the management of that establishment.
- (3) Before recognising an educational establishment, the Department shall consult—
- <sup>F7</sup>(a) the Authority;
  - (b) the body responsible for the management of that establishment; and
  - (c) the governing bodies of such institutions of further education and such other persons as appear to the Department to be appropriate.
- (4) The Department shall, not later than the date on which an institution of further education is recognised by virtue of paragraph (1), ensure—