

Education Bill

[AS INTRODUCED]

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B I L L

TO

Provide for the establishment and functions of the Education and Skills Authority; to make further provision about education, educational services and youth services; and for connected purposes.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

The Education and Skills Authority

The Education and Skills Authority

1.—(1) There shall be a body corporate to be known as the Education and Skills Authority (referred to in this Act as “ESA”).

5 (2) Schedule 1 applies in relation to ESA.

Functions and general duty of ESA

2.—(1) ESA shall have the functions transferred to it by or under this Act or conferred or imposed on it by or under this Act or any other statutory provision.

(2) It shall be the duty of ESA (so far as its powers extend)—

- 10 (a) to contribute towards the spiritual, moral, cultural, social, intellectual and physical development of children and young persons in Northern Ireland and thereby of the community at large by ensuring that efficient and effective primary and secondary education and educational services are available to meet the needs of such children and young persons;
- 15 (b) to ensure the provision of efficient and effective youth services;
- (c) to promote, and co-ordinate the planning of, the effective provision of schools, educational services and youth services;
- (d) to promote the effective management of schools, educational services and youth services;
- 20 (e) to advise the Department on such matters relating to schools, educational services and youth services as the Department may refer to ESA or as ESA may think fit.

(3) In exercising its duty under subsection (2) in relation to schools, ESA shall ensure that schools whose premises are not vested in ESA are treated on the same basis as schools whose premises are vested in ESA.

(4) ESA shall ensure that its functions relating to grant-aided schools are (so far as they are capable of being so exercised) exercised with a view to promoting the achievement of high standards of educational attainment. 5

(5) ESA shall exercise on behalf of the Department such administrative functions of the Department as the Department may direct.

(6) ESA shall exercise on behalf of DEL such administrative functions relating to further or higher education as DEL may direct. 10

(7) A direction under subsection (5) or (6)—

(a) may impose conditions as to the exercise by ESA of any function mentioned in the direction;

(b) does not prevent the exercise of that function by the Department or (as the case may be) DEL. 15

(8) In the Education Orders “educational services” means services of any kind (except youth services) which provide educational benefit to children or young persons or which are ancillary to education.

ESA to be single employing authority for grant-aided schools

ESA to employ all staff of grant-aided schools 20

3.—(1) All teachers and other persons who are appointed to work under a contract of employment on the staff of a grant-aided school shall be employed by ESA.

(2) Sections 4 to 9 make further provision in connection with that made by subsection (1) and in those sections— 25

(a) “the submitting authority”, in relation to a grant-aided school, means—

(i) in the case of a Catholic maintained school, the trustees of the school;

(ii) in the case of any other grant-aided school, the Board of Governors of the school; and

(b) references to the staff of a grant-aided school are references to the teachers and other persons employed by ESA on the staff of the school. 30

Employment schemes for grant-aided schools

4.—(1) For every grant-aided school there shall be a scheme (an “employment scheme”) providing for—

(a) the appointment of the staff of the school; 35

(b) the determination of the staff complement of the school;

(c) the regulation of conduct and discipline of the staff;

(d) the suspension and dismissal of the staff;

(e) the making of payments in respect of dismissals or resignation of the staff;

(f) the general management of the staff and the exercise by, or on behalf of ESA, of its functions as employer of the staff; and 40

- (g) such other matters as are required or authorised by or under the Education Orders to be included in or regulated by the employment scheme.
- (2) The employment scheme for a school may—
- 5 (a) specify procedures to be followed in relation to any matter dealt with in the scheme;
- (b) impose duties on ESA and the Board of Governors of the school;
- (c) provide for functions of the Board of Governors under the scheme to be exercised on behalf of and in the name of ESA;
- 10 (d) in relation to a controlled or maintained school, make different provision in relation to a time at which the school—
- (i) has a delegated budget (within the meaning of Part II of the 2003 Order);
- (ii) does not have such a budget.
- (3) The employment scheme for a grant-aided school shall—
- 15 (a) not contain any provision which is inconsistent with any provision of the Education Orders or any other statutory provision;
- (b) except in so far as any provision of the Education Orders requires or authorises, comply with any instrument of government and the scheme of management of the school.

20 **Preparation and approval of employment schemes**

- 5.**—(1) Except where section 6(1)(b) applies, it is the duty of the submitting authority of a grant-aided school—
- (a) to prepare an employment scheme for the school; and
- 25 (b) to submit that scheme to ESA for its approval on or before such date as ESA may direct.
- (2) In preparing an employment scheme the submitting authority shall take into account any guidance issued by ESA under subsection (3).
- (3) ESA shall issue such guidance as it thinks fit as to the provisions it regards as suitable for inclusion in employment schemes; and such guidance—
- 30 (a) shall include model schemes regarded by ESA as suitable for particular descriptions of schools;
- (b) shall be kept under review and revised by ESA from time to time; and
- (c) shall be published in such manner as ESA thinks fit.
- (4) Where it submits an employment scheme for approval under subsection
- 35 (1)(b), the submitting authority of a school shall also submit to ESA such information as ESA may require concerning the extent (if any) to which the submitted scheme differs from any model scheme for a school of the same description as that school.
- (5) An employment scheme for a school submitted to ESA under subsection
- 40 (1)(b) shall not come into force until it has been approved by ESA or until such date as ESA may, in giving its approval, specify.

(6) ESA may approve such a scheme either without modifications or with such modifications as it thinks fit after consulting the submitting authority of the school.

Reserve power of ESA to make employment scheme

6.—(1) Where— 5

- (a) the submitting authority of a school fails to submit a scheme to ESA as required by section 5(1)(b),
- (b) the submitting authority of a school requests ESA to exercise its powers under this subsection in relation to the school, or
- (c) it appears to ESA that a scheme submitted by the submitting authority of a school as required by subsection (1)(b) of section 5 does not accord with any guidance issued by ESA under subsection (3) of that section and cannot be made to do so merely by modifying it, 10

ESA may make an employment scheme for the school containing such provision of a description required or authorised to be made by an employment scheme as ESA considers appropriate. 15

(2) The power in subsection (1) includes power to make a scheme in the terms of a model scheme included in guidance issued under section 5(3) or in the terms of such a scheme with such modifications as ESA may specify.

(3) An employment scheme made by ESA for a school by virtue of this section— 20

- (a) shall be treated for all purposes as if it had been prepared by the submitting authority of the school and approved by ESA under section 5; and
- (b) shall come into force on such date as may be specified therein. 25

(4) Before making an employment scheme under this section for a school, ESA shall consult the submitting authority of the school.

Revision of employment schemes

7.—(1) The submitting authority of a grant-aided school—

- (a) shall if ESA so directs, or revised guidance issued under section 5(3) so requires, and 30
- (b) may at any other time,

prepare a revised employment scheme and submit it to ESA for its approval.

(2) In preparing a revised employment scheme the submitting authority shall take into account any guidance issued by ESA under section 5(3). 35

(3) A revised employment scheme for a school submitted to ESA under subsection (1) shall not come into force until it has been approved by ESA or until such date as ESA may, in giving its approval, specify.

(4) ESA may approve a revised scheme either without modifications or with such modifications as it thinks fit after consulting the submitting authority of the school. 40

(5) Section 6 applies (with appropriate modifications) in relation to the revision of an employment scheme as it applies in relation to the making of the original scheme.

Effect of employment scheme

5 **8.**—(1) It is the duty of the Board of Governors of a grant-aided school to give effect to an employment scheme for the time being in force in relation to the school.

10 (2) It is the duty of ESA to give effect to any decision of the Board of Governors of a grant-aided school which is taken in accordance with such a scheme.

(3) Where ESA is of the opinion that a decision of the Board of Governors on any matter which falls to be taken in accordance with such a scheme was taken otherwise than in accordance with the scheme, ESA may require the Board of Governors to reconsider that matter.

15 (4) Subsections (1) to (3) apply where the Board of Governors reconsiders a matter as they apply in relation to the original consideration of that matter.

Transfer to ESA of staff employed by Boards of Governors

20 **9.**—(1) Schedule 2 makes provision for the transfer on the appointed day of staff employed by the Board of Governors of a school to which this section applies to the employment of ESA.

(2) This section applies to—

- (a) voluntary schools, other than Catholic maintained schools; and
- (b) grant-maintained integrated schools.

25 (3) In this section “the appointed day” means the day appointed under section 54 for the coming into operation of section 3.

ESA to employ peripatetic teachers

10.—(1) ESA may, in accordance with a scheme under this section, employ peripatetic teachers.

(2) In the Education Orders “peripatetic teacher” means a teacher employed—

- 30 (a) to teach a particular subject or group of subjects in a number of schools or otherwise than in a school; or
- (b) for the purposes of making special educational provision whether in a school or otherwise.

35 (3) ESA shall prepare, and may from time to time revise, a scheme providing for the procedures to be followed in relation to the appointment of peripatetic teachers.

(4) In preparing or revising a scheme under this section, ESA shall—

- 40 (a) consult the Board of Governors of grant-aided schools; and
- (b) take into account any guidance as to the content of a scheme under this section issued by the Department.

(5) The scheme shall provide for the number of peripatetic teachers employed by ESA and the purposes for which they are employed to be determined in accordance with arrangements approved by the Department.

(6) It is the duty of ESA to give effect to a scheme for the time being in force under this section.

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Salaries, etc. of staff: administrative and financial arrangements

11.—(1) The Board of Governors of a voluntary grammar school may, in accordance with arrangements agreed with ESA, issue payment on behalf of ESA of—

- (a) the salaries and allowances of the staff of the school; and 10
- (b) the relevant contributions in respect of such staff.

(2) The Board of Governors of a grant-maintained integrated school to which this subsection applies may, in accordance with arrangements agreed with ESA, issue payment on behalf of ESA of—

- (a) the salaries and allowances of the staff of the school (other than teachers); and 15
- (b) the relevant contributions in respect of such staff.

(3) Subsection (2) applies to the Board of Governors of a grant-maintained integrated school if (and only if) immediately before the appointed day that Board was issuing payment of the salary of the staff of the school (other than teachers). 20

(4) A Board of Governors may terminate any arrangements agreed under subsection (1) or (2) by giving 3 months' notice of termination to ESA.

(5) The budget share of a grant-aided school shall not include any amount in respect of—

- (a) the salaries and allowances of the staff of the school; or 25
- (b) the relevant contributions in respect of such staff.

(6) But the common funding scheme may include provision—

- (a) for an amount to be paid by way of maintenance grant under Article 61 (2)(b) of the 1998 Order to the Board of Governors of a voluntary grammar school to enable that Board to issue payments in accordance with arrangements under subsection (1); 30
- (b) for an amount to be paid by way of maintenance grant under Article 63(2)(b) of the 1998 Order to the Board of Governors of a grant-maintained integrated school to which subsection (2) applies to enable that Board to issue payments in accordance with arrangements under that subsection. 35

(7) In this section—

- (a) references to a school's budget share and to the common funding scheme are to be construed in accordance with Part 2 of the 2003 Order;
- (b) "relevant contributions" means— 40
 - (i) secondary Class 1 contributions under the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7); and
 - (ii) employers' superannuation contributions.

Modification of employment law

12.—(1) The Department may by order make such modifications in any statutory provision relating to employment, and in particular in any statutory provision—

- 5 (a) conferring powers or imposing duties on employers,
 (b) conferring rights on employees, or
 (c) otherwise regulating the relations between employers and employees,
as it considers necessary or expedient in consequence of the operation of sections
3 to 11.

10 (2) Before making any order under this section the Department shall consult—

- (a) ESA; and
 (b) such organisations representing—
 (i) the interests of Boards of Governors of grant-aided schools; and
 (ii) staff in such schools,
15 as appear to the Department to be appropriate.

Other functions of ESA

ESA to provide or secure provision of training and advisory and support services for schools

13.—(1) It is the duty of ESA to provide or secure the provision of—

- 20 (a) such training, and
 (b) such advisory and support services,

for the Boards of Governors of grant-aided schools as is necessary for the effective discharge of their functions.

(2) It is the duty of ESA to provide or secure the provision of—

- 25 (a) further training and advisory and support services for teachers in grant-aided schools;
 (b) training and advisory and support services for other staff in such schools.

(3) ESA may—

- 30 (a) pay to persons undergoing training provided or secured under this section such travelling and other allowances at such rates or of such amounts and subject to such conditions as ESA may determine;
 (b) provide teaching and training materials for use in grant-aided schools or by persons undergoing training provided under this section.

35 (4) Documents, training and advisory or support services provided by ESA under this section and materials provided under subsection (3)(b) are to be provided free of charge.

ESA to provide library services to grant-aided schools and other educational establishments

14. It is the duty of ESA to make library services available to grant-aided schools and other educational establishments grant-aided by the Department or ESA in accordance with arrangements approved by the Department. 5

ESA to secure provision of educational and youth services and facilities

15.—(1) It is the duty of ESA to secure the provision of—

- (a) adequate facilities for educational services and activities carried out in connection with those services;
- (b) adequate facilities for youth services and activities carried out in connection with those services. 10

(2) For that purpose ESA may, with the approval of the Department, either alone or together with any other person—

- (a) establish, maintain and manage any such facilities;
- (b) organise any such activities; 15
- (c) assist, by grants or otherwise, any person to establish, maintain and manage any such facilities or to organise any such activities;
- (d) provide, or assist by grants or otherwise in the provision of, leaders for such activities; and

- (e) defray or contribute towards the expenses of any persons taking part in any such activities. 20

(3) Grants under this section shall be made on such conditions as ESA may determine.

(4) ESA shall, in carrying out its functions under subsection (1), have regard to the facilities provided by other persons. 25

(5) ESA may from time to time make bye-laws for all or any of the following purposes—

- (a) for regulating the use and management of any lands or buildings provided by it for any of the purposes mentioned in subsection (1);
- (b) for regulating the days and times of, and charges for, admission to such lands or buildings; 30
- (c) for the preservation of order and prevention of nuisances in such lands and buildings.

(6) Bye-laws under subsection (5) may—

- (a) authorise persons employed by ESA to enforce the bye-laws and to take all steps and do all acts and things necessary for that purpose; 35
- (b) authorise such persons or a constable after due warning to remove or exclude from any place with respect to which any such bye-laws are for the time being in force a person who contravenes, or who is reasonably suspected of contravening, in that place any such bye-laws. 40

ESA to pay capital grants to voluntary and grant-maintained integrated schools

16.—(1) The power of the Department to pay grants under—

- 5 (a) Article 68 of the 1998 Order (building and equipment grants for voluntary schools); and
(b) Article 69 of that Order (capital and special purpose grants for grant-maintained integrated schools),

is transferred to ESA.

(2) Accordingly—

- 10 (a) in Article 68(1) of that Order for “the Department may” substitute “ESA may”; and
(b) in Article 69 of that Order for “the Department” (wherever occurring) substitute “ESA”.

ESA to pay superannuation benefits of teachers

15 **17.** In Article 11 of the Superannuation (Northern Ireland) Order 1972 (NI 10) (pensions, allowances, etc. of teachers to be paid by Department) substitute—

20 “(1) The Department of Education may, by regulations made with the consent of the Department of Finance and Personnel, make provision with respect to the pensions, allowances or gratuities which, subject to the fulfilment of such requirements and conditions as may be prescribed by the regulations are to be, or may be, paid by the Education and Skills Authority to or in respect of teachers”.

Ancillary powers of ESA

25 **18.**—(1) Except as otherwise provided by any statutory provision, ESA may do anything that appears to it to be conducive or incidental to the discharge of its functions.

(2) In particular ESA may—

- 30 (a) enter into agreements;
(b) subject to Articles 105 and 106 of the 1986 Order, acquire or dispose of property;
(c) subject to the approval of the Department, form bodies corporate or acquire or dispose of interests in bodies corporate;
(d) carry out, or commission or assist in the carrying out of, research;
35 (e) co-operate with, or provide advice to, other bodies established by or under a statutory provision.

Power of ESA to undertake commercial activities

19.—(1) Subject to the following provisions of this section, ESA shall have power, with the approval of the Department, to undertake commercial activities which, apart from this section, it would not have power to undertake.

40 (2) An approval granted under this section—

- (a) shall specify the particular commercial activities which ESA has power to undertake under this section in pursuance of the approval;
- (b) shall be subject to such conditions as may be specified by the Department in the approval.
- (3) Subject to any conditions applying under this section, ESA shall have power—
 - (a) to do anything which appears to ESA to be conducive or incidental to the exercise of any power conferred under this section; and
 - (b) to make such charge as ESA considers appropriate for anything that it does in the exercise of any such power and to calculate any such charge on any basis that it considers to be the appropriate commercial basis.
- (4) Nothing in this section authorises ESA—
 - (a) to undertake any commercial activities which are detrimental to the performance of any duty imposed on it by any other statutory provision; or
 - (b) to disregard any statutory provision or rule of law or to override any person’s contractual or property rights.
- (5) Where it appears to the Department that ESA—
 - (a) has failed to comply with any conditions subject to which an approval under this section has been granted, or
 - (b) has in undertaking any commercial activity in pursuance of such an approval contravened subsection (4),the Department may, by notice served on ESA—
 - (i) revoke the approval; or
 - (ii) modify the approval, whether by modifying the particular commercial activities or any conditions specified therein.
- (6) The revocation or modification of an approval under this section does not affect the power of ESA to meet any contractual commitments outstanding at the date on which the notice under subsection (5) is served on ESA.
- (7) Any approval or notice under this section shall be in writing.
- (8) In this section “commercial activity” includes—
 - (a) the carrying out of work for any other body or person;
 - (b) the supplying of goods and services to any other body or person; and
 - (c) the developing and exploiting of ideas and the exploiting of intellectual property.

Power to confer functions on ESA in relation to civil contingencies

- 20.—**(1) The Department may by regulations make provision conferring powers or imposing duties on ESA in relation to emergencies.
- (2) Subject to subsection (3), section 1 of the Civil Contingencies Act 2004 (c. 36) (which defines “emergency” for the purposes of Part 1 of that Act) applies for the purposes of this section as it applies for the purposes of that Part but—

(a) with the substitution of references to Northern Ireland for references to the United Kingdom; and

(b) with the omission of subsection (4).

5 (3) But the Department may by order provide that a specified event or situation, or a class of event or situation, is to be treated as being or not being an emergency for the purposes of this section.

(4) Regulations under this section may in particular—

(a) require ESA from time to time to assess the risk of an emergency making it necessary or expedient for it to perform any of its functions;

10 (b) require ESA to prepare, maintain, review and test plans for the purpose of ensuring that—

(i) if an emergency occurs, ESA is able to continue to perform its functions; and

15 (ii) if an emergency occurs or is likely to occur, ESA is able to perform its functions so far as necessary or desirable for the purpose of preventing the emergency or reducing, controlling or mitigating its effects or taking other action in connection with it;

(c) require ESA to collaborate with other prescribed bodies or persons;

20 (d) require ESA to provide information, advice or support of a prescribed description to the Boards of Governors and staff of grant-aided schools and to such other persons or bodies as may be prescribed.

Dissolution of certain bodies and transfers

Dissolution of certain statutory bodies

21. The following bodies are dissolved—

25 (a) education and library boards;

(b) the Council for Catholic Maintained Schools;

(c) the Northern Ireland Council for the Curriculum, Examinations and Assessment;

(d) the Staff Commission for Education and Library Boards; and

30 (e) the Youth Council for Northern Ireland.

Transfer of assets, liabilities and staff

22.—(1) Schedule 3 makes provision for the transfer on the appointed day of the assets, liabilities and staff of the bodies dissolved by section 21 and contains other supplementary provisions.

35 (2) Schedule 4 makes provision for the transfer of certain assets and liabilities of the Council for Catholic Maintained Schools at a time before the appointed day.

(3) Schedule 5 makes provision for the transfer on the appointed day of certain staff from the Department to ESA.

40 (4) In this section “the appointed day” means the day appointed under section 54 for the coming into operation of section 21.

General duty of Department and DEL

General duty of the Department and DEL

23. For Article 3 of the 1989 Order substitute—

“General duty of the Department and DEL

- 3.—(1) It shall be the duty of the Department— 5
- (a) to promote the education of children and young persons in Northern Ireland;
 - (b) to promote the spiritual, moral, cultural, social, intellectual and physical development of such children and young persons and thereby of the community at large; 10
 - (c) to promote the provision of an effective and efficient system of services for the education and development of those children and young persons;
 - (d) to promote the achievement of high standards of educational attainment by schools and pupils; 15
 - (e) to promote the provision of an effective and efficient system of youth services;
 - (f) to secure the effective and efficient execution of their functions by ESA and other bodies on which or persons on whom powers are conferred or duties imposed under the Education Orders. 20
- (2) It shall be the duty of DEL to promote further and higher education in Northern Ireland.”.

Examinations, assessments, qualifications, the curriculum, etc.

Duty of ESA to conduct examinations and assessments

- 24.—(1) ESA shall, subject to the following provisions of this section— 25
- (a) conduct the relevant examinations;
 - (b) conduct the relevant assessments, in accordance with such assessment arrangements as are specified under Article 9 of the 2006 Order.
- (2) For the purposes of this section the power of ESA to conduct the relevant examinations includes power— 30
- (a) to enter into arrangements for the conduct by any other person or body of all or any part of any such examinations on such terms and conditions (including conditions as to payment) as ESA may determine;
 - (b) to draw up and publish— 35
 - (i) rules and specifications;
 - (ii) specimen papers; and
 - (iii) such other material as it considers desirable in connection with such examinations;
 - (c) to moderate, or arrange for the moderation of, such examinations;
 - (d) to award appropriate certificates in respect of such examinations. 40

(3) For the purposes of this section the power of ESA to conduct the relevant assessments includes power—

5 (a) with the approval of the Department, to enter into arrangements for the conduct by any other person or body of all or any part of such assessments on such terms and conditions (including conditions as to payment) as ESA may determine;

(b) to draw up and publish—

10 (i) specimen papers; and
(ii) such other material as it considers desirable, in connection with such assessments;

(c) to moderate, or arrange for the moderation of, such assessments.

(4) ESA may charge such fees in connection with relevant examinations as may be approved by the Department.

15 (5) ESA shall make arrangements for the consideration by ESA of appeals against any decision or complaints against any action—

(a) taken by ESA under this section; or

(b) taken in accordance with arrangements entered into by ESA under subsection (2)(a) or (3)(a).

(6) In this section and section 25—

20 “the relevant assessments” means the assessments of pupils required by Article 9 of the 2006 Order;

“the relevant examinations” means such examinations as the Department, after consultation with ESA, may determine.

25 (7) The Department shall notify ESA in writing of any determination made by it under subsection (6).

Other functions of ESA in relation to the curriculum, examinations and assessments

25.—(1) ESA shall—

30 (a) keep under review all aspects of the curriculum for grant-aided schools and all aspects of the relevant examinations and the relevant assessments;

(b) advise the Department on such matters concerned with the curriculum for grant-aided schools or with the relevant examinations and the relevant assessments as the Department may refer to it or as it may see fit;

35 (c) publish and disseminate, or secure or assist the publication and dissemination of, information relating to the curriculum for grant-aided schools or to the relevant examinations and the relevant assessments;

(d) produce, or secure or assist the production of, teaching materials for use in connection with the curriculum for grant-aided schools.

40 (2) ESA shall produce, or secure or assist the production of, guidance and teaching materials for use (whether at a school or any other premises) in connection with the curriculum for children who have attained the age of 2 but have not attained the lower limit of compulsory school age.

(3) Before exercising its functions under subsection (2) ESA shall consult with such bodies and persons as appear to it to be concerned.

(4) ESA may enter into arrangements to perform functions on behalf of, or provide services to, any other examining body or authority; and such arrangements may provide for the payment by that body or authority of the whole or part of any expenditure incurred by ESA in carrying out the arrangements. 5

Discharge by ESA of its functions under sections 24 and 25

26.—(1) In carrying out its functions under sections 24 and 25, ESA shall—

(a) so far as relevant, have regard to—

(i) the requirements of industry, commerce and the professions regarding education; and 10

(ii) the requirements of persons with special learning needs; and

(b) seek to ensure that the standards of examinations and assessments conducted by it are recognised as equivalent to the standards of examinations and assessments conducted by bodies or authorities exercising similar functions elsewhere in the United Kingdom. 15

(2) In subsection (1) “persons with special learning needs” means—

(a) children with special educational needs (as defined in Article 3 of the Education (Northern Ireland) Order 1996 (NI 1)); and

(b) persons who have a learning difficulty (as defined in Article 2 of the Further Education (Northern Ireland) Order 1997 (NI 15)). 20

Functions of the Department in relation to accreditation of certain external qualifications

27.—(1) The Department shall—

(a) develop and publish criteria for the accreditation of relevant external qualifications; 25

(b) accredit, where they meet such criteria, any such qualifications submitted for accreditation.

(2) Where it accredits any qualification, the Department may, at the time of accreditation or later, impose such conditions on accreditation or continued accreditation as it may determine. 30

(3) The Department shall—

(a) keep under review all aspects of relevant external qualifications; and

(b) publish and disseminate, or secure or assist the publication and dissemination of, information relating to relevant external qualifications. 35

(4) The Department may obtain advice on the exercise of its powers under this section from ESA or any body exercising functions in the United Kingdom in relation to the accreditation of qualifications.

(5) In carrying out its functions under subsection (1), the Department shall seek to ensure that the standards of qualifications accredited by it are recognised as equivalent to the standards of qualifications accredited by bodies or authorities exercising similar functions elsewhere in the United Kingdom. 40

(6) In this section “relevant external qualification” means a qualification which—

- (a) is, or is to be, provided for pupils in attendance at a grant-aided school;
- 5 (b) is authenticated or awarded by a person other than a member of staff of the school; and
- (c) is designated by the Department for the purposes of this section.

Approval of courses leading to external qualifications

10 **28.**—(1) No course of study leading to an external qualification shall be provided for pupils by or on behalf of a grant-aided school unless the qualification is for the time being approved by the Department; and for this purpose an external qualification is a qualification which is awarded or authenticated by a person other than a member of the staff of the school.

15 (2) No course of study leading to a external qualification shall be provided by or on behalf of an institution of further education unless the qualification is for the time being approved by DEL; and for this purpose an external qualification is a qualification which is awarded or authenticated by a person other than a member of the staff of the institution.

(3) An approval under this section may be given generally or in relation to particular cases.

20 (4) In relation to any grant-aided school, it is the duty of the Board of Governors to exercise its functions with a view to securing, and the duty of the principal to secure, that subsection (1) is not contravened.

25 (5) In relation to any institution of further education, it is the duty of the governing body to exercise its functions with a view to securing, and the duty of the principal to secure, that subsection (2) is not contravened.

(6) ESA shall advise the Department on the exercise of its powers under this section.

Powers of General Teaching Council

Disciplinary powers of General Teaching Council

30 **29.**—(1) The 1998 Order is amended as follows.

(2) In Article 36(3)(f)—

- (a) at the end of head (i) insert “or”; and
- (b) omit head (iii) and the word “or” immediately before it.

(3) After Article 36 insert—

35 **“Disciplinary powers of the Council**

36A. Schedule 1A (which makes provision for certain disciplinary powers to be conferred on the Council in relation to registered teachers and persons applying for registration) shall have effect.

Code of practice for registered teachers

36B.—(1) Regulations may make provision for and in connection with authorising the Council to issue and from time to time revise a code laying down standards of professional conduct and practice expected of registered teachers.

5

(2) Regulations under this Article may in particular make provision—

(a) as to the consequences of any failure by a registered teacher to comply with the provisions of the code;

(b) for the provision by the Council of copies of the code, either on payment of a reasonable charge decided by the Council or, in such circumstances as may be determined in accordance with the regulations, free of charge.

10

(3) Regulations made in pursuance of paragraph (2)(a) may provide for any failure by a registered teacher to comply with the provisions of the code to be taken into account in any proceedings against that teacher under Schedule 1A.”.

15

(4) After Schedule 1 insert as Schedule 1A the Schedule set out in Schedule 6 to this Act.

Schemes of management for grant-aided schools

Schemes of management

20

30.—(1) For every grant-aided school there shall be a scheme (a “scheme of management”) providing for—

(a) the membership and procedure of the Board of Governors of the school;

(b) the management of the school, and in particular the functions to be exercised in relation to the school by the Board of Governors, the principal and any other person or body specified in the scheme; and

25

(c) such other matters as are required or authorised by the Education Orders to be included in or regulated by the scheme of management.

(2) The scheme of management for a grant-aided school may provide for the establishment by the Board of Governors of the school of committees (whether or not including persons who are not members of the Board of Governors) and for the membership and procedure of such committees.

30

(3) The scheme of management for a grant-aided school may provide for the delegation to—

(a) a committee of the Board of Governors, or

(b) the principal of the school,

35

of such functions of the Board of Governors as may be specified in or determined in accordance with the scheme.

(4) The scheme of management for a grant-aided school shall—

(a) not contain any provision which is inconsistent with any provision of the Education Orders or any other statutory provision;

40

(b) except in so far as any provision of the Education Orders requires or authorises, comply with any instrument of government of the school.

(5) It is the duty of the Board of Governors of a grant-aided school to give effect to the scheme of management for the time being in force for the school.

5 **Preparation and approval of schemes of management**

31.—(1) Except where section 32(1)(b) applies, it is the duty of the submitting authority of a grant-aided school—

(a) to prepare a scheme of management for the school; and

10 (b) to submit that scheme to ESA for its approval on or before such date as ESA may direct.

(2) In preparing a scheme of management the submitting authority shall take into account any guidance issued by ESA under subsection (3).

(3) ESA shall issue such guidance as it thinks fit as to the provisions it regards as suitable for inclusion in schemes of management; and such guidance—

15 (a) shall include model schemes regarded by ESA as suitable for particular descriptions of schools;

(b) shall be kept under review and revised by ESA from time to time; and

(c) shall be published in such manner as ESA thinks fit.

20 (4) Where it submits a scheme of management for approval under subsection (1)(b), the submitting authority of a school shall also submit to ESA such information as ESA may require concerning the extent (if any) to which the submitted scheme differs from any model scheme for a school of the same description as that school.

25 (5) A scheme of management for a school submitted to ESA under subsection (1)(b) shall not come into force until it has been approved by ESA or until such date as ESA may, in giving its approval, specify.

(6) ESA may approve such a scheme either without modifications or with such modifications as it thinks fit after consulting the submitting authority of the school.

30 (7) In this section, section 32 and section 33 “the submitting authority”, in relation to a grant-aided school, means—

(a) in the case of a Catholic maintained school, the trustees of the school;

(b) in the case of any other grant-aided school, the Board of Governors of the school.

35 **Reserve power of ESA to make scheme of management**

32.—(1) Where—

(a) the submitting authority of a school fails to submit a scheme to ESA as required by section 31(1)(b),

40 (b) the submitting authority of a school requests ESA to exercise its powers under this subsection in relation to the school, or

(c) it appears to ESA that a scheme submitted by the submitting authority of a school as required by subsection (1)(b) of section 31 does not accord with

any guidance issued by ESA under subsection (3) of that section and cannot be made to do so merely by modifying it,

ESA may make a scheme of management for the school containing such provision of a description required or authorised to be made by a scheme of management as ESA considers appropriate. 5

(2) The power in subsection (1) includes power to make a scheme in the terms of a model scheme included in guidance issued under section 31(3) or in the terms of such a scheme with such modifications as ESA may specify.

(3) A scheme of management made by ESA for a school by virtue of this section— 10

(a) shall be treated for all purposes as if it had been prepared by the submitting authority of the school and approved by ESA under section 31; and

(b) shall come into force on such date as may be specified therein.

(4) Before making a scheme under this section for a school, ESA shall consult the submitting authority of the school. 15

Revision of schemes of management

33.—(1) The submitting authority of a grant-aided school—

(a) shall if ESA so directs or revised guidance issued under section 31(3) so requires, and 20

(b) may at any other time,

prepare a revised scheme of management and submit it to ESA for its approval.

(2) In preparing a revised scheme of management the submitting authority shall take into account any guidance issued by ESA under section 31(3).

(3) A revised scheme of management for a school submitted to ESA under subsection (1) shall not come into force until it has been approved by ESA or until such date as ESA may, in giving its approval, specify. 25

(4) ESA may approve a revised scheme either without modifications or with such modifications as it thinks fit after consulting the submitting authority of the school. 30

(5) Section 32 applies (with appropriate modifications) in relation to the revision of a scheme as it applies in relation to the making of the original scheme.

Boards of Governors

Duties of Board of Governors in relation to achievement of high standards of educational attainment 35

34.—(1) It is the duty of the Board of Governors of a grant-aided school to exercise its functions with a view to promoting the achievement of high standards of educational attainment by pupils registered at the school.

(2) In particular, it is the duty of the Board of Governors to co-operate with ESA in relation to actions undertaken by ESA with a view to promoting the achievement of high standards of educational attainment by those pupils. 40

Community governors for controlled, maintained, grant-maintained integrated and certain voluntary grammar schools

35.—(1) In Schedule 4 to the 1986 Order—

(a) for paragraphs 2(2)(c) and 3(2)(c) substitute—

5 “(c) two shall be community governors chosen by ESA;”;

(b) for paragraph 4(a) and (b) substitute—

“(a) five-eighths shall be community governors chosen by ESA;”;

(c) for paragraph 5(1)(b) substitute—

“(b) two-sevenths shall be community governors chosen by ESA;”;

10 (d) for paragraph 5(3)(b) and (c) substitute—

“(b) four-sevenths shall be community governors chosen by ESA;”;

(e) in paragraph 7 after the definition of “assistant teacher” insert—

“ “community governors”, in relation to a school, means persons living or working in the local community;”.

15 (2) In Schedule 5 to that Order—

(a) for paragraph 2(2)(b) and (c) substitute—

“(b) one-third shall be community governors chosen by ESA;”;

(b) for paragraph 3(2)(b) substitute—

“(b) two shall be community governors chosen by ESA;”;

20 (c) in paragraph 7 after the definition of “assistant teacher” insert—

“ “community governors”, in relation to a school, means persons living or working in the local community;”.

(3) In Schedule 6 to that Order—

(a) for paragraph 4(2)(b) substitute—

25 “(b) one-third shall be community governors chosen by ESA;”;

(b) for paragraph 5(2)(b) substitute—

“(b) two shall be community governors chosen by ESA;”;

(c) in paragraph 7 at the end add “and “community governors”, in relation to a school, means persons living or working in the local community.”.

30 (4) In Schedule 5 to the 1989 Order—

(a) for paragraph 2(1)(b) substitute—

“(b) one-quarter shall be community governors chosen by ESA;”;

(b) in paragraph 2(2) before the definition of “foundation governors” insert—

35 “ “community governors”, in relation to a school, means persons living or working in the local community;”.

Part-time teachers to be eligible for election as governors

36.—(1) In Schedule 4 to the 1986 Order in paragraph 7 in the definition of “assistant teacher” omit the words “or part-time”.

40 (2) In Schedule 5 to the 1989 Order in paragraph 2(2) in the definition of “assistant teacher” omit the words “or part-time”.

Inspections

Inspections on behalf of the Department

- 37.—(1) Every establishment to which this section applies shall be open at all reasonable times to inspection under this section.
- (2) This section applies to— 5
- (a) a school;
 - (b) an establishment which—
 - (i) is grant-aided by the Department or ESA; or
 - (ii) is established, maintained or managed by ESA or the activities of which are organised by ESA; 10
 - (c) an establishment in which—
 - (i) education is provided, or
 - (ii) educational services or youth services are provided or organised, by a body or person in receipt of grant from the Department or ESA.
- (3) Inspections under this section shall be conducted by inspectors appointed by the Department; and in the following provisions of this section and sections 38 to 42 references to inspectors are to inspectors so appointed. 15
- (4) It is the duty of inspectors to promote the highest standards of education and of professional practice among teachers in establishments mentioned in subsection (2) which provide education by— 20
- (a) monitoring, inspecting and reporting on the standard of education being provided in those establishments and the standards of professional practice among teachers on the staff of such establishments;
 - (b) advising the Department on any aspect of any of those establishments which the Department may refer to them or on which they think advice is appropriate. 25
- (5) It is the duty of inspectors to monitor, inspect and report on the nature, scope and effect of advisory and support services provided or secured by ESA under section 13.
- (6) Inspectors conducting the inspection of an establishment under this section may monitor, inspect and report on any aspect of the establishment including, in particular— 30
- (a) the teaching and learning activities carried on at the establishment;
 - (b) the management of the establishment; and
 - (c) the staffing, equipment, accommodation and other resources of the establishment. 35
- (7) The functions conferred by this section on inspectors shall not be exercisable in relation to any provision for religious education included in the curriculum of a grant-aided school under Article 5(1)(a) of the 2006 Order except with the agreement of the Board of Governors of the school. 40
- (8) The Department may give directions under Article 101 of the 1986 Order for the purpose of remedying any matter referred to in the report of an inspection conducted under this section.

(9) Nothing in this section applies to so much of any establishment used exclusively as a dwelling house.

Powers of inspectors

5 **38.**—(1) If an inspector considers it necessary or expedient for the purposes of an inspection conducted under section 37, the inspector may inspect, take copies of, or take away any documents relating to the establishment inspected which are on any premises of the establishment which the inspector has entered under section 37.

10 (2) The power in subsection (1) includes—

 (a) power to require any person holding or accountable for any documents kept on the premises to produce them; and

 (b) in relation to any such documents kept by means of a computer, power to require them to be produced in a form in which they are legible and can be taken away.

15 (3) In connection with inspecting any such documents the inspector—

 (a) may obtain access to, and inspect and check the operation of, any computer and associated apparatus or material which the inspector considers is or has been in use in connection with the documents; and

20 (b) require a person within subsection (4) to afford the inspector such reasonable assistance as the inspector may require for that purpose.

 (4) A person is within this subsection if that person is—

 (a) a person by whom or on whose behalf the computer is or has been used; or

25 (b) a person having charge of, or otherwise concerned with, the operation of, the computer, apparatus or material.

(5) The powers conferred by this section may be exercised at reasonable times only; and a person may not be required to do anything in pursuance of any provision of this section otherwise than at a reasonable time.

Reports and action plans

30 **39.**—(1) On completing an inspection under section 37 in relation to any establishment, the person who conducted the inspection shall—

 (a) make a written report on the inspection; and

35 (b) send copies of the report to the Department, ESA, the responsible authority for the establishment and such other persons as that person thinks appropriate.

(2) The Department shall arrange for the report to be published in such manner as it considers appropriate.

(3) Where the responsible authority for an establishment receives a report under subsection (1)(b), it shall prepare a written statement of—

40 (a) the action which it proposes to take in the light of the report; and

 (b) the period within which it proposes to take that action.

(4) The responsible authority shall—

- (a) publish the statement within such period and in such manner as may be prescribed; and
 - (b) send copies to the Department and ESA.
- (5) The requirements of subsections (3) and (4) may be waived by the Department. 5
- (6) For the purposes of this section “the responsible authority” for an establishment is—
- (a) in the case of a grant-aided school, the Board of Governors;
 - (b) in the case of a independent school, the proprietor;
 - (c) in the case of any other establishment, the body or person in charge of the activities carried on at the establishment. 10

Inspections of library premises

- 40.**—(1) In Schedule 1 to the Libraries Act (Northern Ireland) 2008 (c. 8) paragraph 14 is amended as follows.
- (2) In sub-paragraph (2) omit “by a person authorised by the Department”. 15
- (3) At the end add—
- “(3) The provisions of the Education Act (Northern Ireland) 2009 listed in sub-paragraph (4) apply in relation to the inspection of premises open to inspection under sub-paragraph (2) as they apply in relation to the inspection of an establishment open to inspection under section 37 of that Act but with the substitution in section 39— 20
- (a) for references to the Department of Education of references to the Department; and
 - (b) for references to ESA and the responsible authority of references to the Authority. 25
- (4) Those provisions are—
- (a) section 37(3), (6) and (9);
 - (b) section 38; and
 - (c) section 39. ”. 30

Inspections on behalf of DEL 30

- 41.**—(1) Every establishment to which this section applies shall be open at all reasonable times to inspection under this section.
- (2) This section applies to—
- (a) an institution of further education; and
 - (b) a college of education. 35
- (3) Inspections under this section shall be conducted by inspectors authorised by DEL.
- (4) It is the duty of such inspectors to promote the highest standards of education and of professional practice among teachers in establishments to which this section applies by— 40

- (a) monitoring, inspecting and reporting on the standard of education being provided in those establishments and the standards of professional practice among teachers on the staff of such establishments;
- 5 (b) advising DEL on any aspect of the curriculum of any of those establishments which DEL may refer to them or on which they think advice is appropriate.

(5) Inspectors conducting the inspection of an establishment under this section may monitor, inspect and report on any aspect of the establishment including, in particular—

- 10 (a) the management of the establishment; and
- (b) the staffing, equipment, accommodation and other resources of the establishment.

(6) DEL may give directions under Article 101A of the 1986 Order for the purpose of remedying any matter referred to in the report of an inspection conducted under this section.

Assessors and lay persons

42.—(1) Inspectors conducting the inspection of an establishment under section 37 or 41 or by virtue of paragraph 14 of Schedule 1 to the Libraries Act (Northern Ireland) 2008 (c. 8) may be accompanied and assisted in the inspection by—

- 20 (a) assessors appointed for the purposes of that inspection by the Department; and
- (b) lay persons assigned for the purposes of that inspection under the following provisions of this section.

(2) The Department may appoint a panel of persons to act as lay persons in inspections conducted under section 37 or 41 or by virtue of paragraph 14 of Schedule 1 to the Libraries Act (Northern Ireland) 2008.

(3) A person shall not be appointed to the panel unless that person is, in the opinion of the Department, without significant personal experience in—

- 30 (a) the management of establishments to which those provisions apply; and
- (b) the provision of education (otherwise than as a member of the governing body of such an educational establishment or in any other voluntary capacity).

(4) The Department may remove a person from the panel at any time.

(5) The Department may assign a member of the panel to be a lay person for the purposes of an inspection of any establishment to be conducted under section 37 or 41 or by virtue of paragraph 14 of Schedule 1 to the Libraries Act (Northern Ireland) 2008.

(6) But the Department shall ensure that a person is not so assigned if that person has, or at any time has had, any connection with—

- 40 (a) the establishment in question,
- (b) any person who is employed at that establishment,
- (c) any person who is a member of the governing body of that establishment,
- or

(d) where the establishment is an independent school, the proprietor of the school,
of a kind which might reasonably be taken to raise doubts about that person's ability to act impartially in relation to that establishment.

(7) The Department may, with the approval of DFP, pay to assessors appointed, and lay persons assigned, under this section for the purposes of inspections such allowances and expenses as the Department may determine. 5

Grants for educational and youth services

Grants for educational and youth services, etc.

43. In Article 115 of the 1986 Order for paragraphs (1) to (3) substitute— 10

“(1) The Department may, in accordance with regulations, pay grants to persons in respect of expenditure incurred or to be incurred by them—

- (a) for the purposes of, or in connection with, the provision (or proposed provision) of educational services and activities carried out in connection with such services; 15
- (b) for the purposes of, or in connection with, the provision (or proposed provision) of youth services and activities carried out in connection with such services;
- (c) for the purposes of research or other activities relevant to the functions of the Department or of ESA under the Education Orders. 20

(1A) DEL may, in accordance with regulations, pay grants to persons in respect of expenditure incurred or to be incurred by them—

- (a) for the purposes of, or in connection with, the provision (or proposed provision) of services connected with further or higher education; 25
- (b) for the purposes of research relevant to the functions of DEL or of ESA in relation to further or higher education.

(1B) The Department of Culture, Arts and Leisure may, in accordance with regulations, pay grants to persons in respect of expenditure incurred or to be incurred by them— 30

- (a) for the purposes of, or in connection with, the provision (or proposed provision) of cultural, recreational or physical activities;
- (b) for the purposes of research relevant to the functions of that Department or of ESA in relation to such activities. 35

(1C) Grants under this Article shall be made subject to such conditions as the department paying the grant may determine.

(2) Regulations under paragraph (1), (1A) or (1B)—

- (a) require the approval of the Department of Finance and Personnel; and 40
- (b) may prescribe the rates of grants which may be paid under that paragraph.

(3) Grants shall not be paid under this Article to—

- (a) ESA;
- (b) the trustees or managers of a voluntary or grant-maintained integrated school;
- (c) the governing body of an institution of further education.”.

5 *Protection of children and young persons*

Safeguarding and promoting welfare of children and young persons

44.—(1) It is the duty of ESA to ensure that its functions are exercised with a view to safeguarding and promoting the welfare of children and young persons.

10 (2) In considering how to carry out that duty ESA shall have regard to any guidance given to it by the Department.

(3) In particular ESA shall—

- (a) from time to time review—
 - 15 (i) the exercise by Boards of Governors of their duties under Articles 17 and 18 of the 2003 Order;
 - (ii) the exercise by providers of funded pre-school education of their duties under Article 21A of the 1998 Order;
 - (iii) the exercise by persons in receipt of such grants as are mentioned in subsection (1) of section 46 of duties imposed on them by virtue of subsection (2) of that section;
 - 20 (iv) the exercise by persons who have entered into such agreements or arrangements as are mentioned in subsection (3) of section 46 of duties imposed on them by virtue of subsection (4) of that section;
- (b) issue such directions under Article 18A of the 2003 Order as appear to ESA to be necessary to ensure compliance with the duties mentioned in paragraph (a)(i); and
- 25 (c) issue such guidance and take such other steps as appear to ESA to be necessary or expedient to ensure compliance with any of the duties mentioned in paragraph (a).

30 **Duty on providers of funded pre-school education to safeguard and promote welfare of children**

45. In Part 5 of the 1998 Order at the end of Chapter 1 (provision of pre-school education) insert—

“Duties on providers of funded pre-school education to safeguard and promote welfare of children

35 21A.—(1) It is the duty of a person providing funded pre-school education for any children to safeguard and promote the welfare of those children at all times when those children are—

- (a) on relevant premises; or
 - (b) in the lawful control or charge of that person or relevant staff.
- 40 (2) It is the duty of a person providing funded pre-school education—

- (a) to determine the measures to be taken on relevant premises (whether by that person or any other responsible person) with a view to protecting children from abuse (whether on those premises or elsewhere);
- (b) to review those measures— 5
 - (i) from time to time; and
 - (ii) (without prejudice to head (i)) at such times as the Department or ESA may direct;
- (c) in determining or reviewing those measures to have regard to any guidance given by the Department or ESA; 10
- (d) to prepare a written statement of such measures and to secure that—
 - (i) a copy of that statement is given (free of charge) to the parents of all children for whom that person provides funded pre-school education and to relevant staff; and 15
 - (ii) copies of the statement are available for inspection (at all reasonable times and free of charge) on the relevant premises; and
- (e) to secure that such measures are taken.
- (3) Directions under paragraph (2)(b)(ii) may be given— 20
 - (a) in relation to all persons providing funded pre-school education generally;
 - (b) in relation to a class or description of such persons; or
 - (c) in relation to any particular person or persons providing such education. 25
- (4) In this Article—
 - “abuse” includes sexual abuse and abuse causing physical or mental harm to a child;
 - “funded pre-school education” has the same meaning as in Article 21;
 - “relevant premises”, in relation to any person providing funded pre-school education, means any premises used by that person for the provision of that education; 30
 - “relevant staff”, in relation to any person providing funded pre-school education, means any person employed by that person for the purposes of, or in connection with, providing that education.”. 35

Duty of providers of educational and youth services to safeguard and promote welfare of children

- 46.** —(1) Subsection (2) applies where—
- (a) ESA proposes to make a grant under section 15; or
 - (b) the Department proposes to make a grant under Article 115(1)(a) or (b) of the 1986 Order. 40

(2) It is the duty of ESA or (as the case may be) the Department to ensure that the grant is made subject to such conditions as appear to it to be necessary or expedient to safeguard and protect the welfare of children and young persons.

5 (3) Subsection (4) applies where ESA or the Department is to enter into an agreement or arrangement with any person—

(a) for the purposes of, or in connection with, the provision (or proposed provision) of educational services or activities carried out in connection with such services; or

10 (b) for the purposes of, or in connection with, the provision (or proposed provision) of youth services or activities carried out in connection with such services.

(4) It is the duty of ESA or (as the case may be) the Department to ensure that the agreement or arrangement contains such conditions as appear to it to be necessary or expedient to safeguard and protect the welfare of children and young persons.

(5) The conditions mentioned in subsections (2) and (4) may in particular—

(a) impose a duty on a specified person to safeguard and promote the welfare of specified children and young persons at specified times or while they are on specified premises or in the charge of specified persons;

20 (b) impose other requirements in relation to the measures to be taken for the purposes of implementing that duty;

(c) require specified persons to have regard to any guidance issued by ESA under section 44(3);

25 and in this subsection “specified” means specified in, or of a class or description specified in, the conditions.

Directions as to exercise of child protection duties by Board of Governors

47. In the 2003 Order after Article 18 insert—

“Directions as to exercise of duties under Articles 17 and 18

30 18A.—(1) ESA may give directions to the Board of Governors of a grant-aided school as to the performance of any duty imposed on that Board under Article 17 or 18; but ESA shall consult the Board of Governors and the Department before giving any such direction.

(2) In particular, but without prejudice to the generality of paragraph (1), directions given under that paragraph may require a specified duty—

35 (a) to be performed;

(b) to be performed in a specified manner;

(c) not to be performed in a specified manner;

and in this paragraph “specified” means specified in directions.

40 (3) If, on a complaint made to it, ESA is satisfied that a Board of Governors of a grant-aided school has acted or is proposing to act unreasonably with respect to the performance of any duty imposed on that Board by Article 17 or 18, ESA shall give such directions under paragraph

(1) as to the performance of the duty as appear to ESA to be expedient to remedy that complaint.

(4) It is the duty of a Board of Governors to comply with any directions given to the Board under paragraph (1) and any such directions may be enforced by mandamus.”. 5

Duty of co-operation concerning welfare and protection of children and young persons

48.—(1) It is the duty of—

- (a) the Boards of Governors of grant-aided schools,
- (b) the providers of funded pre-school education, and 10
- (c) persons on whom a duty is imposed by virtue of section 46(5)(a),

to co-operate with—

- (i) ESA in the exercise of its duty under section 44; and
- (ii) an authority in the exercise of its functions under Part 6 of the Children (Northern Ireland) Order 1995 (NI 2). 15

(2) In this section—

“authority” has the same meaning as in the Children (Northern Ireland) Order 1995 (NI 2);

“funded pre-school education” has the same meaning as in Article 21 of the 1998 Order. 20

Catholic maintained schools

Catholic maintained schools

49.—(1) For the purposes of the Education Orders, a Catholic maintained school is a maintained school which is for the time being designated in a scheme under this section. 25

(2) The Department shall, after consultation with the relevant church authorities, make a scheme designating those maintained schools which are to be Catholic maintained schools for the purposes of the Education Orders.

(3) The Department—

- (a) shall make such amendments to the scheme under this section as are required by Article 14(15) of the 1986 Order; 30
- (b) may make such other amendments to that scheme as appear to it to be necessary or desirable.

(4) For the purposes of the Education Orders a school becomes a Catholic maintained school on the date on which it is first included in the scheme under this section. 35

(5) For the purposes of this section “the relevant church authorities” are—

- (a) the Roman Catholic Archbishop of Armagh; and
- (b) the Roman Catholic Bishops of Clogher, Derry, Down and Connor, Dromore and Kilmore. 40

Supplementary

Supplementary, incidental, consequential, transitional provision etc.

50.—(1) The Department may by order make—

(a) such supplementary, incidental or consequential provision,

5 (b) such transitory, transitional or saving provision,

as it considers appropriate for the general purposes, or any particular purpose, of this Act, or in consequence of, or for giving full effect to, any provision made by this Act.

10 (2) An order under subsection (1) may amend, repeal, revoke or otherwise modify any statutory provision (including this Act).

(3) The power to make an order under subsection (1) includes power to repeal or revoke a statutory provision which is spent.

(4) Nothing in this Act affects the generality of the power conferred by this section.

15 **Regulations and orders**

51.—(1) Regulations under this Act shall be subject to negative resolution.

(2) Except as provided by subsections (3) and (4), orders under this Act shall be subject to negative resolution.

20 (3) No order shall be made under section 50(1) unless a draft of the order has been laid before, and approved by resolution of, the Assembly.

(4) Subsection (2) does not apply to an order under section 54 or Schedule 4.

(5) Regulations and orders under this Act may contain such incidental, supplementary, transitional and savings provisions as appear to the Department to be necessary or expedient.

25 **Interpretation**

52.—(1) In this Act—

“DEL” means the Department for Employment and Learning;

“DFP” means the Department of Finance and Personnel;

30 “the 1986 Order” means the Education and Libraries (Northern Ireland) Order 1986 (NI 3);

“the 1989 Order” means the Education Reform (Northern Ireland) Order 1989 (NI 20);

“the 1998 Order” means the Education (Northern Ireland) Order 1998 (NI 13);

35 “the 2003 Order” means the Education and Libraries (Northern Ireland) Order 2003 (NI 12);

“the 2006 Order” means the Education (Northern Ireland) Order 2006 (NI 11).

40 (2) This Act shall be construed as one with the 1986 Order; and accordingly Article 2 of that Order, in so far as it relates to the interpretation of words or

expressions used in that Order and in this Act, applies for the purposes of this Act as it applies for the purposes of that Order.

Minor and consequential amendments and repeals and revocations

53.—(1) The statutory provisions set out in Schedule 7 have effect subject to the minor and consequential amendments specified in that Schedule. 5

(2) The statutory provisions set out in Schedule 8 (which include provisions which are spent) are repealed to the extent specified in the second column of that Schedule.

(3) Part I of Schedule 3 to the Departments (Transfer of Functions) (Northern Ireland) Order 1999 (SR 1999/481) shall cease to have effect in relation to functions under the following provisions— 10

- (a) the 1986 Order; and
- (b) the 1989 Order.

(4) Part II of Schedule 3 to the Departments (Transfer of Functions) (Northern Ireland) Order 1999 (SR 1999/481) shall cease to have effect in relation to functions under the following provisions— 15

- (a) in the 1986 Order, Articles 50, 62, 99 to 103 and 108 to 115;
- (b) in the 1989 Order, Articles 3 and 151;
- (c) the 1998 Order.

Commencement 20

54.—(1) The following provisions come into operation on Royal Assent—

- (a) section 9 and Schedule 2;
- (b) section 12;
- (c) section 22 and Schedules 3 to 5;
- (d) sections 50 to 52; 25
- (e) this section; and
- (f) section 55.

(2) The other provisions of this Act come into operation on such day or days as the Department may by order appoint.

Short title 30

55. This Act may be cited as the Education Act (Northern Ireland) 2009.

SCHEDULES

SCHEDULE 1

Section 1.

THE EDUCATION AND SKILLS AUTHORITY

Status

- 5 1.—(1) ESA shall not be regarded—
 (a) as the servant or agent of the Crown; or
 (b) as enjoying any status, immunity or privilege of the Crown.
 (2) The property of ESA shall not be regarded as property of, or held on behalf
of, the Crown.
10 (3) Subject to the following provisions of this Schedule, section 19 of the
Interpretation Act (Northern Ireland) 1954 (c.33) applies to ESA.

Membership

- 2.—(1) ESA shall consist of—
 (a) a Chair, and
15 (b) not fewer than 7 or more than 11 other members,
appointed by the Department.
 (2) In making appointments under sub-paragraph (1), the Department shall so
far as practicable secure—
20 (a) that at any time a majority of members are councillors (within the
meaning of the Local Government Act (Northern Ireland) 1972 (c. 9));
and
 (b) that each member has experience in a field of activity relevant to the
discharge of the functions of ESA.
 (3) The Department may by order amend sub-paragraph (1)(b) by substituting
25 for the numbers specified there such other numbers as may be specified in the
order.

Tenure of office

- 3.—(1) Subject to the provisions of this paragraph, the Chair and other
30 members of ESA shall hold and vacate office in accordance with the terms of
their respective appointments.
 (2) An appointment under paragraph 2(1)(a) or (b) shall be for a specified
period of not more than 4 years.
 (3) A person whose period of office as Chair or other member has expired may
be re-appointed.
35 (4) A person holding office as Chair or other member of ESA may at any time
resign that office by notice in writing to the Department.

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(5) The Department may by notice in writing remove a person from office as Chair or other member of ESA if satisfied that the person—

- (a) has, without reasonable excuse, failed to discharge the functions of the office for a continuous period of 6 months;
- (b) is the subject of a bankruptcy restrictions order (or interim order), 5
- (c) has failed to comply with the terms of appointment,
- (d) has been convicted of an indictable offence, or
- (e) is otherwise unable, unfit or unwilling to perform the functions of the office.

Remuneration and allowances of members 10

4. ESA shall pay to its Chair and other members such remuneration and allowances as the Department may determine.

Employees

5.—(1) ESA shall have—

- (a) a chief executive, with responsibility to ESA for the carrying out of its functions and the management of its employees; and 15
- (b) such other employees as ESA may determine.

(2) The first chief executive of ESA shall be appointed by the Department.

(3) Every subsequent chief executive shall be appointed by ESA.

(4) ESA shall not appoint a person as chief executive unless the Department approves the appointment. 20

(5) A person shall, so long as that person is, and for 12 months after ceasing to be, a member of ESA, be disqualified for being an employee of ESA.

(6) ESA may make arrangements with a Northern Ireland department for persons employed in the Northern Ireland civil service to be seconded to ESA. 25

(7) Arrangements made with a department other than DFP require the approval of DFP.

Remuneration, allowances and pensions of employees

6.—(1) Subject to sub-paragraph (2), ESA shall pay to its employees such remuneration and allowances as it may determine. 30

(2) The Department may direct that the remuneration and allowances of the chief executive and other employees of such class or description as may be specified in the direction shall not be determined under sub-paragraph (1) without the approval of the Department.

(3) ESA shall— 35

- (a) pay, or make payments in respect of, such pensions or gratuities to or in respect of its employees or former employees as it may, with the approval of the Department, determine; or

- (b) provide and maintain such schemes (whether contributory or not) as it may, with the approval of the Department, determine, for the payment of 40

pensions or gratuities to or in respect of its employees or former employees.

5 (4) References in this paragraph to pensions and gratuities include references to pensions or gratuities by way of compensation to or in respect of employees who suffer loss of employment or loss or diminution of emoluments.

Committees

7.—(1) ESA may establish committees.

(2) A person who is not a member of ESA shall not, except with the approval of the Department, be appointed to a committee of ESA.

10 (3) ESA may pay to members of its committees who are neither members nor employees of ESA such remuneration and allowances as ESA may, with the approval of the Department, determine.

Delegation to committees and staff

15 8.—(1) ESA may, to such extent as it may determine, delegate any of its functions to—

- (a) any committee of ESA; or
- (b) any employee of ESA.

(2) Any committee of ESA may, to such extent as the committee may determine, delegate any functions of the committee to any employee of ESA.

20 (3) Sub-paragraphs (1) and (2) are subject to regulations under sub-paragraph (4) and to any other statutory provision or rule of law authorising or requiring functions of ESA to be exercised by a particular person or in a particular manner.

(4) The Department may by regulations—

- 25 (a) require prescribed functions of ESA to be exercised on its behalf by a prescribed employee of ESA; and
- (b) regulate the appointment by ESA of an employee for the purposes of exercising such functions.

Proceedings

30 9. Without prejudice to section 19(1)(a)(v) of the Interpretation Act (Northern Ireland) 1954, ESA shall make standing orders regulating the procedure of ESA and its committees, including provision regulating—

- (a) the convening of meetings;
- (b) the fixing of the quorum;
- (c) the conduct of business at meetings;
- 35 (d) the disclosure by a member of any pecuniary interest in, or family relationship relevant to, any matter to be discussed at a meeting and the withdrawal by such a member from any discussion on that matter;
- (e) the admission or exclusion of the public and press from meetings;
- (f) the keeping of minutes and other records;
- 40 (g) the custody of documents;
- (h) the duties of officers;

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- (i) such other matters connected with the conduct of its business as ESA thinks fit.

10. The validity of any proceedings of ESA, or of any of its committees, shall not be affected by—

- (a) any vacancy among the members of ESA or of the committee; 5
- (b) any vacancy in the office of the Chair of ESA;
- (c) any defect in the appointment of any one or more members of ESA or in the appointment of the Chair of ESA; or
- (d) any failure to comply with paragraph 9.

Application of seal and documents 10

11. The application of the seal of ESA shall be authenticated by the signature—

- (a) of the Chair of ESA or the chief executive; or
- (b) of any other member or employee who has been authorised by ESA (whether generally or specially) for that purpose.

12.—(1) Any document which if executed by an individual would not require to be executed as a deed may be executed on behalf of ESA by any person generally or specially authorised by ESA for that purpose. 15

(2) In any legal proceedings any document purporting to have been so executed on behalf of ESA shall be deemed to be so executed until the contrary is proved.

13. Any document required under any statutory provision to be served on or sent to ESA may (without prejudice to the operation of section 24 of the Interpretation Act (Northern Ireland) 1954 (c. 33)) be served on or sent to the chief executive of ESA. 20

Finance

14.—(1) A funding department may make payments to ESA. 25

(2) Payments made under this paragraph by a funding department shall be made on such terms and conditions as the funding department may determine.

(3) The funding departments are—

- (a) the Department; and
- (b) DEL. 30

15. ESA may not borrow money.

Accounts

16.—(1) ESA shall—

- (a) keep proper accounts and proper records in relation to the accounts; and
- (b) prepare a statement of accounts in respect of each financial year. 35

(2) The statement of accounts shall—

- (a) be in such form, and
- (b) contain such information,

as the Department may, with the approval of DFP, direct.

(3) ESA shall, within such period after the end of each financial year as the Department may direct, send copies of the statement of accounts relating to that year to—

- 5 (a) the Department;
(b) DEL; and
(c) the Comptroller and Auditor General.

(4) The Comptroller and Auditor General shall—

- 10 (a) examine, certify and report on every statement of accounts received under this paragraph; and
(b) send a copy of each report to the Department.

(5) The Department shall lay a copy of the statement of accounts and of the Comptroller and Auditor General's report before the Assembly.

Annual report

15 17.—(1) As soon as practicable after the end of each financial year, ESA shall send to the Department and DEL a report on the carrying out of its functions during that year.

(2) A report under this paragraph shall contain such information as the Department may direct.

20 (3) The Department shall lay a copy of the report before the Assembly.

Other reports and returns

18. ESA shall make such reports and returns and give such information—

- 25 (a) to the Department as the Department may reasonably require for the purposes of its functions under any statutory provision;
(b) to DEL as DEL may reasonably require for the purposes of its functions under any statutory provision.

Assembly disqualification

30 19. In Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c.25) (bodies whose members are disqualified) there shall be inserted, at the appropriate place—

“The Education and Skills Authority”.

Commissioner for Complaints

35 20. In Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (NI 7) (bodies subject to investigation) for “An education and library board” substitute “The Education and Skills Authority”.

Freedom of information

21. In Part 7 of Schedule 1 to the Freedom of Information Act 2000 (c.36) (bodies, etc. which are public authorities for the purposes of the Act) for “An Education and Library Board established under Article 3 of the Education and

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Libraries (Northern Ireland) Order 1986” substitute “The Education and Skills Authority”.

Interpretation

22. In this Schedule “financial year” means—

- (a) the period beginning with the day on which ESA is established and ending on the next following 31st March; and 5
- (b) any subsequent period of 12 months ending on 31st March.

Section 9.

SCHEDULE 2

TRANSFER TO ESA OF STAFF EMPLOYED BY BOARDS OF GOVERNORS 10

Interpretation

1. In this Schedule—

- “the appointed day” has the meaning given in section 9(3);
- “relevant Board of Governors” means the Board of Governors of a school to which section 9 applies. 15

Transfer of staff employed by a relevant Board of Governors

2.—(1) This paragraph applies to persons who immediately before the appointed day are employed by a relevant Board of Governors.

(2) The Department may make one or more schemes with respect to persons to whom this paragraph applies. 20

(3) A scheme may provide for the transfer as from the appointed day of persons to whom this paragraph applies from the employment of a relevant Board of Governors to the employment of ESA

(4) The Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) apply to a transfer effected by a scheme whether or not the transfer would, apart from this paragraph, be a relevant transfer for the purposes of the regulations. 25

(5) A scheme may include supplementary, incidental, transitional and consequential provision.

(6) A scheme shall— 30

- (a) identify transferring employees (whether by name or otherwise);
- (b) include provision securing pension protection for such employees;
- (c) include provision for procedures designed to resolve any grievances of such employees arising in relation to matters dealt with by the scheme; and 35
- (d) include provision for the payment of compensation by the Department to any such employee who suffers loss or detriment in consequence of the scheme.

(7) Before making a scheme the Department shall consult—

- (a) in the case of a scheme which identifies transferring employees by name, those employees; and
- (b) in the case of a scheme which identifies transferring employees in any other way, such persons as appear to the Department to be representative of transferring employees.
- 5
- (8) For the purposes of this paragraph—
- (a) “pension protection” is secured for a transferring employee if after the change of employer effected by the scheme the employee has, as an employee of ESA, rights to acquire pension benefits and those rights are the same as or (taken as a whole) no less favourable than those that the transferring employee had as an employee of a relevant Board of Governors;
- 10
- (b) “scheme” means a scheme made under this paragraph; and
- (c) “transferring employee” means an employee of a relevant Board of Governors who is transferred by virtue of this paragraph to the employment of ESA.
- 15
- (9) Procedures under sub-paragraph (6)(c) shall involve consideration of grievances by a person other than—
- (a) a member, or member of staff, of ESA; or
- 20
- (b) a member of a relevant Board of Governors.

References to, and acts, etc. done by, or in relation to, a relevant Board of Governors

- 3.—(1) In any statutory provision or document any reference to a relevant Board of Governors in its capacity as the employer of any person shall, in relation to any time after the appointed day, be construed as a reference to ESA.
- 25
- (2) Sub-paragraph (1) applies unless contrary provision is made by or under this Act, or the context otherwise requires.
- (3) Nothing in this Act affects the validity of anything done by, or in relation to, a relevant Board of Governors before the appointed day.
- 30
- (4) Anything which before the appointed day was done by or in relation to a relevant Board of Governors in its capacity as the employer of any person shall, if in effect immediately before that day, continue to have effect to the same extent and subject to the same provisions as if it had been done by, or in relation to, ESA.
- 35
- (5) Anything (including any legal proceedings) in the process of being done by or in relation to a relevant Board of Governors in its capacity as the employer of any person immediately before the appointed day may be continued by or in relation to ESA.

SCHEDULE 3

TRANSFER OF ASSETS, LIABILITIES AND STAFF OF DISSOLVED BODIES

Interpretation

1. In this Schedule— 5

“the appointed day” means the day appointed under section 54 for the coming into operation of section 21;

“dissolved body” means a body listed in section 21.

Transfer of assets and liabilities

2.—(1) All assets and liabilities to which a dissolved body is entitled or subject immediately before the appointed day shall on that day be transferred to, and by virtue of this paragraph vest in, ESA. 10

(2) Sub-paragraph (1) has effect in relation to assets or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the assets or liabilities otherwise than by that sub-paragraph. 15

(3) But sub-paragraph (1) does not apply—

(a) to rights or liabilities under a contract of employment (which are dealt with by paragraph 3);

(b) in the case of an education and library board, to assets and liabilities which are transferred on the appointed day to the Northern Ireland Library Authority by virtue of a scheme under section 1 of the Libraries Act (Northern Ireland) 2008 (c. 8). 20

(4) A certificate issued by the Department that any assets or liabilities have been transferred to ESA under this paragraph shall be conclusive evidence of the transfer. 25

Transfer of employed staff

3.—(1) This paragraph applies to persons who immediately before the appointed day are employed by a dissolved body.

(2) The Department may make one or more schemes with respect to persons to whom this paragraph applies. 30

(3) A scheme may provide for the transfer as from the appointed day of persons to whom this paragraph applies from the employment of a dissolved body to the employment of ESA.

(4) The Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) apply to a transfer effected by a scheme whether or not the transfer would, apart from this paragraph, be a relevant transfer for the purposes of the regulations. 35

(5) A scheme may include supplementary, incidental, transitional and consequential provision. 40

(6) A scheme shall—

- (a) identify transferring employees (whether by name or otherwise);
- (b) include provision securing pension protection for such employees;
- (c) include provision for procedures designed to resolve any grievances of such employees arising in relation to matters dealt with by the scheme;
- 5 and
- (d) include provision for the payment of compensation by the Department to any such employee who suffers loss or detriment in consequence of the scheme.
- (7) Before making a scheme the Department shall consult—
- 10 (a) in the case of a scheme which identifies transferring employees by name, those employees; and
- (b) in the case of a scheme which identifies transferring employees in any other way, such persons as appear to the Department to be representative of transferring employees.
- 15 (8) For the purposes of this paragraph—
- (a) “pension protection” is secured for a transferring employee if after the change of employer effected by the scheme the employee has, as an employee of ESA, rights to acquire pension benefits and those rights are the same as or (taken as a whole) no less favourable than those that the
- 20 transferring employee had as an employee of a dissolved body;
- (b) “scheme” means a scheme made under this paragraph; and
- (c) “transferring employee” means an employee of a dissolved body who is transferred by virtue of this paragraph to the employment of ESA.
- (9) Procedures under sub-paragraph (6)(c) shall involve consideration of
- 25 grievances by a person other than—
- (a) a member, or member of staff, of ESA; or
- (b) a member of the Northern Ireland civil service.

References to, and acts, etc. done by, or in relation to, a dissolved body

- 4.—(1) In any statutory provision or document—
- 30 (a) any reference to a dissolved body (whether general or particular) shall, in relation to any time after the appointed day, be construed as a reference to ESA; and
- (b) any reference which delimits functions of an education and library board by reference to its area shall, in relation to that time, be disregarded.
- 35 (2) Sub-paragraph (1) applies unless contrary provision is made by or under this Act, or the context otherwise requires.
- (3) Nothing in this Act affects the validity of anything done by, or in relation to, a dissolved body before the appointed day.
- 40 (4) Anything which before the appointed day was done by or in relation to a dissolved body shall, if in effect immediately before that day, continue to have effect to the same extent and subject to the same provisions as if it had been done by, or in relation to, ESA.

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(5) Anything (including any legal proceedings) in the process of being done by or in relation to a dissolved body immediately before the appointed day may be continued by or in relation to ESA.

(6) In the case of an education and library board, this paragraph does not apply where any of paragraphs 5 to 8 of Schedule 2 to the Libraries Act (Northern Ireland) 2008 (c. 8) applies. 5

Accounts and reports: transitional arrangements

5.—(1) ESA shall make arrangements for—

(a) a statement of accounts to be prepared in relation to each dissolved body, and 10

(b) a report to be prepared on the activities of each such body, for the relevant period.

(2) The statement of accounts and report shall—

(a) be in such form, and (b) contain such information, 15

as the Department may direct.

(3) ESA shall, within such time after the end of the relevant period as the Department may direct—

(a) send a copy of the statement of accounts and the report to the Department; and 20

(b) send a copy of the statement of accounts to the Comptroller and Auditor General for Northern Ireland.

(4) In this paragraph “the relevant period” means the period—

(a) beginning on such day as the Department may direct; and (b) ending immediately before the appointed day. 25

(5) The Comptroller and Auditor General shall—

(a) examine and report on any statement of accounts received from ESA under sub-paragraph (3)(b); and

(b) send a copy of any such report to the Department.

(6) The Department shall lay a copy of the statement of accounts, the Comptroller and Auditor General’s report and the report mentioned in sub-paragraph (1)(b) before the Assembly. 30

Section 22.

SCHEDULE 4

TRANSFER OF CERTAIN ASSETS AND LIABILITIES OF CCMS BEFORE APPOINTED DAY 35

Interpretation

1. In this Schedule—

“the appointed day” has the meaning given by section 22(4);

“CCMS” means the Council for Catholic Maintained Schools;

“the transfer” means the transfer effected by an order under paragraph 2;

“the transferee”, in relation to any assets or liabilities transferred by such an order, means the person to whom or body to which those assets or liabilities are transferred; and

5 “the transfer date” means the date on which the transfer takes effect.

2.—(1) At any time before the appointed day, the Department may by order transfer any assets or liabilities to which CCMS is entitled or subject immediately before the transfer date to a person or body specified in the order.

(2) The transfer date shall be—

- 10 (a) the day before the appointed day; or
(b) an earlier date specified in the order.

(3) Before making an order under this paragraph, the Department shall consult—

- 15 (a) any person to whom or body to which assets or liabilities are to be transferred by the order;
(b) the relevant church authorities (as defined in section 49(5)); and
(c) any other person or body whose interests appear to the Department to be affected by the making of the order.

(4) Sub-paragraph (1)—

- 20 (a) has effect in relation to assets or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the assets or liabilities otherwise than under that sub-paragraph; but
(b) does not apply to rights and liabilities under a contract of employment.

25 *References to, and acts, etc. done by, or in relation to, CCMS*

3.—(1) The following sub-paragraphs apply in relation to assets and liabilities transferred by an order under paragraph 2.

30 (2) In any statutory provision or document any reference to CCMS shall, in relation to any time after the transfer date, be construed as a reference to the transferee.

(3) Sub-paragraph (2) applies unless contrary provision is made by or under this Act, or the context otherwise requires.

(4) The transfer does not affect the validity of anything done by, or in relation to, CCMS before the transfer date.

35 (5) Anything which before the transfer date was done by or in relation to CCMS shall, if in effect immediately before that date, continue to have effect to the same extent and subject to the same provisions as if it had been done by, or in relation to, the transferee.

40 (6) Anything (including any legal proceedings) in the process of being done by or in relation to CCMS immediately before the transfer date may be continued by or in relation to the transferee.

SCHEDULE 5

TRANSFER OF CERTAIN STAFF OF THE DEPARTMENT

Interpretation

1. In this Schedule “the appointed day” has the meaning given in section 22(4).

Transfer of certain staff of Department 5

2.—(1) This paragraph applies to persons who immediately before the appointed day are employed in the Northern Ireland civil service and fall within sub-paragraph (2).

(2) A person falls within this sub-paragraph if—

(a) the Department determines that, in consequence of the transfer to ESA by or under this Act of any functions, it is no longer necessary or appropriate for the Department to undertake work in connection with those functions; and 10

(b) immediately before the appointed day that person is wholly or mainly engaged in work of that kind. 15

(3) The Department may make one or more schemes with respect to persons to whom this paragraph applies.

(4) A scheme may provide for the transfer as from the appointed day of a person to whom this paragraph applies to the employment of ESA.

(5) The Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) apply to a transfer effected by a scheme whether or not the transfer would, apart from this paragraph, be a relevant transfer for the purposes of the regulations. 20

(6) A scheme may include supplementary, incidental, transitional and consequential provision. 25

(7) A scheme shall—

(a) identify transferring employees (whether by name or otherwise);

(b) include provision securing pension protection for such employees;

(c) include provision for procedures designed to resolve any grievances of such employees arising in relation to matters dealt with by the scheme; and 30

(d) include provision for the payment of compensation by the Department to any such employee who suffers loss or detriment in consequence of the scheme.

(8) Before making a scheme the Department shall consult— 35

(a) in the case of a scheme which identifies transferring employees by name, those employees; and

(b) in the case of a scheme which identifies transferring employees in any other way, such persons as appear to the Department to be representative of transferring employees. 40

(9) For the purposes of this paragraph—

- 5 (a) “pension protection” is secured for a transferring employee if after the change of employer effected by the scheme the employee has, as an employee of ESA, rights to acquire pension benefits and those rights are the same as or (taken as a whole) no less favourable than those that the transferring employee had as a member of the Northern Ireland civil service;
- (b) “scheme” means a scheme made under this paragraph; and
- (c) “transferring employee” means a person to whom this paragraph applies who is transferred by virtue of this paragraph to the employment of ESA.
- 10 (10) Procedures under sub-paragraph (7)(c) shall involve consideration of grievances by a person other than—
- (a) a member of the Northern Ireland civil service; or
- (b) a member, or member of staff, of ESA.

SCHEDULE 6

Section 29.

15 SCHEDULE 1A TO THE EDUCATION (NORTHERN IRELAND) ORDER
1998, AS INSERTED

“SCHEDULE 1A

DISCIPLINARY POWERS OF COUNCIL

Investigation, hearing and determination of disciplinary cases

- 20 1.—(1) Regulations may make provision for and in connection with the investigation by the Council of cases where—
- (a) it is alleged that a registered teacher—
- (i) is guilty of unacceptable professional conduct or serious professional incompetence, or
- 25 (ii) has been convicted (at any time) of a relevant offence, or
- (b) it appears to the Council that a registered teacher may be so guilty or have been so convicted,
- and the hearing and determination by the Council of such cases where it is found on investigation that a registered teacher has a case to answer.
- 30 (2) The regulations may, in particular, make provision—
- (a) requiring the Council, where any proceedings are being taken against any person under this Schedule—
- (i) to serve a notice on him outlining the case against him, and
- 35 (ii) to give him the opportunity of appearing and making oral representations;
- (b) entitling such a person to be represented, by any person whom he desires to represent him, at any hearing of the Council at which his case is considered;
- 40 (c) requiring the Council, where it does not find the case against such a person proved, to publish at his request a statement to that effect;

- (d) empowering the Council to require persons to attend and give evidence or to produce documents or other material evidence;
- (e) about the admissibility of evidence;
- (f) enabling the Council to administer oaths;
- (g) for the procedure to be followed by the Council in connection with proceedings under this Schedule to be such as may be specified in or determined under the regulations. 5

(3) No person shall be required by virtue of the regulations to give any evidence or produce any document or other material evidence which he could not be compelled to give or produce in civil proceedings in any court in Northern Ireland. 10

(4) The regulations may make provision for any functions conferred on the Council by virtue of sub-paragraph (1) to be excluded or restricted in such manner as may be specified in or determined under the regulations, including such provision for excluding or restricting any such functions as the Department considers appropriate with a view to taking account— 15

- (a) of the powers exercisable by the Department under Article 70(2)(e) of the 1986 Order on medical grounds or on grounds of misconduct;
- (b) of the powers exercisable by the Independent Barring Board under the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (NI 1). 20

Disciplinary orders: general

2.—(1) Regulations may make provision for and in connection with authorising the Council to make disciplinary orders in relation to persons who in proceedings under this Schedule are found by the Council—

- (a) to have been guilty of unacceptable professional conduct or serious professional incompetence; or 25
- (b) to have been convicted (at any time) of a relevant offence.

(2) The regulations may, in particular, make provision—

- (a) for the Council to serve on any such person notice of the disciplinary order which has been made in relation to him, and of his right to appeal against the order under paragraph 6; 30
- (b) as to the time when any such order takes effect, whether in a case where any such person exercises that right of appeal or otherwise;
- (c) for the Council to publish, in such manner as may be prescribed, such information relating to the case of any such person and any disciplinary order made by the Council as may be prescribed. 35

(3) In this Schedule a “disciplinary order” means—

- (a) a reprimand,
- (b) a conditional registration order,
- (c) a suspension order, or 40
- (d) a prohibition order.

Conditional registration orders

5 3.—(1) Where a conditional registration order is made in relation to a person, he shall continue to be eligible for registration under Article 35, but he shall comply with such conditions relevant to his employment as a teacher as may be specified in the order.

(2) Without prejudice to the generality of sub-paragraph (1)—

10 (a) the conditions which may be specified in a conditional registration order include conditions for requiring the person in question to take any specified steps that will, in the opinion of the Council, be conducive to his becoming a competent teacher; and

(b) conditions may be so specified (whether for the purpose mentioned in head (a) or otherwise) that will involve expenditure on the part of that person.

15 (3) Subject to sub-paragraph (4), any condition specified in a conditional registration order shall have effect either—

(a) for such period as may be so specified, or

(b) without limit of time.

20 (4) A person in relation to whom a conditional registration order has been made may, in accordance with regulations, apply to the Council for it to vary or revoke any condition specified in the order.

(5) Regulations may make provision authorising the Council, if satisfied that such a person has failed to comply with any such condition, to make a suspension or prohibition order in relation to him.

Suspension orders

25 4.—(1) Where a suspension order is made in relation to a person—

(a) he shall cease to be eligible for registration under Article 35, and

(b) if he is a registered person at the time when the order is made, his name shall be removed from the register accordingly,

30 but, subject to sub-paragraph (2), he shall become so eligible again at the end of such period not exceeding two years as may be specified in the order.

(2) A suspension order may specify conditions to be complied with by the person to whom the order relates and where it does so—

35 (a) that person shall become eligible again for registration under Article 35 at the end of the period specified under sub-paragraph (1) only if he has then complied with the conditions; and

(b) if he has not then complied with the conditions, he shall not become so eligible again until he has complied with the conditions.

(3) Heads (a) and (b) of paragraph 3(2) apply in relation to a suspension order as they apply in relation to a conditional registration order.

40 (4) A person in relation to whom conditions have been specified in a suspension order may, in accordance with regulations, apply to the Council for it to vary or revoke any of the conditions.

Prohibition orders

- 5.—(1) Where a prohibition order is made in relation to a person—
- (a) he shall cease to be eligible for registration under Article 35, and
 - (b) if he is a registered teacher at the time when the order is made, his name shall be removed from the register accordingly, 5
- and he shall not become so eligible again unless the Council, on an application made by him in accordance with regulations, so direct.
- (2) No such application may be made before the end of the period of two years beginning with the date when the prohibition order takes effect or such longer period as may be specified in the order. 10

Appeals against disciplinary orders

- 6.—(1) Regulations shall make provision for conferring on a person aggrieved by a disciplinary order made in relation to him under this Schedule a right to appeal against the order to the High Court within 28 days from the date on which notice of the order is served on him. 15
- (2) On such an appeal the High Court may make any order which appears appropriate.
- (3) No appeal shall lie from any decision of the High Court on such an appeal.

Supplementary provisions

7. Regulations may make provision for such incidental and supplementary 20 matters as the Department considers appropriate in connection with any of the preceding provisions of this Schedule, including provision—
- (a) for the Council, where a disciplinary order takes effect in relation to a person, to serve notice of the order on that person's employing authority;
 - (b) requiring the employing authority of any such person to take in relation to that person such steps in consequence of the order (which may include his dismissal) as may be prescribed; 25
 - (c) authorising the delegation of functions conferred by virtue of this Schedule and the determination of matters by any person or persons specified in the regulations. 30

Interpretation

- 8.—(1) In this Schedule—
- “disciplinary order” has the meaning given by paragraph 2(3);
- “registered teacher” includes—
- (a) a person who was a registered teacher at the time of any alleged conduct or offence on his part, and 35
 - (b) a person who has made an application to be registered under Article 35;
- “relevant offence”, in relation to a registered teacher, means—
- (a) in the case of a conviction in the United Kingdom, a criminal offence other than one having no material relevance to his fitness to be a registered teacher, and 40

(b) in the case of a conviction elsewhere, an offence which, if committed in Northern Ireland, would constitute such an offence as is mentioned in head (a);

5 “unacceptable professional conduct” means conduct which falls short of the standard expected of a registered teacher.

(2) Where regulations under paragraph 1(2)(c) of Schedule 1 require the Council to establish a committee for the purpose of discharging any of the functions conferred on it by virtue of this Schedule, references in this Schedule to the Council shall be construed, in relation to those functions, as references to that committee.”.

10

SCHEDULE 7

Section 53.

MINOR AND CONSEQUENTIAL AMENDMENTS

The Education Orders - general amendment of references to education and library boards

15 1.—(1) In the Education Orders for “a board”, “the board”, “that board”, “boards”, “each board” and “every board” (wherever occurring) substitute “ESA”.

(2) Sub-paragraph (1)—

(a) applies only in relation to references to an education and library board or to such boards; and

20 (b) does not apply in relation to any reference in this Act or any reference which is subject to specific amendment or repeal by or under this Act.

The School Sites Act (Northern Ireland) 1928 (c. 8)

2. In section 1(1) and (2) for “an education authority” substitute “the Education and Skills Authority”.

25 *The Exchequer and Financial Provisions Act (Northern Ireland) 1950 (c. 3)*

3. In section 33(1) for the words from “for the purpose of the provision” to “boards under Article 114 of the 1986 Order” substitute “to the Education and Skills Authority under paragraph 14 of Schedule 1 to the Education Act (Northern Ireland) 2009”.

30 *The Superannuation (Northern Ireland) Order 1972 (NI 10)*

4.—(1) In Article 11(2A) for “the Department of Education” and “that Department” substitute “the Education and Skills Authority”.

(2) In Article 11(3) for “the Ministry of Education” substitute “the Education and Skills Authority”.

35 (3) Omit Article 11(4).

(4) In Article 11(5) for “representatives of local education authorities and” substitute “the Education and Skills Authority and with representatives”.

(5) In Article 11(6) omit the definition of “injury benefit”.

The Health and Personal Social Services (Northern Ireland) Order 1972 (NI 14)

5. In Article 67 for “Education and Library Boards” substitute “the Education and Skills Authority”.

The Solicitors (Northern Ireland) Order 1976 (NI 12)

6. In Article 3(2) in the definition of “local authority” for “an Education and Library Board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1972” substitute “the Education and Skills Authority”. 5

The Sex Discrimination (Northern Ireland) Order 1976 (NI 15)

7.—(1) In Article 24(1), in the Table, for “Education and Library Board” substitute “Education and Skills Authority”. 10

(2) In Article 25—

(a) in the title for “Education and Library Boards” substitute “the Education and Skills Authority”;

(b) for “an Education and Library Board” substitute “the Education and Skills Authority”. 15

(3) In Article 26(2) for “Article 101” substitute “Articles 101 and 101A”

(4) In Article 26(2) and (4)(a) for “an Education and Library Board” substitute “the Education and Skills Authority”.

The Rates (Northern Ireland) Order 1977 (NI 28)

8. In Schedule 13 for the entry relating to an education and library board substitute— 20

“The Education and Skills Authority.”

The Education and Libraries (Northern Ireland) Order 1986 (NI 3)

9.—(1) In Article 2(2)—

(a) in the definition of “Catholic maintained school” for “Article 141(3) of the 1989 Order” substitute “section 49 of the Education Act (Northern Ireland) 2009”; 25

(b) after the definition of “controlled integrated school” insert—

“ “DEL” means the Department for Employment and Learning;

“educational services” has the meaning given by section 2(8) of the Education Act (Northern Ireland) 2009;” 30

(c) after the definition of “enactment” insert—

“ “ESA” means the Education and Skills Authority;”;

(d) in the definition of “peripatetic teacher” for “Article 65(2)(a)” substitute “section 10(2) of the Education Act (Northern Ireland) 2009”; 35

(e) in the definition of “scheme of management” for “Article 9A(1)” substitute “section 30(1) of the Education Act (Northern Ireland) 2009”;

(f) in the definition of “the Education Orders” at the end add—

“(j) the Education Act (Northern Ireland) 2009.”.

(2) In Article 11(3) for sub-paragraphs (a) and (b) substitute “ESA, with the approval of the Department, so determines”.

5 (3) In Article 13(3AA) for the words from the beginning to “hospital” substitute “Where, in relation to a school established in a hospital, ESA is of the opinion that”.

(4) For Article 14 substitute—

“Proposals as to primary and secondary education

14.—(1) Where ESA proposes—

- 10 (a) to establish a new controlled school, other than a controlled integrated school;
- (b) to have an existing school recognised as a controlled school, other than a controlled integrated school;
- (c) to discontinue a controlled school;
- 15 (d) to make a significant change in the character or size of a controlled school;
- (e) to make any other change in a controlled school which would have a significant effect on another grant-aided school,

ESA shall submit the proposal to the Department.

(2) Where a person other than ESA proposes—

- 20 (a) to establish a new voluntary school;
- (b) to have an existing school recognised as a voluntary school;
- (c) to discontinue a voluntary school;
- (d) to make a significant change in the character or size of a voluntary school;
- 25 (e) to make any other change in a voluntary school which would have a significant effect on another grant-aided school,

then—

- (i) that person shall submit the proposal to ESA; and
- 30 (ii) ESA shall submit the proposal to the Department together with its views thereon.

(3) It shall, where the Department so directs, be the duty of ESA to submit to the Department a proposal—

- 35 (a) to establish a new controlled school, other than a controlled integrated school;
- (b) that a controlled or voluntary school should be discontinued;
- (c) that a significant change should be made in the character or size of a controlled or voluntary school.

(4) A proposal under paragraph (1), (2) or (3) shall be in such form and contain such particulars as may be required by the Department.

40 (5) Before a proposal concerning an existing school is submitted to ESA under paragraph (2), the person making the proposal shall consult the following persons (or representatives of them)—

SCH. 7

- (a) the Board of Governors of the school concerned;
- (b) the teachers employed at that school;
- (c) the parents of registered pupils at that school; and
- (d) the trustees of the school.

(6) Before a proposal to establish a new Catholic maintained school is submitted to ESA under paragraph (2), the person making the proposal shall consult the Bishop of the Roman Catholic diocese in which the school is to be situated. 5

(7) Before a proposal concerning an existing school is submitted to the Department by ESA under paragraph (1) or (3), ESA shall consult the following persons (or representatives of them)— 10

- (a) the Board of Governors of the school concerned;
- (b) the teachers employed at that school;
- (c) the parents of registered pupils at that school; and
- (d) in the case of a voluntary school, the trustees of the school. 15

(8) Before a proposal concerning any school is submitted to the Department by ESA under paragraph (1), (2) or (3), ESA shall consult the trustees and managers (or representatives of them) of any other school which would, in the opinion of ESA, be affected by the proposal.

(9) ESA, after submitting a proposal to the Department under paragraph (1), (2) or (3), shall— 20

- (a) forthwith furnish to the trustees and managers of every school which would, in the opinion of ESA, be affected by the proposal such particulars of the proposal as are sufficient to show the manner in which the school would be affected; 25
- (b) forthwith publish by advertisement in one or more newspapers circulating in the area affected by the proposal a notice stating the nature of the proposal, that the proposal has been submitted to the Department, that a copy of the proposal can be inspected at a specified place and that objections to the proposal can be made to the Department within two months of the date specified in the advertisement, being the date on which the advertisement first appears; 30
- (c) furnish to any person, on application, a copy of the proposal on payment of such reasonable sum as ESA may determine. 35

(10) Subject to Article 15(3), the Department, after considering any objections to a proposal made to it within the time specified in the notice under paragraph (9)(b), may, after making such modification, if any, in the proposal as, after consultation with the relevant body or person, it considers necessary or expedient, approve the proposal and inform the relevant body or person accordingly. 40

(11) In paragraph (10) “the relevant body or person” means—

- (a) in relation to a proposal under paragraph (1), ESA;
- (b) in relation to a proposal under paragraph (2), the person making the proposal; 45

(c) in relation to a proposal under paragraph (3), the trustees and managers of the school to which the proposal relates.

(12) A proposal under paragraph (1), (2) or (3) shall not be implemented until it has been approved by the Department.

5 (13) Subject to paragraph (14)—

(a) where a proposal under paragraph (1) or (3) is approved by the Department, it is the duty of ESA to implement the proposal;

(b) where a proposal under paragraph (2) is approved by the Department, it is the duty of the person making the proposal to
10 implement the proposal.

(14) The Department may modify any proposal which is required to be implemented under paragraph (13), but shall not do so except at the request of ESA (in the case of a proposal under paragraph (1) or (3)) or the person making the proposal (in the case of a proposal under paragraph
15 (2)).

(15) Where the Department approves under paragraph (10) a proposal under paragraph (2) or (3) in relation to a Catholic maintained school, it is the duty of the Department to make such amendments (if any) to the scheme under section 49 of the Education Act (Northern Ireland) 2009 as
20 appear to the Department to be necessary or expedient in connection with the implementation of that proposal.

(16) Any dispute as to whether, for the purposes of this Article, a change is a significant change or would have a significant effect on another grant-aided school shall be determined by the Department.”.

25 (5) In Article 15—

(a) in paragraph (1) for “other person” substitute “the other person”;

(b) in paragraph (2) for “persons” substitute “the other person”;

(c) in paragraph (3) for “Article 14(7)” substitute “Article 14(10)”.

(6) In Article 17—

30 (a) in paragraph (1) for “the appropriate board” and “the relevant board” substitute “ESA”;

(b) in paragraphs (3) and (6) for “the appropriate board” substitute “ESA”.

(7) In Article 17A(2)(g) omit the word “educational”.

35 (8) In Article 18(2)(a) for “responsible for the management of” substitute “in relation to”.

(9) In Article 46A(6)(b) for “the relevant board” substitute “ESA”.

(10) In Article 50 for paragraph (3) substitute—

40 “(3) ESA may make such awards as it considers desirable for the purpose of enabling or encouraging persons to take advantage of educational facilities available to them.

(4) Awards under this Article shall—

(a) be of such amount,

- (b) be made to, or in respect of, persons of such description, and
 - (c) be made on such conditions,
- as have been approved by DEL.”.

(11) In Article 69(4)(a) for “such representatives of employing authorities” substitute “ESA”. 5

(12) In Article 79(1) for “member of the board or of a committee of the board or a sub-committee thereof” substitute “person to whom this paragraph applies”.

(13) For Article 100 substitute—

“Determination of disputes

100.—(1) Any dispute arising between— 10

- (a) ESA and the trustees or managers of a voluntary school;
- (b) ESA and the trustees or managers of a grant-maintained integrated school;

with respect to the exercise of any power conferred or the performance of any duty imposed by or under the Education Orders may be referred by either party to the dispute to the Department. 15

(2) Any dispute arising between ESA and the governing body of an institution of further education with respect to the exercise of any power conferred or the performance of any duty imposed by or under the Education Orders may be referred by either party to the dispute to DEL. 20

(3) Any dispute referred under this Article shall be determined by the department to which it is referred whose determination shall be final.

(4) This Article applies to a dispute notwithstanding any statutory provision rendering the exercise of the power or the performance of the duty contingent upon the opinion of one of the parties to the dispute.”. 25

(14) For Article 101 substitute—

“Directions by Department

101.—(1) The Department may give directions to any relevant authority as to the exercise by that authority of any power conferred, or the performance of any duty imposed, on that authority by or under any provision of the Education Orders; but the Department shall consult with a relevant authority before giving any directions to the authority under this paragraph. 30

(2) In particular, but without prejudice to the generality of paragraph (1), directions given under that paragraph may— 35

- (a) require a specified power—
 - (i) to be exercised;
 - (ii) to be exercised in a specified manner;
 - (iii) not to be exercised;
 - (iv) not to be exercised in a specified manner; 40
- (b) require a specified duty—

(i) to be performed;
(ii) to be performed in a specified manner;
(iii) not to be performed in a specified manner;
and in this paragraph “specified” means specified in directions.

5 (3) In this Article “relevant authority” means any of the following—

- (a) ESA;
- (b) the board of governors or trustees of a grant-aided school;
- (c) the managers or trustees of a college of education;
- 10 (d) a person appointed under Article 10(4)(e) of the Colleges of Education (Northern Ireland) Order 2005 (NI 13).

(4) If, on a complaint made to it, the Department is satisfied that a relevant authority has acted or is proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under any provision of the Education Orders, the Department shall give such directions under paragraph (1) as to the exercise of the power or the performance of the duty as appear to the Department to be expedient to remedy that complaint.

15 (5) Directions may be given to a relevant authority under paragraph (1) notwithstanding any statutory provision rendering the exercise of the power or the performance of the duty contingent upon the opinion of that authority.

(6) It is the duty of a relevant authority to comply with any directions given to the authority under paragraph (1) and any such directions may be enforced by mandamus.

25 (7) Where the Department is satisfied that a relevant authority has failed to comply with any directions given to the authority under paragraph (1), the Department may make an order appointing a person or persons to discharge, in the name of the relevant authority, all the functions of the authority or such functions as may be specified in the order and the order may render valid any act, thing or payment which would otherwise be invalid by reason of any default by the authority.

30 (8) So long as an order under paragraph (7) remains in force the functions of the relevant authority or such functions as are specified in the order shall be performed by the person or persons appointed by the order and shall not be performed by the authority.

35 (9) The remuneration and expenses of a person or persons appointed by an order made under paragraph (7) shall be determined by the Department and shall together with any other sums expended by the Department in consequence of the order be defrayed as part of the expenses of the relevant authority.

40 (10) The Statutory Rules (Northern Ireland) Order 1979 shall not apply to any order made under paragraph (7).

Directions by DEL

101A.—(1) DEL may give directions to any relevant authority as to the exercise by that authority of any power conferred, or the performance of any duty imposed, on that authority by or under any provision of the relevant legislation; but DEL shall consult with a relevant authority before giving any directions to the authority under this paragraph. 5

(2) In particular, but without prejudice to the generality of paragraph (1), directions given under that paragraph may—

- (a) require a specified power—
 - (i) to be exercised; 10
 - (ii) to be exercised in a specified manner;
 - (iii) not to be exercised;
 - (iv) not to be exercised in a specified manner;

- (b) require a specified duty—
 - (i) to be performed; 15
 - (ii) to be performed in a specified manner;
 - (iii) not to be performed in a specified manner;

and in this paragraph “specified” means specified in directions.

(3) In this Article—
 “relevant authority” means any of the following, namely— 20

- (a) ESA;
- (b) the governing body of an institution of further education;
- (c) the managers or trustees of a college of education;
- (d) a person appointed under Article 10(4)(e) of the Colleges of Education (Northern Ireland) Order 2005 (NI 13); 25

“the relevant legislation” means—

- (a) Article 50;
- (b) the Further Education (Northern Ireland) Order 1997; and
- (c) the Colleges of Education (Northern Ireland) Order 2005.

(4) If, on a complaint made to it, DEL is satisfied that a relevant authority has acted or is proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under any provision of the relevant legislation, DEL shall give such directions under paragraph (1) as to the exercise of the power or the performance of the duty as appear to DEL to be expedient to remedy that complaint. 30 35

(5) Directions may be given to a relevant authority under paragraph (1) notwithstanding any statutory provision rendering the exercise of the power or the performance of the duty contingent upon the opinion of that authority. 40

(6) It is the duty of a relevant authority to comply with any directions given to the authority under paragraph (1) and any such directions may be enforced by mandamus.

(7) Where DEL is satisfied that a relevant authority (other than ESA) has failed to comply with any directions given to the authority under paragraph (1), DEL may make an order appointing a person or persons to discharge, in the name of the relevant authority, all the functions of the authority or such functions as may be specified in the order and the order may render valid any act, thing or payment which would otherwise be invalid by reason of any default by the authority.

(8) So long as an order under paragraph (7) remains in force the functions of the relevant authority or such functions as are specified in the order shall be performed by the person or persons appointed by the order and shall not be performed by the authority.

(9) The remuneration and expenses of a person or persons appointed by an order made under paragraph (7) shall be determined by DEL and shall together with any other sums expended by DEL in consequence of the order be defrayed as part of the expenses of the relevant authority.

(10) The Statutory Rules (Northern Ireland) Order 1979 shall not apply to any order made under paragraph (7).”.

(15) In Article 107(1) for the words from “transferred to it” to the end substitute “to which it is for the time being entitled or subject for the purposes of the Education Orders.”.

(16) In Schedule 4—

(a) in paragraph 5(1)(c) for “area of the board responsible for the management of the school” substitute “locality served by the school”;

(b) in paragraph 5(1)(d) for “area of the board responsible for the management of the school” substitute “Roman Catholic diocese in which the school is situated (or in so much of that diocese as lies within Northern Ireland)”;

(c) in paragraph 6(1)(a) for “the board’s” substitute “ESA’s”.

(17) In Schedule 5—

(a) in paragraph 1(2) for “the Head of the Department” substitute “ESA” and for “the Council for Catholic Maintained Schools” substitute “the trustees of the school”;

(b) in paragraph 4(3) for “the Head of the Department” substitute “ESA”.

(18) In Schedule 6 in paragraph 1(2) for “the Head of the Department” substitute “ESA”.

The Income and Corporation Taxes Act 1988 (c.1)

10. In section 86(6) for paragraph (a) substitute—

“(a) the Education and Skills Authority;”.

The Disabled Persons (Northern Ireland) Act 1989 (c. 10)

11.—(1) In section 2(7) for “education and library boards” substitute “ESA”.

(2) In section 5(1)—

- (a) for “an education and library board” substitute “ESA”;
 - (b) for “the education and library board” (wherever occurring) substitute “ESA”.
 - (3) In section 5(2)—
 - (a) for “an education and library board” (twice) substitute “ESA”; 5
 - (b) for “the education and library board” (wherever occurring) substitute “ESA”;
 - (c) for “the board” substitute “ESA”.
 - (4) In section 5(3) for “the responsible education and library board” (twice) substitute “ESA”. 10
 - (5) In section 5(4)—
 - (a) for “an education and library board” substitute “ESA”;
 - (b) for the words from “that or any other” to “for the time being)” substitute “ESA”;
 - (c) for “the education and library board” and “that education and library board” substitute “ESA”. 15
 - (6) In section 5(6) for “an education and library board” and “the education and library board” substitute “ESA”.
 - (7) In section 6(1)—
 - (a) for “An education and library board” substitute “ESA”; 20
 - (b) in paragraph (a) and (b) for “that education and library board” substitute “ESA”.
 - (8) In section 7(4) for the words from “the education and library board” to the end substitute “ESA”.
 - (9) In section 11 after the definition of “the Education Order” insert— 25
 - “ “ESA” means the Education and Skills Authority;”.
- The Education Reform (Northern Ireland) Order 1989 (NI 20)*
- 12.—(1) In Article 68(3) for “Article 14(7)” substitute “Article 14(10)”.
 - (2) In Articles 69(4)(b)(i), 71 (wherever occurring) and 73(3) for “the relevant board” substitute “ESA”. 30
 - (3) In Article 74(5)(a) for “Article 14(7)” substitute “Article 14(10)”.
 - (4) In Article 75 (wherever occurring) for “the relevant board” substitute “ESA”.
 - (5) In Article 79(2) for the words from the beginning to “as so applied” substitute “Article 14 of the principal Order applies in relation to a proposal under paragraph (1) as it applies in relation to a proposal under paragraph (2) of that Article; but the Department shall not approve any proposal under that Article (as so applied)”. 35
 - (6) In Article 80(3) for “a board” substitute “a board or ESA”.
 - (7) In Article 80 for paragraph (7) substitute— 40

“(7) Article 14 of the principal Order applies in relation to a proposal under paragraph (1) as it applies in relation to a proposal under paragraph (2) of that Article.”.

5 (8) In Article 82(2)(f) for “the Board of Governors to give to persons employed by it” substitute “ESA to give to persons employed by it on the staff of the school”.

(9) In Article 83(3) for “any board or person” substitute “ESA or any other person” and for “or person” substitute “or that person”.

(10) In Article 83(5) for “person” substitute “a person”.

10 (11) In Article 83(6) for “person to which or” substitute “the person”.

(12) In Article 84(2) for “or person” substitute “or that person”.

(13) In Article 90(3) for “Article 14(7)” substitute “Article 14(10)”.

(14) In Articles 92(1) and (9)(b) and 93(3) for “the relevant board” substitute “ESA”.

15 (15) In Article 94(5)(a) for “Article 14(7)” substitute “Article 14(10)”.

(16) In Article 95(1) for “the relevant board” substitute “ESA”.

(17) In Article 127(5) for “The board for the area in which a grammar school is situated” substitute “In relation to a grammar school, ESA”.

(18) In Article 131(2)(b)(ii) for “the board’s” substitute “ESA’s”.

20 (19) In Article 135(1) for “that board or” substitute “ESA or the”.

(20) In Articles 137(1) and 139(4)(a) for “any board” substitute “ESA”.

(21) In Article 139(4)(b) for “any such board” substitute “ESA and any such”.

(22) In Article 150—

(a) in paragraphs (1) and (2) for “the boards” substitute “ESA”;

25 (b) in paragraph (2) for “Article 101(3)(b) to (h)” substitute “Article 101(3)(b) or (c)”.

(23) In Article 151—

30 (a) in paragraph (1) for “employing authorities to secure that the performance of teachers to whom the regulations apply” substitute “ESA to secure that the performance of teachers employed by it”;

(b) in paragraph (2)(a) for “controlled schools and Catholic maintained” substitute “grant-aided”, omit “and the governing bodies of institutions of further education” and for “the employing authority as that authority” substitute “ESA as ESA”;

35 (c) in paragraph (2)(c) for “employing authorities” substitute “ESA” and for “their” substitute “its”;

(d) omit paragraphs (3) and (5).

(24) For Article 152 substitute—

“Educational projects

152.—(1) The Department may carry out any project appearing to it to be associated with the provision of educational services or youth services or activities carried out in connection with those services.

(2) DEL may carry out any project appearing to it to be associated with the provision of services connected with further or higher education. 5

(3) The Department of Culture, Arts and Leisure may carry out any project appearing to it to be associated with the provision of cultural, recreational or physical activities.”.

(25) In Schedule 5 in paragraph 2(1)(a) and (c) for “pupils attending” substitute “registered pupils at”. 10

The Recreation and Youth Service (Northern Ireland) Order 1989 (NI 22)

13. Notwithstanding the repeal by this Act of Article 11(2) of the Youth Service (Northern Ireland) Order 1989, Article 11(1) shall continue to have effect— 15

(a) with the substitution in sub-paragraphs (b) and (c) for “sport or the youth service” of “or sport”; and

(b) with the insertion in sub-paragraph (d) after “sport” of “or”.

The Disability Discrimination Act 1995 (c. 50)

14. In section 19(6) for paragraph (a) substitute— 20
 “(a) the Education and Skills Authority”.

The Children (Northern Ireland) Order 1995 (NI 2)

15.—(1) In Article 2(2) after the definition of “emergency protection order” insert—
 “ “ESA” means the Education and Skills Authority;”. 25

(2) In Article 19(7) for “an education and library board” substitute “ESA”.

(3) In Article 20(2)(a) for “the appropriate education and library board” substitute “ESA”.

(4) In Article 35(2)(d)(i) for “an education and library board” substitute “ESA”.

(5) In Article 46(3)(b) for “any education and library board” substitute “ESA”. 30

(6) In Article 47—

(a) in the title for “education and library boards” substitute “ESA”;

(b) in paragraphs (1), (2) and (3) for “the appropriate education and library board” substitute “ESA”.

(7) In Article 55(1)— 35

(a) for “any education and library board” substitute “ESA”;

(b) for “a designated education and library board” substitute “ESA”.

(8) In Article 55(7) for “an education and library board” substitute “ESA”.

(9) In Article 66(5) for “the relevant education and library board” substitute “ESA”.

(10) In Article 66(11)(b) for “any education and library board” substitute “ESA”.

5 (11) In Article 135(3) for “any education and library board” substitute “ESA”.

(12) In Article 137(3)(b) for “the education and library board in whose area the performance takes place” substitute “ESA”.

(13) In Article 138(1) for “The appropriate education and library board” substitute “ESA”.

10 (14) In Article 138(3)—

(a) for “the education and library board” substitute “ESA”;

(b) for “the board” substitute “ESA”.

(15) In Article 138(4) for “The education and library board” substitute “ESA”.

(16) In Article 138(5)—

15 (a) for “the education and library board” substitute “ESA”;

(b) in sub-paragraph (a)—

(i) for “an education and library board” substitute “ESA”;

(ii) for “the board” substitute “ESA”;

20 (c) in sub-paragraph (b)(ii) for “the education and library board” substitute “ESA”.

(17) In Article 139(1) for “the appropriate education and library board” substitute “ESA”.

(18) In Article 139(2)—

(a) for “The appropriate education and library board” substitute “ESA”;

25 (b) for “the board” (wherever occurring) substitute “ESA”;

(c) for the “board’s” substitute “ESA’s”.

(19) In Article 140(2) for the words “the education and library board which granted, or any education and library board which varied, the licence” substitute “ESA”.

30 (20) In Article 143(1) for “The appropriate education and library board” substitute “ESA”.

(21) In Article 143(3)—

(a) for “The education and library board” substitute “ESA”;

(b) for “the board” substitute “ESA”.

35 (22) In Article 143(4)(b) for “the education and library board” substitute “ESA”.

(23) In Article 143(5)—

(a) for “The education and library board by which a licence under this Article is granted” substitute “ESA”;

40 (b) for “the board” (wherever it occurs) substitute “ESA”;

- (c) for “the board’s” substitute “ESA’s”.
- (24) In Article 144(1) for “an education and library board” substitute “ESA”.
- (25) In Article 144(2)—
- (a) for “the education and library board” substitute “ESA”;
- (b) in sub-paragraph (a) for “the board’s” substitute “ESA’s”. 5
- (26) In Article 146(1) and (2) for “an education and library board” substitute “ESA”.
- (27) In Article 147(9) for “an education and library board” substitute “ESA”.
- (28) In Article 149(1)(c) and (5)(e), (f) and (g) for “an education and library board” substitute “ESA”. 10
- (29) In Article 154(1) and (2) for “education and library boards” substitute “ESA”.
- (30) In Article 177(1)—
- (a) for “an education and library board” and “the education and library board” substitute “ESA”; 15
- (b) for “the board” substitute “ESA”.
- (31) In Article 177(3) and (4) for “the education and library board” (wherever occurring) substitute “ESA”.
- (32) In Schedule 2, in paragraph 2A(3)(b) for “every education and library board the whole or any part of whose area lies within the Board’s area” substitute “ESA”. 20
- (33) In Schedule 4—
- (a) in paragraph 5(2) for “the education and library board in whose favour the order was made” substitute “ESA”;
- (b) in paragraphs 7(1)(c) and 9(1) for “the education and library board concerned” substitute “ESA”. 25

The Education (Northern Ireland) Order 1996 (NI 1)

- 16.—(1) In Article 3(8) for “term” (twice) substitute “year”.
- (2) In Article 14(1)(b) for “the appropriate board” substitute “ESA”.
- (3) In Articles 14(3), 15(4) and (6), 16(3)(a), 18(1A)(a) and (3)(b) and 20A(7) and (8)(a) for “the board’s” substitute “ESA’s”. 30
- (4) In Article 18A(5) for the words from the beginning to “Article 16” substitute “Where ESA is required by paragraph (4)(a) to make a statement under Article 16, ESA”.
- (5) In Article 23(4A) for “2004” substitute “2005”. 35
- (6) In Article 23A for “the board concerned” substitute “ESA”.
- (7) In Article 39(3) at the end add “(or in so much of that diocese as lies within Northern Ireland)”.
- (8) In Schedule 2, in paragraphs 9(2)(a) and 13(4)(b) and (6)(a) for “the board’s” substitute “ESA’s”. 40

The Employment Rights (Northern Ireland) Order 1996 (NI 16)

17. In Article 78(7) for sub-paragraph (a) substitute—

“(a) the Education and Skills Authority;”.

The Education (Northern Ireland) Order 1997 (NI 5)

5 18. In Article 16(2)(b) for “the Council for Catholic Maintained Schools” substitute “the trustees of the school”.

The Race Relations (Northern Ireland) Order 1997 (NI 6)

19.—(1) In Article 18(1), in the Table, for “Education and library board” substitute “Education and Skills Authority”.

10 (2) In Article 19—

(a) in the title for “education and library boards” substitute “the Education and Skills Authority”;

(b) in paragraph (a) for “an education and library board” substitute “the Education and Skills Authority”.

15 (3) In Article 20(2) and (4)(a) for “an education and library board” substitute “the Education and Skills Authority”.

The Further Education (Northern Ireland) Order 1997 (NI 15)

20.—(1) In Article 6(2) for sub-paragraph (a) substitute—

“(a) ESA; and”.

20 (2) In Article 7(2) for sub-paragraph (b) substitute—

“(b) ESA; and”.

(3) In Article 8(3) for sub-paragraph (a) substitute—

“(a) ESA;”.

(4) In Article 9(2) for sub-paragraph (b) substitute—

25 “(b) ESA; and”.

(5) In Article 21(1) for sub-paragraph (b) substitute—

“(b) ESA, as ESA may reasonably require for the purpose of its functions under any statutory provision.”.

30 (6) In Article 23(4) for “the board for the area in which the student is ordinarily resident” substitute “ESA”.

(7) In Schedule 3, in paragraph 2(1) for “the board for the area in which the institution is situated” substitute “ESA”.

The Data Protection Act 1998 (c. 29)

35 21. In Schedule 11 in paragraph 8(b) for “an education and library board” substitute “the Education and Skills Authority”.

The Museums and Galleries (Northern Ireland) Order 1998 (NI 2)

22. In Article 4(8)(b) for “education and library boards” substitute “the Education and Skills Authority”.

The Education (Northern Ireland) Order 1998 (NI 13)

- 23.—(1) In Article 3(2)(b) for the words from “, the board for the area” to “Catholic Maintained Schools” substitute “or ESA”.
- (2) In Article 11(3)(a) for “the boards” substitute “ESA”.
- (3) In Article 13(2)(b)(i) for the words from “, the board for the area” to “Catholic Maintained Schools” substitute “or ESA”. 5
- (4) In Article 13(2)(b)(ii) for “Article 102 of the principal Order” substitute “section 39 of the Education Act (Northern Ireland) 2009”.
- (5) In Article 14(1) for “Article 102 of the 1986 Order” substitute “section 39 of the Education Act (Northern Ireland) 2009”. 10
- (6) In Article 16(7) for “boards to exercise their” substitute “ESA to exercise its”.
- (7) In Article 32(2)(a) after “controlled” insert “or Catholic maintained”.
- (8) In Article 35(3) for “an employing authority” substitute “ESA”.
- (9) In Article 37(1)(b) for “employing authorities” substitute “ESA”. 15
- (10) In Article 39(3) after “means” insert “ESA or” and for “Article 71” substitute “section 11 of the Education Act (Northern Ireland) 2009”.
- (11) In Article 40(4) for “Employing authorities” substitute “ESA”.
- (12) For the heading to Chapter 1 of Part 7 substitute “RECURRENT FUNDING”. 20
- (13) In Article 55(3)(c) and (6)(c) for “Council for Catholic Maintained Schools” substitute “trustees of the school”.
- (14) In Article 56(1)—
- (a) for “the board concerned” substitute “ESA”;
- (b) in sub-paragraph (b)(iii) for “Council for Catholic Maintained Schools” substitute “trustees of the school”; 25
- (c) in sub-paragraph (b) for the words “that Council” substitute “those trustees”.
- (15) In Article 56(2)(d) for “Council for Catholic Maintained Schools” substitute “trustees of the school”. 30
- (16) In Article 60(5) for “all the boards, the Council for Catholic Maintained Schools” substitute “ESA”.
- (17) In Article 60(8)(c) and (11)(c) for “Council for Catholic Maintained Schools” substitute “trustees of the school”.
- (18) In Articles 62 and 64 for “the relevant board” (wherever occurring) substitute “ESA”. 35
- (19) In Article 64(2)(b)(iii) for “Council for Catholic Maintained Schools” substitute “trustees of the school”.
- (20) In Article 67(5)(b) for “Council for Catholic Maintained Schools” substitute “trustees of the school”. 40
- (21) For the heading to Chapter 2 of Part 7 substitute “CAPITAL FUNDING”

(22) In Article 68—

(a) in paragraph (5) for “the Department” substitute “ESA”;

(b) in paragraph (6)(c)(i) for “after 8th August 1978” substitute “during the relevant period” and in paragraph (6)(c)(ii) for “after that period” substitute “during the relevant period”;

(c) in paragraph (6) after sub-paragraph (c) insert—

“(d) the payment to ESA by such person as may be prescribed of a sum where—

(i) any premises of a school in respect of which ESA has at any time paid a grant under paragraph (1)(a) cease to be used for approved purposes of a grant-aided school; or

(ii) any site in respect of which ESA has at any time paid a grant under paragraph (1)(a) ceases, in the opinion of ESA to be required for the purposes of a grant-aided school.”;

(d) after paragraph (6) insert—

“(6A) In paragraph (6) “the relevant period” means the period beginning on 8th August 1978 and ending with the coming into operation of section 16 of the Education Act (Northern Ireland) 2009”;

(e) in paragraph (7)(a) after “the Department” insert “or ESA”.

(23) In Article 70(1)—

(a) for “for the area in which a maintained school is situated shall” substitute “shall, in relation to a maintained school,”; and

(b) for sub-paragraphs (c) and (d) substitute—

“(c) employing, in accordance with section 3 of the Education Act (Northern Ireland) 2009, all teachers and other staff required on the staff of the school;”.

(24) In Schedule 1, in paragraph 1(2)(a)(ii) for “employing authorities” substitute “ESA”.

The Education (Student Support) (Northern Ireland) Order 1998 (NI 14)

24. In Article 4(1) for sub-paragraph (a) substitute—

“(a) the Education and Skills Authority, or”.

The Nationality, Immigration and Asylum Act 2002 (c. 41)

25. In section 38(3)(b) for “an Education and Library Board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3))” substitute “the Education and Skills Authority”.

The Income Tax (Earnings and Pensions) Act 2003 (c. 1)

26. In section 318C(5)(c) for “an education and library board” substitute “the Education and Skills Authority”.

The Education and Libraries (Northern Ireland) Order 2003 (NI 12)

27.—(1) In Article 3(4)(a) for “the boards” substitute “ESA”.

(2) In Article 18(1)(c) for the words from “the board” to the end substitute “and ESA”.

(3) In Article 37(5) for “A body to which this paragraph applies” substitute “ESA”.

The Income Tax (Trading and Other Income) Act 2005 (c. 5) 5

28. In section 71(3) for paragraph (a) substitute—
“(a) the Education and Skills Authority.”.

The Higher Education (Northern Ireland) Order 2005 (NI 5)

29.—(1) In Article 4(1)(a) for “paragraph (2)” substitute “paragraph (2A)”.

(2) In Article 13(7) in the definition of “student support authority” for “any board or” substitute “the Education and Skills Authority or any”. 10

The Special Educational Needs and Disability (Northern Ireland) 2005 (NI 6)

30.—(1) Paragraph 1 above applies in relation to the Order as it applies in relation to the Education Orders. 15

(2) In Article 13(2) after “Board of Governors” insert “ESA”.

(3) In Article 19(1) at the end add—

“(h) the Education Act (Northern Ireland) 2009.”.

(4) In the title to Article 21 for “Education” substitute “Educational”.

The Colleges of Education (Northern Ireland) Order 2005 (NI 13) 20

31. In Article 10(8) for “Article 101” substitute “Articles 101A and 101 respectively”

The Education (Northern Ireland) Order 2006 (NI 11)

32.—(1) In Article 10 for “NICCEA” wherever it occurs substitute “ESA”.

(2) In Article 12(4)(a)(ii) for “the relevant board, the Council for Catholic Maintained Schools (where the school is a Catholic maintained school)” substitute “ESA”. 25

(3) In Article 12(8) for sub-paragraphs (a) and (b) substitute “ESA”.

(4) In Article 13(3) for sub-paragraphs (a) and (b) substitute “the Department and ESA”. 30

(5) In Article 14(3)(c) and (4) for “the relevant board” substitute “ESA”.

(6) In Article 22(2) for sub-paragraphs (a) and (b) substitute “ESA”.

(7) In Article 22(3) for “relevant board” substitute “ESA”.

(8) In Article 24(4)(a) for “the boards” substitute “ESA”.

(9) In Article 31(2)(a)(i) for “the relevant board” substitute “ESA”. 35

(10) In Article 31(3) for sub-paragraphs (a) and (b) substitute “ESA and the Board of Governors of the school”.

(11) In Article 31(5)(a) for “the boards” substitute “ESA”.

(12) In Article 32(1) and (7)(d) for “the relevant board” substitute “ESA”.

*The Safeguarding Vulnerable Groups (Northern Ireland) Order 2007
(NI 11)*

- 5 33.—(1) In Article 2(2) before the definition of “HSS body” insert—
“ “ESA” means the Education and Skills Authority;”.
- (2) In Article 25(10)—
- (a) in sub-paragraph (a) for “an education and library board” substitute
“ESA”;
- 10 (b) in sub-paragraph (d) for “Article 102 of the Education and Libraries
(Northern Ireland) Order 1986” substitute “section 37 of the Education
Act (Northern Ireland) 2009”.
- (3) In Article 41—
- (a) in the title, for “Education and Library Boards” substitute “ESA”;
- 15 (b) in paragraph (1) for “An Education and Library Board (“a board”)”
substitute “ESA”;
- (c) in paragraphs (2), (4), (5)(a) and (6) for “the board or” substitute “ESA or
the”;
- (d) in paragraph (5) for “A board” substitute “ESA”.
- 20 (4) In Article 42—
- (a) in the title, for “Education and Library Boards” substitute “ESA”;
- (b) in paragraph (2)—
- (i) for “an education and library board” substitute “ESA”;
- (ii) for “that board or” substitute “ESA or that”;
- 25 (c) in paragraph (3) for “The board or” substitute “ESA or the”.
- (5) In Article 47(7)(b) for “Article 102 of the Education and Libraries
(Northern Ireland) Order 1986” substitute “section 37 of the Education Act
(Northern Ireland) 2009”.
- (6) In Schedule 2—
- 30 (a) in paragraph 1(8)(a) for “Article 102 of the Education and Libraries
(Northern Ireland) Order 1986” substitute “section 37 of the Education
Act (Northern Ireland) 2009”;
- (b) in paragraph 4(1)(e) for “an education and library board” substitute
“ESA”;
- 35 (c) for paragraph 4(1)(f) substitute—
“(f) chief executive of ESA;”.

SCHEDULE 8

REPEALS

Short Title	Extent of repeal	
The School Sites Act (Northern Ireland) 1928 (c. 8)	Section 3(2).	5
The Superannuation (Northern Ireland) Order 1972 (NI 10)	Article 11(4). In Article 11(6) the definition of “injury benefit”.	
The Health and Personal Social Services (Northern Ireland) Order 1972 (NI 14)	In Article 2(2) the definition of “Education and Library Board”.	10
The Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Schedule 1 in Part 3 the entry relating to the Chairman of the Staff Commission for Education and Library Boards in Northern Ireland.	15
The Sex Discrimination (Northern Ireland) Order 1976 (NI 15)	In Article 2(2) the definition of “Education and Library Board”.	20
The Education and Libraries (Northern Ireland) Order 1986 (NI 3)	In Article 2(2)— (a) in the definition of “contributory school” the words “responsible for the management of the controlled secondary school”; (b) in paragraph (a) of the definition of “managers” the words “responsible for its management”; (c) the definitions of “newspaper” and “the funding departments”.	25 30
	Article 2(3). Part 2. Article 5(2).	
	In Article 6— (a) in paragraph (1) the words “in its area” and “for an area”; (b) in paragraph (1A) the words “in its area” and sub-paragraph (b) and the word “and” immediately before it.	35
	In Article 7 the words “within its area” and “by Article 7(2) of the 1972 Order”.	40
	Articles 9A to 9D. In Article 10— (a) in paragraph (1) the words “under its	

Short Title	Extent of repeal
5	<p>management”;</p> <p>(b) in paragraph (2) the words “under the management of a board”;</p> <p>(c) paragraph (5).</p> <p>In Article 13(3D) the words “except Schedule 8 to the 1989 Order”.</p>
10	<p>In Article 16(1) and (2) the words “for the area in which the school is situated”.</p> <p>In Article 16(4)(a) the words “to the Department”.</p> <p>Article 17(5) and (7).</p> <p>In Article 17A(2)(g) the word “educational”.</p>
15	<p>In Article 22(1) and (2) the words “which controls the school”.</p> <p>Article 37.</p> <p>In Article 46A—</p>
20	<p>(a) in paragraph (4) the words “for the area in which he resides”;</p> <p>(b) in paragraph (9) the definition of “relevant board”.</p> <p>In Article 49—</p>
25	<p>(a) paragraph (2);</p> <p>(b) in paragraph (3)(a) the words “(other than a Catholic maintained school)”;</p> <p>(c) in paragraph (5)(a) the words “responsible for the management of the school”;</p>
30	<p>(d) in paragraph (6)(a) the words “situated in the area of the board”;</p> <p>(e) in paragraph (12) the words “in like manner as it applies to members of a board”.</p>
35	<p>In Article 53(1) the words “and is ordinarily resident within its area”.</p> <p>In Article 54 the words “and is ordinarily resident within its area”.</p> <p>Article 57.</p>
40	<p>In Article 58(3) the words “in its area”.</p> <p>Article 65.</p> <p>Article 69(5).</p> <p>In Article 79—</p>
45	<p>(a) in paragraph (2) the words “in like manner as it applies to members of a board”;</p> <p>(b) paragraph (3).</p> <p>Articles 80 to 86.</p> <p>Article 88.</p> <p>In Article 88A(3) the words “or by the</p>

Short Title	Extent of repeal	
	managers of a grant-maintained integrated school or of a voluntary school (other than a maintained school)".	
	In Article 89— (a) paragraph (1)(a); (b) in paragraph(1)(b) the words “managed by a board or a maintained school”.	5
	Article 90(2).	
	Articles 91A and 92.	10
	In Article 93 the words “either alone or together with another board or other boards”.	
	In Article 94— (a) in paragraph (5) the words “in the area of the board making the bye-law”; (b) in paragraph (6) the words “by which the bye-laws were made”.	15
	Articles 95 to 99.	
	Articles 102 and 102A.	20
	In Article 106(4)(a) the words “in paragraph (5)” and the words from “and the reference” to the end.	
	In Article 107(2) the words “by virtue of the said Article 96(1)”.	25
	Article 110.	
	Article 112.	
	Article 119A.	
	In Article 128 the words from “or for any of the purposes” to the end.	30
	Article 130.	
	Article 131(a).	
	Schedules 1 to 3.	
	In Schedule 4—	
	(a) in paragraph 5(4) the words from “and it shall be the duty” to the end;	35
	(b) in paragraph 6(5) the words “in the area of the board as a whole”;	
	(c) in paragraph 7, in the definition of “assistant teacher” the words “or part-time”.	40
	In Schedule 5, in paragraph 7(1) the definition of “board”.	
	In Schedule 6—	
	(a) in paragraph 1(2) the words from “and the board for the area in which” to the end;	45
	(b) paragraph 2.	

Short Title	Extent of repeal
5	<p>In Schedule 13—</p> <p>(a) in paragraph 1(1) the words “in its area”;</p> <p>(b) in paragraph 5(3) the words “who is for the time being in its area”.</p> <p>Schedule 15.</p> <p>In Part 2 of Schedule 16, in paragraph 1 the words “or the board”.</p>
10	<p>The Education (Northern Ireland) Order 1987 (NI 2)</p> <p>Article 4. Article 7. Articles 11 and 12.</p>
15	<p>The Disabled Persons (Northern Ireland) Act 1989 (c. 10)</p> <p>In section 5(9) the definition of “the responsible education and library board” and the word “and” immediately before it.</p> <p>In section 6(1)(a) the words “(whether it was given to that education and library board or not)”.</p>
20 25 30 35 40	<p>The Education Reform (Northern Ireland) Order 1989 (NI 20)</p> <p>Article 69(4)(b)(iii). Article 76.</p> <p>In Article 79(1) the words “for the area in which the school is situated”.</p> <p>In Article 80(2), (4) and (6) the words “for the area in which the school is situated”.</p> <p>In Article 83—</p> <p>(a) in paragraph (1)(a) the words “which is to manage the school”;</p> <p>(b) in paragraph (4) the words “by which the controlled school mentioned in that sub-paragraph was managed”.</p> <p>In Article 87(3) the definition of “relevant board”.</p> <p>In Article 92(5) the words “making the proposal”.</p> <p>Article 96. Article 99(1)(c). Article 123. Article 125(2)(c)(vi).</p> <p>In Article 135—</p> <p>(a) in paragraph (2) the words “who is ordinarily resident in its area” and the words “board or”;</p> <p>(b) in paragraph (3) the words “who is ordinarily resident in its area” and the</p>

Short Title	Extent of repeal	
	words “to another board or”.	
	Part 9.	
	Articles 148 and 149.	
	In Article 151—	5
	(a) in paragraph (2)(a) the words “and the governing bodies of institutions of further education”;	
	(b) paragraphs (3) and (5).	
	Article 153.	10
	Article 158.	
	Article 160.	
	Article 162.	
	In Schedule 5, in paragraph 2(2), in the definition of “assistant teacher” the words “or part-time”.	15
	In Schedule 6, paragraph 2(b)(i).	
	Schedule 8.	
	In Schedule 9, the amendments to Articles 3, 4, 92 and 130 of, and Schedule 15 to, the Education and Libraries (Northern Ireland) Order 1986.	20
The Youth Service (Northern Ireland) Order 1989 (NI 22)	The whole Order.	25
The Pensions (Northern Ireland) Order 1990 (NI 13)	Article 13.	
The Education and Libraries (Northern Ireland) Order 1993 (NI 12)	Part 3. Articles 31 and 32. Article 42(2) and (5). Article 44.	30
	In Schedule 4, Part 1 and in Part 2 the amendment to Article 9B of the Education and Libraries (Northern Ireland) Order 1986.	
The Children (Northern Ireland) Order 1995 (NI 2)	Article 47(4). Article 55(6). Article 138(2) and (7). Article 139(3), (4) and (5). Article 143(2).	35
The Education (Northern Ireland) Order 1996 (NI 1)	In Article 6(2)— (a) in sub-paragraph (a) the words “in its area”;	40

Short Title	Extent of repeal
<p data-bbox="209 405 240 434">5</p> <p data-bbox="209 584 240 613">10</p> <p data-bbox="209 763 240 792">15</p> <p data-bbox="209 943 240 972">20</p> <p data-bbox="209 1122 240 1151">25</p> <p data-bbox="209 1301 240 1330">30</p> <p data-bbox="209 1480 240 1509">35</p> <p data-bbox="209 1704 240 1733">40</p> <p data-bbox="209 1883 240 1912">45</p> <p data-bbox="304 1675 639 1778">The Commissioner for Complaints (Northern Ireland) Order 1996 (NI 7)</p>	<p data-bbox="751 300 1129 329">(b) sub-paragraphs (b) and (c).</p> <p data-bbox="703 338 922 367">In Article 9(2)—</p> <p data-bbox="751 376 1278 441">(a) in sub-paragraph (a) the words “for the area in which the school is situated”;</p> <p data-bbox="751 450 1278 515">(b) sub-paragraph (c) and the word “and” immediately before it.</p> <p data-bbox="703 524 1193 553">In Article 10(1) the words “in its area”.</p> <p data-bbox="703 562 1278 627">In Article 13(3) the words “he is in the area of the board and”.</p> <p data-bbox="703 636 1193 665">In Article 21(1) the words “in its area”.</p> <p data-bbox="703 674 1278 739">In Articles 21A and 21B the words “in its area” wherever they occur.</p> <p data-bbox="703 748 842 777">Article 29.</p> <p data-bbox="703 786 842 815">Article 33.</p> <p data-bbox="703 824 874 853">Article 37(5).</p> <p data-bbox="703 862 1278 927">In Article 39(4)(b) the words “to the Department”.</p> <p data-bbox="703 936 906 965">In Article 42—</p> <p data-bbox="751 974 1278 1039">(a) in paragraph (1) the words “in its area”;</p> <p data-bbox="751 1048 1114 1077">(b) paragraph (5)(c) and (d).</p> <p data-bbox="703 1086 922 1115">In Schedule 2—</p> <p data-bbox="751 1124 1278 1189">(a) paragraph 6(3)(b) and the word “and” immediately before it;</p> <p data-bbox="751 1198 1007 1227">(b) paragraph 10(2).</p> <p data-bbox="703 1236 922 1265">In Schedule 4—</p> <p data-bbox="751 1274 1278 1384">(a) in paragraph 3(2)(b) the words “in the case of a controlled school” and “responsible for the management of the school”;</p> <p data-bbox="751 1393 1278 1458">(b) in paragraph 3(2)(c) the words from “and (where the school” to the end;</p> <p data-bbox="751 1467 1278 1554">(c) in paragraph 4(3)(c) the words “responsible for the management of the schools in question”;</p> <p data-bbox="751 1563 1278 1628">(d) in paragraph 4(3)(d) the words from “and (where the schools” to the end.</p> <p data-bbox="703 1682 1278 1921">In Schedule 2 the entries relating to the Council for Catholic Maintained Schools, the Northern Ireland Council for the Curriculum, Examinations and Assessment, the Staff Commission for Education and Library Boards and the Youth Council for Northern Ireland.</p>

Short Title	Extent of repeal	
The Employment Rights (Northern Ireland) Order 1996 (NI 16)	Article 78(7)(b) and (c).	
The Education (Northern Ireland) Order 1997 (NI 5)	<p>In Article 9—</p> <p>(a) in paragraph (1) the words “resident in the area of the board”;</p> <p>(b) paragraph (3).</p> <p>In Articles 11(7) and 12(7) the words from “for the area in which” to the end.</p> <p>In Article 15(1) the words “situated in the area of the board”.</p> <p>In Article 16(2)(a) the words “responsible for the management of the school”.</p> <p>In Article 17—</p> <p>(a) in paragraphs (1)(b) and (4) the words “in its area”;</p> <p>(b) in paragraph (5) the words “situated in the area of the board”.</p> <p>In Article 25—</p> <p>(a) in paragraph (1), in the Table, in the second column of entry 1 the words “by which the school is managed”;</p> <p>(b) paragraph (8).</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p>
The Race Relations (Northern Ireland) Order 1997 (NI 6)	In Article 19, paragraph (b) and the word “and” immediately before it.	25
The Further Education (Northern Ireland) Order 1997 (NI 15)	Article 2(3) and (8). Article 10. Article 23(3). Schedule 2.	30
The Education (Northern Ireland) Order 1998 (NI 13)	<p>Article 1(3)(e).</p> <p>In Article 6—</p> <p>(a) in paragraphs (2)(a), (5)(b) and (6)(b) the words “situated in its area”;</p> <p>(b) paragraph (5)(a) and (c).</p> <p>Article 11(3)(b).</p> <p>In Article 14(4) the words from “for the area” to the end.</p> <p>Article 16(6)(b) and the word “and” immediately before it.</p> <p>In Article 17(1) the words “for children resident in the area of the board”.</p> <p>Articles 19 and 20.</p> <p>In Article 23—</p> <p>(a) in paragraph (1) the words “resident in</p>	<p>35</p> <p>40</p> <p>45</p>

Short Title	Extent of repeal
5	<p>the area of the board”;</p> <p>(b) paragraph (3).</p> <p>In Article 25(8) the words from “for the area” to the end.</p> <p>In Article 27(1) the words “situated in the area of the board”.</p> <p>In Article 29(8) the words from “for the area” to the end.</p>
10	<p>In Article 31(1) the words “situated in the area of the board”.</p> <p>In Article 32(2) the words from “responsible for the management” to the end.</p> <p>In Article 33—</p>
15	<p>(a) in paragraphs (1)(b) and (4) the words “in its area”;</p> <p>(b) in paragraph (5) the words “situated in the area of the board”.</p>
20	<p>Article 36(3)(f)(iii) and the word “or” immediately before it.</p> <p>In Article 39(1) the words “or authorising the Department where it is the issuing authority”.</p> <p>In Article 41, the definition of “employing authority”.</p> <p>Article 43.</p> <p>Article 58.</p> <p>In Article 59(1)(b) the word “concerned”.</p> <p>In Article 60—</p>
25	<p>(a) in paragraph (5) the words “and the Council for Catholic Maintained Schools”;</p> <p>(b) in paragraph (12) the word “concerned”.</p> <p>In Article 61(1) and (3) the words “situated in its area”.</p> <p>In Article 62(13) the definition of “relevant board”.</p> <p>In Article 63(1) and (3) the words “situated in its area”.</p> <p>In Article 64(13) the definition of “relevant board”.</p> <p>In Article 67A(3) the definition of “the board”.</p> <p>In Article 68(7)(d) the words “subject to paragraph (6)(c).</p> <p>In Article 70—</p>
30	<p>(a) paragraph (4);</p> <p>(b) in paragraph (5) the words “situated</p>
35	
40	
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Short Title	Extent of repeal
	<p>in its area”;</p> <p>(c) paragraphs (7) and (9).</p> <p>Article 71.</p> <p>In Article 72(2) the words “which is under the management of the board”.</p> <p>Part 8.</p> <p>Article 81.</p> <p>In Article 83—</p> <p>(a) in paragraph (2)(b) the words “is resident in its area and”;</p> <p>(b) paragraph (3).</p> <p>In Article 87—</p> <p>(a) in paragraph (3) the words “in its area”;</p> <p>(b) paragraph (6)(c) and (d).</p> <p>Schedule 2.</p> <p>Schedule 3.</p> <p>In Schedule 4, in paragraph 1(8) the words “or by Article 20 of the Education and Libraries (Northern Ireland) Order 1993”.</p> <p>In Part 2 of Schedule 5 the amendment to the Exchequer and Financial Provisions Act (Northern Ireland) 1950.</p>
The Audit and Accountability (Northern Ireland) Order 2003 (NI 5)	<p>Article 5(1)(a).</p> <p>In Schedule 1, paragraph 1.</p>
The Education and Libraries (Northern Ireland) Order 2003 (NI 12)	<p>Article 1(5).</p> <p>In Article 3—</p> <p>(a) paragraphs (4)(b) and (5)(b);</p> <p>(b) in paragraph (6)(a) the words “in its area”.</p> <p>In Article 7—</p> <p>(a) in paragraph (1)(a) the words “in its area”;</p> <p>(b) paragraph (3)(b) and the word “and” immediately before it.</p> <p>In Article 8(2) the definition of “the board”.</p> <p>Part 3.</p> <p>In Article 22(1) the words “in its area”.</p> <p>Article 24.</p> <p>Article 29(3) to (6).</p> <p>Articles 30 to 33.</p> <p>Article 35(3).</p> <p>Article 37—</p> <p>(a) paragraph (2)(a), (e), (f) and (g);</p>

Short Title	Extent of repeal
5	(b) paragraph (6); (c) paragraph (8)(a) and (d) and the word “and” at the end of paragraph (8)(c). Article 38. In Schedule 2, paragraphs 1 to 4, 6 and 7.
10	The Special Educational Needs and Disability (Northern Ireland) Order 2005 (NI 6) In Article 13(2) the word “board”. In Article 14(5)(a) the words “for the area in which the school is situated”. In Article 17(1) the words “under its management”. In Article 19(1)(a) the words “(except Article 37 and Part VII)”. Article 34(6)(a)(ii).
15	The Colleges of Education (Northern Ireland) Order 2005 (NI 13) Article 10(9). Article 12(4).
20	The Education (Northern Ireland) Order 2006 (NI 11) In Article 3— (a) in paragraph (1) the definitions of “NICCEA” and “relevant board”; (b) paragraph (6). Article 14(3)(b). Article 23. Article 24(4)(b). In Article 25(1) the words “in its area”. Article 31(6). Article 36. Articles 40 and 41. In Schedule 2, paragraphs 5, 18, 19 and 41 to 44.
25	The Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (NI 11) Article 25(10)(c).
35	The Libraries Act (Northern Ireland) 2008 (c. 8) In Schedule 1, in paragraph 14(2) the words “by a person authorised by the Department”.