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STATUTORY INSTRUMENTS

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**1997 No. 866 (N.I. 5)**

**The Education (Northern Ireland) Order 1997**

- - - - - 19th March 1997

**PART I**  
**INTRODUCTORY**

**Title and commencement**

- 1.—(1) This Order may be cited as the Education (Northern Ireland) Order 1997.
- (2) In this Order—
- (a) Parts I and II shall come into operation on the expiration of 2 months from the day on which this Order is made;
  - (b) Part III shall come into operation on 1st October 1997 (subject to Article 19);
  - (c) Articles 23 to 25 shall come into operation on 1st August 1997;
  - (d) Article 26 shall come into operation on the day appointed under Article 1(3) of the Education (Northern Ireland) Order 1996 for the coming into operation of Article 24 of that Order.

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

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

“the 1989 Order” means the Education Reform (Northern Ireland) Order 1989.

(3) This Order shall be construed as one with the 1986 Order, the 1989 Order, the Education and Libraries (Northern Ireland) Order 1993 and the Education (Northern Ireland) Order 1996; and accordingly Article 2(2) of the 1986 Order, in so far as it relates to the definition of words or expressions used in that Order and in this Order, shall apply for the purposes of this Order as it applies for the purposes of that Order.

*Para. (4) rep. by 1997 NI 15*

*Part II (Arts 3#8) rep. by 1998 NI 13*

### PART III

#### ADMISSION OF CHILDREN TO GRANT-AIDED SCHOOLS

##### Parental preference

9.—(1) [<sup>F1</sup>The Authority] shall make arrangements for the parent of a child <sup>F2</sup>...—

- (a) to express (in order of preference) his preferences as to the school at which he wishes education to be provided for his child; and
- (b) to give reasons for his preferences.

(2) Where the parent of a child has expressed his preferences under arrangements .under paragraph (1). then for the purposes of this Part—

- (a) the parent shall be taken as making an application for admission of the child to the school which is the first preference of the parent; and
- (b) if that application is refused, the parent shall then be taken as making an application for admission of the child to the school which is the second preference of the parent,

and so on, taking each preference of the parent in order.

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

<b>F1</b>	Words in Order substituted (1.4.2015) by <a href="#">Education Act (Northern Ireland) 2014 (c. 12)</a> , <b>Sch. 3 para. 1(1)(a)</b> (with <a href="#">Sch. 2 para. 4(3)</a> , <a href="#">Sch. 3 para. 1(2)</a> ); S.R. 2015/35, art. 2(b)
<b>F2</b>	Words in <a href="#">art. 9(1)</a> repealed (1.4.2015) by <a href="#">Education Act (Northern Ireland) 2014 (c. 12)</a> , <b>Sch. 4</b> (with <a href="#">Sch. 2 para. 4(3)</a> ); S.R. 2015/35, art. 2(b)
<b>F3</b>	<a href="#">Art. 9(3)</a> repealed (1.4.2015) by <a href="#">Education Act (Northern Ireland) 2014 (c. 12)</a> , <b>Sch. 4</b> (with <a href="#">Sch. 2 para. 4(3)</a> ); S.R. 2015/35, art. 2(b)

##### Duties of Board of Governors in relation to admissions

10.—(1) It shall be the duty of the Board of Governors of a grant-aided school to make arrangements for the admission of children to the school in accordance with the following provisions of this Part.

(2) The Board of Governors of a grant-aided school shall not—

- (a) admit to the school in any school year a number of children in the relevant age group which exceeds the school's admissions number for that school year; or
- (b) cause or permit the number of registered pupils at the school at any time to exceed the school's enrolment number.

(3) In calculating for the purposes of paragraph (2) the number of children in the relevant age group admitted to a school in any school year, no account shall be taken of any child in that age group admitted to the school in compliance with—

- (a) a direction of an appeal tribunal;
- [<sup>F4</sup>(aa) a direction of the body constituted by regulations under Article 16A(6);]
- (b) a direction under Article 42 of the Education (Northern Ireland) Order 1996; or
- (c) a school attendance order.

(4) In calculating for the purposes of paragraph (2) the number of registered pupils at a school at any time in a school year, no account shall be taken of any pupil first registered at the school in that school year in compliance with—

- (a) a direction of an appeal tribunal;
- [<sup>F5</sup>(aa) a direction of the body constituted by regulations under Article 16A(6);]
- (b) a direction under Article 42 of the Education (Northern Ireland) Order 1996; or
- (c) a school attendance order.

**F4** Art. 10(3)(aa) inserted (1.10.2006) by [Education \(Northern Ireland\) Order 2006 \(S.I. 2006/1915 \(N.I. 11\)\)](#), arts. 1(5), **29(2)** (and with transitional reference in art. 1(5))

**F5** Art. 10(4)(aa) inserted (1.10.2006) by [Education \(Northern Ireland\) Order 2006 \(S.I. 2006/1915 \(N.I. 11\)\)](#), arts. 1(5), **29(3)** (and with transitional reference in art. 1(5))

### Determination of enrolment number for a school

**11.**—(1) In this Part any reference to a school's enrolment number is a reference to the number for the time being applying under the following provisions of this Article to the school.

(2) The enrolment number applying to a school shall be such number as the Department may determine having regard in particular to —

- (a) the requirements of directions under Article 18 of the 1986 Order which apply in relation to the school; and
- (b) the accommodation available for use by pupils at the school, other than—
  - (i) in the case of a boarding school, so much of the accommodation as is used wholly or mainly for boarding purposes; and
  - (ii) in the case of a grammar school, so much of the accommodation as is not available for use by pupils of the secondary department.

(3) The Department may at any time vary a school's enrolment number.

(4) Before making any determination under paragraph (2) or variation under paragraph (3) in relation to a school, the Department shall consult the bodies mentioned in paragraph (7).

(5) Paragraph (4) does not require consultation with the Board of Governors of a school in relation to a variation of the school's enrolment number made by the Department at the request of the Board of Governors.

(6) After making any determination under paragraph (2) or variation under paragraph (3) in relation to a school, the Department shall send notice of the determination or variation to the bodies mentioned in paragraph (7).

(7) The bodies referred to in paragraphs (4) and (6) are—

- (a) the Board of Governors of the school;
- (b) [<sup>F1</sup>the Authority]<sup>F6</sup>...; and
- (c) where the school is a Catholic maintained school, the Council for Catholic Maintained Schools.

**F1** Words in Order substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 3 para. 1(1)(a)** (with [Sch. 2 para. 4\(3\)](#), [Sch. 3 para. 1\(2\)](#)); S.R. 2015/35, art. 2(b)

**F6** Words in art. 11(7)(b) repealed (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 4** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

### Determination of admissions number for a school

**12.**—(1) In this Part any reference to a school's admissions number for a school year is a reference to the number for the time being applying under the following provisions of this Article to the school in relation to that school year.

(2) The admissions number applying to a school for any school year shall be such number as the Department may determine, having regard in particular to—

- (a) the requirements of directions under Article 18 of the 1986 Order which apply in relation to the school; and
- (b) the school's enrolment number; <sup>[F7]</sup> and]

<sup>[F7]</sup>(c) the requirements of Article 16 of the Education (Northern Ireland) Order 1998 (limit on class sizes)]

(3) The Department may at any time vary a school's admissions number for a school year.

(4) Before making any determination under paragraph (2) or variation under paragraph (3) in relation to a school, the Department shall consult the bodies mentioned in paragraph (7).

(5) Paragraph (4) does not require consultation with the Board of Governors of a school in relation to a variation of the school's admissions number made by the Department at the request of the Board of Governors.

(6) After making any determination under paragraph (2) or variation under paragraph (3) in relation to a school, the Department shall send notice of the determination or variation to the bodies mentioned in paragraph (7).

(7) The bodies referred to in paragraphs (4) and (6) are—

- (a) the Board of Governors of the school;
- (b) <sup>[F1]</sup>the Authority<sup>[F8]</sup>...; and
- (c) where the school is a Catholic maintained school, the Council for Catholic Maintained Schools.

<b>F1</b>	Words in Order substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), <b>Sch. 3 para. 1(1)(a)</b> (with Sch. 2 para. 4(3), Sch. 3 para. 1(2)); S.R. 2015/35, art. 2(b)
<b>F7</b>	1998 NI 13
<b>F8</b>	Words in art. 12(7)(b) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), <b>Sch. 4</b> (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

### Admission to primary or secondary school <sup>F9</sup> . . .

**13.**—(1) This Article applies to applications for the admission of a child to a primary school or a secondary school <sup>F10</sup> . . . ; and in this Article—

- (a) paragraph (2) applies to an application for the admission of a child in the relevant age group where the proposed admission is to take effect at the beginning of the first term of the school year;
- (b) paragraph (3) applies to an application for the admission of a child in the relevant age group where the proposed admission is to take effect at any later time in the school year; and
- (c) paragraphs (4) and (5) apply to an application for the admission of a child who is not in the relevant age group.

(2) Where an application to which this paragraph applies is made, the Board of Governors—

- (a) shall admit the child to the school if the total number of such applications does not exceed the admissions number of the school; and
- (b) in any other case, shall—
  - (i) apply the criteria drawn up under Article 16(1) to select for admission to the school a number of children equal to the school's admissions number; and
  - (ii) admit, or refuse to admit, the child to the school accordingly.
- (3) Where an application to which this paragraph applies is made, the Board of Governors shall—
  - (a) if, at the time the application is considered, there are vacant places in the relevant age group at the school—
    - (i) admit the child to the school, if the total number of such applications falling to be considered at that time does not exceed the number of vacant places;
    - (ii) in any other case, apply the criteria drawn up under Article 16(1) to select for admission to the school a number of children equal to the number of vacant places and admit, or refuse to admit, the child to the school accordingly;
  - (b) if, at that time, there are no vacant places in the relevant age group at the school, refuse to admit the child to the school.
- (4) Where an application to which this paragraph applies is made, the Board of Governors shall—
  - (a) if, at the time the application is considered, there are vacant places at the school—
    - (i) admit the child to the school, if the total number of such applications falling to be considered at that time does not exceed the number of vacant places;
    - (ii) in any other case, apply the criteria drawn up under Article 16(1) to select for admission to the school a number of children equal to the number of vacant places and admit, or refuse to admit, the child to the school accordingly;
  - (b) if, at that time, there are no vacant places at the school, refuse to admit the child to the school.
- (5) The Board of Governors may refuse to admit a child to the school in the circumstances mentioned in paragraph (4)(a)(i) or (ii) where it is of the opinion that the admission of the child to the school would prejudice the efficient use of resources.

**F9** Art. 13: words in heading repealed (1.10.2006) by [Education \(Northern Ireland\) Order 2006 \(S.I. 2006/1915 \(N.I. 11\)\)](#), arts. 1(5), 27(2), 44(2), **Sch. 3 Pt. II** (and with transitional reference in art. 1(5))

**F10** Words in art. 13(1) repealed (1.10.2006) by [Education \(Northern Ireland\) Order 2006 \(S.I. 2006/1915 \(N.I. 11\)\)](#), arts. 1(5), 27(2), 44(2), **Sch. 3** (and with transitional reference in art. 1(5))

**Admission to grammar schools**

**14.** <sup>F11</sup> .....

**F11** Art. 14 repealed (1.10.2006) by [Education \(Northern Ireland\) Order 2006 \(S.I. 2006/1915 \(N.I. 11\)\)](#), arts. 1(5), 27(1), 44(2), **Sch. 3 Pt. II** (and with transitional reference in art. 1(5))

**Appeals against certain admission decisions under Articles 13 and 14**

**15.**—(1) Subject to paragraph (2), [<sup>F1</sup>the Authority] shall make arrangements for enabling the parent of a child to appeal against any decision made under Article 13 <sup>F12</sup>. . . by the Board of Governors of a grant-aided school <sup>F13</sup>... refusing the child admission to the school.