

Education Bill

[AS INTRODUCED]

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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:

PART 1

THE EDUCATION AND SKILLS AUTHORITY

ESA

The Education and Skills Authority

5 **1.**—(1) There shall be a body corporate to be known as the Education and Skills Authority (referred to in this Act as “ESA”).

(2) Schedule 1 applies in relation to ESA.

Functions and general duty of ESA

10 **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 is the duty of ESA (so far as its powers extend)—

15 (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;

(b) to ensure the provision of efficient and effective youth services that contribute towards the spiritual, moral, cultural, social, intellectual and physical development of those for whom those services are provided;

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- (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;
 - (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. 5
- (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. 10
- (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) 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 encouraging and facilitating the development of education provided in an Irish speaking school. 15
- (6) ESA shall exercise on behalf of the Department such administrative functions of the Department as the Department may direct.
- (7) ESA shall exercise on behalf of DEL such administrative functions relating to further or higher education as DEL may direct. 20
- (8) A direction under subsection (6) or (7)—
- (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. 25
- (9) 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 30

ESA to employ all staff of grant-aided schools

- 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 10 and Schedule 2 make further provision in connection with that made by subsection (1) and in those sections and that Schedule and in sections 12 and 13— 35
- (a) “the submitting authority”, in relation to a grant-aided school, means—
 - (i) in the case of a controlled or grant-maintained integrated school, the Board of Governors of the school; 40
 - (ii) in the case of a voluntary school, the trustees of the school or (if the trustees so determine) 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.

5 (3) Where the trustees of a voluntary school are the submitting authority for the school, the trustees shall, in exercising their functions as the submitting authority, consult with and have due regard to the views of the Boards of Governors.

(4) If a scheme is approved by ESA, Boards of Governors have right of referral to the tribunal for test of compatibility with the Heads of Agreement. The Tribunal shall have the power to approve or amend the scheme to ensure compatibility with the legislation and Heads of Agreement.

10 (5) Nothing in this section or any of the provisions mentioned in subsection (2) affects the functions of Boards of Governors under Article 16 of the 1997 Order or Article 32 of the 1998 Order (Boards of Governors to draw up admission criteria for grant-aided schools).

Employment schemes for grant-aided schools

15 **4.—**(1) For every grant-aided school there shall be a scheme under this section (“an employment scheme”).

(2) An employment scheme—

(a) shall include the provisions required by Schedule 2 or any other provision of the Education Orders to be included in the scheme;

20 (b) may include such other provisions as are authorised by this section or any other provision of the Education Orders to be included in the scheme.

(3) The employment scheme for a school may include provisions—

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

25 (b) specifying procedures to be followed in relation to any matter dealt with in the scheme;

(c) imposing duties on ESA and the Board of Governors or principal of the school;

30 (d) for functions of the Board of Governors or principal under the scheme to be exercised on behalf of, and in the name of, ESA.

(4) ESA shall draw up and publish the procedures to be followed by ESA in selecting a person for appointment in accordance with any provision included in an employment scheme by virtue of paragraph 3(1)(a) of Schedule 2.

(5) The employment scheme for a grant-aided school shall—

35 (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, be consistent with any instrument of government and the scheme of management of the school;

40 (c) be prepared having regard to any guidance issued under section 5(2).

(6) The Department may by order amend Schedule 2 (and make any necessary consequential amendment to subsection (4)).

(7) In sections 5 to 8 references to “the statutory requirements”, in relation to an employment scheme or revised employment scheme, are references to the requirements of subsections (2)(a) and (5)(a), (b) and (c).

Preparation and approval of employment schemes

5.—(1) Except where section 6(2)(b) applies, it is the duty of the submitting authority of a grant-aided school— 5

- (a) to prepare an employment scheme for the school; and
- (b) to submit that scheme to ESA for its approval on or before such date as ESA may direct.

(2) The Department may, with the approval of the Office of the First Minister and deputy First Minister, issue such guidance as the Department thinks fit as to the provisions it regards as suitable for inclusion in employment schemes; and such guidance— 10

- (a) shall include model schemes regarded by the Department as suitable for particular descriptions of schools; 15
- (b) shall be kept under review and revised by the Department from time to time; and
- (c) shall be published in such manner as the Department thinks fit.

(3) Where it submits an employment scheme 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. 20

(4) ESA shall approve without modification a scheme submitted to it under subsection (1)(b) unless ESA determines that the scheme does not comply with the statutory requirements. 25

(5) Where ESA so determines, then—

- (a) if ESA and the submitting authority agree on such modifications to the scheme as ESA determines to be necessary to ensure that the scheme complies with the statutory requirements, ESA shall approve the scheme with the agreed modifications; and 30
- (b) in any other case, ESA shall refer the scheme to the tribunal established by regulations under section 62.

(6) An employment scheme approved by ESA under subsection (4) or (5)(a) comes into force on such date as ESA may, in giving approval, specify. 35

Reserve power of ESA to make employment scheme

6.—(1) Where either of the conditions specified in subsection (2) is satisfied in relation to a school, ESA may, with the approval of the Department, make an employment scheme for the school.

(2) The conditions are— 40

- (a) the submitting authority of the school fails to submit a scheme to ESA as required by section 5(1)(b), or

(b) the submitting authority of the school requests ESA to exercise its powers under subsection (1) in relation to the school.

5 (3) 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(2) or in the terms of such a scheme with such modifications as ESA may specify.

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

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

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

(5) Before making a 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—

15 (a) shall, if revised guidance issued under section 5(2) so requires, and

(b) may, at any other time,

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

(2) ESA shall approve without modification a revised scheme submitted to it under subsection (1) unless ESA determines that the revised scheme does not comply with the statutory requirements.

(3) Where ESA so determines, then—

25 (a) if ESA and the submitting authority agree on such modifications to the revised scheme as ESA determines to be necessary to ensure that the revised scheme complies with the statutory requirements, ESA shall approve the revised scheme with the agreed amendments; and

(b) in any other case, ESA shall refer the revised scheme to the tribunal established under section 62.

(4) A revised employment scheme approved by ESA under subsection (2) or (3)(a) comes into force on such date as ESA may, in giving approval, specify.

30 (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.

Procedure where ESA does not approve a submitted scheme

35 8.—(1) This section applies where ESA does not approve a scheme or revised scheme submitted to it for approval under section 5 or 7 (“the submitted scheme”) and the submitted scheme is accordingly referred to the tribunal established by regulations under section 62 (“the tribunal”).

(2) The tribunal shall determine whether the submitted scheme complies with the statutory requirements.

40 (3) Where the tribunal determines that the submitted scheme complies with the statutory requirements, the tribunal shall order ESA to approve the scheme.

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(4) Where the tribunal determines that the submitted scheme does not comply with those requirements but can be made to do so by modifying it, the tribunal shall order ESA to approve the submitted scheme with such modifications as the tribunal may specify.

(5) Where— 5

(a) the tribunal determines that the submitted scheme does not comply with the statutory requirements, and

(b) subsection (4) does not apply,

the tribunal shall make an employment scheme or revised scheme for the school in question. 10

(6) An employment scheme or revised scheme made for a school by virtue of this section—

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

(b) shall come into force on such date as may be specified therein. 15

(7) In the period between the referral of a submitted scheme to the tribunal and the making by the tribunal of an order under subsection (3) or (4) or a scheme or revised scheme under subsection (5) (“the interim period”)—

(a) where the submitted scheme is a revised scheme, the scheme in force in relation to the school immediately before the interim period shall continue in force; and 20

(b) in any other case, the submitted scheme shall, subject to any order made under subsection (8), have effect in relation to the school as if it had been approved by ESA.

(8) In a case to which subsection (7)(b) applies, the tribunal may, on an application by ESA, make an order that the submitted scheme is to have effect in the interim period with such modifications as the tribunal may specify. 25

(9) It is the duty of ESA and the submitting authority to give effect to any order of the tribunal under this section.

Effect of employment scheme 30

9.—(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.

(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. 35

(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. 40

(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

10.—(1) Schedule 3 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.

5 (2) This section applies to—

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

(3) In this section “the appointed day” means the day appointed under section 68(2) for the coming into operation of section 3.

10 **ESA to employ peripatetic teachers**

11.—(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—

- 15 (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.

20 (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—

- 25 (a) consult the Boards of Governors of grant-aided schools and the sectoral bodies; 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—

- 30 (a) for the number of peripatetic teachers employed by ESA;
- (b) for the purposes for which they are employed to be determined in accordance with arrangements approved by the Department;
- (c) that a peripatetic teacher may not be employed to teach in a grant-aided school without the approval of the Board of Governors of that school.

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

Salaries, etc. of staff: administrative and financial arrangements

35 12.—(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
- (b) the relevant contributions in respect of such staff.

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(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 5

(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).

(4) A Board of Governors may terminate any arrangements agreed under subsection (1) or (2) by giving 3 months' notice of termination to ESA. 10

(5) Notwithstanding any of the previous provisions of this Act, the budget share of a grant-aided school shall include an amount in respect of—

(a) the salaries and allowances of the staff of the school; and

(b) the relevant contributions in respect of such staff. 15

(6) But—

(a) in the case of a voluntary grammar school, ESA may set off against the maintenance grant payable under Article 61(2)(a) of the 1998 Order any payments made by ESA itself in respect of the matters mentioned in paragraphs (a) and (b) of subsection (1); 20

(b) in the case of a grant-maintained integrated school, ESA may set off against the maintenance grant payable under Article 63(2)(a) of the 1998 Order any payments made by ESA itself in respect of the matters mentioned in paragraphs (a) and (b) of subsection (2).

(7) In this section— 25

(a) reference to a school's budget share is to be construed in accordance with Part 2 of the 2003 Order;

(b) "relevant contributions" means—

(i) secondary Class 1 contributions under the Social Security Contributions and Benefits (Northern Ireland) Act 1992; and 30

(ii) employers' superannuation contributions;

(c) "the appointed day" means the day appointed under section 68(2) for the coming into operation of section 3.

Modification of employment law

13.—(1) The Department may by order make such modifications in any statutory provision relating to employment, and in particular in any statutory provision— 35

(a) conferring powers or imposing duties on employers,

(b) conferring rights on employees, or

(c) otherwise regulating the relations between employers and employees, 40

as it considers necessary or expedient in consequence of the operation of sections 3 to 12 and Schedule 2.

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

- (a) ESA;
- (b) DEL;
- (c) the Office of the First Minister and deputy First Minister;
- 5 (d) the sectoral bodies; and
- (e) such organisations representing the staff of grant-aided schools 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

10 **14.**—(1) It is the duty of ESA to provide or secure the provision of—

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

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

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

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

20 as ESA considers necessary.

(3) ESA may—

- (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.

25 (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

35 **15.** 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.

ESA to secure provision of educational and youth services and facilities

16.—(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;

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- (b) adequate facilities for youth services and activities carried out in connection with those services.
- (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; 5
 - (b) organise any such activities;
 - (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 10
 - (e) defray or contribute towards the expenses of any persons taking part in any such activities.
- (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. 15
- (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); 20
 - (b) for regulating the days and times of, and charges for, admission to such lands or buildings;
 - (c) for the preservation of order and prevention of nuisances in such lands and buildings.
- (6) Bye-laws under subsection (5) may— 25
 - (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;
 - (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. 30

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

- 17.—**(1) The power of the Department to pay grants under—
- (a) Article 68 of the 1998 Order (building and equipment grants for voluntary schools), and 35
 - (b) Article 69 of that Order (capital and special purpose grants for grant-maintained integrated schools),
- is transferred to ESA.
- (2) Accordingly— 40
- (a) in Article 68(1) of that Order for “the Department may” substitute “ESA may”; and

- (b) in Article 69 for “the Department” (wherever occurring) substitute “ESA”.

Establishment of controlled schools

5 **18.** For the purpose of fulfilling its duties under the Education Orders, ESA may—

- (a) establish controlled schools (whether as nursery, primary, secondary or special schools); and
- (b) secure the provision of nursery classes in controlled schools which are not nursery schools.

10 **Responsibilities of ESA in relation to controlled schools**

19. In relation to a controlled school ESA is responsible for—

- (a) the maintenance of the school premises;
- (b) providing and replacing equipment;
- 15 (c) employing, in accordance with section 3, all teachers and other staff required on the staff of the school; and
- (d) meeting the cost of doing all such other things as may be necessary for the carrying on of the school, including the cost of providing or altering the premises of the school.

ESA to contract for certain works

20 **20.**—(1) ESA may enter into contracts for, or in connection with, the provision or alteration of the premises of a grant-aided school.

(2) Those contracts may include contracts with the trustees or Board of Governors of a voluntary or grant-maintained integrated school requiring specified payments to be made to ESA by the trustees or Board of Governors at
25 specified times.

(3) ESA may under the powers conferred by subsection (1) enter into a contract (“an approved contract”) with another person (“the contractor”)—

- (a) under which the contractor undertakes at the contractor’s own cost—
 - (i) to provide or alter any premises of a grant-aided school, and
 - 30 (ii) to maintain, or provide other services in relation to, those premises over the term of the contract,in consideration for the payment by ESA of sums of money in instalments over the term of the contract; and
- (b) which has been approved by the Department for the purposes of this
35 subsection.

(4) The inclusion in a contract of matters other than those mentioned in paragraph (a) of subsection (3) does not prevent the contract falling within that paragraph.

(5) In Article 2 of the 1986 Order for paragraphs (2G) and (2H) substitute—

- 40 “(2G) In the Education Orders references to—
 - (a) an approved contract,

(b) the contractor, in relation to an approved contract, shall be construed in accordance with section 20(3) of the Education Act (Northern Ireland) 2012.

(2H) References in the Education Orders to the staff of or at a school or to persons employed at, in or about a school do not include references to persons employed by the contractor for the purposes of an approved contract.”. 5

ESA to pay superannuation benefits of teachers

21. In Article 11 of the Superannuation (Northern Ireland) Order 1972 (pensions, allowances, etc of teachers to be paid by Department) for paragraph (1) substitute— 10

“(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.”. 15

Ancillary powers of ESA

22.—(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. 20

(2) In particular ESA may—

- (a) enter into agreements;
- (b) subject to Article 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; 25
- (d) carry out, or commission or assist in the carrying out of, research;
- (e) co-operate with, or provide advice to, other bodies established by or under a statutory provision.

Power of ESA to undertake commercial activities 30

23.—(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.

(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; 35
- (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— 40

- (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—
- 5 (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.
- 10 (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),
- 15 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
- 20 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;
- 25 (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.

Area planning

Area education plans

- 30 **24.—**(1) An area education plan is a document which contains—
- (a) a map of the area to which the plan applies;
- (b) a written statement setting out in such detail as ESA thinks appropriate—
- 35 (i) an assessment of the need for primary and secondary education, educational services and youth services in that area in the period for which the plan is to be in force;
- (ii) an assessment of the adequacy of the provision of that education and those services in that area at the time the plan is prepared; and
- (iii) proposals for meeting the need mentioned in sub-paragraph (i) in the period so mentioned;
- 40 (c) such descriptive matter as ESA thinks appropriate to explain or illustrate those proposals; and

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(d) a statement of the period for which the plan is to be in force and the arrangements for review of the plan.

(2) In sections 25 to 30—

“plan” means an area education plan;

“area”, in relation to an area education plan, means the area to which the plan applies. 5

Preparation and revision of plans

25.—(1) ESA may, and shall if the Department so directs—

(a) prepare a plan for an area; and

(b) submit that plan to the Department for its approval. 10

(2) ESA—

(a) shall if the Department so directs, and

(b) may at any other time,

prepare a revised plan for an area and submit that plan to the Department for its approval. 15

(3) The Department may approve a plan or revised plan submitted to it either without modifications or with such modifications as it thinks fit.

(4) A plan or revised plan submitted to the Department—

(a) does not come into force unless it has been approved by the Department;

(b) comes into force on such date as the Department may, in giving its approval, specify. 20

Revocation of plans

26.—(1) ESA—

(a) shall if the Department so directs, and

(b) may at any other time with the approval of the Department, 25

revoke the plan for an area.

(2) A plan revoked under subsection (1) ceases to be in force on such date as the Department may direct.

(3) The revocation of a plan for an area does not prevent the preparation by ESA of another plan for that area or an area which includes all or part of that area. 30

Publicity and consultation

27.—(1) ESA shall comply with subsections (2) to (4) before—

(a) submitting any plan or revised plan to the Department under section 25, or

(b) seeking the approval of the Department to revoke a plan under section 26.

(2) ESA shall consult the district council for any district all or part of which is within the area of the plan. 35

(3) ESA shall also take such steps as it thinks necessary to ensure that—

(a) adequate publicity is given to the plan, revised plan or proposal to revoke a plan in the area to which the plan applies;

(b) persons who wish to make representations about the plan, revised plan or proposal are made aware that they may do so; and

(c) an adequate opportunity is provided to such persons to make such representations to ESA.

5 (4) ESA shall consider any representations made under subsection (3) and may revise the plan or revised plan before submitting it to the Department or (as the case may be) may withdraw its proposal to revoke the plan.

10 (5) Where a plan or revised plan for an area is approved by the Department under section 25, ESA shall take such steps as it thinks necessary to ensure that adequate publicity is given to the plan or revised plan in the area to which the plan or revised plan applies.

(6) Where the plan for an area is revoked under section 26, ESA shall take such steps as it thinks necessary to ensure that adequate publicity is given to that fact in the area to which the plan applied.

15 **Involvement of relevant interests**

28.—(1) It is the duty of ESA to make arrangements with a view to securing that the sectoral bodies and the persons mentioned in subsection (2) are involved in and consulted on—

20 (a) the preparation of a plan or revised plan for an area; and

(b) any proposal to revoke a plan for an area.

(2) Those persons are persons appearing to ESA to represent the interests of—

(a) providers of youth services in the area; and

(b) providers of educational services in the area.

25 (3) But the duty in subsection (1) does not apply in relation to the preparation of a revised plan for an area if ESA determines that the changes to the plan for the area are not of sufficient importance to warrant the involvement and consultation mentioned in that subsection.

(4) ESA may make arrangements with a view to securing that the persons mentioned in subsection (5) are involved in and consulted on—

30 (a) the preparation of a plan or revised plan for an area; and

(b) any proposal to revoke the plan for an area.

(5) Those persons are persons appearing to ESA to represent the interests of—

(a) children and young persons living, or receiving education, in the area;

(b) persons for whom educational services are provided in the area;

35 (c) persons for whom youth services are provided in that area;

(d) the parents of children or young persons falling within paragraph (a), (b) or (c);

(e) the staff of grant-aided schools in the area and of providers of educational or youth services in the area;

40 (f) the Boards of Governors of grant-aided schools in the area;

(g) such other groups or bodies as ESA may consider appropriate.

Guidance

29.—(1) In preparing, revising or revoking a plan, ESA shall take into account any guidance issued by the Department under this section.

- (2) The Department may issue such guidance as it thinks fit as to—
- (a) the content of plans; and 5
 - (b) the procedure for preparing a plan or revised plan or revoking a plan.

Regulations

- 30.** The Department may by regulations make provision as to—
- (a) the form and content of plans;
 - (b) the procedure to be followed in connection with the preparation of a plan, a revised plan or a proposal to revoke a plan; 10
 - (c) the arrangements to be made under section 28(1).

Dissolution of certain bodies and transfers

Dissolution of certain statutory bodies

- 31.** The following bodies are dissolved— 15
- (a) education and library boards;
 - (b) the Council for Catholic Maintained Schools;
 - (c) the Staff Commission for Education and Library Boards; and
 - (d) the Youth Council for Northern Ireland.

Transfer of assets, liabilities and staff 20

32.—(1) Schedule 4 makes provision for the transfer on the appointed day of the assets, liabilities and staff of the bodies dissolved by section 31 and contains other supplementary provisions.

(2) Schedule 5 makes provision for the transfer of certain assets and liabilities of the Council for Catholic Maintained Schools at a time before the appointed day. 25

(3) Schedule 6 makes provision for the transfer on the appointed day of certain staff from the Department to ESA.

(4) In this section “the appointed day” means the day appointed under section 68(2) for the coming into operation of section 31. 30

PART 2

MANAGEMENT OF GRANT-AIDED SCHOOLS

Schemes of management for grant-aided schools

Schemes of management

33.—(1) For every grant-aided school there shall be a scheme (“a scheme of management”) providing for— 35

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

- (b) the management and control 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
- 5 (c) such other matters as are required or authorised by this section or any other provision of 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

10 the membership and procedure of such committees.

(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,
- 15 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;
- 20 (b) except in so far as any provision of the Education Orders requires or authorises, be consistent with any instrument of government of the school; and
- (c) be prepared having regard to any guidance issued under section 34(2).

(5) The scheme of management for an Irish speaking school shall require the

25 Board of Governors to use its best endeavours to ensure that the management, control and ethos of the school are such as are likely to ensure the continuing viability of the school as an Irish speaking school.

(6) The scheme of management for a grant-aided school of which a part is Irish speaking shall require the Board of Governors to use its best endeavours to ensure

30 that the management, control and ethos of the school are such as are likely to ensure the continuing viability of the Irish speaking part of the school.

(7) 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.

(8) In sections 34 to 37 references to the statutory requirements in relation to a

35 scheme of management or a revised scheme of management are references to the requirements of subsection (4)(a), (b) and (c) and (where applicable) of subsection (5) or (6).

Preparation and approval of schemes of management

34.—(1) Except where section 35(2)(b) applies, it is the duty of the submitting

40 authority of a grant-aided school—

- (a) to prepare a scheme of management for the school; and
- (b) to submit that scheme to ESA for its approval on or before such date as ESA may direct.

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- (2) The Department may, with the approval of the Office of the First Minister and deputy First Minister, issue such guidance as the Department thinks fit as to the provisions it regards as suitable for inclusion in schemes of management; and such guidance—
- (a) shall include model schemes regarded by the Department as suitable for particular descriptions of schools; 5
 - (b) shall be kept under review and revised by the Department from time to time; and
 - (c) shall be published in such manner as the Department thinks fit.
- (3) 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. 10
- (4) ESA shall approve without modification a scheme submitted to it under subsection (1)(b) unless ESA determines that the scheme does not comply with the statutory requirements. 15
- (5) Where ESA so determines, then—
- (a) if ESA and the submitting authority agree on such modifications to the scheme as ESA determines to be necessary to ensure that the scheme complies with the statutory requirements, ESA shall approve the scheme with the agreed modifications; and 20
 - (b) in any other case, ESA shall refer the scheme to the tribunal established by regulations under section 62.
- (6) A scheme of management approved by ESA under subsection (4) or (5)(a) comes into force on such date as ESA may, in giving approval, specify. 25
- (7) In this section and sections 35 to 37 “the submitting authority”, in relation to a grant-aided school, means—
- (a) in the case of a controlled or grant-maintained integrated school, the Board of Governors of the school; 30
 - (b) in the case of a voluntary school, the trustees of the school or (if the trustees so determine) the Board of Governors of the school.
- (8) Where the trustees of a voluntary school are the submitting authority for the school, the trustees shall, in exercising their functions as the submitting authority, consult with and have due regard to the views of the Boards of Governors. 35
- (9) If a scheme is approved by ESA, Boards of Governors have right of referral to the tribunal for test of compatibility with the Heads of Agreement. The Tribunal shall have the power to approve or amend the scheme to ensure compatibility with the legislation and Heads of Agreement.
- (10) Nothing in this section or sections 35 to 37 affects the functions of Boards of Governors under Article 16 of the 1997 Order or Article 32 of the 1998 Order (Boards of Governors to draw up admission criteria for grant-aided schools). 40

Reserve power of ESA to make scheme of management

35.—(1) Where either of the conditions specified in subsection (2) is satisfied in relation to a school, ESA may, with the approval of the Department, make a scheme of management for the school.

5 (2) The conditions are—

(a) the submitting authority of the school fails to submit a scheme to ESA as required by section 34(1)(b), or

(b) the submitting authority of the school requests ESA to exercise its powers under subsection (1) in relation to the school.

10 (3) The power in subsection (1) includes power to make a scheme in the terms of a model scheme included in guidance issued under section 34(2) or in the terms of such a scheme with such modifications as ESA may specify.

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

15 (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 34; and

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

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

Revision of schemes of management

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

(a) shall, if revised guidance issued under section 34(2) so requires, and

(b) may, at any other time,

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

(2) ESA shall approve without modification a revised scheme submitted to it under subsection (1) unless ESA determines that the revised scheme does not comply with the statutory requirements.

(3) Where ESA so determines, then—

30 (a) if ESA and the submitting authority agree on such modifications to the revised scheme as ESA determines to be necessary to ensure that the revised scheme complies with the statutory requirements, ESA shall approve the revised scheme with the agreed amendments; and

35 (b) in any other case, ESA shall refer the revised scheme to the tribunal established under section 62.

(4) A revised scheme of management approved by ESA under subsection (2) or (3)(a) comes into force on such date as ESA may, in giving approval, specify.

40 (5) Section 35 applies (with appropriate modifications) in relation to the revision of a scheme of management as it applies in relation to the making of the original scheme.

Procedure where ESA does not approve a submitted scheme

- 37.**—(1) This section applies where ESA does not approve a scheme or revised scheme submitted to it for approval under section 34 or 36 (“the submitted scheme”) and the submitted scheme is accordingly referred to the tribunal established by regulations under section 62 (“the tribunal”). 5
- (2) The tribunal shall determine whether the submitted scheme complies with the statutory requirements.
- (3) Where the tribunal determines that the submitted scheme complies with the statutory requirements, the tribunal shall order ESA to approve the scheme.
- (4) Where the tribunal determines that the submitted scheme does not comply 10 with those requirements but can be made to do so by modifying it, the tribunal shall order ESA to approve the submitted scheme with such modifications as the tribunal may specify.
- (5) Where—
- (a) the tribunal determines that the submitted scheme does not comply with 15 the statutory requirements, and
- (b) subsection (4) does not apply,
- the tribunal shall make a scheme of management or revised scheme for the school in question.
- (6) A scheme of management or revised scheme made for a school by virtue of 20 this section—
- (a) shall be treated for all purposes as if it had been prepared by the submitting authority of the school and approved by ESA; and
- (b) shall come into force on such date as may be specified therein.
- (7) In the period between the referral of a submitted scheme to the tribunal and 25 the making by the tribunal of an order under subsection (3) or (4) or a scheme or revised scheme under subsection (5) (“the interim period”)—
- (a) where the submitted scheme is a revised scheme, the scheme in force in relation to the school immediately before the interim period shall continue 30 in force; and
- (b) in any other case, the submitted scheme shall, subject to any order made under subsection (8), have effect in relation to the school as if it had been approved by ESA.
- (8) In a case to which subsection (7)(b) applies, the tribunal may, on an application by ESA, make an order that the submitted scheme is to have effect in 35 the interim period with such modifications as the tribunal may specify.
- (9) It is the duty of ESA and the submitting authority to give effect to any order of the tribunal under this section.

*Boards of Governors of grant-aided schools***Duties of Board of Governors in relation to achievement of high standards of educational attainment**

5 **38.**—(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.

10 **Appointment by ESA of governors for controlled, maintained, grant-maintained integrated and certain voluntary grammar schools**

39.—(1) In Schedule 4 to the 1986 Order (membership of Board of Governors of controlled schools)—

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

15 “(c) two shall be chosen by ESA;”;

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

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

(c) for paragraph 5(1)(b) substitute—

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

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

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

(e) at the end of paragraph 6 insert—

25 “(6) Before choosing any person for appointment to the Board of Governors of a school under paragraph 2(2)(c), 3(2)(c), 4(a) or 5(1)(b) or (3)(b), ESA shall consult—

(a) the relevant sectoral body; and

(b) the Board of Governors of the school.

(7) It is the duty of ESA, in choosing persons under any of those provisions for appointment to the Board of Governors of a school—

30 (a) to choose for appointment persons appearing to ESA to be committed to the ethos of the school;

35 (b) in the case of a school which is an Irish speaking school or part of which is Irish speaking, to choose for appointment persons appearing to ESA to be committed to the continuing viability of the school as an Irish speaking school or (as the case may be) to the continuing viability of the Irish speaking part of the school.”.

(2) In Schedule 5 to that Order (membership of Board of Governors of maintained schools)—

(a) for paragraph 1(2) substitute—

40 “(2) Before making any appointment to the Board of Governors of a school under paragraph 2(2)(b) or 3(2)(b), ESA shall consult—

- (a) the relevant sectoral body; and
 - (b) the Board of Governors of the school.
- (3) It is the duty of ESA, in choosing persons under either of those provisions for appointment to the Board of Governors of a school—
- (a) to choose for appointment persons appearing to ESA to be committed to the ethos of the school; and 5
 - (b) in the case of a school which is an Irish speaking school or part of which is Irish speaking, to choose for appointment persons appearing to ESA to be committed to the continuing viability of the school as an Irish speaking school or (as the case may be) to the continuing viability of the Irish speaking part of the school.”; 10
- (b) for paragraph 2(2)(b) and (c) substitute—
- “(b) one-third shall be chosen by ESA;”;
- (c) for paragraph 3(2)(b) substitute—
- “(b) two shall be chosen by ESA;”.
- 15

(3) In Schedule 6 to that Order (membership of Board of Governors of certain voluntary grammar schools)—

(a) for paragraph 1(2) substitute—

“(2) Before making any appointment to the Board of Governors of a school under paragraph 4(2)(b) or 5(2)(b), ESA shall consult— 20

- (a) the relevant sectoral body; and
- (b) the Board of Governors of the school.

(2A) It is the duty of ESA, in making appointments under either of those provisions, to appoint persons appearing to ESA to be committed to the ethos of the school.”; 25

(b) for paragraph 4(2)(b) substitute—

“(b) one-third shall be appointed by ESA;”;

(c) for paragraph 5(2)(b) substitute—

“(b) two shall be appointed by ESA;”.

(4) In Schedule 5 to the 1989 Order (membership of Board of Governors of grant-maintained integrated schools)— 30

(a) for paragraph 2(1)(b) substitute—

“(b) one-quarter shall be appointed by ESA;”;

(b) after paragraph 2(1) insert—

“(1A) Before making any appointment to the Board of Governors of a school under sub-paragraph (1)(b), ESA shall consult— 35

- (a) the relevant sectoral body; and
- (b) the Board of Governors of the school.

(1B) It is the duty of ESA, in making appointments under either of those provisions, to appoint persons appearing to ESA to be committed to the ethos of the school.”. 40

Part-time teachers to be eligible for election as governors

40.—(1) In Schedule 4 to the 1986 Order (membership of Board of Governors of controlled schools) in paragraph 7 in the definition of “assistant teacher” omit the words “or part-time”.

5 (2) In Schedule 5 to the 1989 Order (membership of Board of Governors of grant-maintained integrated schools) in paragraph 2(2) in the definition of “assistant teacher” omit the words “or part-time”.

Management of controlled schools

41. For Article 10 of the 1986 Order substitute—

10 **“Management of controlled schools**

10.—(1) Subject to paragraph (2), each controlled school shall be under the control and management of a Board of Governors.

15 (2) Two or more controlled primary schools (other than controlled integrated primary schools) may be grouped under one Board of Governors if ESA, with the approval of the Department, so determines.

(3) The Board of Governors of a controlled school shall be constituted in accordance with Schedule 4.”.

Management of maintained nursery schools

20 42. In Article 11(3) of the 1986 Order (grouping of maintained primary schools, other than nursery schools, under one Board of Governors) omit the words “, other than nursery schools,”.

Controlled school: definition

43. For the purposes of the Education Orders, a controlled school is a grant-aided school whose premises are vested in ESA.

25 PART 3

INSPECTIONS

Inspections on behalf of the Department

44.—(1) Every establishment to which this section applies shall be open at all reasonable times to inspection under this section.

30 (2) This section applies to—

(a) a school;

(b) an establishment which—

(i) is grant-aided by the Department or ESA; or

35 (ii) is established, maintained or managed by ESA or the activities of which are organised by ESA;

(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 this Part references to inspectors are to inspectors so appointed.

(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— 5

(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; 10

(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.

(5) It is the duty of inspectors to monitor, inspect and report on—

(a) the nature, scope and effect of advisory and support services provided or secured by ESA under section 14; and 15

(b) the discharge by the Northern Ireland Council for the Curriculum, Examinations and Assessment of its functions under sections 50 and 52 (except section 52(1)(b), (2)(b) and (3)(c)).

(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— 20

(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. 25

(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. 30

(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. 35

Powers of inspectors

45.—(1) If an inspector considers it necessary for the purposes of an inspection conducted under section 44, 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 44. 40

(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.
- (3) In connection with inspecting any such documents the inspector—
- 5 (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
- (b) require a person within subsection (4) to afford the inspector such reasonable assistance as the inspector may require for that purpose.
- 10 (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
- (b) a person having charge of, or otherwise concerned with, the operation of, the computer, apparatus or material.
- 15 (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

- 20 **46.**—(1) On completing an inspection under section 44 in relation to any establishment, the person who conducted the inspection shall—
- (a) make a written report on the inspection; and
- (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.
- 25 (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—
- (a) the action which it proposes to take in the light of the report; and
- 30 (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.
- 35 (5) The requirements of subsections (3) and (4) may be waived by the Department.
- (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;
- 40 (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.

Inspections on behalf of DEL

47.—(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 5
- (b) a college of education.

(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— 10

- (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 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. 15

(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— 20

- (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. 25

Assessors and lay persons

48.—(1) Inspectors conducting the inspection of an establishment under section 44 or 47 may be accompanied and assisted in the inspection by—

- (a) assessors appointed for the purposes of that inspection by the Department; and 30
- (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 44 or 47. 35

(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—

- (a) the management of any establishment to which section 44 or 47 applies; 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). 40

(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 44 or 47.

5 (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—

(a) the establishment in question,

(b) any person who is employed at that establishment,

10 (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.

15 (7) Before—

(a) appointing an assessor under subsection (1) for the purposes of the inspection of an establishment under section 47, or

(b) assigning a member of the panel under subsection (5) to be a lay person for the purposes of such an inspection,

20 the Department shall consult DEL.

(8) 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.

PART 4

25 FUNCTIONS OF THE NORTHERN IRELAND COUNCIL FOR THE CURRICULUM, EXAMINATIONS AND ASSESSMENT

Interpretation of this Part

49.—(1) In this Part—

30 “the Council” means the Northern Ireland Council for the Curriculum, Examinations and Assessment;

“examination” includes any test or assessment;

“the statutory assessments” means the assessments of pupils required by Article 9 of the 2006 Order.

(2) In any provision of this Part—

35 “the designated examinations” means such examinations as the Department or DEL, after consultation with the Council, may designate for the purposes of that provision;

40 “the designated qualifications” means such qualifications as the Department or DEL, after consultation with the Council, may designate for the purposes of that provision;

and “the relevant department”, in relation to any designated examinations or designated qualifications, means the department which made the designation.

PART 4

(3) The relevant department shall notify the Council in writing of any designation made by it under subsection (1).

Functions of the Council in relation to the designated examinations and the statutory assessments

50.—(1) The Council shall, subject to the following provisions of this section— 5

- (a) conduct the designated examinations;
- (b) conduct the statutory assessments, in accordance with such assessment arrangements as are specified under Article 9 of the 2006 Order.

(2) The power of the Council to conduct the designated examinations includes power— 10

- (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 the Council may determine;
- (b) to draw up and publish— 15
 - (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; 20
- (d) to award appropriate certificates in respect of such examinations.

(3) The power of the Council to conduct the statutory assessments includes power—

- (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 the Council may determine; 25
- (b) to draw up and publish—
 - (i) specimen papers; and
 - (ii) such other material as it considers desirable, 30 in connection with such assessments;
- (c) to moderate, or arrange for the moderation of, such assessments.

(4) The Council may charge such fees in connection with the designated examinations as may be approved by the relevant department.

(5) The Council shall make arrangements for the consideration by the Council of appeals against any decision or complaints against any action— 35

- (a) taken by the Council under this section; or
- (b) taken in accordance with arrangements entered into by the Council under subsection (2)(a) or (3)(a).

Functions of the Council in relation to accreditation of the designated qualifications

51.—(1) The Council shall—

- 5 (a) develop and publish criteria for the accreditation of the designated qualifications;
- (b) accredit, where they meet such criteria, any such qualifications submitted for accreditation.

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

(3) The Council may—

- 15 (a) co-operate or work jointly with another body exercising functions in relation to the accreditation of qualifications (whether in the United Kingdom or elsewhere);
- (b) provide information relating to the accreditation of qualifications to such a body.

(4) Nothing in subsection (3)—

- (a) affects any power that exists apart from that subsection; or
- 20 (b) authorises the disclosure of information in contravention of any provision made by or under any statutory provision which prevents disclosure of the information.

Other functions of the Council

52.—(1) The Council shall—

- 25 (a) keep under review all aspects of the designated examinations and the designated qualifications;
- (b) advise the relevant department on such matters concerned with the designated examinations or the designated qualifications as the relevant department may refer to it or as it may see fit;
- 30 (c) publish and disseminate, or secure or assist the publication and dissemination of, information relating to the designated examinations and the designated qualifications.

(2) The Council shall—

- (a) keep under review all aspects of the statutory assessments;
- 35 (b) advise the Department on such matters concerned with the statutory assessments as the Department may refer to it or as it may see fit;
- (c) publish and disseminate, or secure or assist the publication and dissemination of, information relating to the statutory assessments.

(3) The Council shall—

- 40 (a) keep under review all aspects of the curriculum for grant-aided schools;
- (b) produce, or secure or assist the production of, teaching materials for use in connection with the curriculum for grant-aided schools;

PART 4

- (c) advise the Department on such matters concerned with the curriculum for grant-aided schools as the Department may refer to it or as it may see fit;
 - (d) publish and disseminate, or secure or assist the publication and dissemination of, information relating to the curriculum for grant-aided schools; 5
 - (e) 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.
- (4) Before exercising its functions under subsection (3)(e), the Council shall consult with such bodies and persons as appear to it to be concerned. 10
- (5) The Council—
- (a) may, and if requested to do so by the relevant department shall, carry out programmes of research and development for purposes connected to the designated qualifications; 15
 - (b) may provide advice and assistance to persons or bodies providing courses leading to the designated qualifications.

Ancillary functions of the Council

- 53.**—(1) The Council may, and shall if the Department or DEL so directs—
- (a) carry out, or 20
 - (b) commission, or assist in any way, the carrying out by another body or person of,
- any programme of research and development for purposes connected with any of the functions of the Council.
- (2) The Council 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 the Council in carrying out the arrangements. 25
- (3) The Council shall carry out such ancillary activities as the Department or DEL may direct. 30
- (4) For the purposes of subsection (3) activities are ancillary activities in relation to the Council if the Department or (as the case may be) DEL considers it is appropriate for the Council to carry out those activities for the purposes of or in connection with the carrying out by the Council of any of its other functions under this Part. 35
- (5) The Council shall make such reports and returns, and give such information—
- (a) to the Department as the Department may reasonably require;
 - (b) to DEL as DEL may reasonably require. 40

Discharge by the Council of its functions

- 54.**—(1) In carrying out its functions, the Council shall—

- (a) comply with Article 80(7) of the 1998 Order (work programme);
 - (b) so far as relevant, have regard to—
 - (i) the requirements of industry, commerce and the professions regarding education;
 - 5 (ii) the requirements of persons with special learning needs;
 - (iii) the requirements of those attending Irish speaking schools who are taught in Irish;
 - (c) seek to ensure that the standards of the designated examinations and the statutory assessments conducted by bodies or authorities in Northern
10 Ireland are recognised as equivalent to the standards of examinations and assessments conducted by bodies or authorities exercising similar functions elsewhere in the United Kingdom.
- (2) In subsection (1) “persons with special learning needs” means—
- 15 (a) children with special educational needs (as defined in Article 3 of the Education (Northern Ireland) Order 1996); and
 - (b) persons who have a learning difficulty (as defined in Article 3 of the Further Education (Northern Ireland) Order 1997).

PART 5

PROTECTION OF CHILDREN AND YOUNG PERSONS

20 **Safeguarding and promoting welfare of children and young persons**

- 55.**—(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.
- (2) In considering how to carry out that duty ESA shall have regard to any guidance given to it by the Department.
- 25 (3) In particular ESA shall—
- (a) from time to time review—
 - (i) the exercise by Boards of Governors of their duties under Articles 17 and 18 of the 2003 Order;
 - 30 (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 57 of duties imposed on them by virtue of subsection (2) of that section;
 - 35 (iv) the exercise by persons who have entered into such agreements or arrangements as are mentioned in subsection (3) of section 57 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
 - 40 (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).

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

56. 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 5

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 10
- (b) in the lawful control or charge of that person or relevant staff.

(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); 15

- (b) to review those measures—
 - (i) from time to time; and
 - (ii) (without prejudice to head (i)) at such times as the Department or ESA may direct; 20

- (c) in determining or reviewing those measures to have regard to any guidance given by the Department or ESA;

- (d) to prepare a written statement of those 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 25
 - (ii) copies of the statement are available for inspection (at all reasonable times and free of charge) on the relevant premises; and 30

- (e) to secure that those measures are taken.

(3) Directions under paragraph (2)(b)(ii) may be given—

- (a) in relation to all persons providing funded pre-school education generally;
- (b) in relation to a class or description of such persons; or 35
- (c) in relation to any particular person or persons providing such education.

(4) In this Article—

“abuse” includes sexual abuse and abuse causing physical or mental harm to a child; 40

“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;

5 “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.”.

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

57.—(1) Subsection (2) applies where—

- 10 (a) ESA proposes to make a grant under section 16; or
(b) the Department proposes to make a grant under Article 115(1)(a) or (b) of the 1986 Order.

15 (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.

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

- 20 (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
(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.

25 (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—

- 30 (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;
(b) impose other requirements in relation to the measures to be taken for the purposes of implementing that duty;
35 (c) require specified persons to have regard to any guidance issued by ESA under section 55(3);

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

58. In the 2003 Order after Article 18 insert—

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

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

PART 5

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—

- (a) to be performed; 5
- (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.

(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. 10

(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.”. 15

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

59.—(1) It is the duty of— 20

- (a) the Boards of Governors of grant-aided schools,
- (b) the providers of funded pre-school education, and
- (c) persons on whom a duty is imposed by virtue of section 57(5)(a),

to co-operate with—

- (i) ESA in the exercise of its duty under section 55; and 25
- (ii) an authority in the exercise of its functions under Part 6 of the Children (Northern Ireland) Order 1995.

(2) In this section—

“authority” has the same meaning as in the Children (Northern Ireland) Order 1995; 30

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

PART 6

MISCELLANEOUS AND SUPPLEMENTARY

Miscellaneous 35

General duty of the Department and DEL

60. For Article 3 of the 1989 Order substitute—

“General duty of the Department and DEL

3.—(1) It is the duty of the Department—

- (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;
 - (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;
 - (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.
- (2) It is the duty of DEL to promote further and higher education in Northern Ireland.”.

Grants for educational and youth services, etc.

61. In Article 115 of the 1986 Order (grants for educational and other purposes) for paragraphs (1) to (3) substitute—

“(1) The Department may 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;
- (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.

(1A) DEL may, in accordance with regulations made by it, 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;
- (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 made by it, 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 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.

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

(2) Regulations under paragraph (1A) or (1B)— 5

(a) require the approval of the Department of Finance and Personnel; and

(b) may prescribe the rates of grants which may be paid under that paragraph.

(3) Grants shall not be paid under this Article to— 10

(a) ESA;

(b) the trustees or Board of Governors of a voluntary or grant-maintained integrated school;

(c) the governing body of an institution of further education.”.

Tribunal to review certain decisions in relation to employment schemes and schemes of management 15

62.—(1) The Office of the First Minister and deputy First Minister (“the Office”) shall by regulations make provision for the establishment of a tribunal to exercise functions under sections 8 and 37.

(2) The regulations shall provide— 20

(a) for the members of the tribunal to be appointed by the Department;

(b) for the procedure of the tribunal;

(c) for the payment of fees and expenses to members of the tribunal by the Department.

(3) Regulations under this section may contain such incidental, supplementary, transitional or saving provisions as appear to the Office to be necessary or expedient. 25

Sectoral bodies

63. In the Education Orders—

“sectoral body” means a body— 30

(a) which is recognised by the Department as representing the interests of grant-aided schools of a particular description; and

(b) to which grants are paid under Article 115 of the 1986 Order, Article 64 of the 1989 Order or Article 89 of the 1998 Order;

“relevant sectoral body”, in relation to the exercise by the Department or ESA of any function in relation to a school or schools of a particular description, means the sectoral body appearing to the Department or (as the case may be) ESA to represent the interests of schools of that description. 35

Supplementary

Supplementary, incidental, consequential, transitional provision etc.

64.—(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.

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

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

Regulations and orders

65.—(1) Except as provided by subsection (2), regulations under this Act are
15 subject to negative resolution.

(2) No regulations shall be made under section 62 unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.

(3) Except as provided by subsections (4) and (5), orders made by the Department under this Act are subject to negative resolution.

20 (4) No order shall be made under section 4(6) or 64(1) unless a draft of the order has been laid before, and approved by resolution of, the Assembly.

(5) Subsection (3) does not apply to an order under section 68(2) or Schedule 5.

(6) Regulations and orders made by the Department under this Act may contain
25 such incidental, supplementary, transitional and saving provisions as appear to the Department to be necessary or expedient.

Interpretation

66.—(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;
- “the 1989 Order” means the Education Reform (Northern Ireland) Order 1989;
- “the 1998 Order” means the Education (Northern Ireland) Order 1998;
- 35 “the 2003 Order” means the Education and Libraries (Northern Ireland) Order 2003;
- “the 2006 Order” means the Education (Northern Ireland) Order 2006.

(2) This Act shall be construed as one with the 1986 Order; and accordingly
40 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

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

(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. 5

(3) Part 1 of Schedule 3 to the Departments (Transfer and Assignment of Functions) (Northern Ireland) Order 1999 shall cease to have effect in relation to functions under the following provisions—

- (a) the 1986 Order; and 10
- (b) the 1989 Order.

(4) Part 2 of Schedule 3 to the Departments (Transfer and Assignment of Functions) (Northern Ireland) Order 1999 shall cease to have effect in relation to functions under the following provisions—

- (a) in the 1986 Order, Articles 50, 99 to 103 and 108 to 115; 15
- (b) in the 1989 Order, Articles 3 and 151;
- (c) the 1998 Order.

Commencement

68.—(1) The following provisions come into operation on the day after Royal Assent— 20

- (a) section 10 and Schedule 3;
- (b) section 13;
- (c) section 32 and Schedules 4 to 6;
- (d) sections 62 to 66;
- (e) this section; and 25
- (f) section 69.

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

(3) An order under subsection (2) may contain such transitional provisions and savings as the Department thinks necessary or expedient. 30

Short title

69. This Act may be cited as the Education Act (Northern Ireland) 2012.

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 and Article 106 of the
1986 Order, section 19 of the Interpretation Act (Northern Ireland) 1954 applies
to ESA.

Membership

- 15 2.—(1) ESA shall consist of—
 (a) a Chair appointed by the Department,
 (b) 8 persons nominated in accordance with paragraph 3 (“political
members”), and
 (c) 12 persons appointed by the Department (“appointed members”) of
whom—
- 20 (i) 4 shall be persons appearing to the Department to represent the
interests of transferors of controlled schools, appointed after
consultation with persons or bodies appearing to the Department to
represent such interests;
 (ii) 4 shall be persons appearing to the Department to represent the
25 interests of trustees of maintained schools, appointed after consultation
with persons or bodies appearing to the Department to represent such
interests; and
 (iii) 4 shall be persons appearing to the Department, so far as practicable, to
be representative of the community in Northern Ireland.
- 30 (2) In making appointments under sub-paragraph (1)(c)(iii), the Department
shall, so far as practicable, secure that each person appointed has experience in a
field of activity relevant to the discharge of the functions of ESA.
 (3) A person is disqualified for membership of ESA if that person is employed
by ESA under section 3 or 11.

35 *Political members*

- 3.—(1) Where members are first appointed to ESA, the political members shall
be nominated by applying sub-paragraphs (3) to (8).

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- (2) Where at any other time—
 - (a) an Assembly is elected under section 31 or 32 of the Northern Ireland Act 1998,
 - (b) a resolution which causes one or more Ministerial offices to become vacant is passed under section 30(2) of that Act, or
 - (c) the period of exclusion imposed by a resolution under section 30(2) of that Act comes to an end,

5

all political members shall cease to hold office and the political members shall be nominated by applying sub-paragraphs (3) to (8).

(3) At the request of the Department, the nominating officer of the political party for which the formula in sub-paragraph (7) gives the highest figure may nominate a person as a political member.

10

(4) The nominated person may take up office as a political member by making a statement to that effect to the Department.

- (5) If—
 - (a) the nominating officer does not exercise the power conferred by sub-paragraph (3) within the prescribed period, or
 - (b) the nominated person does not take up office as a political member within that period,

15

that power shall become exercisable by the nominating officer of the political party for which the formula in sub-paragraph (7) gives the next highest figure.

20

(6) Sub-paragraphs (3) to (5) shall be applied as many times as may be necessary to secure that all of the offices as political member are filled.

(7) The formula is—

$$\frac{S}{1 + M}$$

25

where—

S = the number of seats in the Assembly which were held by members of the party on the day on which the Assembly first met following its election; and

30

M = the number of members of the party (if any) who hold office as a political member.

(8) Where the figures given by the formula for two or more political parties are equal, each of those figures shall be recalculated with *S* being equal to the number of first preference votes cast for the party at the last general election of members of the Assembly.

35

(9) A person shall cease to hold office as a political member if that person resigns by notice in writing to the Department.

(10) Where a person ceases to hold office as a political member otherwise than by virtue of sub-paragraph (2), the nominating officer of the party on whose behalf that person was nominated may nominate another person to hold the office.

40

(11) If—

- (a) the nominating officer does not exercise the power conferred by sub-paragraph (10) within the prescribed period, or
 - (b) the nominated person does not take up the office within that period,
- 5 the vacancy shall be filled by applying sub-paragraphs (3) to (8) within such further period as may be prescribed.

(12) Where—

- (a) the Assembly has resolved under section 30(2) of the Northern Ireland Act 1998 that a political party does not enjoy its confidence, and
 - 10 (b) the party's period of exclusion has not come to an end,
- the party shall be disregarded for the purposes of any application of sub-paragraphs (3) to (8).

(13) In this paragraph "nominating officer", in relation to a party, means the person registered under Part II of the Political Parties, Elections and Referendums Act 2000 as the party's nominating officer or a member of the Assembly nominated by that person for the purpose.

Chair and appointed members

4.—(1) Subject to the provisions of this paragraph, the Chair and the appointed members of ESA shall hold and vacate office in accordance with the terms of their respective appointments.

(2) An appointment as Chair or an appointed member shall be for a specified period of not more than 4 years.

(3) A person holding office as Chair or appointed member may at any time resign that office by notice in writing to the Department.

25 (4) The Department may by notice in writing remove a person from office as Chair or appointed member 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) or a debt relief restrictions order,
- 30 (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.

35 (5) A person whose term of office as Chair or an appointed member expires or who has resigned shall be eligible for re-appointment.

Remuneration and allowances of members

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

40 *Officers*

6.—(1) ESA shall have—

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- (a) a chief executive, with responsibility to ESA for the carrying out of its functions and the management of its officers; and
 - (b) such other officers 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. 5
- (4) ESA shall not appoint a person as chief executive unless the Department approves the appointment.
- (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 officer 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. 10
- (7) Arrangements made with a department other than DFP require the approval of DFP.

Remuneration, allowances and pensions of officers

- 7.—(1) Subject to sub-paragraph (2), ESA shall pay to its officers such remuneration and allowances as it may determine. 15
- (2) The Department may direct that the remuneration and allowances of the chief executive and other officers 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. 20
- (3) ESA shall—
- (a) pay, or make payments in respect of, such pensions or gratuities to or in respect of its officers or former officers 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 pensions or gratuities to or in respect of its officers or former officers. 25
- (4) References in this paragraph to pensions and gratuities include references to pensions or gratuities by way of compensation to or in respect of officers who suffer loss of employment or loss or diminution of emoluments. 30

Committees

- 8.—(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.
- (3) ESA may pay to members of its committees who are neither members nor officers of ESA such remuneration and allowances as ESA may, with the approval of the Department, determine. 35

Delegation to committees and officers

- 9.—(1) ESA may, to such extent as it may determine, delegate any of its functions to— 40
- (a) any committee of ESA; or

(b) any officer of ESA.

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

5 (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—

(a) require prescribed functions of ESA to be exercised on its behalf by a prescribed officer of ESA; and

10 (b) regulate the appointment by ESA of an officer for the purposes of exercising such functions.

Proceedings

15 10. 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;

20 (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;

(g) the custody of documents;

25 (h) the duties of officers;

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

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

30 (a) any vacancy among the officers of ESA or of the committee;

(b) any vacancy in the office of the Chair of ESA;

(c) any defect in the appointment of any one or more officers of ESA or in the appointment of the Chair of ESA; or

(d) any failure to comply with paragraph 10.

35 *Application of seal and documents*

12.—(1) The application of the seal of ESA shall be authenticated by the signature—

(a) of the Chair of ESA or the chief executive; or

40 (b) of any other member or officer who has been authorised by ESA (whether generally or specially) for that purpose.

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(2) 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.

(3) 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. 5

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) be served on or sent to the chief executive of ESA.

Finance 10

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

(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 15
- (b) DEL.

15. ESA may not borrow money.

Accounts

16.—(1) ESA shall—

- (a) keep proper accounts and proper records in relation to the accounts; and 20
- (b) prepare a statement of accounts in respect of each financial year.

(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. 25

(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—

- (a) the Department;
- (b) DEL; and 30
- (c) the Comptroller and Auditor General.

(4) The Comptroller and Auditor General shall—

- (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. 35

(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

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.

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

(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—

10 (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.

Commissioner for Complaints

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

Freedom of information

20 20. In Part 7 of Schedule 1 to the Freedom of Information Act 2000 (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 Libraries (Northern Ireland) Order 1986” substitute “The Education and Skills Authority”.

Interpretation

21. In this Schedule “financial year” means—

25 (a) the period beginning with the day on which ESA is established and ending on the next following 31st March; and

(b) any subsequent period of 12 months ending on 31st March.

SCHEDULE 2

Section 4.

PROVISIONS REQUIRED IN EMPLOYMENT SCHEMES

30 *Interpretation, etc*

1. In this Schedule—

(a) references to a scheme are references to an employment scheme for a grant-aided school; and

35 (b) in relation to a scheme, references to the school or to the Board of Governors or principal are to be construed accordingly.

(2) In this Schedule, paragraphs 2 and 7 are to be read subject to paragraph 8.

Determination of staff complement

2. The scheme shall provide for the school to have a complement of teaching and non-teaching posts determined by the Board of Governors.

Appointment of staff

3.—(1) The scheme shall provide for the selection of a person for appointment to a post on the staff of the school to be carried out— 5

- (a) in the case of a specified post, by ESA;
- (b) in the case of any other post, by the Board of Governors.

(2) For the purposes of this paragraph a specified post is a post specified, or of a description specified, in the scheme. 10

(3) The scheme shall provide for the procedures to be followed by the Board of Governors in selecting a person for appointment.

(4) The scheme shall provide that ESA shall not appoint a person to a post on the staff of a school unless—

- (a) in the case of an appointment to a specified post, that person has been selected for appointment to that post by ESA in accordance with the procedures mentioned in section 4(4) and the Board of Governors has approved that selection; 15
- (b) in the case of an appointment to any other post, that person has been selected for appointment to that post by the Board of Governors in accordance with the procedures mentioned in sub-paragraph (3). 20

Discipline

4.—(1) The scheme shall provide that—

- (a) the regulation of conduct and discipline in relation to the staff of the school, and 25
- (b) any procedures for affording to members of the staff opportunities for seeking redress of any grievances relating to their employment,

shall be under the control of the Board of Governors.

(2) The scheme shall provide that the Board of Governors shall, after consultation with ESA, establish— 30

- (a) disciplinary rules and procedures, and
- (b) procedures such as are mentioned in sub-paragraph (1)(b),

and shall take such steps as appear to the Board to be appropriate for making them known to the staff of the school.

(3) The scheme shall provide that, where the implementation of any determination made by the Board of Governors in the exercise of its control over the conduct and discipline of the staff of the school requires any action which— 35

- (a) is not within the functions exercisable by the Board of Governors by virtue of the Education Orders, but
- (b) is within the power of ESA, 40

ESA shall take that action at the request of the Board of Governors.

Suspension

5.—(1) The scheme shall provide that the Board of Governors and the principal shall both have power to suspend any person employed on the staff of the school where, in the opinion of the Board of Governors or (as the case may be) of the principal, the exclusion of that person from the school is required.

(2) The scheme shall provide that the Board of Governors or principal, when exercising that power, shall immediately inform—

(a) ESA; and

(b) the principal or (as the case may be) the Board of Governors.

10 (3) The scheme shall provide that—

(a) any such suspension may only be ended by the Board of Governors;

(b) the Board of Governors shall, on ending such a suspension, immediately inform ESA and the principal.

(4) In this paragraph “suspend” means suspend without loss of salary.

15 *Dismissal, etc.*

6.—(1) The scheme shall provide that, where the Board of Governors determines that any person employed on the staff of the school under a particular contract of employment should cease to work there under that contract, it shall notify ESA in writing of its determination and the reasons for it.

20 (2) The scheme shall provide that if in a case within sub-paragraph (1)—

(a) the person concerned is employed under the contract of employment in question to work solely at the school, and

(b) that person does not resign,

25 ESA shall, before the end of the period of one month beginning with the date on which the notification mentioned in sub-paragraph (1) is given in relation to that person, either—

(i) give that person such notice terminating that contract with ESA as is required under that contract, or

30 (ii) terminate that contract without notice if the circumstances are such that it is entitled to so do by reason of that person’s conduct.

(3) The scheme shall provide that if in a case within sub-paragraph (1) the person concerned is not employed under the contract of employment in question to work solely at the school ESA shall require that person to cease to work at the school.

35 (4) The scheme shall provide that in any case within sub-paragraph (3) no part of the costs incurred by ESA in respect of the salary of the person concerned under the contract of employment in question, so far as relates to any period falling after the expiration of that person’s contractual notice period, shall be met from the school’s budget share; and for this purpose the contractual notice period
40 of a person is the period of notice that would have been given under the contract of employment in question for termination of that contract if such notice had been given on the date on which the notification mentioned in sub-paragraph (1) was given in relation to that person.

- (5) The scheme shall provide that the Board of Governors of the school shall—
- (a) make arrangements for affording to any person in respect of whom it proposes to make a determination mentioned in sub-paragraph (1) an opportunity of making representations with respect to the action it proposes to take, including (if that person so wishes) oral representations to such person or persons as the Board of Governors may appoint for the purpose, and
 - (b) have regard to any representation made by that person.
- (6) The scheme shall provide that the Board of Governors shall also make arrangements for affording to any person in respect of whom it has made a determination mentioned in sub-paragraph (1) an opportunity of appealing against it before it notifies ESA of that determination.
- (7) The scheme shall provide that—
- (a) an officer of ESA shall be entitled to attend, for the purpose of giving advice, all proceedings of the Board of Governors relating to any determination mentioned in sub-paragraph (1); and
 - (b) the Board of Governors shall consider any advice given by that officer before making any such determination.
- (8) The scheme shall provide that ESA shall not dismiss a person employed by it to work solely at the school except—
- (a) as provided by the scheme in accordance with sub-paragraphs (1) to (7); or
 - (b) in any case where the dismissal of the person in question is required to comply with—
 - (i) Article 35(3) of the 1998 Order (teachers not to be employed unless registered);
 - (ii) any regulations made under Article 70 (regulation of employment of teachers) or Article 88A of the 1986 Order (regulation of employment of non-teaching staff); or
 - (iii) any other statutory provision.

Payments in respect of dismissals, resignations, etc.

- 7.—(1) The scheme shall provide that it shall be for the Board of Governors to determine—
- (a) whether any payment should be made by ESA in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of the school; and
 - (b) the amount of any such payment.
- (2) But sub-paragraph (1) does not apply in relation to any payment which is required or authorised to be made—
- (a) by virtue of any contract other than one made in contemplation of the impending dismissal or resignation of the member of staff concerned; or
 - (b) under any statutory provision.
- (3) The scheme shall provide that ESA—

- (a) shall take such steps as may be required for giving effect to any determination of the Board of Governors of the school mentioned in sub-paragraph (1); and
- 5 (b) shall not make, or agree to make, any payment mentioned in that sub-paragraph in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of the school otherwise than in accordance with a determination so mentioned.
- (4) The scheme shall provide—
 - 10 (a) that costs incurred by ESA in giving effect to any determination mentioned in sub-paragraph (1) in respect of any member of the staff of the school shall not be met from the school’s budget share, except in so far as ESA has a good reason for deducting those costs, or any part of those costs, from that share; and
 - 15 (b) that the fact that ESA has a policy precluding dismissal of its employees by reason of redundancy is not to be regarded as a good reason for those purposes.

Special provision where controlled or maintained school has no delegated budget

- 8. In relation to a controlled school or maintained school at any time when the school does not have a delegated budget (within the meaning of Part 2 of the 2003 Order)—
 - 20 (a) paragraph 2 does not apply, and the scheme shall provide instead for the school to have a complement of teaching and non-teaching posts determined by ESA;
 - 25 (b) paragraph 7 does not apply, and the scheme shall provide instead that it is for ESA to determine any matter mentioned in paragraph 7(1) and to take such steps as may be required for giving effect to any such determination.

SCHEDULE 3

TRANSFER TO ESA OF STAFF EMPLOYED BY BOARDS OF GOVERNORS

30 *Interpretation*

- 1. In this Schedule—
 - “the appointed day” has the meaning given in section 10(3);
 - “relevant Board of Governors” means the Board of Governors of a school to which section 10 applies.

35 *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.

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(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 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. 5

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

(6) A scheme shall— 10

- (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 15
- (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 20
- (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.

(8) For the purposes of this paragraph— 25

- (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; 30
- (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. 35

(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
- (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.

(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 in its capacity as the employer of any person before the appointed day.

(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.

(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 4

TRANSFER OF ASSETS, LIABILITIES AND STAFF OF DISSOLVED BODIES

Interpretation

1. In this Schedule—

“the appointed day” means the day appointed under section 68(2) for the coming into operation of section 31;

“dissolved body” means a body listed in section 31.

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.

(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.

(3) But sub-paragraph (1) does not apply to rights or liabilities under a contract of employment (which are dealt with by paragraph 3).

(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.

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.

(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 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.

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

(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; 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—

- (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.

(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 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 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—

- (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.

(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.

(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.

(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 applies.

5.—(1) ESA shall make arrangements for a statement of accounts to be prepared in relation to each dissolved body for the relevant period.

(2) Each statement of accounts shall—

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

as the Department may direct.

(3) ESA shall, within such time after the end of the relevant period as the Department may direct, send a copy of each statement of accounts to the Department.

(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.

SCHEDULE 5

TRANSFER OF CERTAIN ASSETS AND LIABILITIES OF CCMS BEFORE APPOINTED DAY

Interpretation

1. In this Schedule—

“the appointed day” has the meaning given by section 32(4);

“CCMS” means the Council for Catholic Maintained Schools;

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“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

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

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—

(a) the day before the appointed day; or 10

(b) an earlier date specified in the order.

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

(a) any person to whom or body to which assets or liabilities are to be transferred by the order; 15

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

(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. 30

(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.

(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. 40

SCHEDULE 6

TRANSFER OF CERTAIN STAFF OF THE DEPARTMENT

Interpretation

1. In this Schedule “the appointed day” has the meaning given in section 32(4).

5

Transfer of certain staff of Department

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—

10

(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

15

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

(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.

20

(5) The Transfer of Undertakings (Protection of Employment) Regulations 2006 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

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

(7) 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

(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.

35

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

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

40

(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.

(9) For the purposes of this paragraph—

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- (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; 5
- (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) Procedures under sub-paragraph (7)(c) shall involve consideration of 10
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.

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SCHEDULE 7

MINOR AND CONSEQUENTIAL AMENDMENTS 15

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

- 1.—(1) In the Education Orders for “a board”, “the board”, “that board”, “boards”, “each board” and “every board” (wherever occurring) substitute “ESA”. 20
- (2) Sub-paragraph (1)—
- (a) applies only in relation to references to an education and library board or to such boards; and
- (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) 25

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

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) 2012”. 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”. 35
- (2) In Article 11(3) for “the Ministry of Education” substitute “the Education and Skills Authority”.
- (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” and for “that Ministry” substitute “that Authority”.

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

5 *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)

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

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”.

15 (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”.

20 (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)

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

“The Education and Skills Authority.”

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

9.—(1) In Article 2(2)—

30 (a) at the appropriate places in alphabetical order insert the following definitions—

“ “area education plan” has the meaning given by section 24 of the Education Act (Northern Ireland) 2012;”;

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

35 “ “educational services” has the meaning given by section 2(9) of the Education Act (Northern Ireland) 2012;”;

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

“ “Irish speaking school” has the meaning given by Article 3(2) of the 2006 Order;”;

- “sectoral body” and “relevant sectoral body” have the meaning given by section 63 of the Education Act (Northern Ireland) 2012;”;
- (b) in the definition of “Catholic maintained school” for the words from “has the meaning” to the end substitute “means a maintained school designated as a Catholic maintained school by the Roman Catholic bishop of the diocese in which it is situated;”;
- (c) in the definition of “controlled school” for the words from “means” to the end substitute “has the meaning given by section 43 of the Education Act (Northern Ireland) 2012;”;
- (d) in the definition of “managers” for paragraphs (a) and (b) substitute—
 “(a) in relation to a grant-aided school, the Board of Governors of the school;”;
- (e) in the definition of “peripatetic teacher” for “Article 65(2)(a)” substitute “section 11(2) of the Education Act (Northern Ireland) 2012”;
- (f) in the definition of “scheme of management” for “Article 9A(1)” substitute “section 33(1) of the Education Act (Northern Ireland) 2012”;
- (g) in the definition of “the Education Orders” at the end add—
 “(j) the Education Act (Northern Ireland) 2012;”;
- (h) in the definition of “transferors” omit paragraph (b).
- (2) In Article 11(3) for sub-paragraphs (a) and (b) substitute “ESA, with the approval of the Department, so determines.”.
- (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—

- (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,
- (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—

- (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,

(e) to make any other change in a voluntary school which would have a significant effect on another grant-aided school,

5 then—

(i) that person shall submit the proposal to ESA; and

(ii) ESA shall submit the proposal to the Department together with its views thereon.

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

(a) to establish a new controlled school, other than a controlled integrated school;

(b) that a controlled or voluntary school should be discontinued;

15 (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.

(5) Before a proposal concerning an existing school is submitted to ESA under paragraph (2), the person making the proposal shall consult—

20 (a) the Board of Governors of the school concerned;

(b) the teachers employed at that school (or representatives of them);

(c) the parents of registered pupils at that school (or representatives of them);

(d) the trustees of the school; and

25 (e) the relevant sectoral body.

(6) Before a proposal to establish a new school which would be a 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.

30 (7) Before a proposal concerning an existing school is submitted to the Department by ESA under paragraph (1) or (3), ESA shall consult—

(a) the Board of Governors of the school concerned;

(b) the teachers employed at that school (or representatives of them);

35 (c) the parents of registered pupils at that school (or representatives of them);

(d) in the case of a voluntary school, the trustees of the school; and

(e) the relevant sectoral body.

40 (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 of, and the relevant sectoral body for, 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—

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- (a) forthwith furnish to the trustees and managers of, and relevant sectoral body for, 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; 5
 - (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; 10
 - (c) furnish to any person, on application, a copy of the proposal on payment of such reasonable sum as ESA may determine. 15
- (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 and the relevant sectoral body accordingly. 20
- (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; 25
 - (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. 30
- (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 implement the proposal. 35
- (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 (2)). 40
- (15) 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.

Article 14: additional requirements where area education plan in force

5 14A.—(1) This Article applies where the school to which a proposal under Article 14 relates is, or is proposed to be, situated in an area for which an area education plan is in force.

(2) A proposal under Article 14(1) or (2) shall be in conformity with the plan.

(3) Where a proposal is submitted to ESA under Article 14(2)(i), then—

10 (a) if ESA considers that the proposal is not in conformity with the plan—

(i) ESA shall reject the proposal; and

(ii) if ESA does so, no further proceedings shall be taken under Article 14 in relation to the proposal;

15 (b) in any other case, the views of ESA submitted under Article 14(2)(ii) shall include an assessment of the extent to which the proposal would contribute to meeting a need as set out in the plan.

(4) A direction given by the Department under Article 14(3)(a) shall be in conformity with the plan.

20 (5) A proposal submitted by ESA under Article 14(1) or (3)(a) shall be accompanied by an assessment by ESA of the extent to which the proposal would contribute to meeting a need as set out in the plan.

25 (6) In determining under Article 14(10) whether to approve (with or without modifications) a proposal under Article 14(1), (2) or (3)(a), the Department shall act in conformity with the plan.”.

(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)”.

30 (6) For Article 17 substitute—

“Transfer of voluntary schools

35 17.—(1) Notwithstanding anything in any instrument of government of a voluntary school, the trustees of the school may, with the consent of the Department given after consultation with ESA, transfer the school to ESA on such terms as may be agreed by the trustees and ESA; and the provisions of Schedule 9 shall apply to any such transfer.

(2) A school transferred under paragraph (1) shall, on the date of the transfer, become a controlled school.

40 (3) The trustees of a school transferred under paragraph (1) shall, from the date of the transfer, be absolutely freed and discharged from all responsibility in connection with the school whether under any deed of trust or otherwise.

- (4) Where a voluntary school is transferred under paragraph (1), ESA may, subject to the terms on which the school was transferred to it, transfer to the Board of Governors of the controlled school any property (other than land) used in connection with the school by the trustees or Board of Governors of the voluntary school. 5
- (5) For the purposes of this Article—
- (a) references to the transfer of a school are references to the transfer of—
- (i) any land which is used for the purposes of the school, and
- (ii) any other property used in connection with the school by the trustees or Board of Governors of the school; 10
- (b) land is used for the purposes of a school if (and only if) that land forms all or part of—
- (i) the premises of the school; or
- (ii) a dwelling occupied by a caretaker of, or teacher at, the school.”. 15
- (7) In Article 17A(2)(g) omit the word “educational”.
- (8) In Article 18 (2) for sub-paragraphs (a) and (b) substitute—
- “(a) the Board of Governors of a controlled or grant-maintained integrated school;” 20
- (9) In Article 46A(6)(b) for “the relevant board” substitute “ESA”.
- (10) In Article 50 for paragraph (3) substitute—
- “(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. 25
- (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.”. 30
- (11) In Article 69(4)(a) for “such representatives of employing authorities” substitute “ESA”.
- (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— 35

“Determination of disputes

- 100.—(1) Any dispute arising between—
- (a) ESA and the trustees of a voluntary school,
- (b) ESA and the Board of Governors of a grant-aided 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.

5 (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.

10 (3) Any dispute referred under this Article shall be determined by the department to which it is referred whose determination shall, except as provided by any other provision of the Education Orders, 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.”.

(14) For Article 101 substitute—

15 **“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.

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

- 25 (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;
 (b) require a specified duty—
30 (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.

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

- (a) ESA;
 (b) the Northern Ireland Council for the Curriculum, Examinations and Assessment;
 (c) the Board of Governors or trustees of a grant-aided school;
 (d) the managers or trustees of a college of education;
40 (e) a person appointed under Article 10(4)(e) of the Colleges of Education (Northern Ireland) Order 2005.

(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. 5

(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. 10

(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 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. 15 20

(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. 25

(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. 30

(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. 35

(2) In particular, but without prejudice to the generality of paragraph (1), directions given under that paragraph may— 40

- (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;
(b) require a specified duty—
 (i) to be performed;
 (ii) to be performed in a specified manner;
5 (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—

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

“the relevant legislation” means—

- (a) Article 50;
- (b) the Further Education (Northern Ireland) Order 1997;
- (c) the Colleges of Education (Northern Ireland) Order 2005;
- 20 (d) Part 4 of the Education Act (Northern Ireland) 2012.

(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.

(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.

35 (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
40 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. 5

(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.”. 10

(16) In Article 127(1) for “the Department” (wherever occurring) substitute “ESA”.

(17) 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”; 15

(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)”; 20

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

(d) in paragraph 7 in the definition of “superseded manager” for “schools under the management of ESA” substitute “controlled schools”.

(18) In Schedule 5 in paragraph 4(3) for “the Head of the Department” substitute “ESA”. 25

(19) In Schedule 9—

(a) in the heading to the Schedule and in paragraph 1 for “the Department” (wherever occurring) substitute “ESA”;

(b) omit paragraph 2;

(c) in paragraph 3 omit the words from “for the transfer to the Department” to “school or” and for “the Department” substitute “ESA”; 30

(d) in paragraph 4 for “the Department” substitute “ESA” and omit the words from “or such smaller estate” to the end;

(e) in paragraph 6 for “The Department” substitute “ESA”;

(f) in paragraph 8 for “the consent of the Department” substitute “a certificate given by ESA”; 35

(g) omit paragraph 9.

The Recreation and Youth Service (Northern Ireland) Order 1986 (NI 22)

10. 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— 40

(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 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)—

- 5 (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)—

- 10 (a) for “an education and library board” (twice) substitute “ESA”;
 (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”.

15 (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”.

(6) In section 5(6) for “an education and library board” and “the education and library board” substitute “ESA”.

(7) In section 6(1)—

- 25 (a) for “An education and library board” substitute “ESA”;
 (b) in paragraphs (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—

- 30 “ “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 Article 69(4) for sub-paragraph (b) substitute—

- 35 “(b) to give written notice to ESA, and if the school is a voluntary school to the trustees of the school, that such a ballot is to be held;
 and
 (c) to seek the views of ESA on the proposal for the acquisition of grant-maintained integrated status for the school.”.

(3) In Article 70(3) after sub-paragraph (a) insert—

- “(aa) given a summary of any views expressed by ESA under Article 69(4)(c);”.
- (4) In Article 71—
- (a) for “the relevant board” (wherever occurring) substitute “ESA”;
 - (b) after paragraph (5) insert— 5
 “(5A) Where the school concerned is (or is proposed to be) situated in an area for which an area education plan is in force, then if ESA considers that a proposal under paragraph (1) or (2) is not in conformity with the plan—
 (a) ESA shall reject the proposal; and 10
 (b) if ESA does so, no further proceedings shall be taken under this Article in relation to the proposal (and accordingly the following provisions of this Article do not apply in relation to the proposal).”.
 - (c) in paragraph (7) after “paragraphs” insert “(7A),”; 15
 - (d) after paragraph (7) insert—
 “(7A) Where the school concerned is situated in an area for which an area education plan is in force, the Department in determining under paragraph (7) whether to approve (with or without modifications) a proposal shall act in conformity with the plan.”. 20
- (5) In Article 73(3) for “the relevant board” substitute “ESA”.
- (6) In Article 74(5)(a) for “Article 14(7)” substitute “Article 14(10)”.
- (7) In Article 75—
- (a) for “the relevant board” (wherever occurring) substitute “ESA”;
 - (b) in paragraph (8) for the words from “duty of” to “accordingly” substitute “school shall”. 25
- (8) In Article 79(2) for the words from the beginning to “as so applied” substitute “Articles 14 and 14A of the principal Order apply in relation to a proposal under paragraph (1) as they apply in relation to a proposal under Article 14(2) of that Order; but the Department shall not approve any proposal under Article 14(10) (as so applied)”. 30
- (9) In Article 80—
- (a) in paragraph (3) for “a board” substitute “ESA or a board”.
 - (b) for paragraph (7) substitute— 35
 “(7) Articles 14 and 14A of the principal Order apply in relation to a proposal under paragraph (6) as they apply in relation to a proposal under Article 14(2) of that Order.”.
- (10) 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”. 40
- (11) In Article 83—
- (a) after paragraph (1) insert—

- “(1A) Where school property is vested in ESA under paragraph (1)(a), ESA may transfer to the Board of Governors of the controlled school any property (other than land) used in connection with the school by the Board of Governors of the grant-maintained integrated school.”;
- 5 (b) in paragraph (3) for “any board or person” substitute “ESA or any other person” and for “that board or person” substitute “ESA or that person”;
- (c) in paragraph (5) for “person” substitute “a person”;
- (d) in paragraph (6) for “person to which or” substitute “the person”.
- (12) In Article 84(2) for “or person” substitute “or that person”.
- 10 (13) In Article 90(3) for “Article 14(7)” substitute “Article 14(10)”.
- (14) In Article 92—
- (a) in paragraph (1) after “it shall” insert “, subject to paragraph (1A),” and for “the relevant board” substitute “ESA”;
- (b) after paragraph (1) insert—
- 15 “(1A) The duty in paragraph (1) does not apply if—
- (a) the school concerned is situated in an area for which an area education plan is in force; and
- (b) ESA considers that the acquisition of controlled integrated status for the school would not be in conformity with the plan.”.
- 20 (c) after paragraph (2) insert—
- “(2A) Where the school concerned would be situated in an area for which an area education plan is in force, a proposal under paragraph (2) shall be in conformity with the plan.”.
- (d) in paragraph (5) after “paragraphs” insert “(5A),”.
- 25 (e) after paragraph (5) insert—
- “(5A) Where the school concerned is, or is proposed to be, situated in an area for which an area education plan is in force, the Department in determining under paragraph (5) whether to approve (with or without modifications) a proposal shall act in conformity with the plan.”;
- 30 (f) in paragraph (9)(b) for “the relevant board” substitute “ESA”.
- (15) In Article 93(3) for “the relevant board” substitute “ESA”.
- (16) In Article 94(5)(a) for “Article 14(7)” substitute “Article 14(10)”.
- (17) In Article 95—
- (a) in paragraph (1) for “the relevant board” substitute “ESA”;
- 35 (b) after paragraph (3) insert—
- “(3A) Subject to paragraph (3), ESA may transfer to the Board of Governors of the controlled integrated school any property (other than land) which vests in ESA under paragraph (1) and was used in connection with the school by the former Board of Governors.”.
- 40 (18) 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”.
- (19) In Article 131(2)(b)(ii) for “the board’s” substitute “ESA’s”.

- (20) In Article 135(1) for “that board or” substitute “ESA or the”.
- (21) In Articles 137(1) and 139(4)(a) for “any board” substitute “ESA”.
- (22) In Article 139(4)(b) for “any such board” substitute “ESA and any such”.
- (23) In Article 140—
- (a) in paragraph (a) omit “managers and”; 5
 - (b) for the words from “Article 62” to “1993” substitute “Article 72 of the Education (Northern Ireland) Order 1998”.
- (24) In Article 150—
- (a) in paragraphs (1) and (2) for “the boards” substitute “ESA”;
 - (b) in paragraph (2) for “Article 101(3)(b) to (h)” substitute “Article 101(3)(b) or (c)”. 10
- (25) In Article 151—
- (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”; 15
 - (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”;
 - (c) in paragraph (2)(c) for “employing authorities” substitute “ESA” and for “their” substitute “its”; 20
 - (d) omit paragraphs (3) and (5).
- (26) 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. 25
 - (2) DEL may carry out any project appearing to it to be associated with the provision of services connected with further or higher education.
 - (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.”. 30
- (27) In Schedule 5 in paragraph 2(1)(a) and (c) for “pupils attending” substitute “registered pupils at”.
- The Disability Discrimination Act 1995 (c. 50)* 35
13. In section 19(6) for paragraph (a) substitute—
- “(a) the Education and Skills Authority”.
- The Children (Northern Ireland) Order 1995 (NI 2)*
- 14.—(1) In Article 2(2) after the definition of “emergency protection order” insert— 40

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

(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”.

5 (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”.

(6) In Article 47—

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

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

(7) In Article 55(1)—

(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”.

15 (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”.

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

20 (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”.

(14) In Article 138(3)—

25 (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)—

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

30 (b) in sub-paragraph (a)—

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

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

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

35 (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”;

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

40 (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”.
- (20) In Article 143(1) for “The appropriate education and library board” substitute “ESA”. 5
- (21) In Article 143(3)—
- (a) for “The education and library board” substitute “ESA”;
 - (b) for “the board” substitute “ESA”.
- (22) In Article 143(4)(b) for “the education and library board” substitute “ESA”. 10
- (23) In Article 143(5)—
- (a) for “The education and library board by which a licence under this Article is granted” substitute “ESA”;
 - (b) for “the board” (wherever occurring) substitute “ESA”;
 - (c) for “the board’s” substitute “ESA’s”. 15
- (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”.
- (26) In Article 146(1) and (2) for “an education and library board” substitute “ESA”. 20
- (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”.
- (29) In Article 154(1) and (2) for “education and library boards” substitute “ESA”. 25
- (30) In Article 177(1)—
- (a) for “an education and library board” and “the education and library board” substitute “ESA”;
 - (b) for “the board” substitute “ESA”. 30
- (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”. 35
- (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”. 40

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

15.—(1) In Article 3(8) for “term” (twice) substitute “year”.

(2) In Article 14(1)(b) for “the appropriate board” substitute “ESA”.

5 (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”.

(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”.

10 (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”.

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

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

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

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

17. In Article 16(2) for sub-paragraph (b) substitute—

20 “(b) the Board of Governors of a voluntary school shall consider any representations made to it by the trustees of the school.”.

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

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

25 (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”.

30 (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)

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

“(a) ESA; and”.

35 (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—
 “(b) ESA; and”.
- (5) In Article 17A(1) for sub-paragraph (a) substitute—
 “(a) the qualifications for which courses of study are to be provided
 by or on behalf of the institution concerned;” 5
- (6) 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.”.
- (7) In Article 23(4) for “the board for the area in which the student is ordinarily
 resident” substitute “ESA”. 10
- (8) 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)*
20. In Schedule 11 in paragraph 8(b) for “an education and library board”
 substitute “the Education and Skills Authority”. 15
- The Museums and Galleries (Northern Ireland) Order 1998 (NI 2)*
21. In Article 4(8)(b) for “education and library boards” substitute “the
 Education and Skills Authority”.
- The Education (Northern Ireland) Order 1998 (NI 13)*
- 22.—(1) In Article 3(2)(b) for the words from “, the board for the area” to
 “Catholic Maintained Schools” substitute “or ESA”. 20
- (2) In Article 11—
 (a) in paragraph (1)(b) for “academic or vocational” substitute “prescribed”;
 (b) in paragraph (3)(a) for “the boards” substitute “ESA”.
- (3) In Article 12— 25
 (a) omit paragraph (2)(c);
 (b) in paragraph (5) for “falling within paragraph (2)(c) or (d)” substitute
 “prescribed under paragraph (2)(d)”.
- (4) In Article 13—
 (a) in paragraph (2)(b)(i) for the words from “, the board for the area” to
 “Catholic Maintained Schools” substitute “or ESA”; 30
 (b) in paragraph (2)(b)(ii) for “Article 102 of the principal Order” substitute
 “section 44 of the Education Act (Northern Ireland) 2012”.
- (5) In Article 14(1) for “Article 102 of the 1986 Order” substitute “section 46
 of the Education Act (Northern Ireland) 2012”. 35
- (6) In Article 16(7) for “boards to exercise their” substitute “ESA to exercise
 its”.
- (7) In Article 32(2) for sub-paragraphs (a) and (b) substitute “the Board of
 Governors of a controlled or maintained school shall consider any representations
 made to it by ESA”. 40

(8) In Article 35(3) for “an employing authority” substitute “ESA”.

(9) In Article 37(1)(b) for “employing authorities” substitute “ESA”.

(10) In Article 39(3) after “means” insert “ESA or” and for “Article 71” substitute “section 12 of the Education Act (Northern Ireland) 2012”.

5 (11) In Article 40(4) for “Employing authorities” substitute “ESA”.

(12) For the heading to Chapter 1 of Part 7 substitute “RECURRENT FUNDING”.

(13) In Article 55(3) and (6) for sub-paragraph (c) substitute—

10 “(c) where the school is a maintained school, the trustees of the school.”.

(14) In Article 56(1)—

(a) for “the board concerned” substitute “ESA”;

(b) for sub-paragraph (b)(iii) substitute—

15 “(iii) where the school is a maintained school, the trustees of the school.”.

(c) in sub-paragraph (b) for “that Council” substitute “those trustees”.

(15) In Article 56(2) for sub-paragraph (d) substitute—

“(d) where the school is a maintained school, the trustees of the school”.

20 (16) In Article 60(5) for “all the boards, the Council for Catholic Maintained Schools” substitute “ESA”.

(17) In Article 60(8) and (11) for sub-paragraph (c) substitute—

“(c) where the school is a maintained school, the trustees of the school”.

25 (18) In Articles 62 and 64 for “the relevant board” (wherever occurring) substitute “ESA”.

(19) In Article 64(2)(b)(iii) for “Council for Catholic Maintained Schools” substitute “trustees of the school”.

30 (20) In Article 67(1) for “any special schools under the management of, or maintained by, the board” substitute “controlled or maintained special schools”.

(21) In Article 67(5) for sub-paragraph (c) substitute—

“(c) if any of those schools is a maintained school, the trustees of the school”.

(22) For the heading to Chapter 2 of Part 7 substitute “CAPITAL FUNDING”.

35 (23) 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 date” substitute “during the relevant period”;

40 (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 17 of the Education Act (Northern Ireland) 2012.”;
- (e) in paragraph (7)(a) after “the Department” insert “or ESA”.
- (24) 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) 2012, all teachers and other staff required on the staff of the school;”.
- (25) In Article 72—
- (a) in paragraph (1) for sub-paragraphs (a) to (c) substitute “the Board of Governors of a grant-aided school”;
 - (b) in paragraph (2) after “may” insert “, with the agreement of the Board of Governors of the school,”.
- (26) In Article 80(3)(a) for “the boards” substitute “ESA”.
- (27) In Article 81—
- (a) omit paragraphs (3) and (6);
 - (b) for paragraph (7) substitute—
- “(7) In this Article “external qualification”, in relation to a school, means a qualification which is authenticated or awarded by a person other than a member of staff of the school.”.
- (28) In Schedule 1, in paragraph 1(2)(a)(ii) for “employing authorities” substitute “ESA”.
- The Education (Student Support) (Northern Ireland) Order 1998 (NI 14)*
23. 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)*
24. 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)

25. 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)

5 26.—(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”.

10 (4) In Article 37(8) after sub-paragraph (c) insert—

“(ca) the Board of Governors of a grant-aided school; and

(cb) the proprietor of an independent school.”.

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

27. In section 71(3) for paragraph (a) substitute—

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

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

28.—(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”.

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

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

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

25 (3) In Article 19(1) at the end add—

“(h) the Education Act (Northern Ireland) 2012.”.

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

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

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

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

31.—(1) 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”.

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

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

- (4) In Article 14(3)(c) and (4) for “the relevant board” substitute “ESA”.
- (5) In Article 22(2) for sub-paragraphs (a) and (b) substitute “ESA”.
- (6) In Article 22(3) for “relevant board” substitute “ESA”.
- (7) In Article 24(4)(a) for “the boards” substitute “ESA”.
- (8) In Article 31(2)(a)(i) for “the relevant board” substitute “ESA”. 5
- (9) In Article 31(3) for sub-paragraphs (a) and (b) substitute “ESA and the Board of Governors of the school”.
- (10) In Article 31(5)(a) for “the boards” substitute “ESA”.
- (11) In Article 32(1) and (7)(d) for “the relevant board” substitute “ESA”.
- The Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (NI 11)* 10
- 32.—(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”; 15
- (b) in sub-paragraph (d) for “Article 102 of the Education and Libraries (Northern Ireland) Order 1986” substitute “section 44 of the Education Act (Northern Ireland) 2012”.
- (3) In Article 41—
- (a) in the title, for “Education and Library Boards” substitute “ESA”; 20
- (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”. 25
- (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”; 30
- (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 44 of the Education Act (Northern Ireland) 2012”.
- (6) In Schedule 2— 35
- (a) in paragraph 1(8)(a) for “Article 102 of the Education and Libraries (Northern Ireland) Order 1986” substitute “section 44 of the Education Act (Northern Ireland) 2012”;
- (b) in paragraph 4(1)(e) for “an education and library board” substitute “ESA”; 40

(c) for paragraph 4(1)(f) substitute—

“(f) chief executive of ESA;”.

The Safeguarding Board Act (Northern Ireland) 2011(c. 7)

5 33. In section 1(3)(g) for “education and library boards” substitute “the Education and Skills Authority”.

SCHEDULE 8

Section 67.

REPEALS

Short Title	Extent of repeal
10 The School Sites Act (Northern Ireland) 1928 (c. 8)	Section 3(2).
15 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”.
20 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.
25 The Sex Discrimination (Northern Ireland) Order 1976 (NI 15)	In Article 2(2) the definition of “Education and Library Board”.
30 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) the definitions of “newspaper” and “the funding departments”; (c) in the definition of “transferors”, paragraph (b) and the word “or” immediately before it.
35	Part 2. Article 5(2).
40	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

Short Title	Extent of repeal
	word “and” immediately before it; (c) paragraph (2). Article 7. Articles 9A to 9D. 5 In Article 11(3) the words “, other than nursery schools,”. In Article 13(3D) the words “except Schedule 8 to the 1989 Order”.
	In Article 16(1) and (2) the words “for the area in which the school is situated”. 10 In Article 16(4)(a) the words “to the Department”. In Article 17A(2)(g) the word “educational”. In Article 22(1) and (2) the words “which controls the school”. 15 Article 37. In Article 46A— (a) in paragraph (4) the words “for the area in which he resides”; 20 (b) in paragraph (9) the definition of “relevant board”.
	In Article 49— (a) paragraph (2); (b) in paragraph (3)(a) the words “(other than a Catholic maintained school)”; 25 (c) in paragraph (5)(a) the words “responsible for the management of the school”; (d) in paragraph (6)(a) the words “situated in the area of the board”; 30 (e) in paragraph (12) the words “in like manner as it applies to members of a board”.
	In Article 53(1) the words “and is ordinarily resident within its area”. 35 In Article 54 the words “and is ordinarily resident within its area”. Article 57. In Article 58(3) the words “in its area”. 40 Article 65. Article 69(5). In Article 79— (a) in paragraph (2) the words “in like manner as it applies to members of a board”; 45 (b) paragraph (3). Articles 80 to 86. Article 88.

Short Title	Extent of repeal
5	In Article 88A(3) the words “or by the managers of a grant-maintained integrated school or of a voluntary school (other than a maintained school)”.
10	In Article 89— (a) paragraph (1)(a); (b) in paragraph(1)(b) the words “managed by a board or a maintained school”.
	Article 90(2). Articles 91A and 92.
15	In Article 93 the words “either alone or together with another board or other boards”.
20	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”.
	Articles 95 to 99. Articles 102 and 102A.
25	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)”.
	Article 110. Article 112.
30	Article 119A. Article 127(3).
35	In Article 128 the words from “or for any of the purposes” to the end. Article 130. Article 131(a).
	Schedules 1 to 3.
40	In Schedule 4— (a) in paragraph 5(4) the words from “and it shall be the duty” to the end; (b) in paragraph 6(5) the words “in the area of the board as a whole”;
45	(c) in paragraph 7, in the definition of “assistant teacher” the words “or part-time”.
	In Schedule 5, in paragraph 7(1) the definition of “board”.
	In Schedule 6, paragraph 2.
	In Schedule 9— (a) paragraph 2;

Short Title	Extent of repeal
	<p>(b) in paragraph 3 the words from “for the transfer to the Department” to “school or”;</p> <p>(c) in paragraph 4 the words from “or such smaller estate” to the end;</p> <p>(d) paragraph 9.</p>
	<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>
<p>The Education (Northern Ireland) Order 1987 (NI 2)</p>	<p>Article 4.</p> <p>Article 7.</p> <p>Articles 11 and 12.</p>
<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>
<p>The Education Reform (Northern Ireland) Order 1989 (NI 20)</p>	<p>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.</p> <p>Article 99(1)(c).</p> <p>Article 123.</p> <p>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</p>

Short Title	Extent of repeal
5	<p>words “board or”;</p> <p>(b) in paragraph (3) the words “who is ordinarily resident in its area” and the words “to another board or”.</p> <p>In Article 140(a) the words “managers and”.</p> <p>Part 9.</p> <p>Articles 148 and 149.</p> <p>In Article 151—</p>
10	<p>(a) in paragraph (2)(a) the words “and the governing bodies of institutions of further education”;</p> <p>(b) paragraphs (3) and (5);</p> <p>Article 153.</p>
15	<p>Article 158.</p> <p>Article 160.</p> <p>Article 162.</p> <p>Article 165(3) and (4).</p>
20	<p>In Schedule 5, in paragraph 2(2), in the definition of “assistant teacher” the words “or part-time”.</p> <p>In Schedule 6, paragraph 2(b)(i).</p> <p>Schedule 8.</p>
25	<p>In Schedule 9, the amendments to Articles 3, 4, 10, 92 and 130 of, and Schedule 15 to, the Education and Libraries (Northern Ireland) Order 1986.</p>
30	<p>The Youth Service (Northern Ireland) Order 1989 (NI 22)</p> <p>The whole Order.</p>
35	<p>The Pensions (Miscellaneous Provisions) (Northern Ireland) Order 1990 (NI 13)</p> <p>Article 13.</p>
40	<p>The Education and Libraries (Northern Ireland) Order 1993 (NI 12)</p> <p>Part 3.</p> <p>Article 31.</p> <p>Article 32(10), in the definition of “relevant body”, paragraph (a).</p> <p>Article 42(2) and (5).</p> <p>Article 44.</p>
45	<p>In Schedule 4, Part 1 and in Part 2 the amendments to the definition of “managers” in Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986 and to Article 9B of that Order.</p>
	<p>The Children (Northern</p> <p>Article 47(4).</p>

Short Title	Extent of repeal	
Ireland) Order 1995 (NI 2)	Article 55(6). Article 138(2) and (7). Article 139(3), (4) and (5). Article 143(2).	5
The Education (Northern Ireland) Order 1996 (NI 1)	<p>In Article 6(2)—</p> <p>(a) in sub-paragraph (a) the words “in its area”;</p> <p>(b) sub-paragraphs (b) and (c).</p> <p>In Article 9(2)—</p> <p>(a) in sub-paragraph (a) the words “for the area in which the school is situated”;</p> <p>(b) sub-paragraph (c) and the word “and” immediately before it.</p> <p>In Article 10(1) the words “in its area”.</p> <p>In Article 13(3) the words “he is in the area of the board and”.</p> <p>In Article 21(1) the words “in its area”.</p> <p>In Articles 21A and 21B the words “in its area” wherever they occur.</p> <p>Article 29.</p> <p>Article 33.</p> <p>Article 37(5).</p> <p>In Article 39(4)(b) the words “to the Department”.</p> <p>In Article 42—</p> <p>(a) in paragraph (1) the words “in its area”;</p> <p>(b) paragraph (5)(c) and (d).</p> <p>In Schedule 2—</p> <p>(a) paragraph 6(3)(b) and the word “and” immediately before it;</p> <p>(b) paragraph 10(2).</p> <p>In Schedule 4—</p> <p>(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>(b) in paragraph 3(2)(c) the words from “and (where the school” to the end;</p> <p>(c) in paragraph 4(3)(c) the words “responsible for the management of the schools in question”;</p> <p>(d) in paragraph 4(3)(d) the words from “and (where the schools” to the end.</p>	10 15 20 25 30 35 40 45
The Commissioner for Complaints (Northern	In Schedule 2 the entries relating to the Council for Catholic Maintained Schools,	

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

Short Title	Extent of repeal	
	In Article 25(8) the words from “for the area” to the end.	
	In Article 27(1) the words “situated in the area of the board”.	5
	In Article 29(8) the words from “for the area” to the end.	
	In Article 31(1) the words “situated in the area of the board”.	
	In Article 33— (a) in paragraphs (1)(b) and (4) the words “in its area”; (b) in paragraph (5) the words “situated in the area of the board”.	10
	In Article 39(1) the words “or authorising the Department where it is the issuing authority”.	15
	In Article 41, the definition of “employing authority”.	
	Article 43.	20
	Article 58.	
	In Article 59(1)(b) the word “concerned”.	
	In Article 60— (a) in paragraph (5) the words “and the Council for Catholic Maintained Schools”; (b) in paragraph (12) the word “concerned”.	25
	In Article 61(1) the words “situated in its area”.	30
	Article 61(3).	
	In Article 62(13) the definition of “relevant board”.	
	In Article 63(1) the words “situated in its area”.	35
	Article 63(3).	
	In Article 64(13) the definition of “relevant board”.	
	In Article 67A(3) the definition of “the board”.	40
	In Article 68(7)(d) the words “subject to paragraph (6)(c).	
	Article 70(3) to (7), (9) and (10).	
	Article 71.	
	In Article 72— (a) in paragraph (2) the words “which is under the management of the board and does not have a delegated budget”; (b) paragraph (5)(b) and the word	45

Short Title	Extent of repeal
5	<p>“and” immediately preceding it; (c) paragraph (6); (d) in paragraph (7) the definition of “educational services” and the words from “and references” to the end.</p>
	<p>Articles 74 to 79. Article 81(3) and (6). In Article 83—</p>
10	<p>(a) in paragraph (2)(b) the words “is resident in its area and”; (b) paragraph (3). In Article 87—</p>
15	<p>(a) in paragraph (3) the words “in its area”; (b) paragraph (6)(c) and (d). Article 89(5). Schedule 2.</p>
20	<p>In Schedule 4, in paragraph 1(8) the words “or by Article 20 of the Education and Libraries (Northern Ireland) Order 1993”. In Schedule 5 in Part 2, the amendment to the Exchequer and Financial Provisions Act (Northern Ireland) 1950.</p>
25	<p>The Audit and Accountability (Northern Ireland) Order 2003 (NI 5) Article 5(1)(a). In Schedule 1, paragraph 1.</p>
	<p>The Education and Libraries (Northern Ireland) Order 2003 (NI 12) Article 1(5). In Article 3—</p>
30	<p>(a) paragraphs (4)(b) and (5)(b); (b) in paragraph (6)(a) the words “in its area”.</p>
	<p>In Article 7—</p>
35	<p>(a) in paragraph (1)(a) the words “in its area”; (b) paragraph (3)(b) and the word “and” immediately before it.</p>
	<p>In Article 8(2) the definition of “the board”. Part 3.</p>
40	<p>In Article 22(1) the words “in its area”. Article 24. Article 28. Article 29(3) to (6). Articles 30 to 33.</p>
45	<p>Article 37— (a) paragraph (2)(a), (e) and (f);</p>

Short Title	Extent of repeal
	(b) paragraph (6); (c) paragraph (8)(a) and the word “and” at the end of paragraph (8)(c). Article 38. In Schedule 2, paragraphs 1 to 4, 6 and 7.
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”. Article 17. In Article 19(1)(a) the words “(except Article 37 and Part VII)”. Article 34(6)(a)(ii).
The Colleges of Education (Northern Ireland) Order 2005 (NI 13)	Article 10(9). Article 12(4).
The Education (Northern Ireland) Order 2006 (NI 11)	In Article 3— (a) in paragraph (1) the definition of “relevant board”; (b) paragraph (6). Article 23. Article 24(4)(b). In Article 25(1) the words “in its area”. In Article 25(11) the words “as it applies to members of a board”. Article 31(6). Articles 40 and 41. In Schedule 2, paragraphs 5, 18 to 20 and 40 to 44.
The Safeguarding Board Act (Northern Ireland) 2011 (c. 7)	Section 12(1)(g).