



Subject:

THE EDUCATION (2006 ORDER) (COMMENCEMENT NO. 2) ORDER (NORTHERN IRELAND) 2007

Circular Number:
2007/20

Date of Issue:
27 June 2007

Target Audience:

- Principals and Boards of Governors of all grant-aided post-primary schools and special schools with post-primary pupils;
- Education and Library Boards;
- Council for Catholic Maintained Schools;
- Northern Ireland Council for Integrated Education;
- Comhairle na Gaelscolaíochta;
- Northern Ireland Council for the Curriculum, Examinations and Assessment;
- Further Education Colleges.

Summary of Contents:

This Circular advises that the Education (2006 Order) (Commencement No. 2) Order (Northern Ireland) 2007 was made on 22 March 2007. The Order brings into operation certain minor amendments and repeals which are consequential on the commencement of Article 21 of the Education (Northern Ireland) Order 2006, announced in Circular 2007/06.

Enquiries:

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Governor Awareness:
Essential

Status of Contents:
Advice
Information for schools

Related Documents:
Circular 1991/21
Circular 2005/18
Circulars 2006/20 and 2006/20a
Circular 2007/06

Superseded Documents:
None

Expiry Date:
N/A

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Purpose of this Circular

1. This Circular provides information about the Education (2006 Order) (Commencement No. 2) Order (Northern Ireland) 2007, which brings into operation certain minor amendments and repeals to existing legislation, following the commencement of Article 21 of the Education (Northern Ireland) Order 2006. Circular 2007/06 detailed the contents of Article 21. A brief summary of the purpose of Article 21 is given in paragraph 4 below.
2. This Circular provides guidance and information for schools on the Order, but it does not constitute an authoritative legal interpretation: that is exclusively a matter for the courts.

Article 21 of the Education (Northern Ireland) Order 2006

3. The Entitlement Framework will require schools to provide access to a minimum of 24 courses at Key Stage 4 and a minimum of 27 courses for pupils post-16. In both cases at least one-third of the courses must be general and at least one-third applied. For most schools some form of collaboration with other providers will be necessary to enable pupils to have access to the full number of courses available through the Entitlement Framework¹.
4. Article 21 authorises the Board of Governors of a grant-aided school to make arrangements for secondary education to be provided on its behalf by other schools, further education colleges or suitable bodies approved by the Department, and sets out conditions as to the form and nature of such arrangements. The purpose is to establish and encourage collaboration when a school cannot alone provide access to the number and range of courses which will be required by the Entitlement Framework.

Minor amendments and repeals in the Education (2006 Order) (Commencement No. 2) Order (Northern Ireland) 2007

5. The purpose of the amendments and repeals commenced by the Order is to provide for the situations which will arise when, by virtue of agreements made between schools under Article 21 of the 2006 Order, pupils attend schools other than those at which they are registered. They seek to make clear where the responsibilities of Boards of Governors and principals lie in such situations. The key elements of these are as follows.

Pupils registered at, and pupils attending, a school

6. References in the Education Orders to pupils “at” or “attending” a school now include pupils who are attending, under Article 21 arrangements, a school at which they are not registered.
7. All schools keep a register of their own pupils and attendance records for their registered pupils. All schools are now also required to keep an attendance record

¹ For further information on the Entitlement Framework, including on the key responsibilities of providers, see Circulars 2006/20 “Entitlement Framework -Further Guidance,” 2006/20a “Delivering the Entitlement Framework – Guidance for Schools” and 2005/18 “Entitlement Framework - Initial Guidance”

for registered pupils from other schools who are attending a course or courses at their school and to make these records available to the school or schools at which the pupils are registered.

8. Pupils cannot be registered at two schools simultaneously, even if they are attending both under Article 21 arrangements. If, therefore, a pupil's parents wish to transfer him to a different school, he must be withdrawn from one school before being registered at another.

Attendance

9. The duty of parents to secure their children's regular attendance at the school at which they are registered has been extended to cover the situation where pupils are attending other schools or other institutions under Article 21 arrangements. In these circumstances, such attendance by a pupil will be taken as being attendance at the school at which he is registered, and so satisfy the parental duty. Equally, however, failure by his parents to secure his attendance at another school or institution with which arrangements under Article 21 are in place will be taken as failure to secure attendance at the school at which he is registered.

Provision of Religious Education

10. A school's duty to provide religious education and collective worship is amended so that it is confined to pupils registered at the school. This means that a school does not have to provide religious education and collective worship to non-registered pupils attending it under Article 21 arrangements.

Entitlement to be a Parent Governor

11. The statutory provisions for the election of parents as members of the Boards of Governors of grant-aided schools (except Grant-Maintained Integrated schools - see paragraph 12. below) are amended to provide that only parents of registered pupils at the school are eligible to participate in such elections. Similarly, where the law requires a parent governor to be included among those who are the trustees of the school Board of Governors, only parents of registered pupils at the school are eligible to serve.
12. **N.B.** Due to an oversight, no amendments were made to arrangements in grant-maintained integrated schools. The position therefore remains as at present, i.e., that foundation governors and parent governors may be parents of pupils **attending** GMI schools. The situation will be rectified at the next legislative opportunity.

Charging arrangements

13. The amendments make it clear that, for all charging purposes except capital charges in voluntary grammar schools (see paragraph 16. below), pupils who are attending a school under Article 21 arrangements must not be treated differently from pupils registered at the school. Therefore:
 - a. any permitted charges which may be payable by registered pupils may also be payable by non-registered pupils; and
 - b. non-registered pupils may not be made subject to charges if registered pupils are not also subject to those charges.

14. This means in particular that non-registered pupils attending a school must be treated in the same way as registered pupils in relation to:
 - a. any requests for voluntary contributions from parents;
 - b. the purchase of educational materials by parents;
 - c. charges by persons other than the school or the board, and payments to be paid by persons other than the pupil or their parents;
 - d. recovery of debt from a parent.
15. Subject to the changes noted in paragraphs 13. and 14. above, DE Circular 1991/21 "Education Reform (NI) Order 1989 – Charges in Grant-Aided Schools from 1 April 1992" remains in force.
16. There is no change to the current position whereby capital charges in voluntary grammar schools may only be made in respect of registered pupils. Pupils who are attending the school for limited periods and purposes under Article 21 arrangements are not subject to a capital charge.

Examinations

17. If a pupil is attending, under Article 21 arrangements, another school at which he is not registered, and the arrangements specify that that other school should enter him for an examination for which it is preparing him, then the duty to enter that pupil for the examination falls to the school he is attending, and not to the school at which he is registered. It follows that, if such a pupil fails without good reason to meet any examination requirement, so that the school is entitled to reclaim the examination fee from the pupil's parents, it is for the school which entered him for the examination to reclaim the fee, and not the school at which he is registered.

Pupils with Special Educational Needs

18. The amendments make it clear that existing requirements in relation to pupils with special educational needs apply in the same way in schools which they are attending under Article 21 arrangements as in the schools at which they are registered. This means that:
 - a. where special educational provision is being made for a pupil without a statement of special educational needs (because the school considers that he has such needs), whether this is in his own school or one that he is attending under Article 21 arrangements, the school at which he is registered must inform his parents that such provision is being made. Where provision is being made under Article 21 arrangements, then that school should ensure that information about the provision to meet the special educational needs is given to the school at which he is registered.
 - b. the arrangements made by education and library boards to avoid or resolve disputes between parents of children with special educational needs and schools will apply to a school which a pupil is attending under Article 21 arrangements as well as the school at which he is registered.

Duty to promote good behaviour, discipline and welfare

19. Since schools may expect to have unregistered pupils attending them from other schools, Boards of Governors must safeguard and promote the welfare of all pupils attending their school, whether registered or not, when they are on the premises of the school or in the lawful control or charge of a member of staff of the school.
20. Similarly, the responsibilities of Boards of Governors and principals for ensuring that policies are pursued to promote good behaviour and discipline among registered pupils are extended to cover all pupils attending the school, whether registered or not.

Detention

21. As an exception to the general principle that pupils attending another school should be treated in the same way as pupils registered at that school, the punishment of detention after school may be imposed only by the principal of (or an authorised teacher in) the school at which a pupil is registered, even if he is attending another school under Article 21 arrangements. It follows, therefore, that misdemeanours which would warrant detention should be reported to the school at which the pupil is registered to enable it to decide on the appropriate action to be taken.

Corporal punishment

22. Finally, and to ensure consistency, the provisions of earlier legislation forbidding the corporal punishment of registered pupils are extended to all pupils attending a school.

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