

AIDE MEMOIRE SUMMARY OF THE EDUCATION BILL

(as introduced in the NI Assembly on 25 November 2008)

Please Note – this is a very brief summary of the provisions in the Education Bill and is not intended to be a definitive description of any of the provisions. The Bill, together with the Explanatory and Financial Memorandum, can be viewed or downloaded on the NI Assembly's website

http://www.niassembly.gov.uk/legislation/primary/2008/nia3_08.htm

The ESA – establishment, governance, functions

- Clauses 1-2 and Schedule 1.
- The ESA established as the planner, supporter and challenger of schools.
- Duty to treat all schools on same basis – clause 1 (3).
- Duty on school improvement.
- Definition of 'early years' services – 'educational services' - clause 1 (8).
- Schedule 1 contains standard provisions on governance etc of the ESA.
- Democratic accountability - provision requiring majority of members to be councillors.
- The ESA will be subject to the normal duties that apply to a public authority, e.g.: section 75 of the Northern Ireland Act 1998; Freedom of Information Act 2000; Human Rights Act 1998.

Employing authority role of the ESA

- Clauses 3 – 12 and Schedule 2.
- The ESA will hold the contracts of employment of all staff in all grant-aided schools in all sectors.
- Existing contracts will transfer with protection for pay and conditions according to Public Service Commission principles.
- Boards of Governors will discharge key employment functions.
- Respective roles of Boards of Governors and the ESA set out in schemes of employment.
- ESA produces guidance, approves schemes, can (in extremis) modify schemes or impose a scheme.

- This is an 'accountable autonomy' measure – schools draw up the schemes, and (within parameters of guidance) could decide to take as much of the responsibility for employment functions as they wish.
- Boards of Governors and ESA under legal duty to comply with schemes.
- ESA will not micro manage – it will ensure that proper procedures have been followed, but will not second guess decisions.
- The ESA cannot lawfully refuse to put into effect any proper decision of a Board of Governors.

Other functions of the ESA

- Clauses 13 to 20.
- Range of additional functions.
- Provision/securing of training, advisory and support services for schools.
- Schools library service.
- Provision/securing of youth services and education services.
- Transfer of superannuation and capital grants functions from DE.
- Ancillary powers and commercial activities – standard provisions.
- Civil contingencies (emergency planning) – giving DE power to put these activities on statutory basis for first time, as in other jurisdictions.

Dissolution of existing bodies and transfers

- Clauses 21-22 and Schedules 3 – 5.
- Dissolution of bodies and transfer of assets, liabilities and staff.
- Slight variation for CCMS – to allow for the transfer of assets and liabilities to the Roman Catholic Church, i.e. those not associated with transferring functions, and which were not publicly funded.

General duties of DE and DEL

- Clause 23.
- Little change for DEL – but DEL may wish to give further consideration to this.
- Significant change for DE, reflects overall purpose of education.

- Significance of 'in' rather than 'of' the North – to comply with EU Directive on residency and free movement.

Examinations, assessments, qualifications and curriculum

- Clauses 24 to 28.
- Complex provisions.
- Essentially transfer the CCEA functions to the ESA, insofar as they relate to education in grant-aided schools.
- DE formally will accredit qualifications, but the day to day work will be done by the ESA on DE's behalf.
- Position in FE is different – DEL intends to place certain functions for accreditation of professional and technical functions with the GB regulator - 'OfQual', and is taking provisions in Westminster legislation.
- DEL considering whether approval functions in 28 (2) and (5) required.

General Teaching Council

- Clause 29 and Schedule 6.
- Brings powers of GTC here into line with those of similar bodies in other jurisdictions.
- Key feature – introduction of a range of sanctions in addition to the 'ultimate' sanction of removal from the register of teachers: i.e. reprimand; conditional registration; or suspension.

Schemes of management for grant-aided schools

- Clauses 30 – 33.
- Similar to the provisions on schemes of employment.
- Purpose - to ensure that there are sound arrangements in place for the governance of every grant-aided school.

Boards of governors

- Clauses 34 – 36.
- Provisions to transfer the appointment functions of Education and Library Boards and DE to the ESA.

- New definition 'community governors' but composition of boards otherwise unchanged.
- Duty on boards of governors in relation to raising standards, and to co-operate with the ESA in doing so.

Inspections

- Clauses 37 – 42.
- Not significant change.
- May still need technical changes for DEL and DCAL.
- Clarifies power of DEL and DCAL to authorise DE inspectors to act on their behalf.
- Some additional powers on taking copies of documents etc, similar to GB legislation.

Grants for educational and youth services

- Clause 43.
- Tidying up of existing provisions.

Protection of Children and Young Persons

- Clauses 44 – 48.
- Plugging gaps in current arrangements.
- Clear duties on ESA, boards of governors, and other providers.
- Duty on ESA to ensure that the arrangements work.
- Duty on providers to cooperate with the ESA.
- Means of enforcing standards – power of direction for schools, condition of grant for other providers.

Catholic Maintained schools

- Clause 49.
- Simple definition required.

Supplementary provisions

- Clauses 50 to 55.

- Standard provisions.
- Note that most of the resulting act will be commenced by means of commencement order. This is to provide a means of ensuring that the two RPA Bills remain in synchronisation.

Repeals and amendments

- Schedules 7 and 8.
- Looks straightforward, but represents a line by line review of 11 Orders, resulting in over 1200 changes.