1994 No. 12

EDUCATION

Colleges of Education (Grant Conditions) Regulations (Northern Ireland) 1994

Made	*17th January 1994*
Coming into operation . .	*7th February 1994*

The Department of Education, in exercise of the powers conferred on it by Articles 66(3), (4) and (5)(**a**) and 134(1)(**b**) of the Education and Libraries (Northern Ireland) Order 1986(**c**) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Colleges of Education (Grant Conditions) Regulations (Northern Ireland) 1994 and shall come into operation on 7th February 1994.

Revocations

2. The following Regulations are hereby revoked:

Training Colleges (Grant Conditions) Regulations (Northern Ireland) 1956(**d**);

Colleges of Education (Grant Conditions) Amending Regulations (Northern Ireland) 1968(**e**);

Colleges of Education (Grant Conditions) Amending Regulations (Northern Ireland) 1969(**f**);

Colleges of Education (Grant Conditions) Amending Regulations (Northern Ireland) 1970(**g**);

Colleges of Education (Grant Conditions) Amendment Regulations (Northern Ireland) 1976(**h**).

Interpretation

3. In these Regulations—

"agreement" means an agreement made between the trustees of a college and the Department conferring upon the Department the right to

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(**a**) Article 66(4) to (11) was substituted by S.I. 1993/2810 (N.I. 12) Article 50(1) and Schedule 4 Part II
(**b**) As amended by S.I. 1993/2810 (N.I. 12) Article 50(1) and Schedule 4 Part II
(**c**) S.I. 1986/594 (N.I. 3)
(**d**) S.R. & O. (N.I.) 1956 No. 9 (p. 123)
(**e**) S.R. & O. (N.I.) 1968 No. 284
(**f**) S.R. & O. (N.I.) 1969 No. 160
(**g**) S.R. & O. (N.I.) 1970 No. 13
(**h**) S.R. 1976 No. 166

appoint, after consultation with the trustees, members to the Board of Governors of the college amounting to not more than one-third of the total number of members of the Board of Governors;

"college" means a college of education in respect of which grants are paid by the Department under Article 66(2) or (3) of the Order;

"premises" means premises in respect of which payment of grant has been or is to be made under these Regulations and includes land;

"replacement premises" in relation to a college means any premises which replace any existing premises of that or any other college;

"the Order" means the Education and Libraries (Northern Ireland) Order 1986.

Application for grant

4. An application for payment of grant in respect of approved expenditure incurred for the provision or alteration of the premises of a college or for the initial provision of equipment for such a college shall be made by the trustees in whom the ownership of the premises is, or is to be vested, and shall be in such form and contain such particulars and information as the Department may determine.

Amounts of grant

5.—(1) Where an agreement has been made the Department may, subject to these Regulations, pay grants to the trustees of a college in respect of approved expenditure incurred for—

(*a*) the provision of a new college; or

(*b*) the alteration of an existing college; or

(*c*) the initial provision of equipment for such new or existing college,

equal to eighty-five per cent of that expenditure.

(2) Where no agreement has been made, paragraph (1) shall have effect as if for the words "eighty-five per cent" there were substituted "sixty-five per cent".

(3) Without prejudice to the provisions of paragraphs (1) and (2) expenditure incurred for the replacement of equipment for a college shall be met in such manner as the Department may approve.

Grant conditions

6.—(1) No payments of grant shall be made to the trustees of a college under these Regulations unless—

(*a*) the premises are vested in approved trustees for an estate in fee simple or for such lesser estate as the Department shall deem sufficient upon trust irrevocable during the term of the said estate to maintain and carry on a college; and

(*b*) the trustees provide or undertake to provide such additional sum as will when added to the grant be sufficient in the opinion of the Department to meet the total amount of the approved expenditure.

(2) The Department may require that the trustees shall submit for its approval sketch plans, working drawings, specifications and tenders and furnish such other documents and information as the Department may specify with respect to any transactions or works in respect of which grant is sought.

(3) The trustees shall furnish or cause to be furnished to the Department all such receipts, architect's certificates or other documents as the Department may require for the purpose of vouching the approved expenditure in respect of which grant is to be paid.

(4) In accepting payment of a grant the trustees and each of them shall be deemed to have entered into a covenant with the Department binding upon the trustees and their successors in title for the due performance and observance of the following conditions so as to—

(*a*) insure and keep insured the premises against loss or damage by fire or flood and against such other risks as the Department may direct, in some insurance office of repute for a sum equal to the replacement value thereof; and insure adequately against loss, damage and any accident caused by, or related to a boiler installed on the premises;

(*b*) produce to the Department on request any policy of insurance for the time being in force and the receipt for the last premium due thereunder and, if any loss or damage by fire or flood or otherwise is caused to the premises or any part thereof, expend in re-building or reinstating such premises, all or so much of the money received under such policy of insurance as the Department may require.

(5) In the event of a breach of any of the conditions specified in this regulation the persons to whom grant was paid or their successors in title for the time being shall repay to the Department the full amount of grant or such lesser amount as the Department considers equitable.

Prohibition on use of the premises for political meetings etc

7. The trustees shall not cause or permit the premises to be used for political purposes, or for the transaction of any political business or for any purpose connected directly or indirectly with Parliamentary Northern Ireland Assembly or Local Government elections or a poll pursuant to section 1 of the Northern Ireland Constitution Act 1973(**a**) except as polling booths on the requisition of the officer responsible under the enactments governing such elections or poll as the case may be; provided that this regulation shall not prevent the holding on the premises of meetings of college societies in accordance with arrangements approved by the Board of Governors of the college.

Payment of grant

8.—(1) Except as provided for in paragraphs (2) and (3) no payment of grant shall be made in respect of expenditure incurred for the provision or alteration of the premises of a college without the prior approval of the Department or where works in relation to those premises have not been completed to the satisfaction of the Department.

(**a**) 1973 c. 36

(2) Where such expenditure has been incurred without the prior approval of the Department the payment of grant in respect of that expenditure may be reduced by such amount as the Department considers equitable in the circumstances.

(3) The Department may make payments of grant by instalments but the final instalment shall not be paid until all the work has been completed to the satisfaction of the Department and any defects liability period prescribed in any contract entered into by the trustees has expired.

Termination of an agreement

9.—(1) Subject to paragraphs (2) and (3) the trustees of a college or their successors in title for the time being may terminate an agreement by notice in writing given to the Department specifying the date (being a date not earlier than two years from the date on which such notice is given) on which the agreement is to terminate.

(2) On or before the date specified in accordance with paragraph (1) there shall be payable by the trustees or their successors in title for the time being to the Department an amount equal to the difference between the amount actually paid under Article 66(3) of the Order whilst the agreement is in force and the amount which would have been so paid if the agreement had not been in force.

(3) Where any amount has not been paid to the Department in accordance with paragraph (2) the agreement shall remain in force until that amount has been so paid.

Duty to pursue application for compensation under the Criminal Damage Compensation (Northern Ireland) Order 1977

10. Where the premises have been damaged in circumstances where compensation under the Criminal Damage Compensation (Northern Ireland) Order 1977(**a**) is likely to be payable the trustees shall take all reasonable steps to pursue an application under that Order and use any compensation paid (or such part thereof as the Department may require) for the purpose of reinstating the premises.

Amounts payable to the Department in respect of a college closure

11. Where any premises in respect of which the Department has paid grant under Article 66(3) of the Order cease to be used for approved purposes of a college there shall be payable to the Department by the persons to whom grant was paid or by their successors in title for the time being such sum as the Department considers equitable but not exceeding—

(*a*) in respect of grants paid prior to 2nd August 1984 and within a period of 50 years from the date of payment of grant (or where the grant is payable by instalments from the date of payment of the first instalment) either—

(**a**) S.I. 1977/1247 (N.I. 14)

(i) the total amount of grant paid in respect of approved expenditure incurred for the provision or alteration of the premises; or

(ii) such proportion of the value of the premises as the proportion that the amount of grant was of the approved cost of the provision or alteration of the premises,

whichever is the lesser.

(*b*) in respect of grant paid at any time after 1st August 1984—

(i) such proportion of the value of the premises as the proportion that the amount of grant was of the approved costs of the provision or alteration of the premises; and

(ii) if the Department so determines, interest on that sum from the date on which the premises ceased to be used for approved purposes of a college until the date of payment to the Department.

Amounts payable to the Department in respect of certain sites

12. Where any site in respect of which the Department has at any time after 1st August 1984 paid grant under Article 66(3) of the Order ceases in the opinion of the Department to be required for the purposes of a college there shall be payable to the Department by the persons to whom the grant was paid or by their successors in title for the time being such sum as the Department considers equitable but not exceeding—

(*a*) such proportion of the value of the site as the proportion that the amount of grant was of the approved cost of the acquisition of the site; and

(*b*) if the Department so determines, interest on that sum from the date on which the site ceased to be so required until the date of payment to the Department.

Amount of grant in respect of a replacement college

13.—(1) Where the Department proposes to pay grant under Article 66(3) of the Order in respect of expenditure incurred for the provision or alteration of the premises of a college and in the opinion of the Department the premises provided or altered are replacement premises the Department may—

(*a*) where the proceeds resulting from the disposal of the replaced premises are realised before expenditure is incurred for the provision or alteration of the replacement premises, reduce the amount of grant so payable by such amount as the Department considers equitable;

(*b*) where the replaced premises continue to be used for approved purposes of a college until such time as expenditure is incurred for the provision or alteration of the replacement premises, require that when the replaced premises cease to be so used the persons to whom the grant was paid or their successors in title for the time being shall pay to the Department such amount as it considers equitable.

(2) The amount by which grant may be reduced under paragraph (1)(*a*) or the amount payable to the Department under paragraph (1)(*b*) shall consist of a sum not exceeding—

(*a*) such proportion of the value of the replaced premises as the proportion that the amount of grant is or was of the approved cost of the provision or alteration of the replacement premises; and

(*b*) if the Department so determines, interest on that sum from the date on which the replaced premises ceased to be used for approved purposes of a college until the date of the payment of a grant under paragraph (1)(*a*) or, as the case may be, the payment to the Department under paragraph (1)(*b*).

14. For the purposes of regulations 11, 12 and 13—

(*a*) the value of the premises or a site shall be the amount which the premises or site might be expected to realise if sold on the open market on the date on which the premises ceased to be used or the site ceased to be required for the purposes of a college and where the Department certifies that it is not possible to reach agreement as to such value, the dispute as to such value shall be referred to and determined by the Lands Tribunal for Northern Ireland;

(*b*) in the calculation of either the amount by which the grant may be reduced or the amount payable to the Department as appropriate there shall be taken into account such costs incurred by the persons to whom grant was paid or by their successors in title for the time being as the Department determines are reasonable;

(*c*) interest shall be at the rate of 8 per cent per annum.

Recovery of sums payable to the Department

15. Any sum payable to the Department under these Regulations may be recovered by it as a civil debt.

Sealed with the Official Seal of the Department of Education on 17th January 1994.

(L.S.) *J. A. Mills (Miss)*
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations revoke the Training Colleges (Grant Conditions) Regulations (Northern Ireland) 1956, as amended. The Regulations relate to voluntary colleges of education and in particular—

(*a*) provide that where an agreement has been made between the trustees of a college and the Department in regard to the appointment of the Board of Governors then the Department may pay grant equal to eighty-five per cent of approved expenditure incurred for the provision of a new college, the alteration of an existing college or the initial provision of certain equipment; and where no agreement has been made between the trustees of the college and the Department in regard to the appointment of the Board of Governors, the Department may pay grant equal to sixty-five per cent of such approved expenditure (regulation 5);

(*b*) prescribe the conditions under which grants may be made by the Department of Education in respect of expenditure incurred for the provision or alteration of the premises of a voluntary college of education (regulation 6);

(*c*) prohibit, subject to an exception, the use of the premises for political meetings or the transaction of political business and restrict the use of the premises for any purpose connected with elections (regulation 7);

(*d*) provide that expenditure must, except under certain circumstances, be approved by the Department before it is incurred and that payments of grant may be made by instalments if certain conditions are satisfied (regulation 8);

(*e*) provide for repayment of grant where the trustees of a college or their successors in title terminate an agreement between them and the Department (regulation 9);

(*f*) require in certain circumstances that the trustees pursue an application for compensation under the Criminal Damage Compensation (Northern Ireland) Order 1977 and to use compensation received to reinstate the premises (regulation 10);

(*g*) provide that where premises cease to be used as a college, or where a site ceases to be so required, certain sums are payable to the Department by the persons to whom grant was paid or by their successors in title (regulations 11 and 12);

(*h*) provide for reduction or repayment of grant where grant is paid towards expenditure to replace existing premises (regulation 13);

(*i*) provide for the recovery of sums payable to the Department (regulation 15).