Coronavirus Act 2020 Temporary Modification of Education Duties (No.33) Notice (Northern Ireland) 2021

*Made 7 June2021*

*Coming into operation 8 June 2021*

The Department of Education[[1]](#footnote-1) makes the following Notice, in exercise of the powers conferred on it by section 38(3)(c) and paragraph 17(1), (2)(a)(ii), (4)(a) and (7) of Schedule 17 to the Coronavirus Act 2020[[2]](#footnote-2).

The Department considers that the issuing of this Notice is an appropriate and proportionate action in all the circumstances relating to the incidence or transmission of coronavirus for the following reasons:

(a) Pupils in all schools have returned to school after the Easter holidays. It follows a review during the Executive’s meeting on 1 April 2021 when it was agreed that the remaining students in years 8 to 11 could resume face-to-face teaching from 12 April.[[3]](#footnote-3) Special, primary and nursery schools will continue to remain open as normal.

(b) Article 58(1)(a) and (5)(a) of the Education and Libraries (NI) Order 1986 (the 1986 Order) requires the Education Authority[[4]](#footnote-4), the trustees or Board of Governors of a voluntary grammar school[[5]](#footnote-5) and the Board of Governors of a grant‐maintained integrated school[[6]](#footnote-6) to secure the provision of milk, meals or other refreshment for pupils of such description as the Department may determine who are in attendance at their schools.

Owing to the incidence or transmission of Coronavirus it might not be possible for some pupils who are entitled to free school meals to be in attendance at school: it is the Department’s assessment that this scenario will likely continue until the end of this academic year. It is felt, therefore, in order to ensure that these children are not disadvantaged due to reasons beyond their control and specifically connected to the Coronavirus that alternative provision should be set in place to ensure some form of sustenance for the duration of the period in which they are prevented from being at school, if they wish to avail of it.

(c) This Notice is in line with Notice No 32, which expires on 7 June 2021, and continues to apply to specified pupils in all grant-aided schools.

(d) As with all previous notices, consideration has been given to whether there are viable alternative options to giving this Notice, for example, by providing financial assistance to parents. The Department is of the view that this would not represent an effective alternative for the following reasons:-

(i) it is less in keeping with the nutritionally balanced meal ethos, suitable as the main meal of the day, which is available to pupils in attendance at school;

(i) school meals services are operating as normal from 12 April 2021 and are therefore positioned to make food provision for eligible pupils not in attendance due to Coronavirus restrictions; and

(ii) the administration of financial assistance at an individual level for such short periods would inevitably delay payment to parents and would not be available as quickly as the provision of food.

(d) The modification is proportionate for the following reasons:-

(i) it enables the Education Authority[[7]](#footnote-7), the trustees or Board of Governors of a voluntary grammar school[[8]](#footnote-8) and the Board of Governors of a grant‐maintained integrated school[[9]](#footnote-9) to provide a means by which children to whom this Notice applies can secure the provision of an adequate meal for the duration that they are prevented from being in attendance at school owing to the incidence or transmission of Coronavirus;

(ii) it provides certainty to parents who require assistance to feed their children; and

(iii) ensures appropriate regard to value for money considerations.

**1. Citation, commencement and interpretation**

(1).This Notice may be cited as the Coronavirus Act 2020 Temporary Modification of Education Duties (No. 33) Notice (Northern Ireland) 2021 and shall come into operation on 8 June 2021.

(2). In this Notice –

“commencement date” is the date mentioned in paragraph 1(1);

“grant-maintained integrated school” has the meaning assigned to it by Article 65(3) of the Education Reform (Northern Ireland) Order 1989[[10]](#footnote-10);

“parent” shall be construed in accordance with Article 2(2) and (2D) to (2F) of 1986 Order;

“Public Health Agency” means the Regional Agency for Public Health and Social Well-being established by section 12(1) of the Health and Social Care (Reform) Act (Northern Ireland) 2009[[11]](#footnote-11);

“the Department” means the Department of Education in Northern Ireland;

“the Education Authority” has the meaning at s.1(1) of the Education Act (Northern Ireland) 2014[[12]](#footnote-12);

“the specified period” shall be construed in accordance with paragraph 4;

“the 1986 Order” means the Education and Libraries (Northern Ireland) Order 1986[[13]](#footnote-13);

“voluntary grammar school” shall be construed in accordance with Article 2(2) of the 1986 Order.

(3). The Interpretation Act (Northern Ireland) 1954[[14]](#footnote-14) shall apply to this Notice as it applies to an Act of the Assembly.

**2. Application**

(1). Paragraph 3 applies to the descriptions of pupils mentioned in sub-paragraph (2) who are required to attend school but, owing to Coronavirus, are or will be prevented from being in attendance at school for a period of 10 calendar days or more.

(2). The descriptions of pupils mentioned in sub-paragraph (1) are those children who are-

(a) diagnosed with a medical condition or illness (or in extreme circumstances their parent has a significant underlying medical condition) and who –

(i) despite their absence from school, are registered by the school as being in attendance on the basis of medical advice that owing to their medical condition or illness (or in extreme circumstances their parent’s significant underlying medical condition), it is medically unsafe to be in attendance at school;

(ii) can demonstrate evidence that they are being educated, or otherwise engaging in learning, whilst not in attendance at school;

(b) self-isolating as a consequence of their own positive test for coronavirus disease;

(c) self-isolating as a consequence of a positive test for coronavirus disease of a member of their household and who are engaging in distance learning; and

(d) required by the school, on the advice of the Public Health Agency, not to attend school and who are engaging in distance learning.

(3). For the purposes of calculating the 10 calendar days mentioned in sub-paragraph (1), the day in which any pupil is sent home from school shall be included in the calculation period.

**3. Modification**

(1). For the specified period, in respect of those pupils to whom this Notice applies (paragraph 2), the provisions set out at sub-paragraphs (2) and (3) are modified in the manner set out therein.

(2). Article 58(1)(a) of the 1986 Order is modified to read:-

*“(1) The Education Authority shall use its best endeavours, in accordance with arrangements approved by the Department, to provide –*

*(a) milk, meals or other refreshment for pupils of such description as the Department may determine who would normally be in attendance at grant-aided schools, other than voluntary grammar schools and grant‐maintained integrated schools, but cannot attend by reason of the incidence or transmission of Coronavirus.”.*

(3). Article 58(5)(a) of the 1986 Order is modified to read:-

*“(5) The trustees or Board of Governors of a voluntary grammar school and the Board of Governors of a grant‐maintained integrated school shall use their best endeavours, in accordance with arrangements approved by the Department, to provide —*

*(a) milk, meals or other refreshment for pupils of such description as the Department may determine who would normally be in attendance at the school but cannot attend by reason of the incidence or transmission of Coronavirus.”.*

(4). In respect of pupils in attendance at school, Article 58 of the 1986 Order continues to apply in its original form.

**4. Specified Period**

The specified period is a period of 23 days from and including the commencement date, unless the Department issues a cancellation notice before that period. A further Notice may be issued by the Department in respect of the same duty[[15]](#footnote-15).

Sealed with the official seal of the Department of Education on 7 June 2021.

Karen McCullough

A Senior Officer of the

Department for Education

**Notes**

**1. Paragraph 17 of Schedule 17 to the Coronavirus Act 2020 requires the Department to publish a Notice under this paragraph and to take such other steps as the Department considers reasonable to bring the Notice to the attention of those likely to be affected by it.**

**2. Where the Notice relates to a person specified by name the Department is required to give a copy of the Notice to that person, and the published version of the notice must not identify any individual without their consent.**

**3. Whilst this is the thirty-third Notice made in accordance with Paragraph 17 of Schedule 17, it represents a further Notice to the:-**

**No. 32 Notice made on 10 May 2021;**

**No. 31 Notice made on 13 April 2021;**

**No. 30 Notice made on 9 March 2021;**

**No. 29 Notice made on 9 March 2021;**

**No. 28 Notice made on 9 March 2021;**

**No. 26 Notice made on 19 February 2021;**

**No. 25 Notice made on 19 February 2021;**

**No. 24 Notice made on 5 February 2021;**

**No. 23 Notice made on 5 February 2021;**

**No. 22 Notice made on 5 February 2021;**

**No. 21 Notice made on 14 January 2021;**

**No. 20 Notice made on 14 January 2021;**

**No. 19 Notice made on 14 January 2021;**

**No. 18 Notice made on 16 December 2020;**

**No. 17 Notice made on 16 December 2020;**

**No. 16 Notice made on 27 November 2020;**

**No. 15 Notice made on 2 November 2020;**

**No. 14 Notice made on 16 October 2020;**

**No. 13 Notice made on 28 September 2020;**

**No. 12 Notice made on 28 August 2020;**

**No. 11 Notice made on 21st August 2020;**

**No. 8 Notice made on 18 June 2020;**

**No. 6 Notice made on 21 May 2020;**

**No. 4 Notice made on 23 April 2020; and**

**No. 1 Notice made on 26 March 2020,**

**the Department being of the view that this Notice was appropriate and proportionate. See the Department of Education website for previous Notices** [**Department of Education Covid-19 Releases**](Department%20of%20Education%20Covid-19%20Releases)

1. 2016 c.5 (N.I.) (See s.1(11) and Schedule 1) [↑](#footnote-ref-1)
2. 2020 c.7 [↑](#footnote-ref-2)
3. [All Pupils return to school after Easter Break](All%20Pupils%20return%20to%20school%20after%20Easter%20Break) [↑](#footnote-ref-3)
4. See Paragraph 1 of this Notice [↑](#footnote-ref-4)
5. See Paragraph 1 of this Notice [↑](#footnote-ref-5)
6. See Paragraph 1 of this Notice [↑](#footnote-ref-6)
7. See Paragraph 1 of this Notice [↑](#footnote-ref-7)
8. See Paragraph 1 of this Notice [↑](#footnote-ref-8)
9. See Paragraph 1 of this Notice [↑](#footnote-ref-9)
10. S.I. 1989/2406 (N.I. 20) [↑](#footnote-ref-10)
11. 2009 c.1 (N.I.) [↑](#footnote-ref-11)
12. 2014 c.12 (N.I.) [↑](#footnote-ref-12)
13. S.I. 1986/594 (N.I. 3) [↑](#footnote-ref-13)
14. 1954 c.33 (N.I.) [↑](#footnote-ref-14)
15. This is the thirty third Notice issued under the Coronavirus Act 2020 [↑](#footnote-ref-15)