EDUCATION

Coronavirus Act 2020 Temporary Modification of Education Duties (No.8) Notice (Northern Ireland) 2020

Made	*18 June 2020*
Coming into operation	*20 June 2020*

The Department of Education[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) and (7) of Schedule 17 to the Coronavirus Act 2020[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) Since 23 March 2020 the majority of schools in Northern Ireland have closed temporarily in order to reduce the spread of Coronavirus[3], some schools remain open for vulnerable children and children of critical workers[4]. Children not in those groups are not currently attending school.

(b) Article 58(1)(a) of the Education and Libraries (NI) Order 1986[5] (the 1986 Order) requires the Education Authority 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 grant-aided schools[6]. Owing to the Coronavirus it is not presently possible for the Education Authority to fulfil its duty at Article 58(1)(a) of the 1986 Order for the following reasons:-

(i) Article 58(1)(a) requires pupils to be in attendance at school before they can receive provision under Article 58(1)(a), the majority of pupils in Northern Ireland are not currently in attendance at school;

(ii) despite the easing of lockdown restrictions in Northern Ireland[7], the Education Authority School Meals Service continues to experience reduced staff resources. Operationally this continues to limit the resource otherwise available to secure provision in accordance with Article 58(1)(a).

(c) Consideration has been given to whether there are viable alternative options to giving this Notice, for example, continuing to provide school meals to those children who are entitled and in turn requiring these children to attend school. Whilst this approach may be partially successful, the Department considers that this would not represent an effective alternative for the following reasons:-

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[1] 2016 c.5 (N.I.) (See s.1(11) and Schedule 1)
[2] 2020 c.7
[3] https://www.education-ni.gov.uk/news/letter-minister-education-education-sector
[4] https://www.education-ni.gov.uk/publications/guidance-vulnerable-children-and-young-people-10-april-2020
[5] S.I. 1986/594 (N.I. 3)
[6] https://www.education-ni.gov.uk/publications/milk-and-meals-arrangements-education-authority-voluntary-grammar-and-grant-maintained
[7] https://www.nidirect.gov.uk/articles/coronavirus-covid-19-regulations-guidance-and-what-they-mean-you

(i) despite the easing of lockdown restrictions in Northern Ireland, School Meals Service continues to experience reduced staff resources;

(ii) it remains contrary to the current advice to stay at home as much as possible[8];

(iii) it presents challenges in social distancing for both children (over 102,000 children are entitled to free school meals) and Education Authority kitchen staff preparing meals;

(iv) it potentially stigmatises children entitled to free school meals.

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

(i) it enables the Education Authority to provide a means by which parents of children to whom the Notice applies can secure the provision of an adequate meal for their children for the duration that schools are closed; and

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

1. Citation, commencement and interpretation

(1).This Notice may be cited as the Coronavirus Act 2020 Temporary Modification of Education Duties (No. 8) Notice (Northern Ireland) 2020 and shall come into operation on 20 June 2020.

(2). In this Notice –

"cancellation notice" has the meaning set out in paragraph 17(8) of Schedule 17 to the Coronavirus Act 2020;

"commencement date" is the date mentioned in paragraph 1(1);

"parent" shall be construed in accordance with Article 2(2) and (2D) to (2F) of the Education and Libraries (Northern Ireland) Order 1986;

"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[9];

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

"the specified period" shall be construed in accordance with paragraph 3.

(3). The Interpretation Act (Northern Ireland) 1954[10] shall apply to this Notice as it applies to an Act of the Assembly.

2. Modification

(1). Subject to sub-paragraph (2), for the specified period, the duty at Article 58(1)(a) of the 1986 Order is disapplied.

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[8] https://www.nidirect.gov.uk/campaigns/coronavirus-covid-19
[9] 2014 c.12 (N.I.)
[10] 1954 c.33 (N.I.)

(2). For the specified period, and in respect of the category of parents described at paragraph 4, Article 58(1)(a) of the 1986 Order shall be modified to read:-

> *(1) The Education Authority shall use its reasonable endeavours, in accordance with arrangements approved by the Department, to provide –*
>
> *(a) a financial payment in lieu of milk, meals or other refreshment to the parent of a pupil who is in attendance at a grant-aided school or who would normally be in attendance but cannot attend by reason of the Coronavirus outbreak.*

3. Specified Period

The specified period is a period of 11 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.[11]

4. Application

The category of parents is those persons whose children are in receipt of free school meals, determined in accordance with paragraph 6 of the Arrangements for the Provision of Milk, Meals and Related Facilities[12] made under the provisions of Articles 58 and 59 of the 1986 Order and issued to the Education Authority by the Department in September 2017.

Sealed with the Official Seal of the Department of Education on xx June 2020

L.S.

Derek Baker

Derek Baker
A senior officer of the
Department of Education

[11] This a further Notice to the No. 6, No.4 and the No.1 Notice.
[12] https://www.education-ni.gov.uk/publications/milk-and-meals-arrangements-education-authority-voluntary-grammar-and-grant-maintained

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. While this is the eighth Notice made in accordance with Paragraph 17 of Schedule 17, it represents a further Notice to the:-

No. 6 Notice made on 21 May 2020; and

No. 4 Notice made on 23 April 2020; and

No. 1 Notice made on 26 March 2020,

the Department being of the view that a further notice was appropriate and proportionate. See the Department of Education website for previous Notices (https://www.education-ni.gov.uk/department-education-releases-covid-19-coronavirus).