



Education (Scotland) Act 1980

1980 CHAPTER 44

PART II

RIGHTS AND DUTIES OF PARENTS AND FUNCTIONS OF EDUCATION AUTHORITIES IN RELATION TO INDIVIDUAL PUPILS

General principle

28 Pupils to be educated in accordance with the wishes of their parents

- (1) In the exercise and performance of their powers and duties under this Act, the Secretary of State and education authorities shall have regard to the general principle that, so far as is compatible with the provision of suitable instruction and training and the avoidance of unreasonable public expenditure, pupils are to be educated in accordance with the wishes of then-parents.
- (2) A parent shall not be entitled to select a course of secondary education for his child from which in the opinion of the education authority (confirmed by the Secretary of State in the event of a dispute between the parent and the authority) the pupil shows no reasonable promise of profiting.

Transfer from primary to secondary education

29 Transfer schemes

An education authority may at any time, and shall if and when so required by the Secretary of State, prepare and submit for his approval under section 69 of this Act a scheme or a revised scheme (hereafter in this Act called a "transfer scheme ") relating to the schools under their management, and a transfer scheme shall—

- (a) set out the arrangements which the education authority propose to adopt in relation to the transfer of pupils from one stage of school education and their admission to a subsequent stage of school education, and

- (b) fix a single date (to be known as a "transfer date") on which such transfer shall take place in every year:

Provided that the Secretary of State may, if in the circumstances of any particular case he thinks it expedient to do so, approve a scheme which fixes more than one transfer date.

Duty of parents to provide education for their children

30 Duty of parents to provide education for their children

It shall be the duty of the parent of every child of school age to provide efficient education for him suitable to his age, ability and aptitude either by causing him to attend a public school regularly or by other means.

31 School age

Subject to sections 32(3) and 33(2) and (4) of this Act, a person is of school age if he has attained the age of five years and has not attained the age of sixteen years.

32 Dates for commencement of school attendance

- (1) Subject to subsection (7) below, an education authority shall fix a date or dates (any such fixed date being hereinafter referred to as a " school commencement date ") for the commencement of attendance at primary schools in their area; and any such date may be either a calendar date or fixed by reference to the occurrence of a particular annual event.
- (2) Subject to subsection (7) below, an education authority may, under subsection (1) above—
 - (a) fix different school commencement dates for different primary schools in their area ;
 - (b) at any time fix a different school commencement date in substitution for any date previously fixed by them under the said subsection (1).
- (3) A child who does not attain the age of five years on a school commencement date shall, for the purposes of section 31 of this Act, be deemed not to have attained that age until the school commencement date next following the fifth anniversary of his birth.
- (4) Subject to subsection (7) below, an education authority shall, in respect of each school commencement date fixed by them under subsection (1) above and applicable to a public primary school, fix the latest following date (any such fixed date being hereinafter referred to as an " appropriate latest date ") on or before which a child must attain the age of five years in order to come within the category of children whom the authority consider of sufficient age to commence attendance at a public primary school at that school commencement date.
- (5) Subject to subsection (7) below, an education authority may, under subsection (4) above—
 - (a) where a school commencement date is applicable to more than one public primary school in their area, fix in respect of that school commencement date different appropriate latest dates for those different schools;

- (b) at any time fix a different appropriate latest date in substitution for any date previously fixed by them under the said subsection (4).
- (6) The education authority shall carry out their duty under section 1 of this Act as if a child who is under school age on a school commencement date, but who will attain the age of five years on or before the next following appropriate latest date fixed in respect of the school commencement date, has attained the age of five years on the school commencement date; but nothing in this subsection or in subsection (4) above shall, in respect of a child under school age,—
- (a) impose any duty on his parent; or
 - (b) require an education authority to take any action under section 36 or 37 of this Act.
- (7) The period between an appropriate latest date applicable to a school and the next following school commencement date applicable to that school (whether or not the school commencement date is that in respect of which the appropriate latest date is fixed) shall not, except with the approval of the Secretary of State on an application to him by the education authority, exceed six months by more than seven days:
- Provided that no such application shall be made, nor approval given, in respect of any such period which commences after 31st December 1979.
- (8) In relation to any child, " school commencement date "—
- (a) in subsection (3) above—
 - (i) means, where the child is a pupil in attendance at a primary school, a school commencement date of that school;
 - (ii) in any other case has the same meaning as in subsection (6) above;
 - (b) in subsection (6) above means a school commencement date of the public primary school to which a child of his religious denomination and from his place of residence would normally be admitted.
- (9) In this section, " primary school " does not include a nursery school or a nursery class.

33 School leaving dates

- (1) The last day of May (hereinafter referred to as the " summer leaving date ") and the appropriate day in December (hereinafter referred to as the " winter leaving date ") shall be the school leaving dates in each year.
- (2) Subject to subsection (4) below, for the purposes of section 31 of this Act a person shall, if the date of his attaining the age of sixteen years is—
- (a) on or after 1st March but before the next summer leaving date, be deemed not to have attained that age until the summer leaving date ;
 - (b) after the summer leaving date but before 1st October next following that date, be deemed to have attained that age on the summer leaving date;
 - (c) on or after 1st October but before the next winter leaving date, be deemed not to have attained that age until the winter leaving date;
 - (d) after the winter leaving date but before 1st March next following that date, be deemed to have attained that age on the winter leaving date.
- (3) In subsection (1) above, " the appropriate day in December " means—
- (a) in the case of a person who is a pupil in attendance at a school, the first day of the Christmas holiday period;

(b) in any other case, 21st December,
 and in paragraph (a) of this subsection, " Christmas holiday period " means a period of consecutive days which includes 25th December and in which the school does not meet for the purpose of providing school education.

- (4) A person who attains the age of sixteen years—
- (a) before 30th June 1976 and who has not ceased to be of school age before that date; or
 - (b) on or after 30th June 1976 but before 1st October 1976,
- shall be deemed not to be over school age until such date (being 30th June 1976 or a date thereafter) as the Secretary of State may by order made by statutory instrument prescribe; and different dates may be prescribed for different categories of such persons.

34 Exemption from school attendance

- (1) Where after due inquiry an education authority are satisfied that by reason of any circumstances existing at his home it would cause exceptional hardship to require a child over fourteen years of age to attend school, they may grant exemption from the obligation to attend school to enable the said child to give assistance at home upon such conditions, if any, as to the amount and manner of further attendance at school until the child reaches the upper limit of the school age as the authority think fit.
- (2) No exemption granted under subsection (1) above shall extend beyond the date for commencing school attendance next following the date upon which the exemption was granted:
- Provided that the authority may if they think fit renew an exemption, so however that the provisions of this section shall apply to such renewal in like manner as they apply to the original grant.
- (3) An exemption granted under this section shall exempt the parent of the child concerned from any prosecution or other proceeding under this Act for neglecting to provide for the education of the said child.
- (4) The education authority shall keep a register of exemptions granted under this section wherein shall be entered the name of each child so exempted and a statement of the circumstances in which and the conditions upon which such exemption was granted.

Failure of parents to provide education for their children

35 Failure by parent to secure regular attendance by his child at a public school

- (1) Where a child of school age who has attended a public school on one or more occasions fails without reasonable excuse to attend regularly at the said school, then, unless the education authority have consented to the withdrawal of the child from the school (which consent shall not be unreasonably withheld), his parent shall be guilty of an offence against this section.
- (2) For the purposes of this section, a child who has been required to discontinue for any period his attendance at a school on account of his parent's refusal or failure to comply with the rules, regulations or disciplinary requirements of the school, shall, unless the

court otherwise determines, be deemed to have failed without reasonable excuse to attend regularly at the school.

36 Power of education authority in relation to irregular attendance of child at a public school

- (1) It shall be the duty of the education authority if they consider that a parent has committed an offence against section 35 of this Act in respect of a child resident in their area, to serve a notice on the parent requiring him, within such time as may be specified in the notice (not being less than forty-eight hours or more than seven days from the service thereof) to appear (with or without the child) before the authority and explain the reason for the absence of the child from school. If the parent fails to satisfy the authority that he had a reasonable excuse, the authority may instruct that he be prosecuted forthwith under section 43 of this Act, or may warn the parent and postpone for a period not exceeding six weeks a decision as to whether to prosecute.
- (2) Where an education authority in the exercise of the powers conferred upon them by subsection (1) above postpone a decision as to whether to prosecute a parent, they may, if the child is still of school age, make an attendance order in respect of the child in accordance with the provisions of section 38 of this Act requiring the parent to cause the child to attend the public school which he has been attending, or, if the child has changed his residence, a school attended by children residing in the same neighbourhood as the child.
- (3) Without prejudice to the institution of proceedings for an offence against section 35 of this Act or the exercise of the power conferred by section 44(1) of this Act, where a child of school age has failed to attend a public school regularly, the education authority may refer the child to the reporter of the appropriate local authority; and in this subsection "local authority" has the same meaning as in the Social Work (Scotland) Act 1968.

37 Power of education authority where not satisfied that parent is providing efficient education for his child

- (1) Where a child of school age has not attended a public school in the area in which his parent is residing, or has attended such a school and has been withdrawn therefrom with the consent of, or excluded by, the education authority, then, if the authority are not satisfied that the parent is providing efficient education for him suitable to his age, ability and aptitude, it shall be the duty of the authority to serve a notice on the parent requiring him within such time as may be specified in the notice (not being less than seven or more than fourteen days from the service thereof) either—
 - (a) to appear (with or without the child) before the authority and give such information as the authority may require regarding the means, if any, he has adopted for providing education, or
 - (b) in the option of the parent, to give such information to the authority in writing.
- (2) If a parent on whom a notice has been served in pursuance of subsection (1) above fails to satisfy the authority that he is providing efficient education for the child suitable to his age, ability and aptitude or that there is reasonable excuse for his failure to do so, the authority shall make an attendance order in respect of the child in accordance with the provisions of section 38 of this Act.

Attendance orders

38 Making of attendance orders

- (1) References in sections 36 and 37 of this Act, and in the following provisions of this Act, to an attendance order in respect of a child are references to an order in writing requiring the parent of the child to cause the child to attend a school named in the order, being either a public school or a school (other than a public school) the managers of which are willing to receive the child.
- (2) In an attendance order in respect of a child—
 - (a) a school at which the parent will be required to pay fees shall not be named except at the request of the parent; and
 - (b) a special school shall not be named unless the education authority have decided under the Act of 1946, the Act of 1962 or this Act that the child requires special education.
- (3) Before making an attendance order under section 36 or 37 of this Act, the education authority shall consider any views expressed by the parent as to the school which he desires his child to attend.
- (4) The authority shall cause a copy of any attendance order made by them under section 36 or 37 of this Act to be served upon the parent, and it shall thereupon be the duty of the parent, subject to an appeal to the sheriff under subsection (5) below, to cause the child to attend regularly at the school named in the order.
- (5) A parent aggrieved by the making of an attendance order by an education authority may within fourteen days after the date upon which a copy of the order was served upon him under subsection (4) above appeal against it to the sheriff, who may confirm, vary or annul the order and whose decision shall be final.

39 Amendment and revocation of attendance orders

- (1) An education authority who have made an attendance order in respect of any child may at any time while the order is in force serve upon the parent of the said child a notice of their intention to amend the order by substituting the name of another school for that named in the order.
- (2) Where a child in respect of whom an attendance order is in force moves his residence, the education authority of the area to which the child has moved may serve upon the parent of the said child a notice of their intention to amend that order by substituting for the name of the school appearing in the order the name of a school attended by children residing in the same neighbourhood as the child.
- (3) The parent may within fourteen days of the service of a notice under subsection (1) or (2) above intimate in writing to the authority any objections he may have to the proposed amendment. After the expiry of the said period of fourteen days and after considering any objections made by the parent, the authority may amend the attendance order, and subsections (2), (4) and (5) of section 38 of this Act shall apply in the case of the amended attendance order as they apply in the case of an attendance order.

- (4) If at any time while an attendance order is in force with respect to any child the parent of the child makes application to the authority by whom the order was made or amended requesting—
- (a) that another school be substituted for that named in the order, or
 - (b) that the order be revoked on the ground that arrangements have been made for the child to receive efficient education suitable to his age, ability and aptitude at a school other than that named in the order or elsewhere than at school,
- the authority shall amend or revoke the order in compliance with the request unless they are of opinion that the proposed change of school is unreasonable or inexpedient in the interests of the child, or that the arrangements made for the education of the child at a school other than that named in the order or elsewhere than at school are not satisfactory, as the case may be; and, if a parent is aggrieved by a failure of the authority to reach a decision upon his application within one month after the date thereof or by refusal of the authority to comply with any such request, he may appeal to the sheriff, who shall give such direction as he thinks fit.

40 Period of operation of attendance orders

An attendance order made in respect of any child shall, subject to any amendment thereof made by an education authority or variation made by the sheriff, and unless revoked by an authority or annulled by the sheriff, continue in force so long as the child is of school age:

Provided that if a decision of an education authority under the Act of 1946, the Act of 1962 or this Act that a child requires special education is revoked any attendance order requiring the attendance of that child at a special school shall be deemed to be annulled.

41 Failure to comply with attendance order

Where an attendance order has been made and is in force in respect of any child, and a copy of such order has been served on the parent of the child, the parent shall, if the order is not complied with, be guilty of an offence against this section unless he satisfies the court that he has a reasonable excuse.

Reasonable Excuses

42 Reasonable excuses

- (1) For the purposes of sections 35, 36, 37, 41 and 44 of this Act, there shall be deemed to be a reasonable excuse if—
- (a) there is within walking distance of the child's home measured by the nearest available route no public or other school the managers of which are willing to receive the child and to provide him with free education, and either—
 - (i) no arrangements have been made by the education authority under section 50 or 51 of this Act with regard to the child ; or
 - (ii) any arrangements so made are such as to require the child to walk more than walking distance in the course of any journey between his home and school; or

- (b) the child has been prevented by sickness from attending school or receiving education as the case may be; or
 - (c) there are other circumstances which in the opinion of the education authority or the court afford a reasonable excuse.
- (2) The fact that an application to an education authority, or an appeal to the sheriff, has been made under section 39(4) of this Act in relation to an attendance order in respect of a child shall not be deemed to be a reasonable excuse for failure to cause the child to attend regularly at the school named in the order.
- (3) Where a parent alleges that his child has been prevented by sickness from attending school or receiving education as the case may be, the parent shall, if required by the education authority, permit a medical officer of the appropriate Health Board to examine the child, and any parent who fails to do so shall be guilty of an offence against this section (4) In this section—
- " walking distance " means, in the case of a child who has not attained the age of eight years, two miles, and in the case of any other child, three miles;
 - " the appropriate Health Board ", in relation to any child, means—
 - (a) where an attendance order is in force in respect of the child, the Health Board in whose area the school named in the order is situated ;
 - (b) in any other case, the Health Board in whose area the place of residence of the child is situated.

Prosecutions

43 Prosecutions and penalties

- (1) Any person guilty of an offence against section 35, 41 or 42 of this Act shall be liable, on conviction by a court of summary jurisdiction, in the case of a first conviction to a fine not exceeding £50, in the case of a second conviction, whether in respect of the same or of another child, to a fine not exceeding £50, and in the case of a third or subsequent conviction, whether in respect of the same or of another child, to a fine not exceeding £50 or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.
- (2) Proceedings under this section may be taken at the instance either of the public prosecutor of the court of summary jurisdiction in which the proceedings are to be taken or of another person authorised by the education authority to institute proceedings on their behalf.

44 Powers of Courts in relation to child

- (1) If the court before which a prosecution is brought for an offence against section 35, 41 or 42 of this Act is satisfied that the child has failed without reasonable excuse to attend regularly at school, then, whether or not the parent is convicted, the court may direct that the case be referred to the reporter of the appropriate local authority and if so referred shall certify the said failure as a ground established for the purposes of Part III of the Social Work (Scotland) Act 1968; and in this subsection " local authority " has the same meaning as in the said Act of 1968.
- (2) If the court before which a prosecution is brought for an offence against section 35 of this Act is satisfied that a child has failed without reasonable excuse to attend regularly

at school, but does not, in the exercise of the powers conferred upon it by subsection (1) above, make a direction, the court may, if the child is still of school age, make an attendance order in respect of the child requiring the parent to cause the child to attend the public school which he has been attending or, if the child has changed his residence, a school attended by children residing in the same neighbourhood as the child; and subsections (2) and (3) of section 38 and sections 39 to 41 of this Act shall apply with any necessary modifications to an attendance order made by a court under this section as they apply to an attendance order made by an education authority.

Attendance at junior colleges

45 Attendance at junior colleges

- (1) It shall be the duty of every education authority to serve on every young person ordinarily resident in their area who is not exempt from compulsory further education a notice (hereinafter referred to as an "attendance notice") directing him to attend a junior college named in the notice, and it shall be the duty of every young person upon whom such a notice is served to attend at the junior college in accordance with the requirements specified in the notice. The authority shall serve a copy of the notice and of any amendment thereof upon the parent of the young person.
- (2) Subject to subsection (3) below the requirements specified in an attendance notice shall be such as to secure the attendance at a junior college of the young person upon whom the notice is served—
 - (a) for one whole day, or two half-days, in each of forty-four weeks in every year while he remains a young person; or
 - (b) for one continuous period of eight weeks, or for two continuous periods of four weeks each in every such year, if the authority are satisfied that continuous attendance would be more suitable for the said young person;

and in this section the expression "year" means, in relation to any young person, in the case of the first year, the period of twelve months beginning with the first day on which he is required by an attendance notice served on him to attend a junior college, and in the case of every subsequent year the period of twelve months beginning immediately after the expiration of the last preceding year:

Provided that—

- (i) in respect of the year in which the young person attains the age of eighteen the requirements specified in the notice shall be reduced to such extent as the education authority think expedient for securing that the attendances required of him until he attains that age shall be as nearly as may be proportionate to those which would have been required of him during a full period of twelve months; and
- (ii) the Secretary of State may from time to time require an education authority to fix for their area two or more dates for terminating attendance at junior colleges. The education authority shall intimate to the Secretary of State the dates which they propose to fix, and the Secretary of State may approve the said dates or may, after consultation with the authority and with such other persons as he thinks fit, require the authority to fix other dates. The authority shall fix dates in accordance with the approval or requirement of the Secretary of State, and thereupon a young person resident in the area shall for the purpose of attendance at a junior college be deemed to attain the age

of eighteen on the fixed date next following the day when he actually attains that age.

(3) If by reason of the nature of the employment of any young person or of other circumstances affecting him the education authority are satisfied that attendance in accordance with subsection (2) above would not be suitable in his case, an attendance notice may, with the consent of the young person, require his attendance in accordance with such other arrangements as may be specified in the notice, so, however, that the requirements specified in the notice in accordance with such arrangements as aforesaid shall be such as to secure the attendance of the young person for periods amounting in the aggregate to three hundred and thirty hours in each year, or, in the case of the year in which he attains the age of eighteen, to the proportionately reduced number of hours.

(4) Except where continuous attendance at a junior college involves residence at the college or at a hostel, no attendance notice shall require a young person to attend a junior college on a Sunday or during any holiday or half-holiday to which by any enactment regulating his employment or by agreement he is entitled, or, so far as practicable, during any holiday or half-holiday which is allowed in accordance with any custom of his employment, or between the hours of six in the evening and half past eight in the morning:

Provided that the Secretary of State may, on the application of an education authority, direct that in relation to young persons in their area or in any part thereof employed at night or otherwise employed at abnormal times this subsection shall have effect as if for the reference to the hours of six in the evening and half past eight in the morning there were substituted a reference to such other times as may be specified in the direction.

(5) The place, days, times and periods of attendance required of a young person and the period for which the notice is to be in force shall be specified in any attendance notice served on him; and the requirements of any such notice may be amended as occasion may require either by the authority by whom it was served or by any other education authority in whose area he may for the time being reside, so, however, that the provisions of every such notice shall be such as to secure that the requirements imposed on the young person during each year while he remains a young person shall comply with subsections (2), (3) and (4) above.

(6) In determining what requirements shall be imposed upon a young person by an attendance notice or by any amendments to such a notice, the education authority shall have regard, so far as practicable, to any preference which he and, in the case of a young person under the age of sixteen years, his parent may express, to the circumstances of his employment or prospective employment, and to any representations that may be made to the authority by his employer or any person proposing to employ him.

(7) If a pupil satisfies the education authority that any religious observance or any part of the instruction at a junior college which the pupil is required to attend is contrary to his religious belief or likely to give offence to his religious feelings, the education authority shall permit the pupil to withdraw from such observance or instruction and shall, so far as practicable, arrange for him to be suitably occupied while such observance or instruction is in progress.

(8) The following persons shall be exempt from compulsory attendance at a junior college, that is to say:—

- (a) any person who is in full-time attendance at any school or other educational establishment (not being a junior college) approved by the Secretary of State for the purpose;
 - (b) any person who is shown to the satisfaction of the education authority to be receiving suitable and efficient instruction in some other manner either full-time or for such times as in the opinion of the authority are equivalent to not less than three hundred and thirty hours instruction in a period of twelve months;
 - (c) any person who having been exempt under either paragraph (a) or (b) above did not cease to be so exempt until after he had attained the age of seventeen years and eight months;
 - (d) any person who is undergoing a course of training approved by the Secretary of State for the mercantile marine or the sea fishing industry or who, having satisfactorily completed such a course, is engaged in the mercantile marine or in the sea fishing industry;
 - (e) any person to whom, by reason of section 130 or 131 of this Act, the duties of education authorities do not relate;
 - (f) any person who attained the age of sixteen years before the date when the scheme for the provision of junior colleges came into force.
- (9) If any person is aggrieved by a decision of an education authority given under subsection (8)(b) above, he may refer the question to the Secretary of State, who shall give such direction thereon as he thinks fit.
- (10) If any young person upon whom an attendance notice has been served fails to comply with any requirement of the notice, he shall be guilty of an offence against this section unless he proves either—
- (a) that he was exempt from compulsory attendance for further education, or
 - (b) that he was prevented from complying with the requirement by reason of sickness or any other unavoidable cause,
- or unless the court is satisfied that there was some other reasonable cause for such failure.

46 Provisions for securing attendance at junior colleges

- (1) For the purpose of facilitating the execution by education authorities of their functions under section 45 of this Act, the following provisions shall have effect, that is to say—
- (a) every young person who is not exempt from compulsory attendance at a junior college shall at all times keep the education authority concerned informed of his proper address;
 - (b) every person whose employment such a young person as aforesaid enters shall, not later than four days thereafter, if the young person has not then left his employment, notify the education authority concerned that the young person has entered his employment;
 - (c) where a young person whose entry into employment has been notified in pursuance of paragraph (b) above leaves that employment, the employer shall within four days thereafter notify the education authority concerned that the young person has ceased to be employed by him;
 - (d) where such a young person as aforesaid enters the employment of an employer by whom he had previously been employed, the employer shall immediately

notify such entry to the education authority concerned unless the previous entry was so notified in pursuance of paragraph (b) above ;

- (e) every person by whom such a young person as aforesaid is employed shall notify the education authority concerned of any change of his address, and, if known to him, of any change of the young person's address.

In this subsection the expression " the education authority concerned" means the education authority in whose area the young person is ordinarily resident.

- (2) Any person who fails to comply with any requirement imposed on him by subsection (1) above shall be guilty of an offence against this section.
- (3) The education authority by whom an attendance notice is served upon any young person shall serve a copy thereof upon any person who notifies the authority that the young person is employed by him.
- (4) The Secretary of State may by regulations make provision as to the form of attendance notices, as to consultation and the exchange of information between education authorities, as to the issue of certificates of exemption in respect of young persons who are exempt from compulsory attendance at a junior college, and generally for the purpose of facilitating the administration by education authorities of the provisions of this Act as to attendance at junior colleges.
- (5) The Secretary of State shall give directions to education authorities and to the Manpower Services Commission for ensuring due consultation and exchange of information between education authorities and the Commission.

47 Enforcement of attendance at junior colleges

- (1) Any person guilty of an offence against either section 45 or 46 of this Act shall be liable on conviction by a court of summary jurisdiction in the case of a first offence against that section to a fine not exceeding £1, in the case of a second offence against that section to a fine not exceeding £5, and in the case of a third or subsequent offence against that section to a fine not exceeding £10 or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.
- (2) If, in furnishing any information for the purposes of either section 45 or 46 of this Act, any person makes any statement which he knows to be false in any material particular, or recklessly makes any statement which is false in any material particular, he shall be liable on summary conviction to a fine not exceeding £20 or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.
- (3) If the parent of a young person or any person by whom a young person is employed or the servant or agent of any such person has connived at any offence committed by the young person against either section 45 or 46 of this Act, the person who has connived at the offence shall, whether or not any person is proceeded against or convicted in respect of the offence connived at, be guilty of the like offence and punishable accordingly.

48 Power to require attendance of unemployed young persons at junior colleges

- (1) If any young person is capable of and available for work but has no work or only part-time or intermittent work, the Secretary of State may require his attendance in accordance with regulations at any junior college at which he can reasonably be expected to attend.

- (2) If any young person whose attendance at a junior college has been required by the Secretary of State under this section fails, except by reason of sickness or other unavoidable cause, to attend at that college, he shall be liable on conviction by a court of summary jurisdiction in the case of a first offence to a fine not exceeding £1, in the case of a second offence to a fine not exceeding £5, and in the case of a third or subsequent offence to a fine not exceeding £10 or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.
- (3) For the purposes of subsection (2) above and of any such proceedings as are therein mentioned, a young person who, by reason of his misbehaviour while attending at a junior college, has been required to discontinue his attendance thereat for any period shall be deemed to have failed without unavoidable cause to attend at that college.
- (4) An education authority shall have power to assist the Secretary of State with respect to the attendance at junior colleges of young persons who may be, or have been, required by the Secretary of State under this section to attend thereat.
- (5) Regulations made by the Secretary of State under this section shall make provision as to the functions to be performed by education authorities with respect to young persons required under this section to attend at junior colleges, and, in particular, shall direct such authorities to make in any attendance notice served on any such young person such modifications as may be provided by the regulations, and shall make provision as to the circumstances in which and the extent to which attendances in pursuance of requirements under this section may be reckoned as attendances in pursuance of the requirements of attendance notices.
- (6) The aforesaid regulations may make provision for the establishment of boards of assessors for the purpose of reporting to the Secretary of State as to the advisability of requiring young persons to attend at a junior college.

Provision to assist pupils to take advantage of educational facilities

49 Power of education authorities to assist persons to take advantage of educational facilities

- (1) Subject to the following provisions of this section, an education authority shall have power to grant, on such conditions as may be prescribed, and make payments in pursuance of, bursaries, scholarships or other allowances to persons over school age attending courses of full-time or part-time education (whether held in Scotland or elsewhere) which are not courses of school education or (in the case of courses held outside Scotland) are not courses of education comparable to school education in Scotland.
- (2) Subject to the following provisions of this section, an education authority shall have power, for the purpose of enabling persons to take advantage without hardship to themselves or their parents of the facilities for school education available to them, to grant, on such conditions as may be prescribed, and make payments in pursuance of, allowances for the purpose of defraying in whole or in part—
 - (a) such expenses of persons attending any school as may be expedient to enable them to take full part in the activities of the school;
 - (b) the fees and expenses payable in respect of persons attending schools at which fees are payable;

- (c) the maintenance expenses of persons over school age who are attending schools.
- (3) The Secretary of State may make regulations providing that the powers conferred on an education authority by subsections (1) and (2) above—
- (a) shall be exercised in accordance with such provisions as may be prescribed by or under the regulations; and
 - (b) shall not be exercised in relation to a person who does not fulfil such requirements as to residence in the area of the authority, or as to other matters, as may be specified in the regulations;
- and regulations made under this subsection may contain provision for the determination by the Secretary of State of any question whether any such requirements are fulfilled in any particular case.

50 Education of pupils in exceptional circumstances

- (1) Where in the opinion of an education authority—
- (a) any pupil is, owing to the remoteness of his home or the conditions under which he is living or other exceptional circumstances, unable to receive the full benefit of school education unless special arrangements are made for him, or
 - (b) school education suitable to the age, ability and aptitude of any pupil can best be provided for him at any particular school, or
 - (c) compulsory further education should in the case of any pupil be provided by requiring his continuous attendance at a junior college under section 45 of this Act,

the authority shall, after consultation with the parent and, in any case falling under paragraph (c) of this subsection, with the pupil, make such arrangements of either a temporary or a permanent character as they think best suited to the purpose of enabling that pupil to attend an appropriate school or college.

- (2) The arrangements made under subsection (1) above may include—
- (a) the provision of travelling facilities or the payment of travelling expenses under section 51 of this Act; or
 - (b) the accommodation of the pupil at a boarding school or at a junior college where boarding is provided, or in a hostel, home or other institution; or
 - (c) other provision of board and lodging, provided that the education authority shall, so far as practicable, give effect to the wishes of the parent with respect to the religious denomination of the person with whom the pupil will reside ; or
 - (d) provision for the travelling, board and lodging of teachers.

51 Provision of transport and other facilities

- (1) An education authority shall make such arrangements as they consider necessary for the provision of any of the following facilities in respect of pupils attending schools or other educational establishments—
- (a) for their conveyance without charge for the whole or part of the journey between their homes and the schools or other educational establishments which they are attending;

- (b) for making bicycles or other suitable means of transport available to the pupils, or to their parents for the use of the pupils, upon such terms and conditions as may be arranged, or for paying money allowances in lieu thereof;
 - (c) for paying the whole or any part, as the authority think fit, of their reasonable travelling expenses,
- and any such arrangement may in respect of any pupil make provision for more than one of the facilities specified in the foregoing paragraphs of this subsection.
- (2) Where the requirements of pupils, for the conveyance of whom arrangements have been made by an education authority under subsection (1)(a) above, have been met, it shall be the duty of that authority, where there are any vacant places in any vehicle used for such conveyance, to allow such vacant places to be used without charge by other pupils to be selected by the authority.
 - (3) Where as a condition of admission to any educational institution a person is required to attend for examination or interview at a particular place, the education authority may pay the whole or part of the expenses necessarily incurred by that person in respect of such attendance.

52 Recovery of cost of board and lodging

—Where an education authority have provided a pupil with board and lodging, whether at a school, junior college or hostel or elsewhere, the authority may, in their discretion, require the parent to pay to them in respect thereof such sums if any not exceeding the cost of such board and lodging as in the opinion of the authority he is able without financial hardship to pay:

Provided that—

- (i) where the board and lodging provided for any pupil were so provided under arrangements made by the authority for any of the reasons specified in section 50(1) of this Act, no sum shall be recoverable in respect thereof under this section ; and
- (ii) where the board and lodging have been so provided for a young person in voluntary attendance at a junior college or, under section 13 of this Act, at another educational establishment, the authority, if satisfied that he is in a financial position to pay the whole or any part of a sum recoverable from his parent under this section, may recover that sum or that part thereof from the young person instead of from the parent.

Provision of food and clothing

53 Provision of school meals

- (1) An education authority—
 - (a) may provide milk, meals or other refreshment for pupils in attendance at public schools and other educational establishments under their management; and
 - (b) shall provide such facilities as the authority consider appropriate for the consumption of any meals or other refreshment brought to the school or other educational establishment by such pupils.

- (2) An education authority shall exercise their power under subsection (1)(a) above in relation to any pupil whose parents are in receipt of supplementary benefit or family income supplement so as to ensure that such provision is made for him in the middle of the day as appears to the authority to be requisite.
- (3) An education authority—
 - (a) may make such charges as they think fit for anything provided by them under subsection (1)(a) above, except where it is provided by virtue of subsection (2) above ; but
 - (b) shall remit the whole or any part of any charge that would otherwise be made if, having regard to the particular circumstances of any pupil or class or description of pupils, they consider it appropriate to do so.
- (4) For the purposes of this section, a pupil for whom an education authority have made special arrangements under section 14 of this Act may, at the discretion of the authority, be deemed to be in attendance at a public school under their management.

54 Provision of clothing for pupils at public schools

- (1) When it is brought to the notice of an education authority that a pupil attending a school under their management is unable by reason of the inadequacy or unsuitability of his clothing to take full advantage of the education provided, the education authority shall make such provision for the pupil for the purpose of ensuring that he is sufficiently and suitably clad as they may deem necessary during such period while the pupil is attending school (including days when the school does not meet) as they may determine.
- (2) Where an education authority make provision for a pupil in pursuance of this section, they shall be entitled to recover from the parent of the pupil the expense thereby incurred or, if the authority are satisfied that the parent is unable without financial hardship to pay the whole of that expense, such part thereof, if any, as he is, in the opinion of the authority, able without financial hardship to pay.
- (3) Without prejudice to any powers conferred upon them by subsections (1) and (2) above, an education authority may provide clothing free of charge—
 - (i) for any pupil who is a boarder at a school, or
 - (ii) for any pupil in attendance at a nursery school or a nursery class, under the management of the authority.
- (4) For the purposes of this section—
 - (a) a pupil on attaining the age of five years shall, pending his admission to school, be deemed to be attending a school under the management of the education authority in whose area he is ordinarily resident; and
 - (b) a pupil for whose education it is the duty of an education authority to provide special education shall be deemed to be attending a school under the management of that authority.

55 Provision of food and clothing for pupils at schools other than public schools

An education authority may, with the consent of the managers of any school in their area which is not a public school, and upon such financial and other terms, if any,

as may be determined by agreement between the authority and the managers, make arrangements for securing—

- (a) the provision of milk, meals and other refreshment for pupils in attendance at the school; and
- (b) the provision, for any pupil in attendance at the school who is unable by reason of the inadequacy or unsuitability of his clothing to take full advantage of the education (including physical exercise) provided by the school, of such clothing as is necessary for the purpose of ensuring that he is sufficiently and suitably clad while he remains a pupil at the school.

56 Condition of provision of clothing by education authorities

Save as may be otherwise prescribed, provision of clothing by an education authority under any of the powers conferred by this Act may be made in such a way as to confer, at the option of the authority, either a right of property in the clothing or a right to use it only.

Health and cleanliness of pupils

57 Medical and dental examination and inspection

- (1) The Secretary of State may make regulations as to the conduct of medical and dental examinations and medical and dental inspections for the purposes of the performance of his duties under section 39 of the National Health Service (Scotland) Act 1978.
- (2) For the purpose of securing the proper medical or dental inspection of the pupils and young persons for whom it is the duty of the Secretary of State under the said section 39 to provide such inspection, an education authority may require the parent of any pupil in attendance at any school under their management to submit the pupil for medical or dental inspection in accordance with arrangements made by the appropriate Health Board in agreement with the authority, and may require any young person in attendance at any junior college or other educational establishment under their management to submit himself for such medical or dental inspection.
- (3) If any person fails without reasonable excuse to comply with a requirement made by an education authority under subsection (2) above, he shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding £10.
- (4) In this section " the appropriate Health Board ", in relation to any pupil or young person, means the Health Board in whose area is situated the school, junior college or other educational establishment at which the pupil or young person is in attendance.

58 Power to ensure cleanliness

- (1) An education authority may, by directions in writing issued with respect to all schools, junior colleges and other educational establishments under their management or with respect to any of such schools, colleges or establishments named in the directions, authorise a medical officer of the appropriate Health Board to cause examinations to be made of the bodies and clothing of all or any of the pupils in attendance at such schools and young persons in attendance at such colleges or establishments whenever in his opinion such examinations are necessary in the interests of cleanliness.

- (2) Any such examination as aforesaid shall be made by such medical officer or by a person authorised in writing by him to make such examinations (in this section referred to as an " authorised person "), and, if the body or clothing of any pupil or young person is found upon such an examination to be infested with vermin or in a foul condition, the authority may serve upon the parent of such pupil or upon the young person a notice requiring the parent to cause the body and clothing of the pupil to be cleansed or the young person to cause himself and his clothing to be cleansed as the case may be.
- (3) A notice served under subsection (2) above shall inform the person upon whom it is served that, unless within the period limited by the notice, not being more than twenty-four hours after the service thereof, the body and clothing of the pupil or young person to whom the notice relates are cleansed to the satisfaction of the medical officer or an authorised person as may be specified in the notice, the cleansing thereof will be carried out under arrangements made by the education authority; and, if at the expiration of that period the medical officer or an authorised person is not satisfied that the body and clothing of the pupil or young person have been properly cleansed, the medical officer or an authorised person may issue an order directing that the body and clothing of the pupil or young person be cleansed under such arrangements. The order shall be sufficient to authorise any officer of the authority to cause the body and clothing of the pupil or young person named in the order to be cleansed in accordance with such arrangements, and for that purpose to convey him to the premises where the cleansing is to be carried out and to detain him there until such time as the cleansing has been completed.
- (4) It shall be the duty of the education authority to make arrangements for securing that any cleansing under this section, whether at the request of a parent or young person or in pursuance of an order issued under this section, may be carried out in suitable premises by suitable persons and with suitable appliances.
- (5) If after the cleansing of the body or clothing of any pupil or young person has been carried out under this section his body or clothing is again found to be infested with vermin or in a foul condition at any time while he is in attendance at such school, junior college or other educational establishment, and it is proved that the condition of his body or clothing is due to neglect on the part of his parent, or, in the case of a young person in attendance at a junior college or other educational establishment, to his own neglect, the parent or the young person, as the case may be, shall be liable on conviction by a court of summary jurisdiction in the case of a first conviction to a fine not exceeding £1, in the case of a second conviction to a fine not exceeding £5, and in the case of a third or subsequent conviction to a fine not exceeding £10 or to a term of imprisonment not exceeding one month or to both such fine and such imprisonment.
- (6) Where such a medical officer or authorised person has reason to believe that the body or clothing of any pupil or young person in attendance at such school, junior college or other educational establishment is infested with vermin or in a foul condition, but action for the examination or cleansing thereof cannot immediately be taken, he shall so advise the authority who may, if they consider it necessary so to do in the interests either of the pupil or young person or of other children or young persons in attendance at the school, college or other educational establishment, direct that the pupil or young person be excluded from the school, college or other educational establishment until such action has been taken; and such a direction shall be a defence to any proceedings under this Act in respect of the failure of the pupil or young person to attend school or to comply with the requirements of an attendance notice, as the case may be, on any day on which he is excluded in pursuance of the direction, unless it is proved that

the issue of the direction was necessitated by the wilful default of the parent or of the young person.

- (7) No female shall be examined or cleansed under the powers conferred by this section except by a registered medical practitioner or by a woman authorised for that purpose by a medical officer of a Health Board.
- (8) In this section " the appropriate Health Board " has the same meaning as in section 57 of this Act.

Children requiring special education

59 Classification and educational arrangements

The Secretary of State may make regulations defining the several categories of pupils requiring special education and making provision as to the special educational arrangements appropriate for pupils of each category.

60 Functions of education authority in relation to ascertainment of handicapped children

- (1) An education authority—
 - (a) shall have power, as regards children in their area who have not attained the age of five years, and
 - (b) shall be under a duty, as regards children in their area who have attained that age,to ascertain which of those children require special education.
- (2) It shall be the duty of an education authority to disseminate in their area information as to the importance to any child who requires special education of the early ascertainment of his need, and of the opportunity for medical examination and psychological examination available under the following provisions of this Act

61 Examination of children

- (1) It shall not be lawful for an education authority to decide that a child requires special education, unless that child has undergone a medical examination and a psychological examination for the purpose of affording to the authority advice as to whether or not they ought so to decide ; and accordingly, before so deciding in the case of any child, an education authority shall—
 - (a) invite the parent of that child to submit the child for a medical examination and a psychological examination for the said purpose, and
 - (b) (in the case of a child who has attained the age of five years) if the parent fails to submit the child as aforesaid, by notice in writing served upon the parent require him to submit the child for a medical examination and a psychological examination for the said purpose.
- (2) A parent who submits his child for a medical examination under subsection (1) above shall be entitled to be present at that examination if he so desires.
- (3) If any parent on whom a notice has been served under paragraph (b) of subsection (1) above fails without reasonable excuse to comply with the requirements of the notice,

he shall be guilty of an offence and liable on conviction by a court of summary jurisdiction to a fine not exceeding £10.

- (4) A notice served under paragraph (b) of subsection (1) above in respect of any child shall—
- (a) state that the purpose of the examinations is to afford to the education authority advice as to whether or not they ought to decide that that child requires special education;
 - (b) specify the times and places at which the examinations will be held;
 - (c) inform the parent of his right to be present at the medical examination if he so desires ;
 - (d) inform the parent of the penalty to which he will be liable if he fails without reasonable excuse to comply with the requirements of the notice.
- (5) If the parent of any child requests the education authority for the area to cause that child to be medically and psychologically examined for the purpose of affording to the authority advice as to whether or not they ought to decide that the child requires special education, the authority shall comply with the request unless in their opinion the request is unreasonable.

62 Ascertainment by education authority of children requiring special education

- (1) An education authority shall take into consideration—
- (a) the advice given to them with respect to any child in consequence of the medical and psychological examinations undergone by that child under section 61 of this Act;
 - (b) the views of the parent of the child, so far as these can be obtained;
 - (c) if the child has been at any time in attendance at any school, any reports or other information with respect to the child which they are able to obtain from the records of the school or from teachers at the school;
 - (d) any other reports or information which they are able to obtain with respect to the ability or aptitude of the child;

and the education authority may thereafter decide that the child requires special education, and if they so decide shall—

- (i) forthwith give to the parent of the child notice in writing of their decision, and
 - (ii) thereafter ensure that any education provided by them for the child is special education.
- (2) A notice given by an education authority to a parent in pursuance of paragraph (i) of subsection (1) above shall inform the parent of his right under subsection (1) of section 64 of this Act to require the authority to issue to him a statement of the reasons for their decision, and of his right under that subsection to refer the case to the Secretary of State.

63 Review by education authority of cases of children requiring special education

- (1) It shall be the duty of an education authority to keep generally under consideration the cases of all children in their area who the authority have decided require special education, and—
- (a) when in the discharge of that duty in relation to such a child the education authority think it expedient, or

- (b) if the education authority are at any time requested to do so by notice in writing given to them by the parent of such a child,

the education authority shall review their decision that the said child requires special education:

Provided that the parent of a child who the education authority have decided requires special education shall not, by virtue of paragraph (b) above, be entitled to request the authority to review their decision earlier than the expiry of the period of 12 months from the date of that decision or more often than once in any period of 12 months subsequent to the expiry of the first-mentioned period.

- (2) For the purpose of obtaining advice in connection with a review, under subsection (1) above, of their decision that a child requires special education, an education authority may—
- (a) invite the parent of that child to submit the child for a medical examination and a psychological examination, and
 - (b) (in the case of a child who has attained the age of five years) if the parent fails to submit the child as aforesaid, by notice in writing served upon the parent require him to submit the child for a medical examination and a psychological examination.
- (3) Subsections (2) to (4) of section 61 of this Act (examination of children) shall apply for the purposes of this section as they apply for the purposes of that section, with the substitution, for the references to subsection (1) of that section, of references to subsection (2) of this section, and subject to any other necessary modifications.
- (4) In reviewing, under subsection (1) above, their decision that a child requires special education an education authority shall take into consideration—
- (a) the advice given to them with respect to that child in consequence of medical and psychological examinations undergone by the child ;
 - (b) if either the review is being carried out in pursuance of a request made to them by the parent of the child by virtue of paragraph (b) of subsection (1) above or the parent was invited, under paragraph (a) of subsection (2) above, to submit the child for medical and psychological examination in connection with the review, the views of the parent of the child, so far as these can be obtained;
 - (c) if the child has been at any time in attendance at any school, any reports or other information with respect to the child which they are able to obtain from the records of the school or from teachers at the school;
 - (d) any other reports or information which they are able to obtain with respect to the ability or aptitude of the child;
- and the education authority shall thereafter either—
- (i) revoke the said decision, in which case they shall forthwith give to the parent of the child notice in writing of its revocation, and their duty to ensure that any education provided by them for the child is special education shall thereupon cease; or
 - (ii) determine not to revoke the decision, in which case, if either the review was carried out in pursuance of a request made to them by the parent of the child by virtue of paragraph (b) of subsection (1) above or the parent was invited, under paragraph (a) of subsection (2) above, to submit the child for medical and psychological examination in connection with the review, they shall forthwith give to the parent such notice of their determination as is mentioned in subsection (5) below.

- (5) A notice given by an education authority to a parent in pursuance of paragraph (ii) of subsection (4) above shall be in writing and shall inform the parent of his right under subsection (1) of section 64 of this Act to require the authority to issue to him a statement of the reasons for their determination, and of his right under that subsection to refer the case to the Secretary of State.

64 Reference to Secretary of State of cases under ss. 62 and 63

- (1) Where an education authority—
- (a) decide under section 62 of this Act that a child requires special education, or
 - (b) determine under section 63 of this Act not to revoke a decision made by them that a child requires special education and give to the parent of that child, in pursuance of paragraph (ii) of section 63(4) of this Act notice in writing of their determination,
- the education authority shall, if so required by the parent of the child, issue to the parent a statement of the reasons for their decision or determination, as the case may be, and where such a statement is so issued the parent may, if he is aggrieved by the decision or determination—
- (i) in the case of a decision, within the period of twenty-eight days from the date on which the statement was issued or such longer period therefrom as the Secretary of State may, either during or after the expiry of the twenty-eight days, allow,
 - (ii) in the case of a determination, within the said period of twenty-eight days, refer the case to the Secretary of State.
- (2) On any reference under subsection (1) above the Secretary of State shall either confirm or refuse to confirm the decision or determination of the education authority.
- (3) Where under subsection (2) above the Secretary of State refuses to confirm the decision or determination of an education authority with respect to any child, the authority shall be deemed to have revoked their decision that that child requires special education, and—
- (a) they shall forthwith give to the parent of the child notice in writing of the revocation of the decision, and
 - (b) their duty to ensure that any education provided by them for the child is special education shall thereupon cease.

65 Children who may benefit by local authority services after leaving school

- (1) Where an education authority decide that a child to whom this section applies is suffering from mental deficiency to such an extent that he may, on leaving school, benefit from services which it is the function of a local authority to provide or secure the provision of, it shall be the duty of the education authority to issue, not earlier than six months, or later than one month, before the child ceases to be of school age—
- (a) to the parent of the child, a report of their decision, and
 - (b) to the local authority, a report of their decision together with a copy of any document which was taken into account in making the decision.
- (2) For the purpose of obtaining advice as to the carrying out of the duty imposed on them by subsection (1) above in relation to any child, an education authority may—

- (a) invite the parent of the child to submit the child for a medical examination and (if the education authority think it expedient) a psychological examination, and
 - (b) if the parent fails to submit the child for any examination on being invited to do so under paragraph (a) above, by notice in writing served upon the parent require him to submit the child for such an examination.
- (3) Subsections (2) to (4) of section 61 of this Act (examination of children) shall apply for the purposes of this section as they apply for the purposes of that section, with the substitution, for the references to subsection (1) of that section, of references to subsection (2) of this section, and subject to any other necessary modifications.
- (4) This section applies to—
 - (a) any child in attendance at a school under the management of the education authority concerned;
 - (b) any child in attendance at a school (other than such a school as is mentioned in paragraph (a) above) in the area of the education authority concerned;
 - (c) any child who is receiving education at a school by virtue of arrangements made by the education authority concerned with the managers of that school.
- (5) In this section " local authority " has the same meaning as in the Social Work (Scotland) Act 1968.