



Education Act 1944 (repealed 1.11.1996)

1944 CHAPTER 31 7 and 8 Geo 6

PART I

CENTRAL ADMINISTRATION

1 †Appointment of Minister in charge of education and establishment of Ministry of Education.

(1) [^{F1}It shall be the duty of the Secretary of State for Education and Science] to promote the education of the people of England and Wales and the progressive development of institutions devoted to that purpose, and to secure the effective execution by local authorities, under his control and direction, of the national policy for providing a varied and comprehensive educational service in every area.

[^{F1}(2) The Secretary of State for Education and Science shall for all purposes be a corporation sole under the name of Secretary of State for Education and Science.]

(3) ^{F2}

Textual Amendments

F1 Words and s. 1(2) substituted by S.I. 1964/490, Sch. Pt. I

F2 S. 1(3)(4) repealed by S.I. 1964/490, Sch. Pt. II

Modifications etc. (not altering text)

C1 Unreliable marginal note.

2 Transfer of property and functions to Minister and construction of Acts and documents.

(1) All property which, immediately before the date declared by His Majesty in Council to be the date on which the first appointment under this Act of a Minister of Education took effect, was held by the Board of Education constituted under the ^{M1}Board of Education Act 1899 and all functions exercisable by that Board or the President

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thereof immediately before that date, and all rights and liabilities, whether vested or contingent, to which that Board or the President thereof were entitled or subject immediately before that date, shall, by virtue of this Act, be transferred to the Minister; and, except where the context otherwise requires, references in any enactment or other document to the Board of Education, the President of the Board of Education, the Education Department, or the Department of Science and Art shall be construed as references to the Minister, or, where the case so requires, as references to the Ministry of Education.

(2) F3

<p>Textual Amendments</p> <p>F3 S. 2(2) repealed by Education (Miscellaneous Provisions) Act 1948 (c. 40), Sch. 2</p> <hr/> <p>Modifications etc. (not altering text)</p> <p>C2 S. 2(1) amended by S.I. 1964/490, art. 3(2)</p> <hr/> <p>Marginal Citations</p> <p>M1 1899 c. 33.</p>

3 †Seal and acts of Minister.

- (1) [F4The Secretary of State for Education and Science] shall have an official seal which shall be authenticated by the signature of [F4the Secretary of State for Education and Science] or of a secretary to [F4the Department of the Secretary of State] or of any person authorised by [F4the Secretary of State for the Education and Science] to authenticate the seal.
- (2) The seal of [F4the Secretary of State for Education and Science] shall be officially and judicially noticed, and every document purporting to be an instrument made or issued by [F4the Secretary of State for Education and Science] and either to be sealed with the seal of [F4the Secretary of State for Education and Science] authenticated in the manner provided by this section, or to be signed by a secretary to [F4the Department of the Secretary of State] or by any other officer of [F4the Department of the Secretary of State] authorised to sign it, shall in any legal proceedings be deemed to be so made or issued without further proof, unless the contrary is shown.
- (3) A certificate signed by [F4the Secretary of State for Education and Science] certifying that any instrument purporting to be made or issued by him was so made or issued shall be conclusive evidence of the fact certified.
- (4) F5

<p>Textual Amendments</p> <p>F4 Words substituted by S.I. 1964/490, Sch. Pt. I</p> <p>F5 S. 3(4) repealed except in relation to documents issued before 1.4.1964 by S.I.1964/490, Sch. Pt. II</p> <hr/> <p>Modifications etc. (not altering text)</p> <p>C3 Unreliable marginal note.</p>
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4 ^{F6}

Textual Amendments

F6 S. 4 repealed by Education (No.2) Act 1986 (c. 61, SIF 41:1), ss. 59, 67(6), **Sch. 6**

5 ^{F7}

Textual Amendments

F7 S. 5 repealed by Education (No.2) Act 1986 (c. 61, SIF 41:1), ss. 60(1), 67(6), **Sch. 6**

PART II

THE STATUTORY SYSTEM OF EDUCATION

LOCAL ADMINISTRATION

6 Local education authorities.

- (1) Subject to the provisions of Part I of the First Schedule to this Act, the local education authority for each county shall be the council of the county, and the local education authority for each county borough shall be the council of the county borough.
- (2) The local administration of the statutory system of public education shall be conducted in accordance with the provisions of Parts II . . . ^{F8} of the said Schedule.
- (3) All property which immediately before the date of the commencement of this Part of this Act was held by the council of any county district solely or mainly for the purposes of any functions exercisable by them under the Education Acts 1921 to 1939, and all rights and liabilities, whether vested or contingent, to which any such council were entitled or subject immediately before the said date by reason of the exercise of such functions shall, save as may be otherwise directed by the Minister under the powers conferred on him by this Act, be transferred by virtue of this section to the local education authority for the county in which the county district is situated.
- (4) All officers who immediately before the said date were employed by the council of any county district solely or mainly for the purposes of any such functions as aforesaid shall by virtue of this section be transferred to and become officers of the local education authority for the county in which the county district is situated, and shall be employed by that authority upon the terms and conditions upon which they were employed by the council of the county district immediately before that date.

Textual Amendments

F8 Words repealed by Local Government Act 1972 (c. 70), **Sch. 30**

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Modifications etc. (not altering text)

- C4** S. 6(1) amended by [London Government Act 1963 \(c. 33\)](#), **s. 30(1)** and [Local Government Act 1972 \(c. 70\)](#), **s. 192(1)**

THE THREE STAGES OF THE SYSTEM

7 Stages and purposes of statutory system of education.

The statutory system of public education shall be organised in three progressive stages to be known as primary education, secondary education, and further education; and it shall be the duty of the local education authority for every area, so far as their powers extend, to contribute towards the spiritual, moral, mental, and physical development of the community by securing that efficient education throughout those stages shall be available to meet the needs of the population of their area.

Modifications etc. (not altering text)

- C5** S. 7 excluded by [Education Act 1964 \(c. 82\)](#), **s. 1(3)**
C6 S. 7 restricted (1.4.1993) by [Further and Higher Education Act 1992 \(c. 13\)](#), s. 93(1), **Sch. 8 Pt. I**, para.2; S.I. 1992/831, art. 2, **Sch. 3**

PRIMARY AND SECONDARY EDUCATION

Provision and Maintenance of Primary and Secondary Schools

8 Duty of local education authorities to secure provision of primary and secondary schools.

- (1) It shall be the duty of every local education authority to secure that there shall be available for their area sufficient schools—

- (a) for providing [^{F9}primary education, that is to say, full-time education suitable to the requirements of junior pupils who have not attained the age of ten years and six months, and full-time education suitable to the requirements of junior pupils who have attained that age and whom it is expedient to educate together with junior pupils who have not attained that age]; and
- (b) for providing secondary education, that is to say, full-time education suitable to the requirements of senior pupils, . . . ^{F10}[^{F11}and full-time education suitable to the requirements of junior pupils who have attained the age of ten years and six months and whom it is expedient to educate together with senior pupils];

and the schools available for an area shall not be deemed to be sufficient unless they are sufficient in number, character, and equipment to afford for all pupils opportunities for education offering such variety of instruction and training as may be desirable in view of their different ages, abilities, and aptitudes, and of the different periods for which they may be expected to remain at school, including practical instruction and training appropriate to their respective needs.

- (2) In fulfilling their duties under this section, a local education authority shall, in particular, have regard—

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- (a) to the need for securing that primary and secondary education are provided in separate schools;
- (b)^{F12}
- [^{F13}(c) to the need for securing that special educational provision is made for pupils who have special educational needs; and]
- (d) to the expediency of securing the provision of boarding accommodation, either in boarding schools or otherwise, for pupils for whom education as boarders is considered by their parents and by the authority to be desirable:

Provided that paragraph (a) of this subsection shall not have effect with respect to special schools.

[^{F14}(3) In fulfilling their duty under subsection (1)(b) above a local education authority shall have regard to any facilities for full-time education-

- (a) provided for senior pupils by any educational institution maintained or assisted by the authority in exercise of their functions under section 41 of this Act; or
- (b) otherwise secured for such pupils by the authority in exercise of those functions.]

Textual Amendments

- F9** Words substituted by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\), s. 3\(2\)](#)
- F10** Words repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 120(6)(a), 231(7), 235(6), 236(2), [Sch. 13 Pt. II](#)
- F11** Words inserted by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\), s. 3\(3\)](#)
- F12** [S. 8\(2\)\(b\)](#) repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 38(6), [Sch. 7](#)
- F13** [S. 8\(2\)\(c\)](#) substituted by [Education Act 1981 \(c. 60, SIF 41:1\)](#), [s. 2\(1\)](#)
- F14** [S. 8\(3\)](#) added by [Education Reform Act 1988\(c. 40, SIF 41:1\)](#), ss. 120(6)(b), 231(7), 235(6), 236(2)

Modifications etc. (not altering text)

- C7** [S. 8](#) restricted by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\), s. 4\(2\)](#)
- C8** [S. 8\(1\)\(a\)](#) explained by [Education Act 1980 \(c. 20, SIF 41:1\)](#), [s. 24\(2\)](#)

9 County schools, voluntary schools, nursery schools, and special schools.

- (1) For the purpose of fulfilling their duties under this Act, a local education authority shall have power to establish primary and secondary schools, to maintain such schools whether established by them or otherwise, and . . .^{F15} to assist any such school which is not maintained by them.
- (2) Primary and secondary schools maintained by a local education authority, not being nursery schools or special schools, shall, if established by a local education authority or by a former authority, be known as county schools and, if established otherwise than by such an authority, be known as voluntary schools:
Provided that any school which by virtue of any enactment repealed by this Act was to be deemed to be, or was to be treated as, a school provided by a former authority shall, notwithstanding that it was not in fact established by such an authority as aforesaid, be a county school.
- (3) Subject to the provisions hereinafter contained as to the discontinuance of voluntary schools, every school which immediately before the commencement of this Part of

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this Act was, within the meaning of the enactments repealed by this Act, a public elementary school provided otherwise than by a former authority shall, if it was then maintained by a former authority, be maintained as a voluntary school by the local education authority for the area in which the school is situated.

- (4) Primary schools which are used mainly for the purpose of providing education for children who have attained the age of two years but have not attained the age of five years shall be known as nursery schools.
- [^{F16}(5) Schools which are specially organised to make special educational provision for pupils with special educational needs and which are for the time being approved by the Secretary of State as special schools shall be known as special schools.]
- (6) The powers conferred by subsection (1) of this section on local education authorities shall be construed as including power to establish maintain and assist schools outside as well as inside their areas.

Textual Amendments

F15 Words repealed by virtue of [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 38(6), [Sch. 7](#)

F16 [S. 9\(5\)](#) substituted by [Education Act 1981 \(c. 60, SIF 41:1\)](#), s. 11(1)

10 Requirements as to school premises.

- (1) The [^{F17}Secretary of State for Education and Science] shall make regulations prescribing the standards to which the premises of schools maintained by local education authorities [^{F18}and of grant-maintained schools] are to conform, and such regulations may prescribe different standards for such descriptions of schools as may be specified in the regulations.
- (2) Subject as hereinafter provided, it shall be the duty of a local education authority to secure that the premises of every school maintained by them [^{F19}or, in the case of a grant-maintained school, the duty of the governing body of the school] conform to the standards prescribed for schools of the description to which the school belongs:
 [^{F20}Provided that, if the [^{F17}Secretary of State for Education and Science] is satisfied with respect to any school—
- (a) that having regard to the nature of the existing site or to any existing buildings thereon or to other special circumstances affecting the school premises it would be unreasonable to require conformity with a requirement of the regulations as to any matter, or
 - (b) where the school is to have an additional or new site that, having regard to shortage of suitable sites it would be unreasonable to require conformity with a requirement of the regulations relating to sites, or
 - (c) where the school is to have additional buildings or is to be transferred to a new site, and existing buildings not theretofore part of the school premises, or temporary buildings, are to be used for that purpose, that [^{F21}having regard to the need to control public expenditure in the interests of the national economy] it would be unreasonable to require conformity with a requirement of the regulations relating to buildings,

he may give a direction that, notwithstanding that that requirement is not satisfied, the school premises shall, whilst the direction remains in force, be deemed to conform

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to the prescribed standards as respects matters with which the direction deals if such conditions, if any, as may be specified in the direction as respects those matters are observed.]

Textual Amendments

- F17 Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**
- F18 Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 1(2)**
- F19 Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 1(3)**
- F20 S. 10(2) proviso substituted retrospectively by Education (Miscellaneous Provisions) Act 1948 (c. 40), **s. 7(1)(3)**
- F21 Words substituted by Education Act 1968 (c. 17), **s. 3(3)**

Modifications etc. (not altering text)

- C9 S. 10 applied (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I.**
- C10 S. 10 applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I.**

11, 12. ^{F22}

Textual Amendments

- F22 Ss. 11, 12 repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), **Sch. 7**

13 ^{F23}

Textual Amendments

- F23 S. 13 repealed and superseded with saving by Education Act 1980 (c. 20, SIF 41:1), ss. 16(4)(5), 38(6), **Sch. 7**

14 Restrictions on discontinuance of voluntary schools by managers and governors.

(1) Subject to the provisions of this section, the . . . ^{F24} governors of a voluntary school shall not discontinue the school except after serving on the [^{F25}Secretary of State for Education and Science] and on the local education authority by whom the school is maintained not less than two years' notice of their intention to do so: [^{F26}Provided that, except by leave of the [^{F25}Secretary of State for Education and Science], no such notice as aforesaid shall be served by the . . . ^{F24} governors of any voluntary school in respect of the premises of which expenditure has been incurred otherwise than in connection with repairs by the [^{F25}Secretary of State for Education and Science] or by any local education authority or former authority.

If the [^{F25}Secretary of State for Education and Science] grants such leave, he may impose such requirements as he thinks just—

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- (a) in regard to the repayment of the whole or any part of the amount of the expenditure so incurred by the [^{F25}Secretary of State for Education and Science];
 - (b) where the [^{F25}Secretary of State for Education and Science] is satisfied that the local education authority will require for any purpose connected with education, any premises which are for the time being used for the purposes of the school in regard to the conveyance of those premises to the authority;
 - (c) in regard to the payment by the local education authority of such part of the value of any premises so conveyed as is just having regard to the extent to which those premises were provided otherwise than at the expense of the authority of a former authority;
 - (d) where any premises for the time being used for the purposes of the school are not to be so conveyed in regard to the payment to the authority by the . . . ^{F24} governors of the school of such part of the value of those premises as is just having regard to the extent to which they were provided at the expense of the authority or a former authority.]
- (2) No such notice as aforesaid shall be withdrawn except with the consent of the local education authority.
- (3) If, while any such notice as aforesaid is in force with respect to a voluntary school, the . . . ^{F24} governors of the school inform the local education authority that they are unable or unwilling to carry on the school until the expiration of the notice, the authority may conduct the school during the whole or any part of the unexpired period of the notice as if it were a county school, and shall be entitled to the use of the school premises, free of charge, for that purpose.
- (4) While any school is being conducted by a local education authority as a county school under the last foregoing subsection, the authority shall keep the school premises in good repair, and, for all purposes relating to the condition of the school premises, the occupation and use thereof, and the making of alterations thereto, any interest in the said premises which is held for the purposes of the school shall be deemed to be vested in the authority:
 Provided that the . . . ^{F24} governors of the school shall be entitled to the use of the school premises or any part thereof when not required for the purposes of the school to the like extent as if they had continued to carry on the school during the unexpired period of the notice.
- (5) Where any school is discontinued in accordance with the provisions of this section, the duty of the local education authority to maintain the school as a voluntary school shall be extinguished.

Textual Amendments

F24 Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), **Sch. 1 para. 1**

F25 Words substituted by virtue of [S.I. 1964/490, art. 3\(2\)\(a\)](#)

F26 [S. 14\(1\)](#) proviso substituted retrospectively by [Education Act 1946 \(c. 50\)](#), s. 14(1), **Sch. 2 Pt. II**

Modifications etc. (not altering text)

C11 [S. 14](#) modified by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), **ss. 97(5), 98(8), 99(5), 212(5), 231(7), 235(6)**

C12 [S. 14](#) excluded (30.9.1992) by [Further and Higher Education Act 1992 \(c. 13\)](#), **s. 59(2)(a)**; [S.I. 1992/831, art.2, Sch. 2](#)

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- C13** S. 14 modified (1.4.1994) by 1993 c. 35, s. 115(6) (with s. 155(11)); S. I. 1994/507, art.3(1).
C14 S. 14 restricted (1.4.1994) by 1993 c. 35, s. 273(2); S.I. 1994/507, art. 4(1), Sch.2.

15 Classification of voluntary schools as controlled schools, aided schools, or special agreement schools.

- (1) Voluntary schools shall be of three categories, that is to say, controlled schools, aided schools, and special agreement schools, and in schools of those several categories the management of the school, the secular instruction and religious education, and the appointment and dismissal of teachers, shall be regulated in accordance with the provisions hereinafter contained relating to those matters in controlled schools aided schools and special agreement schools respectively.
- (2) Upon application being duly made to him with respect to any voluntary school, the [^{F27}Secretary of State for Education and Science] may by order direct that the school shall be a controlled school an aided school or a special agreement school, and where he is satisfied that the . . . ^{F28} or governors of the school will be able and willing, with the assistance of the maintenance contribution payable by the [^{F27}Secretary of State for Education and Science] under this Act, to defray the expenses which would fall to be borne by them under paragraph (a) of the next following subsection, the order shall direct that the school shall be an aided school, or, in the case of a school with respect to which a special agreement has been made under the Third Schedule to this Act, a special agreement school:
Provided that, subject to the provisions of this section, any application [^{F29}under this section] for an order directing that a school shall be an aided school or a special agreement school must be made, in the case of a school which became a voluntary school by virtue of subsection (3) of section nine of this Act not later than six months after the date on which the . . . ^{F28} governors of the school received notice of the approval of the development plan for the area, and in any other case not later than the submission to the [^{F27}Secretary of State for Education and Science] of the proposals that the school should be maintained by the local education authority as a voluntary school; and, subject to the transitional provisions of this Act as to the management and maintenance of voluntary schools, a voluntary school with respect to which no order is in force under this section [^{F30}or section 54 of the Education (No.2) Act 1986] directing that it shall be an aided school or a special agreement school shall be a controlled school.
- (3) The . . . ^{F28} governors of a controlled school shall not be responsible for any of the expenses of maintaining the school, but the following provisions shall have effect with respect to the maintenance of aided schools and special agreement schools:
- (a) the following expenses shall be payable by the . . . ^{F28} governors of the school, that is to say, the expenses of discharging any liability incurred by them or on their behalf or by or on behalf of any former . . . ^{F28} governors of the school or any trustees thereof [^{F31}in connection with the provision of premises or equipment for the purposes of the school]; any expenses incurred in effecting such alterations to the school buildings as may be required by the local education authority for the purpose of securing that the school premises should conform to the prescribed standards, and any expenses incurred in effecting repairs to the [^{F31}school buildings] not being repairs which are excluded from their responsibility by the following paragraph:
- [^{F32}(b) the . . . ^{F28} governors of the school shall not be responsible for repairs to the interior of the school buildings, or for repairs to those buildings necessary in

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consequence of the use of the school premises, in pursuance of any direction or requirement of the authority, for purposes other than those of the school.]

- (4) If at any time the . . . ^{F28} governors of an aided school or a special agreement school are unable or unwilling to carry out their obligations under paragraph (a) of the last foregoing subsection, it shall be their duty to apply to the [^{F27}Secretary of State for Education and Science] for an order revoking the order by virtue of which the school is an aided school or a special agreement school, and upon such an application being made to him the [^{F27}Secretary of State for Education and Science] shall revoke the order.
- (5) If at any time the [^{F27}Secretary of State for Education and Science] is satisfied that the grant made in respect of a special agreement school in pursuance of the special agreement made with respect to the school under this Act has been repaid to the local education authority by which the school is maintained, the [^{F27}Secretary of State for Education and Science] shall, upon application being made to him for that purpose by the . . . ^{F28} governors of the school, by order revoke the order by virtue of which the school is a special agreement school and, if satisfied that the . . . ^{F28} governors of the school will be able and willing, with the assistance of the maintenance contribution payable by the [^{F27}Secretary of State for Education and Science] under this Act, to defray the expenses which would fall to be borne by them under paragraph (a) of subsection (3) of this section, shall by order direct that the school shall be an aided school.
- (6) ^{F33}

Textual Amendments

- F27** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**
- F28** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), **Sch. 1 para. 1**
- F29** Words inserted by [Education \(No.2\) Act 1986 \(c. 61, SIF 41:1\)](#), s. 67(4), **Sch. 4 para. 1(a)**
- F30** Words inserted by [Education \(No.2\) Act 1986 \(c. 61, SIF 41:1\)](#), s. 67(4), **Sch. 4 para. 1(b)**
- F31** Words substituted retrospectively by [Education Act 1946 \(c. 50\)](#), ss. 4(2), 14(1), **Sch. 2 Pt. II**
- F32** [S. 15\(3\)\(b\)](#) substituted retrospectively by [Education Act 1946 \(c. 50\)](#), ss. 4(2), 14(1), **Sch. 2 Pt. II**
- F33** [S. 15\(6\)](#) repealed by [Education Act 1946 \(c. 50\)](#), **Sch. 2 Pt. II**

Modifications etc. (not altering text)

- C15** [S. 15\(4\)](#) extended by [Education Act 1946 \(c. 50\)](#), **s. 2(5)**

16 Transfer of county and voluntary schools to new sites, and substitution of new voluntary schools for old ones.

- (1) Where the [^{F34}Secretary of State for Education and Science] is satisfied that it is expedient that any county school or any voluntary school should be transferred to a new site either because it is not reasonably practicable to make to the existing premises of the school the alterations necessary for securing that they should conform to the prescribed standards, or in consequence of any movement of population or of any action taken or proposed to be taken under the enactments relating to housing or to town and country planning, the [^{F34}Secretary of State for Education and Science] may by order authorise the transfer of the school to the new site; [^{F35}and a voluntary school shall not be transferred to a new site without the authority of an order under this subsection].

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- (2) Where in connection with any proposals submitted to the [^{F34}Secretary of State for Education and Science] under [^{F36}section 13 of the Education Act 1980] it is claimed that any school or schools thereby proposed to be established should be maintained by the local education authority as a voluntary school in substitution for another school at the time being maintained by a local education authority as a voluntary school or for two or more such schools which is or are to be discontinued, then, if the [^{F34}Secretary of State for Education and Science] is satisfied that the school or schools proposed to be established will be so maintained, he may, if he approves the proposals with or without modifications, by order direct that the school or schools proposed to be established shall be established in substitution for the school or schools to be discontinued, and where such an order is made, the provisions of this Act relating to the discontinuance of voluntary schools shall not apply with respect to the discontinuance of the school or schools to be discontinued.
- (3) Before making any order under this section, the [^{F34}Secretary of State for Education and Science] shall consult any local education authority which will, in his opinion, be affected by the making of the order, and the . . . ^{F37} governors of any voluntary school which in his opinion will be so affected; and any such order may impose such conditions on any such local education authority or . . . ^{F37} governors and may contain such incidental and consequential provisions as the [^{F34}Secretary of State for Education and Science] thinks fit.

Textual Amendments

- F34** Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)
F35 Words substituted by Education Act 1968 (c. 17), Sch. 1 para. 1
F36 Words substituted by Education Act 1980 (c. 20, SIF 41:1), s. 16(4), Sch. 3 para. 1
F37 Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), Sch. 1 para. 1

Management of Primary Schools and Government of Secondary Schools

17— ^{F38}
21.

Textual Amendments

- F38** Ss. 17–21 repealed (with savings for s. 21(1), in S.I. 1987/344, Sch. 3, para. 1(4)(d)) by Education (No.2) Act 1986 (c.61, SIF 41:1), s. 67(6), Sch. 6 Pt. I

22 Powers of local education authority as to use and care of premises of voluntary schools.

- (1) The . . . ^{F39} governors of a controlled school shall be entitled to determine the use to which the school premises or any part thereof shall be put on Saturdays, except when required to be used on Saturdays for the purposes of the school or for any purpose connected with education or with the welfare of the young for which the local education authority desire to provide accommodation on the premises or on that part thereof, and the . . . ^{F39} foundation governors shall be entitled to determine the use to which the school premises or any part thereof shall be put on Sundays, but save as

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aforesaid the local education authority may give such directions as to the occupation and use of the school premises of a controlled school as they think fit.

- (2) If the local education authority desire to provide accommodation for any purpose connected with education or with the welfare of the young and are satisfied that there is no suitable alternative accommodation in their area for that purpose, they may direct the . . . ^{F39} governors of any aided school or special agreement school to provide free of charge accommodation for that purpose on the school premises or any part thereof on any week-day when not required for the purposes of the school, so, however, that the . . . ^{F39} governors shall not be directed to provide such accommodation on more than three days in any week.
- (3) Subject to any directions given by a local education authority under the foregoing provisions of this section and to the requirements of any enactment other than this Act or the regulations made thereunder, the occupation and use of the school premises of any voluntary school shall be under the control of the . . . ^{F39} governors thereof.
- [^{F40}(4) The local education authority may give directions to the governors of any aided school as to the number and conditions of service of persons employed at the school for the purposes of the care and maintenance of the school premises.]
- (5) In relation to any school with respect to which the trust deed provides for any person other than the . . . ^{F39} governors of the school being entitled to control the occupation and use of the school premises, this section shall have effect as if for the references to the . . . ^{F39} governors there were substituted references to that person.

Textual Amendments

F39 Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 6**

F40 S. 22(4) substituted with savings in S.I. 1987/344, **Sch. 3 para. 1(4)(c)** by Education (No.2) Act 1986 (c. 61, SIF 41:1), s. 67(4), **Sch. 4 para. 2**

Modifications etc. (not altering text)

C16 S. 22(4) excluded by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 45(2)(a), 48, 231(7), 235(6), Sch. 4 paras. 1(2), **4**

Secular Instruction and Appointment and Dismissal of Teachers in County and Voluntary Schools.

23 ^{F41}

Textual Amendments

F41 Ss. 23, 24(1) repealed (savings in S.I. 1987/344, **Sch. 3 para. 1(4)(d)**) by Education (No.2) Act 1986 (c. 61, SIF 41:1), s. 67(6), **Sch. 6 Pt. I**

24 Appointment and dismissal of teachers in county schools and in voluntary schools.

(1) ^{F42}

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(2) In every aided school the respective functions of the local education authority and of the . . . ^{F43} governors of the school with respect to the appointment of teachers, and, subject to the provisions hereinafter contained as to religious education, with respect to the dismissal of teachers, shall be regulated by the . . . ^{F43} or articles of government for the school:

Provided that the . . . ^{F43} articles of government for every aided school—

- (a) shall make provision for the appointment of the teachers by the . . . ^{F43} governors of the school, for enabling the local education authority to determine the number of teachers to be employed, and for enabling the authority, except for reasons for which the . . . ^{F43} governors are expressly empowered by this Act to dismiss teachers without such consent, to prohibit the dismissal of teachers without the consent of the authority and to require the dismissal of any teacher; and
- (b) may make such provision as may be agreed between the local education authority and the . . . ^{F43} governors of the school, or in default of such agreement as may be determined by the [^{F44}Secretary of State for Education and Science], for enabling the authority to prohibit the appointment, without the consent of the authority, of teachers to be employed for giving secular instruction, and for enabling the authority to give directions as to the educational qualifications of the teachers to be so employed.

(3) ^{F45}

Textual Amendments

- F42** Ss. 23, 24(1) repealed (savings in S.I. 1987/344, **Sch. 3 para. 1(4)(d)**) by Education (No.2) Act 1986 (c. 61, SIF 41:1), s. 67(6), **Sch. 6 Pt. I**
- F43** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 8**
- F44** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**
- F45** S. 24(3) repealed by Sex Discrimination Act 1975 (c. 65), s. **83(3)(b)**, Sch. 6

Modifications etc. (not altering text)

- C17** S. 24 modified by S.I. 1989/1135, art. 3(1)(d), **Sch. 4**

Religious Education in County and Voluntary Schools

25 ^{F46}

Textual Amendments

- F46** S. 25 repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. II**

[^{F47}26 **Special provisions as to religious education in county schools.**

(1) In the case of a county school the provision for religious education for pupils at the school which is required by section 2(1)(a) of the Education Reform Act 1988 to be included in the school's basic curriculum shall be provision for religious education in accordance with an agreed syllabus adopted for the school or for those pupils.

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- (2) No such syllabus shall provide for religious education to be given to pupils at such a school by means of any catechism or formulary which is distinctive of any particular religious denomination; but this provision is not to be taken as prohibiting provision in such a syllabus for the study of such catechisms or formularies.
- (3) Subsection (4) below applies where a county secondary school is so situated that arrangements cannot conveniently be made for the withdrawal of pupils from the school in accordance with section 9 of that Act to receive religious education elsewhere.
- (4) If in any such case the local education authority are satisfied—
 - (a) that the parents of pupils in attendance at the school desire them to receive religious education in the school in accordance with the tenets of a particular religious denomination; and
 - (b) that satisfactory arrangements have been made for the provision of such education to those pupils in the school, and for securing that the cost of providing such education to those pupils in the school will not fall upon the authority;

the authority shall, unless they are satisfied that owing to any special circumstances it would be unreasonable to do so, provide facilities for the carrying out of those arrangements.]

Textual Amendments

F47 S. 26 substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), **ss. 9, 231(7), 235(6)** Sch. 1 para. 1

27 Special provisions as to religious education in controlled schools.

- (1) Where the parents of any pupils in attendance at a controlled school request that they may receive religious [^{F48}education] in accordance with the provisions of the trust deed relating to the school, or where provision for that purpose is not made by such a deed in accordance with the practice observed in the school before it became a controlled school, the foundation . . . ^{F49} foundation governors shall, unless they are satisfied that owing to special circumstances it would be unreasonable so to do, make arrangements for securing that such religious [^{F48}education] is given to those pupils at the school during not more than two periods in each week.
- (2) Without prejudice to the duty to make such arrangements as aforesaid whatever the number of the teaching staff of the school, where the number of the teaching staff of a controlled school exceeds two the teaching staff shall include persons (hereinafter referred to as “reserved teachers”) selected for their fitness and competence to give such religious [^{F48}education] as is required to be given under such arrangements and specifically appointed to do so:
 Provided that the number of reserved teachers in any controlled school shall not exceed one-fifth of the number of the teaching staff of the school including the head teacher, so, however, that where the number of the teaching staff is not a multiple of five it shall be treated for the purposes of this subsection as if it were the next higher multiple thereof.
- (3) The head teacher of a controlled school shall not, while holding that position, be a reserved teacher . . . ^{F50}.

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Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)

- (4) Where the local education authority propose to appoint any person to be a reserved teacher in a controlled school, the authority shall consult the foundation . . . ^{F49} foundation governors of the school, and, unless the said . . . ^{F49} governors are satisfied as to that person's fitness and competence to give such religious [^{F48}education] as is required in pursuance of such arrangements as aforesaid the authority shall not appoint that person to be a reserved teacher.
- (5) If the . . . ^{F49} foundation governors of a controlled school are of opinion that any reserved teacher has failed to give such religious [^{F48}education] as aforesaid efficiently and suitably, they may require the authority to dismiss him from employment as a reserved teacher in the school.
- [^{F51}(6) In the case of a controlled school the provision for religious education for pupils at the school which is required by section 2(1)(a) of the Education Reform Act 1988 to be included in the school's basic curriculum shall be provision for religious education-
- (a) in accordance with any arrangements made under subsection (1) of this section; or
 - (b) subject to any such arrangements, in accordance with an agreed syllabus adopted for the school or for those pupils.]

Textual Amendments

- F48** Word substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 9, 231(7), 235(6), **Sch. 1 para. 2(1)**
- F49** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 9**
- F50** Words repealed (savings in S.I. 1987/344, **Sch. 3 para. 1(4)(d)**) by Education (No.2) Act 1986 (c. 61, SIF 41:1), s. 67(6), **Sch. 6 Pt. I**
- F51** S. 27(6) substituted by Education Reform Act 1988 (c. 40, SIF 41:1) ss.9, 231(7), 235(6), Sch. 1 para. 2(2)

28 Special provisions as to religious education in aided schools and in special agreement schools.

- [^{F52}(1) In the case of an aided or special agreement school the provision for religious education for pupils at the school which is required by section 2(1)(a) of the Education Reform Act 1988 to be included in the school's basic curriculum shall be provision for religious education-
- (a) in accordance with any provision of the trust deed relating to the school or, where provision for that purpose is not made by such a deed, in accordance with the practice observed in the school before it became a voluntary school; or
 - (b) in accordance with any arrangements under this section.
- (1A) Subject to subsection (1C) of this section, the religious education given to pupils at such a school shall be under the control of the governors of the school.
- (1B) Where the parents of pupils in attendance at such a school—
- (a) desire them to receive religious education in accordance with any agreed syllabus adopted by the local education authority; and
 - (b) cannot with reasonable convenience cause those pupils to attend any school at which that syllabus is in use;

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then, unless the authority are satisfied that owing to any special circumstances it would be unreasonable to do so, arrangements shall be made for religious education in accordance with that syllabus to be given to those pupils in the school during the times set apart for the giving of religious education in the school in accordance with the provision for that purpose included in the school’s basic curriculum by virtue of section 2(1)(a) of that Act.

- (1C) Those arrangements shall be made by the governors of the school, unless the local education authority are satisfied that the governors are unwilling to make the arrangements, in which case they shall be made by the authority.]
- (2) If a teacher appointed to give in an aided school religious [^{F53}education], other than [^{F53}education] in accordance with an agreed syllabus, fails to give such [^{F53}education] efficiently and suitably, he may be dismissed on that ground by the . . . ^{F54}governors of the school without the consent of the local education authority.
- (3) Where the special agreement made with respect to any special agreement school provides for the employment of reserved teachers, the local education authority shall, when they propose to appoint any person to be such a teacher in the school, consult the . . . ^{F55} foundation governors of the school, and unless the said . . . ^{F55} governors are satisfied as to that person’s fitness and competence to give such religious [^{F53}education] as aforesaid, the authority shall not appoint that person to be such a teacher.
- (4) If the . . . ^{F55} foundation governors of a special agreement school are of opinion that any such reserved teacher as aforesaid has failed to give, efficiently and suitably, such religious [^{F53}education] as he was appointed to give, they may require the authority to dismiss him from employment as a reserved teacher in the school.

Textual Amendments

F52 S. 28(1)(1A)–(1C) substituted for s. 28(1) by Education Reform Act 1988 (c. 40, SIF 41:1), ss.9, 231(7), 235(6), **Sch. 1 para. 3(1)**

F53 Word substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss.9, 231(7), 235(6), **Sch. 1 para. 3(2)**

F54 Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 9**

F55 Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 9**

29 Provisions as to religious instruction in accordance with agreed syllabus.

- (1) The provisions of the Fifth Schedule to this Act shall have effect with respect to the preparation, adoption, and reconsideration, of an agreed syllabus of religious [^{F56}education].
- (2) ^{F57}

Textual Amendments

F56 Word substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 9, 231(7), 235(6), **Sch. 1 para. 4(a)**

F57 S. 29(2)–(4) repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss.9, 231(7), 235(6), 237(2), **Sch. 13 Pt. II**

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Modifications etc. (not altering text)

C18 S. 29(1) modified by S.I. 1989/46, **Sch. 1**

30 Saving as to position of teachers.

Subject as hereinafter provided, no person shall be disqualified by reason of his religious opinions, or of his attending or omitting to attend religious worship, from being a teacher in a county school or in any voluntary school, or from being otherwise employed for the purposes of such a school; and no teacher in any such school shall be required to give religious [^{F58}education] or receive any less emolument or be deprived of, or disqualified for, any promotion or other advantage by reason of the fact that he does or does not give religious [^{F58}education] or by reason of his religious opinions or of his attending or omitting to attend religious worship:

Provided that, save in so far as they require that a teacher shall not receive any less emolument or be deprived of, or disqualified for, any promotion or other advantage by reason of the fact that he gives religious [^{F58}education] or by reason of his religious opinions or of his attending religious worship, the provisions of this section shall not apply with respect to a teacher in an aided school or with respect to a reserved teacher in any controlled school or special agreement school.

Textual Amendments

F58 Word substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 9, 231(7), 235(6), **Sch. 1 para. 4(b)**

Modifications etc. (not altering text)

C19 S. 30 extended by Education Reform Act 1988 (c. 40, SIF 41:1), ss. **88(5)**, 231(7), 235(6)

C20 S. 30 continued (1.4.1994) by 1993 c. 35, s. **144(4)** (with s. 155(11)); S.I. 1994/507, **art.3(1)**.

Transitional Provisions as to County and Voluntary Schools

31 Transitional provisions as to the separation of primary and secondary schools.

- (1) ^{F59}
- (2) Save as may be otherwise directed by the [^{F60}Secretary of State for Education and Science], every county school and voluntary school which immediately before the commencement of this Part of this Act was used for providing primary education shall be managed and conducted as a primary school, every such school which was used for providing secondary education shall be managed and conducted as a secondary school, and every such school which was used for providing primary and secondary education indiscriminately shall be managed and conducted as if it were a primary school.
- (3) If it appears to the [^{F60}Secretary of State for Education and Science] to be expedient that any county school or voluntary school should be managed and conducted otherwise than in accordance with the provisions of the last foregoing subsection, he may direct that the school be managed and conducted as a primary school or as a secondary school as the case may be:
Provided that no such direction shall be given except after consultation with the local education authority and, in the case of a voluntary school, with the . . . ^{F61} governors of the school.

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(4) Where it appears to a local education authority that the process of securing that primary and secondary education shall be provided in separate schools can be accelerated by the giving of a direction under this section, it shall be the duty of the authority to apply to the ^{F60}Secretary of State for Education and Science] for such a direction.

Textual Amendments

F59 Ss. 31(1), 32 repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), Sch. 7

F60 Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)

F61 Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), Sch. 1 para. 1

32 ^{F62}

Textual Amendments

F62 Ss. 31(1), 32 repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), Sch. 7

33, 34. ^{F63}

Textual Amendments

F63 Ss. 33, 34 repealed by Education Act 1981 (c. 60, SIF 41:1), s. 21, Sch. 4 (subject to a saving in S.I. 1983/7, Sch. para. 4)

Compulsory Attendance at Primary and Secondary Schools

35 Compulsory school age.

In this Act the expression “compulsory school age” means any age between five years and ^{F64}sixteen] years, and accordingly a person shall be deemed to be of compulsory school age if he has attained the age of five years and has not attained the age of ^{F64}sixteen] years and a person shall be deemed to be over compulsory school age as soon as he has attained the age of ^{F64}sixteen] years:

Provided that, as soon as the Minister is satisfied that it has become practicable to raise to sixteen the upper limit of the compulsory school age, he shall lay before Parliament the draft of an Order in Council directing that the foregoing provisions of this section shall have effect as if for references therein to the age of fifteen years there were substituted references to the age of sixteen years; and unless either house of Parliament, within the period of forty days beginning with the the day on which any such draft as aforesaid is laid before it, resolves that the draft be not presented to His Majesty, His Majesty may by Order in Council direct accordingly. In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

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Textual Amendments

F64 Word substituted by virtue of [S.I. 1972/444, art. 2](#)

Modifications etc. (not altering text)

C21 [S. 35](#) amended by [Education Act 1962 \(c. 12\), s. 9](#)

C22 The proviso in s. 35 which is spent is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

36 Duty of parents to secure the education of their children.

It shall be the duty of the parent of every child of compulsory school age to cause him to receive efficient full-time education suitable to his age, ability, and aptitude [^{F65}and to any special educational needs he may have], either by regular attendance at school or otherwise.

Textual Amendments

F65 Words inserted by [Education Act 1981 \(c. 60, SIF 41:1\), s. 17](#)

Modifications etc. (not altering text)

C23 [S. 36](#) excluded by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\), s. 4\(2\)](#)

[S. 36](#) excluded (1.10.1993) by [1993 c. 35, s.203](#); [S.I. 1993/1975, art. 9, Sch. 1](#)

C24 [S. 36](#) excluded (*prosp.*) by [Children Act 1989 \(c. 41, SIF 20\), ss. 30\(1\), 36\(10\), 108\(2\)\(6\), Sch. 3 Part III para. 13\(1\), Sch. 14 para. 1\(1\)](#)

37 School attendance orders.

(1) If it appears to a local education authority that the parent of any child of compulsory school age in their area is failing to perform the duty imposed on him by the last foregoing section, it shall be the duty of the authority to serve upon the parent a notice requiring him, within such time as may be specified in the notice not being less than fourteen days from the service thereof, to satisfy the authority that the child is receiving efficient full-time education suitable to his age, ability, and aptitude [^{F66}and to any special educational needs he may have] either by regular attendance at school or otherwise.

(2) If, after such a notice has been served upon a parent by a local education authority, the parent fails to satisfy the authority in accordance with the requirements of the notice that the child to whom the notice relates is receiving efficient full-time education suitable to his age, ability, and aptitude [^{F66}and to any special educational needs he may have], then, if in the opinion of the authority it is expedient that he should attend school, the authority shall serve upon the parent an order in the prescribed form (hereinafter referred to as a “school attendance order”) requiring him to cause the child to become a registered pupil at a school named in the order . . . ^{F67}.

(3) ^{F68}

(4) If at any time while a school attendance order is in force with respect to any child the parent of the child makes application to the local education authority by whom

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the order was made . . . ^{F67} requesting that the order be revoked on the ground that arrangements have been made for the child to receive efficient full-time education suitable to his age, ability, and aptitude [^{F66}and to any special educational needs he may have] otherwise than at school, the authority shall . . . ^{F69} revoke the order in compliance with the request unless they are of opinion . . . ^{F69} that no satisfactory arrangements have been made for the education of the child otherwise than at school . . . ^{F69}; and if a parent is aggrieved by a refusal of the authority to comply with any such request, he may refer the question to the [^{F70}Secretary of State for Education and Science], who shall give such direction thereon as he thinks fit.

- (5) If any person upon whom a school attendance order is served fails to comply with the requirements of the order, he shall be guilty of an offence against this section unless he proves that he is causing the child to receive efficient full-time education suitable to his age, ability, and aptitude [^{F66}and to any special educational needs he may have] otherwise than at school.
- (6) If in proceedings against any person for a failure to comply with a school attendance order that person is acquitted, the court may direct that the school attendance order shall cease to be in force, but without prejudice to the duty of the local education authority to take further action under this section if at any time the authority are of opinion that having regard to any change of circumstances it is expedient so to do.
- (7) Save as provided by the last foregoing subsection, a school attendance order made with respect to any child shall, subject to any amendment thereof which may be made by the local education authority, continue in force so long as he is of compulsory school age unless revoked by that authority.

Textual Amendments

- F66** Words inserted by [Education Act 1981 \(c. 60, SIF 41:1\)](#), s. 21, [Sch. 3 para. 2](#)
- F67** Words repealed by [Education Act 1981 \(c. 60, SIF 41:1\)](#), s. 21, [Sch. 4](#) (subject to a saving in [S.I. 1983/7](#), [Sch. para. 4](#))
- F68** [S. 37\(3\)](#) repealed by [Education Act 1981 \(c. 60, SIF 41:1\)](#), s. 21, [Sch. 4](#) (subject to a saving in [S.I. 1983/7](#), [Sch. para. 4](#))
- F69** Words repealed by [Education Act 1981 \(c. 60, SIF 41:1\)](#), s. 21, [Sch. 4](#)
- F70** Words substituted by virtue of [S.I. 1964/490](#), [art. 3\(2\)\(a\)](#)

Modifications etc. (not altering text)

- C25** [S. 37](#) amended by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\)](#), [s. 9](#)
- C26** [S. 37](#) amended by [Education Act 1980 \(c. 20, SIF 41:1\)](#), [s. 10\(1\)\(5\)](#)
- C27** [S. 37](#) modified by [Education Act 1980 \(c. 20, SIF 41:1\)](#), [s. 10\(5\)–\(7\)](#)
- C28** [S. 37](#) modified by [Education Act 1981 \(c. 60, SIF 41:1\)](#), [ss. 15, 16](#)
- C29** [S. 37](#) excluded (*prosp.*) by [Children Act 1989 \(c.41, SIF 20\)](#), [ss. 30\(1\), 36\(10\), 108\(2\)\(6\)](#), [Sch. 3 Part III para. 13\(2\)\(b\)\(i\)](#), [Sch. 14 para. 1\(1\)](#)
- C30** [S. 37\(4\)](#) amended by [Education Act 1980 \(c. 20, SIF 41:1\)](#), [s. 11\(3\)](#)

Textual Amendments

- F71** [S. 38](#) repealed by [Education Act 1981 \(c. 60, SIF 41:1\)](#), s. 21, [Sch. 4](#)

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39 Duty of parents to secure regular attendance of registered pupils.

- (1) If any child of compulsory school age who is a registered pupil at a school fails to attend regularly thereat, the parent of the child shall be guilty of an offence against this section.
- (2) In any proceedings for an offence against this section in respect of a child who is not a boarder at the school at which he is a registered pupil, the child shall not be deemed to have failed to attend regularly at the school by reason of his absence therefrom with leave or—
 - (a) at any time when he was prevented from attending by reason of sickness or any unavoidable cause;
 - (b) on any day exclusively set apart for religious observance by the religious body to which his parent belongs;
 - (c) if the parent proves that the school at which the child is a registered pupil is not within walking distance of the child's home, and that no suitable arrangements have been made by the local education authority either for his transport to and from the school or for boarding accommodation for him at or near the school or for enabling him to become a registered pupil at a school nearer to his home.
- (3) Where in any proceedings for an offence against this section it is proved that the child has no fixed abode, paragraph (c) of the last foregoing subsection shall not apply, but if the parent proves that he is engaged in any trade or business of such a nature as to require him to travel from place to place and that the child has attended at a school at which he was a registered pupil as regularly as the nature of the trade or business of the parent permits, the parent shall be acquitted:
Provided that, in the case of a child who has attained the age of six years, the parent shall not be entitled to be acquitted under this subsection unless he proves that the child has made at least two hundred attendances during the period of twelve months ending with the date on which the proceedings were instituted.
- (4) In any proceedings for an offence against this section in respect of a child who is a boarder at the school at which he is a registered pupil, the child shall be deemed to have failed to attend regularly at the school if he is absent therefrom without leave during any part of the school term at a time when he was not prevented from being present by reason of sickness or any unavoidable cause.
- (5) In this section the expression “leave” in relation to any school means leave granted by any person authorised in that behalf by the . . . ^{F72} governors or proprietor of the school, and the expression “walking distance” means, in relation to a child who has not attained the age of eight years two miles, and in the case of any other child three miles, measured by the nearest available route.

Textual Amendments

F72 Word repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), [Sch. 1 para. 10](#)

Modifications etc. (not altering text)

C31 S. 39 amended by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\)](#), s. 9

C32 S. 39 excluded (*prosp.*) by [Children Act 1989 \(c. 41, SIF 20\)](#), ss. 30(1), 36(10), 108(2)(6), [Sch. 3 Part III para. 13\(1\)](#), [Sch. 14 para. 1\(1\)](#)

Status: Point in time view as at 01/04/1992. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)

40 Enforcement of school attendance.

- (1) Subject to the provisions of this section, any person guilty of an offence against section thirty-seven or section thirty-nine of this Act shall be liable on summary conviction, in the case of a first offence against that section to a fine not exceeding [^{F73}£200], in the case of a second offence against that section to a fine not exceeding [^{F73}£200], and in the case of a third or subsequent offence against that section to a fine not exceeding [^{F73}£200]
- [^{F74}(2) Proceedings for such offences shall not be instituted except by a local education authority.
- (2A) Before instituting such proceedings the local education authority shall consider whether it would be appropriate, instead of or as well as instituting the proceedings, to apply for an education supervision order with respect to the child.]
- [^{F75}(3) The court—
- (a) by which a person is convicted of an offence against section 37 of this Act; or
 - (b) before which a person is charged with an offence under section 39 of this Act,
- may direct the local education authority instituting the proceedings to apply for an education supervision order with respect to the child unless the authority, having consulted the appropriate local authority, decide that the child’s welfare will be satisfactorily safeguarded even though no education supervision order is made.
- (3A) Where, following such a direction, a local education authority decide not to apply for an education supervision order they shall inform the court of the reasons for their decision.
- (3B) Unless the court has directed otherwise, the information required under subsection (3A) shall be given to the court before the end of the period of eight weeks beginning with the date on which the direction was given.
- (4) Where—
- (a) a local education authority apply for an education supervision order with respect to a child who is the subject of a school attendance order; and
 - (b) the court decides that section 36(3) of the Children Act 1989 prevents it from making the order;
- the court may direct that the school attendance order shall cease to be in force.]
- [^{F76}(5) In this section— “appropriate local authority” has the same meaning as in section 36(9) of the Children Act 1989; and “education supervision order” means an education supervision order under that Act.]

Textual Amendments

- F73** Words substituted by [Criminal Law Act 1977 \(c. 45\), s. 31\(1\), Sch. 6](#)
- F74** [S. 40\(2\)\(2A\)](#) substituted (14.10.1991) for [s. 40\(2\)](#) by [Children Act 1989 \(c. 41, SIF 20\), s. 108\(5\)\(6\), Sch. 13 para. 8\(2\), Sch. 14 para. 1\(1\); S.I. 1991/828, art. 3\(2\)](#)
- F75** [S. 40\(3\)\(3A\)\(3B\)\(4\)](#) substituted (14.10.1991) for [s. 40\(3\)\(4\)](#) by [Children Act 1989 \(c.41, SIF 20\), s. 108\(5\)\(6\), Sch. 13 para. 8\(3\), Sch. 14 para. 1\(1\); S.I. 1991/828, art. 3\(2\)](#)
- F76** [S. 40\(5\)](#) inserted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\), s. 108\(5\)\(6\), Sch. 13 para. 8\(4\), Sch. 14 para. 1\(1\); S.I. 1991/828, art. 3\(2\)](#)

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Modifications etc. (not altering text)

C33 S. 40(3)(4) amended (14.10.1991) by S.I. 1991/1395, **rule 31(1)**

40A ^{F77}

Textual Amendments

F77 S. 40A repealed by Children and Young Persons Act 1969 (c. 54), s. 72(4), **Sch. 6**

Further Education

[^{F78}**41** **Functions of local education authorities with respect to further education.**

- (1) It shall be the duty of every local education authority to secure the provision for their area of adequate facilities for further education.
- (2) Subject to the following provisions of this section, in this Act “further education” means—
 - (a) full-time and part-time education for persons over compulsory school age (including vocational, social, physical and recreational training); and
 - (b) organized leisure-time occupation provided in connection with the provision of such education.
- (3) In this Act “further education” does not include higher education.
- (4) Full-time education suitable to the requirements of senior pupils over compulsory school age shall not be regarded for the purposes of this Act as further education if it is or is to be provided by an institution which does not provide part-time senior education or post-school age education to a significant extent.
- (5) In this Act—
 - (a) “part-time senior education” means part-time education for senior pupils over compulsory school age; and
 - (b) “post-school age education” means full-time or part-time education for persons of or over nineteen years of age.
- (6) The duty of a local education authority under subsection (1) above extends, in the case of further education of a vocational kind, to the provision of facilities for continuing education for persons already in employment or already engaged in a vocation as well as to the provision of facilities for education with a view to entry into any employment or vocation.
- (7) In subsection (2)(b) above “organized leisure time occupation” means leisure-time occupation, in such organized cultural training and recreative activities as are suited to their requirements, for any persons over compulsory school age who are able and willing to profit by facilities provided for that purpose.
- (8) A local education authority shall have power to secure the provision of further education for persons living outside their area.

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- (9) In fulfilling their duty under subsection (1) above a local education authority shall have regard to any educational facilities provided by universities, institutions within the PCFC funding sector and other bodies which are provided for, or available for use by persons living in, their area.
- (10) In fulfilling that duty a local education authority shall also have regard to the requirements of persons over compulsory school age who have learning difficulties.
- (11) Subject to subsection (12) below, for the purposes of subsection (10) above a person has a "learning difficulty" if-
 - (a) he has a significantly greater difficulty in learning than the majority of persons of his age; or
 - (b) he has a disability which either prevents or hinders him from making use of facilities of a kind generally provided by the local education authority concerned in pursuance of their duty under subsection (1) above for persons of his age.
- (12) A person is not to be taken as having a learning difficulty solely because the language (or form of the language) in which he is, or will be, taught is different from a language (or form of a language) which has at any time been spoken in his home.
- (13) A local education authority shall have power to do anything which appears to them to be necessary or expedient for the purposes of or in connection with the exercise of their functions under this section.]

Textual Amendments
F78 S. 41 substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), **ss. 120(2)**, 231(7), 235(6), 236(2)

Modifications etc. (not altering text)
C34 S. 41 restricted by [National Service Act 1948 \(c. 64\)](#), **s. 28** and explained retrospectively by [Industrial Training Act 1964 \(c. 16\)](#), **s. 16**

42 F79

Textual Amendments
F79 S. 42 repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), **ss. 120(5)(a)**, 231(7), 235(6), 236(2), 237(2), **Sch. 13 Pt. II**

43— F80
46.

Textual Amendments
F80 S. 43–46 repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), **ss. 120(5)(b)**, 231(7), 235(6), 236(2), **Sch. 13 Pt. II**

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47 Interim provisions as to further education.

Until the date upon which a scheme of further education is first approved by the Minister for the area of a local education authority under the foregoing provisions of this Part of this Act, the authority shall, unless the Minister otherwise directs, continue to maintain or assist any school or other educational institution which, immediately before the date of the commencement of this Part of this Act was maintained or assisted by them or by the council of any county district within their area, under the powers conferred by section seventy of the ^{M2}Education Act 1921, not being a school or institution which under this Act is maintained or assisted as a secondary school, and may, in accordance with arrangements approved by the Minister, provide such additional facilities for further education, other than education at county colleges, as appear to the authority to be expedient for meeting the needs of their area.

Modifications etc. (not altering text)

C35 Functions of the Minister now exercisable by the Secretary of State for Education and Science: [S.I. 1964/490, art. 2\(1\)](#)

Marginal Citations

M2 1921 c. 51.

SUPPLEMENTARY PROVISIONS AS TO PRIMARY, SECONDARY AND FURTHER EDUCATION

Ancillary Services

48 Medical inspection and treatment of pupils.

(1) ^{F81}

(4) It shall be the duty of every local education authority [^{F82}or, in the case of pupils at a grant-maintained school, the duty of the governing body of the school] to make arrangements for encouraging and assisting pupils to take advantage of [^{F83}the provision for medical and dental inspection and treatment made for them in pursuance of [^{F84}section 5(1) of the ^{M3}National Health Service Act 1977 or paragraph 1(a)(i) of Schedule 1 to that Act]]:

Provided that if the parent of any pupil gives to the authority [^{F85}or, as the case may be, to the governing body] notice that he objects to the pupil availing himself of any [^{F83}of the provision so made], the pupil shall not be encouraged or assisted so to do.

(5) ^{F81}

Textual Amendments

F81 S. 48(1)–(3), (5) repealed by [National Health Service Reorganisation Act 1973 \(c. 32\), Sch. 5](#)

F82 Words inserted by [Education Reform Act 1988 \(c. 40, SIF 41:1\), ss. 231\(7\), 235\(6\), 237\(1\), Sch. 12 para. 2\(a\)](#)

F83 Words substituted by [National Health Service Reorganisation Act 1973 \(c. 32\), Sch. 4 para. 7](#)

F84 Words substituted by [National Health Service Act 1977 \(c. 49\), Sch. 15 para. 2](#)

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F85 Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 2(b)**

Modifications etc. (not altering text)

C36 S. 48(4) applied (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I**.

C37 S. 48(4) applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I**.

Marginal Citations

M3 1977 c. 49.

49 ^{F86}

Textual Amendments

F86 S. 49 repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), **Sch. 7**

50 Provision of board and lodging otherwise than at boarding schools or colleges.

- (1) Where the local education authority are satisfied with respect to any [^{F87}pupil] that primary or secondary education suitable to his age ability and aptitude [^{F88}and to any special educational needs he may have] can best be provided by them for him at any particular county school, voluntary school [^{F89}, grant-maintained school], or special school, . . . ^{F90} but that such education cannot be so provided unless boarding accommodation is provided for him otherwise than at the school . . . ^{F90} [^{F91}and where a local education authority are satisfied, with respect to a pupil [^{F92}having special educational needs], that provision for him of board and lodging is necessary for enabling him to receive the required special educational [^{F92}provision],] the authority may provide such board and lodging for him under such arrangements as they think fit.
- (2) In making any arrangements under this section for any [^{F87}pupil] . . . ^{F90}, a local education authority shall, so far as practicable, give effect to the wishes of the parent of the [^{F87}pupil] . . . ^{F90}, with respect to the religious denomination of the person with whom he will reside.

Textual Amendments

F87 Words substituted by Education Act 1946 (c. 50), **Sch. 2 Pt. I**

F88 Words inserted by Education Act 1981 (c. 60, SIF 41:1), s. 21, **Sch. 3 para. 3(a)**

F89 Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), s. 100(2)

F90 Words repealed by Education Reform Act 1988 (c. 40, SIF 41), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. II**

F91 Words inserted by Education (Miscellaneous Provisions) Act 1948 (c. 40), **Sch. 1 Pt. I**

F92 Word(s) substituted by Education Act 1981 (c. 60, SIF 41:1), s. 21, **Sch. 3 para. 3(b)(c)**

51 ^{F93}

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Textual Amendments

F93 Ss. 51, 53(3) repealed by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\)](#), [Sch. 2](#)

52 †Recovery of cost of boarding accommodation and of clothing.

- (1) Where a local education authority have, under the powers conferred by the foregoing provisions of this Act, provided a pupil with board and lodging otherwise than at a boarding school . . . ^{F94} . . . ^{F95} the authority shall require the parent to pay to the authority in respect thereof such sums, if any, as in the opinion of the authority he is able without financial hardship to pay:
Provided that—
- (a) where the board and lodging provided for the pupil were so provided under arrangements made by the local education authority on the ground that in their opinion education suitable to his age ability and aptitude [^{F96}or special educational needs] could not otherwise be provided by the authority for him, no sum shall be recoverable in respect thereof under this section . . . ^{F94}
 - (b) ^{F94}
- (2) The sums recoverable under this section shall not exceed the cost to the local education authority of providing the board and lodging . . . ^{F95}
- (3) Any sums payable by virtue of this section may be recovered summarily as a civil debt.

Textual Amendments

F94 Words repealed by [Education Reform Act 1988 \(c. 40, SIF 41\)](#), ss. 231(7), 235(6), 237(2), [Sch. 13 Pt. II](#)

F95 Words repealed by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\)](#), [Sch. 2](#)

F96 Words inserted by [Education Act 1981 \(c. 60, SIF 41:1\)](#), s. 21, [Sch. 3 para. 4](#)

Modifications etc. (not altering text)

C38 Unreliable marginal note.

53 Provision of facilities for recreation and social and physical training.

- (1) It shall be the duty of every local education authority to secure that the facilities for primary secondary and further education provided for their area include adequate facilities for recreation and social and physical training, and for that purpose a local education authority . . . ^{F97} may establish maintain and manage, or assist the establishment, maintenance, and management of camps, holiday classes, playing fields, play centres, and other places (including playgrounds, gymnasiums, and swimming baths not appropriated to any school [^{F98}or other educational institution], at which facilities for recreation and for such training as aforesaid are [^{F99}available for persons receiving primary secondary or further education], and may organise games, expeditions and other activities for such persons, and may defray or contribute towards the expenses thereof.
- (2) A local education authority, in making arrangements for the provision of facilities or the organisation of activities under the powers conferred on them by the last foregoing subsection shall, in particular, have regard to the expediency of co-operating with any

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voluntary societies or bodies whose objects include the provision of facilities or the organisation of activities of a similar character.

- (3) ^{F100}
- (4) ^{F101}

Textual Amendments

- F97** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), **Sch. 7**
- F98** Words substituted by [Educational Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 54**
- F99** Words substituted by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\)](#), **Sch. 1 Pt. I**
- F100** Ss. 51,53(3) repealed by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\)](#), **Sch. 2**
- F101** S. 53(4) repealed by [Statute Law Revision Act 1950 \(c. 6\)](#), **Sch. 1**

54 Power to ensure cleanliness.

- (1) A local education authority may, by directions in writing issued with respect to all schools maintained by them or with respect to any of such schools named in the directions, authorise a medical officer of the authority to cause examinations of the persons and clothing of pupils in attendance at such school to be made whenever in his opinion such examinations are necessary in the interests of cleanliness . . . ^{F102}.
- (2) Any such examination as aforesaid shall be made by a person authorised by the local education authority to make such examinations, and if the person or clothing of any pupil is found upon such an examination to be infested with vermin or in a foul condition, any officer of the authority may serve upon the parent of the pupil . . . ^{F102} a notice requiring him to cause the person and clothing of the pupil to be cleansed.
- (3) A notice served under the last foregoing subsection shall inform the person upon whom it is served that unless within the period limited by the notice, not being less than twenty-four hours after the service thereof, the person and clothing of the pupil to whom the notice relates are cleansed to the satisfaction of such person as may be specified in the notice the cleansing thereof will be carried out under arrangements made by the local education authority; and if, upon a report being made to him by that person at the expiration of that period, a medical officer of the authority is not satisfied that the person and clothing of the pupil have been properly cleansed, the medical officer may issue an order directing that the person and clothing of the pupil be cleansed under such arrangements.
- (4) It shall be the duty of the local education authority to make arrangements for securing that any person or clothing required under this section to be cleansed may be cleansed (whether at the request of a parent . . . ^{F102} or in pursuance of an order issued under this section) at suitable premises by suitable persons and with suitable appliances; and where [^{F103}the council of any . . . ^{F104}district in the area of the authority][^{F103}the council of any inner London borough or the Common Council of the City of London] are entitled to the use of any premises or appliances for cleansing the person or clothing of persons infested with vermin, the authority may require the council to permit the authority to use those premises or appliances for such purposes upon such terms as may be determined by agreement between the authority and the council or, in default of such agreement, by the [^{F105}Secretary of State for Social Services].

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- (5) Where an order has been issued by a medical officer under this section directing that the person and clothing of a pupil be cleansed under arrangements made by a local education authority, the order shall be sufficient to authorise any officer of the authority to cause the person and clothing of the pupil in the order to be cleansed in accordance with arrangements made under the last foregoing subsection, and for that purpose to convey him to, and detain him at, any premises provided in accordance with such arrangements.
- (6) If, after the cleansing of the person or clothing of any pupil has been carried out under this section, his person or clothing is again found to be infested with vermin or in a foul condition at any time while he is in attendance at a school maintained by a local education authority . . . ^{F102}, and it is proved that the condition of his person or clothing is due to neglect on the part of his parent . . . ^{F102}, the parent . . . ^{F102} shall be liable on summary conviction to a fine not exceeding [^{F106}level 1 on the standard scale.]
- (7) Where a medical officer of a local education authority suspects that the person or clothing of any pupil in attendance at a school maintained by the authority . . . ^{F102} is infested with vermin or in a foul condition, but action for the examination or cleansing thereof cannot immediately be taken, he may, if he considers it necessary so to do either in the interest of the pupil or of other pupils in attendance at the school . . . ^{F102}, direct that the pupil be excluded from the school . . . ^{F102} 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 to attend school . . . ^{F102} 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 pupil or his parent.
- (8) No girl shall be examined or cleansed under the powers conferred by this section except by a duly qualified medical practitioner or by a woman authorised for that purpose by a local education authority.

Textual Amendments

F102 Words repealed by [Education Reform Act 1988 \(c. 40, SIF 41\)](#), ss. 231(7), 235(6), 237(2), [Sch. 13 Pt. II](#)

F103 Words “the council of any inner London borough” to “London” substituted (in relation to I.L.E.A.) for words “the council of any district” to “authority” by [London Government Act 1963 \(c. 33\)](#), [s. 32\(7\)](#)

F104 Words omitted by virtue of [Local Government Act 1972 \(c. 70\)](#), [s. 179\(3\)](#)

F105 Words substituted by virtue of [S.I. 1968/1699](#), [art. 5\(4\)\(a\)](#)

F106 Words substituted by virtue of [Criminal Law Act 1977 \(c. 45, SIF 39:1\)](#), [s. 31\(5\)\(6\)](#) and of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 45](#)

55 Provision of transport and other facilities.

- (1) A local education authority shall make such arrangements for the provision of transport and otherwise as they consider necessary or as the [^{F107}Secretary of State for Education and Science] may direct for the purpose of facilitating the attendance of pupils at schools or [^{F108}at any institution maintained or assisted by them which provides higher education or further education or (both)], and any transport provided in pursuance of such arrangements shall be provided free of charge.
- (2) A local education authority [^{F109}may pay the whole or any part, as the authority think fit, of the reasonable travelling expenses] of any pupil in attendance at any school

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[^{F110}or any such institution as is mentioned in subsection (1) above] for whose transport no arrangements are made under this section.

[^{F111}(3) In considering whether or not they are required by subsection (1) above to make arrangements in relation to a particular pupil, the local education authority shall have regard (amongst other things) to the age of the pupil and the nature of the route, or alternative routes, which he could reasonably be expected to take.]

[^{F112}(4) Arrangements made by a local education authority under subsection (1) above shall make provision for pupils at grant-maintained schools which is no less favourable than the provision made in pursuance of the arrangements for pupils at schools maintained by a local education authority.]

Textual Amendments

F107 Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

F108 Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 55(2)**

F109 Words substituted by Education (Miscellaneous Provisions) Act 1948 (c. 40), **Sch. 1 Pt. I**

F110 Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 55(3)**

F111 S. 55(3) added by Education (No.2) Act 1986 (c. 61, SIF 41:1), **s. 53**

F112 S. 55(4) inserted by Education Reform Act 1988 (c. 40, SIF 41:1), **ss. 100(3), 231(7), 235(6)**

Modifications etc. (not altering text)

C39 S. 55 amended by Education (Miscellaneous Provisions) Act 1953 (c. 33), **s. 12(1)**

56 Power to provide primary and secondary education otherwise than at school.

If a local education authority are satisfied that by reason of any extraordinary circumstances a child or young person is unable to attend a suitable school for the purpose of receiving primary or secondary education [^{F113}they shall have power with the approval of the [^{F114}Secretary of State for Education and Science] to make special arrangements for him to receive education otherwise than at school, being primary or secondary education, as the case may require, or if the authority are satisfied that it is impracticable for him to receive full-time education and the [^{F114}Secretary of State for Education and Science] approves, education similar in other respects but less than full-time.]

Textual Amendments

F113 Words substituted by Education (Miscellaneous Provisions) Act 1948 (c. 40), **Sch. 1 Pt. I**

F114 Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

57— ^{F115}
 57B.

Textual Amendments

F115 Ss. 57–57B repealed by Education (Handicapped Children) Act 1970 (c. 52), **Sch.**

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Employment of Children and Young Persons

58 Adaptation of enactments relating to the employment of children or young persons.

For the purposes of any enactment relating to the prohibition or regulation of the employment of children or young persons, any person who is not for the purposes of this Act over compulsory school age shall be deemed to be a child within the meaning of that enactment.

[^{F116}59 Power of local education authorities to prohibit or restrict employment of children.

- (1) If it appears to a local education authority that any child who is a registered pupil at a county school, voluntary school, or special school, is being employed in such manner as to be prejudicial to his health or otherwise to render him unfit to obtain the full benefit of the education provided for him, the authority may, by notice in writing served upon the employer, prohibit him from employing the child, or impose such restrictions upon his employment of the child as appear to them to be expedient in the interests of the child.
- (2) A local education authority may, by notice in writing served upon the parent or employer of any child who is a registered pupil at a county school, voluntary school, or special school, require the parent or employer to provide the authority, within such period as may be specified in the notice, with such information as appears to the authority to be necessary for the purpose of enabling them to ascertain whether the child is being employed in such a manner as to render him unfit to obtain the full benefit of the education provided for him.
- (3) Any person who employs a child in contravention of any prohibition or restriction imposed under subsection (1) of this section, or who fails to comply with the requirements of a notice served under subsection (2) of this section, shall be guilty of an offence against this section and liable on summary conviction, in the case of a first offence to a fine not exceeding [^{F117}level 1 on the standard scale], in the case of a second offence to a fine not exceeding [^{F117}level 1 on the standard scale], and in the case of a third or subsequent offence to a fine not exceeding [^{F117}level 1 on the standard scale] or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.
- (4) Subsection (1) and subsection (3) of section twenty-eight of the ^{M4}Children and Young Persons Act 1933 (which relate to powers of entry for the enforcement of the provisions of Part II of that Act with respect to the employment of children) shall apply with respect to the provisions of any notice served under this section as they apply with respect to the provisions of the said Part II.]

Textual Amendments

F116 S. 59 repealed (*prosp.*) by Employment of Children Act 1973 (c. 24), s. 3, **Sch. 2**

F117 Words substituted by virtue of Criminal Law Act 1977 (c. 45, SIF 39:1), **s. 31** and of Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**

Modifications etc. (not altering text)

C40 S. 59 extended (1.9.1994) by S.I. 1994/2103, reg. 2, **Sch. 1 Pt. 1 para.1.**

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C41 Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 35 (in relation to liability on first and subsequent convictions) applies

Marginal Citations

M4 1933 c. 12.

60, 61. ^{F118}

Textual Amendments

F118 Ss. 60, 61, 84 repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), Sch. 13 Pt. II

62 †**Duties of Minister and of local education authorities as to the training of teachers.**

(1) In execution of the duties imposed on him by this Act, the [^{F119}Secretary of State for Education and Science] shall, in particular, make such arrangement as he considers expedient for securing that there shall be available sufficient facilities for the training of teachers for [^{F120}service in schools maintained by local education authorities, grant-maintained schools and institutions which are maintained by such authorities and provide higher education or further education (or both)].

(2) ^{F121}

Textual Amendments

F119 Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)

F120 Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), Sch. 12 para. 56(2)

F121 S. 62(2) repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237, Sch. 12 para. 56(3), Sch. 13 Pt. II

Modifications etc. (not altering text)

C42 Unreliable marginal note.

63 **Exemption from building byelaws of buildings approved by the Minister.**

(1) ^{F122}

(2) Where plans for any building required for the purposes of any school or other educational establishment are approved by the [^{F123}Secretary of State for Education and Science], he may by order direct that any provision of any local Act or of any byelaw made under such an Act shall not apply in relation to the building or shall apply in relation thereto with such modifications as may be specified in the order.

Textual Amendments

F122 S. 63(1) repealed by Building Act 1984 (c. 55, SIF 15), s. 133(2), Sch. 7

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Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)

F123 Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)

Modifications etc. (not altering text)

C43 S. 63(2) amended by Education Act 1980 (c. 20, SIF 41:1), s. 14(4)

C44 S. 63(2) amended by Education Reform Act 1988 (c. 40, SIF 41:1), s. 90(4)

C45 S. 63(2) amended by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 218(8), 231(7), 235(6)

64 ^{F124}

Textual Amendments

F124 S. 64 repealed by Rating and Valuation Act 1961 (c. 45), Sch. 5 Pt. I

65 Endowments for maintenance of voluntary schools.

Where any sums which accrue after the date of the commencement of this Part of this Act in respect of the income of any endowment are required by virtue of the provisions of any trust deed to be applied towards the maintenance of a school which a local education authority are required to maintain as a voluntary school, the said sums shall not be payable to the local education authority, but shall be applied by the . . . ^{F125} governors of the school towards the discharge of their obligations, if any, with respect to the maintenance of the school, or in such other manner, if any, as may be determined by a scheme for the administration of the endowment made after the date of the commencement of this Part of this Act.

Textual Amendments

F125 Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), Sch. 1 para. 1

66 ^{F126}

Textual Amendments

F126 S. 66 repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), Sch. 7

67 Determination of disputes and questions.

(1) Save as otherwise expressly provided by this Act, any dispute between a local education authority and the . . . ^{F127} governors of any school with respect to the exercise of any power conferred or the performance of any duty imposed by or under this Act, may, notwithstanding any enactment rendering the exercise of the power or the performance of the duty contingent upon the opinion of the authority or of the . . . ^{F127} governors, be referred to the [^{F128}Secretary of State for Education and Science]; and any such dispute so referred shall be determined by him.

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- (2) Any dispute between two or more local education authorities as to which of them is responsible for the provision of education for any pupil . . . ^{F129} shall be determined by the [^{F128}Secretary of State for Education and Science.]
- (3) Where any trust deed relating to a voluntary [^{F130}or grant-maintained] school makes provision whereby a bishop or any other ecclesiastical or denominational authority has power to decide whether the religious [^{F131}education] given in the school which purports to be in accordance with the provisions of the trust deed does or does not accord with those provisions, that question shall be determined in accordance with the provisions of the trust deed.
- [^{F132}(4) If in the case of a county [^{F133}voluntary or grant-maintained] school a question arises whether a change in the character of the school or enlargement of the school premises would be a significant change or enlargement, that question shall be determined by the Secretary of State.]
- [^{F134}(4A) If in the case of any institution a question arises as to whether any current or proposed provision of part-time senior education or post-school age education by that institution amounts or would amount to the provision of such education to a significant extent, that question shall be determined by the Secretary of State.]

Textual Amendments

- F127** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\), s. 1\(3\), Sch. 1 para. 1](#)
- F128** Words substituted by virtue of [S.I. 1964/490, art. 3\(2\)\(a\)](#)
- F129** Words repealed by [Education \(No.2\) Act 1986 \(c. 61, SIF 41:1\), s. 67\(6\) Sch. 6 Pt. I](#)
- F130** Words inserted by [Education Reform Act 1988 \(c. 40, SIF 41:1\), ss. 231\(7\), 235\(6\), 237\(1\), Sch. 12 para. 4\(2\)](#)
- F131** Word substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\), ss. 9, 231\(7\), 235\(6\), Sch. 1 para. 4\(c\)](#)
- F132** [S. 67\(4\)](#) substituted by [Education Act 1968 \(c. 17\), Sch. 1 para. 3](#)
- F133** Words substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\), ss. 231\(7\), 234\(1\), 235\(6\), Sch. 12 para. 4\(3\)](#)
- F134** [S. 67\(4A\)](#) added by [Education Reform Act 1988 \(c. 40, SIF 41:1\), ss. 120\(7\), 231\(7\), 235\(6\), 236\(2\)](#)

Modifications etc. (not altering text)

- C46** [S. 67\(1\)](#) extended by [Education \(No. 2\) Act 1968 \(c. 37\), s. 3\(3\)](#)
- C47** [S. 67\(1\)](#) modified by [Education \(No.2\) Act 1986 \(c. 61, SIF 41:1\), s. 12\(10\), Sch. 2 para. 29\(a\)](#)
- C48** [S. 67\(1\)](#) extended by [Education Reform Act 1988 \(c. 40, SIF 41:1\), ss. 219\(1\), 231\(7\), 235\(6\)](#)

68 †Power of Minister to prevent unreasonable exercise of functions.

If the [^{F135}Secretary of State for Education and Science] is satisfied, either on complaint by any person or otherwise, that any local education authority or the . . . ^{F136} governors of any county or voluntary school have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under this Act, he may, notwithstanding any enactment rendering the exercise of the power or the performance of the duty contingent upon the opinion of the authority or of the . . . ^{F136} governors, give such directions as to the exercise of the power or the performance of the duty as appear to him to be expedient.

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[^{F137}In this section, references to a local education authority shall be construed as including references to any body of persons authorised, in accordance with the First Schedule to this Act, . . . ^{F138}, to exercise functions of such an authority.]

Textual Amendments

- F135** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**
- F136** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 1**
- F137** Words inserted by Education Act 1946 (c. 50), **Sch. 2 Pt. I**
- F138** Words repealed by Local Government Act 1972 (c. 70), **Sch. 30**

Modifications etc. (not altering text)

- C49** Unreliable marginal note.
- C50** S. 68 extended by Education (No. 2) Act 1968 (c. 37), **s. 3(3)**, Sex Discrimination Act 1975 (c. 65), **s. 25(2)** and Race Relations Act 1976 (c. 74), **s. 19(2)**
- C51** S. 68 modified by Education (No.2) Act 1986 (c.61, SIF 41:1), s. 12(10), **Sch. 2 para. 29(b)**
- C52** S. 68 restricted by Education Reform Act 1988 (c. 40, SIF 41:1), **ss. 23(2)**, 231(7), 235(6)
S. 68 restricted (1.9.1994) by 1993 c. 35, s. 298, **Sch. 18 para. 6(4)**; S.I. 1994/2038, art. 3, **Sch.2**.
- C53** S. 68 extended by Education Reform Act 1988 (c. 40, SIF 41:1), **ss. 219(2)**, 231(7), 235(6)
- C54** S. 68 extended (22.8.1991) by School Teacher's Pay and Conditions Act 1991 (c. 49, SIF 41:1), **s. 5(5)**; S.I. 1991/1874, **art. 2**
- C55** S. 68 extended
- C56** S. 68 extended (6.5.1992) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 9**; S.I. 1992/831, art. 2, **Sch. 1**
- C57** s. 68 applied (1.4.1994) by 1993 c. 35, **s. 9(4)**; S.I. 1994/507, **art. 3(1)**.
- C58** S. 68 applied (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I**.
- C59** S. 68 applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I**.

69 †Powers of Minister as to medical examinations and inspections.

- (1) ^{F139}
- (2) Where any question is referred to the [^{F140}Secretary of State for Education and Science] under this Part of this Act, then, if in the opinion of the [^{F140}Secretary of State for Education and Science] the examination of any pupil by a duly qualified medical practitioner appointed for the purpose by him would assist the determination of the question referred to him, the [^{F140}Secretary of State for Education and Science] may by notice in writing served on the parent of that pupil . . . ^{F141} require the parent to submit him . . . ^{F141} for examination by such a practitioner; and if any person on whom such a notice is served fails without reasonable excuse to comply with the requirements thereof, he shall be liable on summary conviction to a fine not exceeding [^{F142}level 1 on the standard scale].

Textual Amendments

- F139** Ss. 69(1), 78(1), 79 repealed by National Health Service Reorganisation Act 1973 (c. 32), **Sch. 5**
- F140** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**
- F141** Words repealed by Education Reform Act 1988 (c. 40, SIF 41), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. II**
- F142** Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46**

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Modifications etc. (not altering text)

C60 Unreliable marginal note.

PART III

INDEPENDENT SCHOOLS

Modifications etc. (not altering text)

C61 Functions of Secretary of State for Education and Science under Part III in relation to independent schools in Wales now exercisable by Secretary of State for Wales: [S.I. 1970/1536](#), [arts. 2\(1\), 5\(1\)](#)

70 Registration of independent schools.

(1) The [^{F143}Secretary of State for Education and Science] shall appoint one of his officers to be Registrar of Independent Schools; and it shall be the duty of the Registrar of Independent Schools to keep a register of all independent schools, which shall be open to public inspection at all reasonable times, and, subject as hereinafter provided, to register therein any independent school of which the proprietor makes application for the purpose in the prescribed manner and furnishes the prescribed particulars:

Provided that—

- (a) no independent school shall be registered if, by virtue of an order made under the provisions hereinafter contained, the proprietor is disqualified from being the proprietor of an independent school or the school premises are disqualified from being used as a school, or if the school premises are used or proposed to be used for any purpose for which they are disqualified by virtue of any such order; and
- (b) the registration of any school shall be provisional only until the [^{F143}Secretary of State for Education and Science], after the school has been inspected on his behalf under the provisions of Part IV of this Act, gives notice to the proprietor that the registration is final.

(2) ^{F144}

(3) If after the expiration of six months from the date of the commencement of this Part of this Act any person—

- (a) conducts an independent school (whether established before or after the commencement of that Part) which is not a registered school or a provisionally registered school; or
- (b) being the proprietor of an independent school does any act calculated to lead to the belief that the school is a registered school while it is a provisionally registered school;

he shall be liable on summary conviction to a fine not exceeding [^{F145}level 4 on the standard scale] or in the case of a second or subsequent conviction to a fine not exceeding [^{F145}level 4 on the standard scale] or to imprisonment for a term not exceeding three months or to both such imprisonment and such fine.

[^{F146}(3A) A person shall not be guilty of an offence under subsection (3)(a) above by reason of conducting a school at any time within the period of one month from the date on

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which it was first conducted (whether by that person or another) if an application for the registration of the school has been duly made within that period.]

[^{F147}(4) The Secretary of State may by regulations make provision for requiring the proprietor of a registered or provisionally registered school to furnish the Registrar from time to time with such particulars relating to the school as may be prescribed and for enabling the Secretary of State to order the deletion from the register of the name of any school in respect of which any requirement imposed by or under the regulations is not complied with.

(5) The power to make regulations under this section shall be exercisable by the Secretary of State for Education and Science in relation to schools in England and by the Secretary of State for Wales in relation to schools in Wales.]

Subordinate Legislation Made

P1 S. 70: for previous exercises of power see Index to Government Orders

P2 S. 70(1): s. 70(1)(with ss. 70(4)(5) and 114(1)) power exercised by S.I. 1991/1034.

Textual Amendments

F143 Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

F144 S. 70(2) repealed by Education Act 1980 (c. 20, SIF 41:1), **s. 34(2)**

F145 Words substituted by virtue of Criminal Law Act (c. 45, SIF 39:1) and of Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 39(1), 46, **Sch.3**

F146 S. 70(3A) inserted by Education Act 1980 (c. 20, SIF 41:1), **s. 34(6)**

F147 S. 70(4)(5) substituted for s. 70(4) by Education Act 1980 (c. 20, SIF 41:1), **s. 34(7)**

Modifications etc. (not altering text)

C62 S. 70 amended by S.I. 1960/1536, **art. 5(2)(3)(4)**

C63 S. 70(1) amended by Education Act 1980 (c. 20, SIF 41:1), **s. 34(3)(4)**

C64 Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 35** (in relation to liability on first and subsequent convictions) applies

71 Complaints.

(1) If at any time the [^{F148}Secretary of State for Education and Science] is satisfied that any registered or provisionally registered school is objectionable upon all or any of the following grounds—

- (a) that the school premises or any parts thereof are unsuitable for a school;
- (b) that the accommodation provided at the school premises is inadequate or unsuitable having regard to the number, ages, and sex of the pupils attending the school;
- (c) that efficient and suitable instruction is not being provided at the school having regard to the ages and sex of the pupils attending thereat;
- (d) that the proprietor of the school or any teacher employed therein is not a proper person to be the proprietor of an independent school or to be a teacher in any school, as the case may be;

[^{F149}(e) there has been a failure, in relation to a child provided with accommodation by the school, to comply with the duty imposed by section 87 of the Children Act 1989 (welfare of children accommodated in independent schools);]

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the [F148Secretary of State] shall serve upon the proprietor of the school a notice of complaint stating the grounds of complaint together with full particulars of the matters complained of, and, unless any of such matters are stated in the notice to be in the opinion of the [F148Secretary of State for Education and Science] irremediable, the notice shall specify the measures necessary in the opinion of the [F148Secretary of State for Education and Science] to remedy the matters complained of, and shall specify the time, not being less than six months after the service of the notice, within which such measures are thereby required to be taken.

- (2) If it is alleged by any notice of complaint served under this section that any person employed as a teacher at the school is not a proper person to be a teacher in any school, that person shall be named in the notice and the particulars contained in the notice shall specify the grounds of the allegation, and a copy of the notice shall be served upon him.
- (3) Every notice of complaint served under this section and every copy of such a notice so served shall limit the time, not being less than one month after the service of the notice or copy, within which the complaint may be referred to an Independent Schools Tribunal under the provisions hereinafter contained.

Textual Amendments

F148 Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)

F149 S. 71(1)(e) inserted (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(5)(6), Sch. 13 para. 9, Sch. 14 para. 1(1)

72 Determination of complaints.

- (1) Any person upon whom a notice of complaint or a copy of such a notice is served under the last foregoing section may, within the time limited by the notice, appeal therefrom by referring the complaint, in such manner as may be provided by rules made under this Part of this Act, to an Independent Schools Tribunal constituted in accordance with the provisions of the Sixth Schedule to this Act.
- (2) Upon a complaint being referred to an Independent Schools Tribunal, the tribunal shall, after affording to all parties concerned an opportunity of being heard, and after considering such evidence as may be tendered by them or on their behalf, have power—
 - (a) to order that the complaint be annulled:
 - (b) to order that the school in respect of which the notice of complaint was served be struck off the register:
 - (c) to order that the school be so struck off unless the requirements of the notice, subject to such modifications, if any, as may be specified in the order are complied with to the satisfaction of the [F150Secretary of State for Education and Science] before the expiration of such time as may be specified in the order:
 - (d) if satisfied that the premises alleged by the notice of complaint to be unsuitable for use as a school or any part of such premises are in fact unsuitable for such use, by order to disqualify the premises or part from being so used, or, if satisfied that the accommodation provided at the school premises is inadequate or unsuitable having regard to the number, ages and sex of the pupils attending the school, by order to disqualify the premises from being

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used as a school for pupils exceeding such number or of such age or sex as may be specified in the order:

- (e) if satisfied that any person alleged by the notice of complaint to be a person who is not proper to be the proprietor of an independent school or to be a teacher in any school is in fact such a person, by order to disqualify that person from being the proprietor of any independent school or from being a teacher in any school, as the case may be.
- (3) Where a notice of complaint has been served under this Act on the proprietor of any school and the complaint is not referred by him to an Independent School Tribunal within the time limited in that behalf by the notice, the [^{F150}Secretary of State for Education and Science] shall have power to make any order which such a tribunal would have had power to make if the complaint had been so referred:
 Provided that, if it was alleged by the notice of complaint that any person employed as a teacher at the school is not a proper person to be a teacher in any school and that person has, within the time limited in that behalf by the copy of the notice served upon him, referred the complaint to an Independent Schools Tribunal, the [^{F150}Secretary of State for Education and Science] shall not have power to make an order requiring his dismissal or disqualifying him from being a teacher in any school.
- (4) Where by virtue of an order made by an Independent Schools Tribunal or by the [^{F150}Secretary of State for Education and Science] any person is disqualified either from being the proprietor of an independent school or from being a teacher in any school, then, unless the order otherwise directs, that person shall, by virtue of the order, be disqualified both from being the proprietor of an independent school and from being a teacher in any school.

Textual Amendments

F150 Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)

73 Enforcement.

- (1) Where an order is made by the [^{F151}Secretary of State for Education and Science] or by an Independent Schools Tribunal directing that any school be struck off the register, the Registrar of Independent Schools shall as from the date on which the direction takes effect strike the school off the register.
- (2) If any person uses any premises for purposes for which they are disqualified by virtue of any order made under this Part of this Act, that person shall be liable on summary conviction to a fine not exceeding [^{F152}level 4 on the standard scale] or in the case of a second or subsequent conviction (whether in respect of the same or other premises) to a fine not exceeding [^{F152}level 4 on the standard scale], or to imprisonment for a term not exceeding three months or to both such imprisonment and such fine.
- (3) If any person acts as the proprietor of an independent school, or accepts or endeavours to obtain employment as a teacher in any school, while he is disqualified from so acting or from being so employed by virtue of any such order as aforesaid, he shall be liable on summary conviction to a fine not exceeding [^{F152}level 4 on the standard scale] or in the case of a second or subsequent conviction to a fine not exceeding [^{F152}level 4 on the standard scale], or to imprisonment for a term not exceeding three months or to both such imprisonment and such fine.

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(4) No proceedings shall be instituted for an offence against this Part of this Act except by or on behalf of the ^{F151}Secretary of State for Education and Science.]

^{F153}(5) For the purposes of the foregoing provisions of this Part of this Act, a person who is disqualified by an order made under Part IV of the ^{M5}Education (Scotland) Act 1945 from being the proprietor of an independent school or from being a teacher in any school shall be deemed to be so disqualified by virtue of an order made under this Part of this Act.]

Textual Amendments

F151 Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

F152 Words substituted by virtue of Criminal Law Act (c. 45, SIF 39:1) and of Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 39(1), 46, **Sch.3**

F153 S. 73(5) inserted by Education Act 1946 (c. 50), **Sch. 2 Pt. I**

Modifications etc. (not altering text)

C65 Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 35** (in relation to liability on first and subsequent convictions) applies

Marginal Citations

M5 1945 c. 37.

74 Removal of disqualifications.

(1) If on the application of any person the ^{F154}Secretary of State for Education and Science] is satisfied that any disqualification imposed by an order made under this Part of this Act is, by reason of any change of circumstances, no longer necessary, the ^{F154}Secretary of State for Education and Science] may by order remove the disqualification.

(2) Any person who is aggrieved by the refusal of the ^{F154}Secretary of State for Education and Science] to remove a disqualification so imposed may, within such time after the refusal has been communicated to him as may be limited by rules made under this Part of this Act, appeal to an Independent Schools Tribunal.

Textual Amendments

F154 Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

Modifications etc. (not altering text)

C66 S. 74 amended by S.I. 1970/1536, **art. 5(1)**

75 Proceedings before Independent Schools Tribunals and matters relating thereto.

(1) The Lord Chancellor may, with the concurrence of the Lord President of the Council, make rules as to the practice and procedure to be followed with respect to the constitution of Independent Schools Tribunals, as to the manner of making appeals to such tribunals, and as to proceedings before such tribunals and matters incidental to or consequential on such proceedings, and, in particular, such rules may make provision requiring any such tribunal to sit at such places as may be directed in accordance with

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the rules, and may make provision as to appearance before such tribunals by counsel or solicitor . . . ^{F155}

- (2) The provisions of the [^{F156M6} Arbitration Act 1950], shall not apply to any proceedings before an Independent Schools Tribunal except so far as any provisions thereof may be applied thereto with or without modifications by rules made under this section.
- (3) Every order of an Independent Schools Tribunal shall be registered by the Registrar of Independent Schools and shall be open to public inspection at all reasonable times.

Textual Amendments

F155 Words repealed by [Education Act 1976 \(c. 81\), s. 6\(2\)](#)

F156 Words substituted by virtue of [Interpretation Act 1889 \(c. 63\), s. 38\(1\)](#)

Marginal Citations

M6 [1950 c. 27.](#)

PART IV

GENERAL

GENERAL PRINCIPLE TO BE OBSERVED BY MINISTER AND LOCAL EDUCATION AUTHORITIES

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

In the exercise and performance of all powers and duties conferred and imposed on them by this Act the [^{F157} Secretary of State for Education and Science] and local education authorities shall have regard to the general principle that, so far as is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure, pupils are to be educated in accordance with the wishes of their parents.

Textual Amendments

F157 Words substituted by virtue of [S.I. 1964/490, art. 3\(2\)\(a\)](#)

Modifications etc. (not altering text)

C67 [S. 76](#) excluded (*prosp.*) by [Children Act 1989 \(c. 41, SIF 20\)](#), ss. 30(1), 36(10), 108(2)(6), [Sch. 3 Part III para. 13\(2\)\(b\)\(ii\)](#), [Sch. 14 para. 1\(1\)](#)

MISCELLANEOUS PROVISIONS

77 Inspection of educational establishments.

- (1) In this section the expression “educational establishment” means a school, [^{F158} an institution within the PCFC funding sector or an institution which is maintained

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or assisted by a local education authority and provides higher education or further education (or both)]; and if the persons responsible for the management of any institution which is not an educational establishment within the foregoing definition request the [^{F159}Secretary of State] or any local education authority to cause an inspection of that institution to be made under the powers conferred by this section, the institution shall, for the purposes of that inspection, be deemed to be also included within that definition.

- (2) It shall be the duty of the [^{F159}Secretary of State for Education and Science] to cause inspections to be made of every educational establishment at such intervals as appear to him to be appropriate, and to cause a special inspection of any such establishment to be made whenever he considers such an inspection to be desirable; and for the purpose of enabling such inspections to be made on behalf of the [^{F159}Secretary of State for Education and Science], inspectors may be appointed by His Majesty on the recommendation of the [^{F159}Secretary of State for Education and Science], and persons may be authorised by the [^{F159}Secretary of State for Education and Science] to assist such inspectors and to act as additional inspectors:
 Provided that the [^{F159}Secretary of State for Education and Science] shall not be required by virtue of this subsection to cause inspections to be made of any educational establishment during any period during which he is satisfied that suitable arrangements are in force for the inspection of that establishment otherwise than in accordance with this subsection.
- (3) Any local education authority may cause an inspection to be made of any educational establishment maintained by the authority, and such inspections shall be made by officers appointed by the local education authority.
- (4) If any person obstructs any person authorised to make an inspection in pursuance of the provisions of this section in the execution of his duty, he shall be liable on summary conviction to a fine not exceeding [^{F160}level 4 on the standard scale], or, in the case of a second or subsequent conviction, to a fine not exceeding [^{F160}level 4 on the standard scale] or to imprisonment for a term not exceeding three months or to both such imprisonment and such fine.
- (5) Subject as hereinafter provided, the religious [^{F161}education] given in any school maintained by a local education authority shall not be subject to inspection except by one of His Majesty's Inspectors or by a person ordinarily employed for the purpose of inspecting secular [^{F161}education] either as an additional inspector appointed by the [^{F159}Secretary of State for Education and Science] or as an officer in the whole-time employment of a local education authority:
 Provided that the religious instruction given in a voluntary school otherwise than in accordance with an agreed syllabus shall not be subject to such inspection as aforesaid, but may be inspected under arrangements made for that purpose by the . . . ^{F162} governors of the school, or, in the case of a controlled school, by the . . . ^{F162} foundation governors thereof so, however, that such inspections shall not be made on more than two days in any year and not less than fourteen days' notice of the dates fixed therefor shall be given to the local education authority.
- (6) No pupil who has been excused from attendance at religious worship or [^{F163}receiving religious education in a voluntary school in accordance with section 9 of the Education Reform Act 1988] shall be required to attend the school on a day fixed for an inspection by arrangements made under the proviso to the last foregoing subsection.

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Textual Amendments

F158 Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 57**

F159 Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

F160 Words substituted by virtue of Criminal Law Act (c. 45, SIF 39:1) and of Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 39(1), 46, **Sch.3**

F161 Word substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 9, 231(7), 235(6), **Sch. 1 para. 5(a)**

F162 Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 11**

F163 Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 9, 231(7), 235(6), 237(1), **Sch. 1 para. 5(b)**

Modifications etc. (not altering text)

C68 Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 35** (in relation to liability on first and subsequent convictions) applies

78 Provision of certain ancillary services for pupils not in attendance at schools maintained by local education authorities.

(1) **F164**

(2) A local education authority may, with the consent of the proprietor of any school in their area which is not a school maintained by the authority, and upon such financial and other terms, if any, as may be determined by agreement between the authority and the proprietor of the school, make arrangements for securing—

(a) the provision of milk, meals and other refreshment for pupils in attendance at the school; . . . **F165**

Provided that any arrangements made under this subsection shall be such as to secure, so far as is practicable, that the expense incurred by the authority in connection with the provision under the arrangements of any service or article shall not exceed the expense which would have been incurred by them in the provision thereof if the pupil had been a pupil at a school maintained by them.

Textual Amendments

F164 Ss. 69(1), 78(1), 79 repealed by National Health Service Reorganisation Act 1973 (c. 32), **Sch. 5**

F165 Words repealed by Education (Miscellaneous Provisions) Act 1948 (c. 40), **Sch. 2** and National Health Service Reorganisation Act 1973 (c. 32), **Sch. 5**

Modifications etc. (not altering text)

C69 S. 78(2)(a) extended by Education Act 1980 (c. 20, SIF 41:1), **s. 22(5)**

79 **F166**

Textual Amendments

F166 Ss. 69(1), 78(1), 79 repealed by National Health Service Reorganisation Act 1973 (c. 32), **Sch. 5**

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80 Registration of pupils at schools.

- (1) The proprietor of every school (that is to say in the case of a county school or voluntary school the . . . ^{F167}governors thereof [^{F168}and in the case of a grant-maintained school the governing body of the school]) shall cause to be kept in accordance with regulations made by the [^{F169}Secretary of State for Education and Science] a register containing the prescribed particulars with respect to all persons . . . ^{F170}who are pupils at the school, and such regulations may make provision for enabling such registers to be inspected, for enabling extracts therefrom to be taken for the purposes of this Act by persons duly authorised in that behalf under the regulations, and for requiring the persons by whom any such register is required to be kept to make to the [^{F169}Secretary of State for Education and Science], and to local education authorities, such periodical or other returns as to the contents thereof as may be prescribed.
- [^{F171}(1A) Without prejudice to the generality of subsection (1) of this section, the prescribed particulars shall include particulars of the name and address of every person known to the proprietor of the school to be a parent of a pupil at the school.]
- (2) If any person contravenes or fails to comply with any requirement imposed on him by regulations made under this section, he shall be liable on summary conviction to a fine not exceeding [^{F172}level 1 on the standard scale].
- (3) ^{F173}

Subordinate Legislation Made

P3 S. 80: s. 80 power exercised by S.I. 1991/1582

P4 S. 80: power previously exercised by S.I. 1987/1285 and 1988/1185.

Textual Amendments

F167 Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 1**

F168 Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 5**

F169 Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

F170 Words repealed by Education (Miscellaneous Provisions) Act 1948 (c. 40), **Sch. 2**

F171 S. 80(1A) inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 58**

F172 Words substituted by virtue of Criminal Law Act 1977 (c. 45, SIF 39:1), **s. 31** and of Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**

F173 S. 80(3) repealed by Education (Miscellaneous Provisions) Act 1948 (c. 40), **Sch. 2**

Modifications etc. (not altering text)

C70 S. 80 amended by Education (Miscellaneous Provisions) Act 1948 (c. 40), **s. 4(6)**

81 Power of local education authorities to give assistance by means of scholarships and otherwise.

Regulations shall be made by the [^{F174}Secretary of State for Education and Science] empowering local education authorities, for the purpose of enabling pupils to take advantage without hardship to themselves or their parents of any educational facilities available to them—

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- (a) to defray such expenses of children attending county schools, voluntary schools, [^{F175}grant-maintained schools], or special schools, as may be necessary to enable them to take part in any school activities:
- (b) to pay the whole or any part of the fees and expenses payable in respect of children attending schools at which fees are payable:
- ^{X1}(c) to grant scholarships, exhibitions, bursaries, and other allowances in respect of pupils over compulsory school age, including pupils undergoing training as teachers:
- (d) to grant allowances in respect of any child in respect of whom any scholarship exhibition bursary or other allowance has been granted by a former authority before the date of the commencement of Part II of this Act.

Editorial Information

X1 S. 81(c) repealed in relation to courses to which Education Act 1962 (c. 2), ss. 1 and 2(1) apply and in relation to training of teachers by Education Act 1962 (c. 12), s. 4(4)-(6)

Textual Amendments

F174 Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)

F175 Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), Sch. 12 para. 6

82 Powers of local education authorities as to educational research.

A local education authority may, . . . ^{F176} make such provision for conducting or assisting the conduct of research as appears to the authority to be desirable for the purpose of improving the educational facilities provided for their area.

Textual Amendments

F176 Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), Sch. 7

83 Powers of local education authorities as to educational conferences.

..... ^{F177} A local education authority may organise, or participate in the organisation of, conferences for the discussion of questions relating to education, and may expend such sums as may be reasonable in paying or contributing towards any expenditure incurred in connection with conferences for the discussion of such questions, including the expenses of any person authorised by them to attend any such conference.

Textual Amendments

F177 Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), Sch. 7

84 ^{F178}

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Textual Amendments

F178 Ss. 60, 61, 84 repealed by [Education Reform Act 1988](#) (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), [Sch. 13 Pt. II](#)

85 Power of local education authorities to accept gifts for educational purposes.

(1) Subject to the provisions of this section, a local education authority shall have power, and any such authority or any former authority shall be deemed always to have had power, to accept hold and administer any property upon trust for purposes connected with education.

[^{F179}(2) Any intention on the part of a local education authority that a school for providing primary or secondary education (other than a nursery school or a special school) should be vested in the authority as trustees shall be treated for the purposes of subsection (1) of section 12 of the Education Act 1980 as an intention on the part of the authority to maintain the school as a county school; and accordingly proposals for that purpose shall be published and submitted as required by that section, and the other provisions of that section and of sections 14 and 16 of that Act shall apply as in a case where a local education authority intend to maintain a school as a county school.

(3) Any school for providing primary or secondary education which in accordance with subsection (2) above is vested in a local education authority as trustees shall be a county school.]

Textual Amendments

F179 S. 85(2)(3) substituted by [Education Act 1980](#) (c. 20, SIF 41:1), s. 16(4), [Sch. 3 para. 3](#)

86 ^{F180}

Textual Amendments

F180 S. 86 repealed by [Education Act 1973](#) (c. 16), [Sch. 2 Pt. II](#)

87 ^{F181}

Textual Amendments

F181 S. 87 repealed by [Charities Act 1960](#) (c. 58), [Sch. 7 Pt. II](#)

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ADMINISTRATIVE PROVISIONS

88 Appointment of chief education officers of local education authorities.

The duties of a local education authority with respect to the appointment of officers under the provisions of the [^{F182M7}Local Government Act, 1972], shall, without prejudice to the generality of those provisions, include the duty of appointing a fit person to be the chief education officer of the authority, . . . ^{F183}

Textual Amendments

F182 Words substituted by virtue of Interpretation Act 1889 (c. 63), s. 38(1)

F183 Words repealed by Local Government Act 1972 (c. 70), Sch. 30

Modifications etc. (not altering text)

C71 S. 88 extended by London Government Act 1963 (c. 33), s. 30(4)

Marginal Citations

M7 1972 c. 70.

89 ^{F184}

Textual Amendments

F184 S. 89 repealed by Remuneration of Teachers Act 1965 (c. 3), s. 7(6)

90 Compulsory purchase of land and other dealings in land by local education authorities.

(1) A local education authority may be authorised [^{F185}by the [^{F186}Secretary of State for Education and Science]] to purchase compulsorily any land, whether situate within or without the area of the authority, which is required for the purposes of any school or [^{F187}institution] which is, or is to be, maintained by them [^{F188}or which they have the power to assist], or otherwise for the purposes of their functions under this Act; . . . ^{F189} Provided that the [^{F186}Secretary of State for Education and Science] shall not [^{F185}authorise] the purchase of any land required for the purposes of a voluntary school unless he is satisfied that the arrangements made as to the vesting of the land to be purchased, and as to the appropriation thereof for those purposes, are such as to secure that the expenditure ultimately borne by the local education authority will not include any expenditure which, if the land had been purchased by the . . . ^{F190} governors of the school, would have fallen to be borne by the . . . ^{F190} governors.

(2)

Textual Amendments

F185 Words substituted by Acquisition of Land (Authorisation Procedure) Act 1946 (c. 49), Sch. 4

F186 Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)

F187 Word substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), Sch. 12 para. 59

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- F188** Words inserted by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\), s. 10\(1\)](#)
F189 Words repealed by [Acquisition of Land \(Authorisation Procedure\) Act 1946 \(c. 49\), Sch. 6](#)
F190 Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\), s. 1\(3\), Sch. 1 para. 1](#)
F191 SS. 90(2)(3), 97 repealed by [Education Act 1980 \(c. 20, SIF 41:1\), s. 38\(6\), Sch. 7](#)

91 ^{F192}

Textual Amendments

- F192** S. 91 repealed by [Local Government Act 1972 \(c. 70\), Sch. 30](#)

92 Reports and returns.

Every local education authority shall make to the [^{F193}Secretary of State for Education and science] such reports and returns and give to him such information as he may require for the purpose of the exercise of his functions under this Act.

Textual Amendments

- F193** Words substituted by virtue of [S.I. 1964/490, art. 3\(2\)\(a\)](#)

93 Power of Minister to direct local inquiries.

The [^{F194}Secretary of State for Education and Science] may cause a local inquiry to be held for the purpose of the exercise of any of his functions under this Act; and the provisions of subsections (2) (3) (4) and (5) of section [^{F195}two hundred and fifty of the ^{M8}Local Government Act 1972] shall have effect with respect to any such inquiry . . .
^{F196}

Textual Amendments

- F194** Words substituted by virtue of [S.I. 1964/490, art. 3\(2\)\(a\)](#)
F195 Words substituted by virtue of [Interpretation Act 1889 \(c. 63\), s. 38\(1\)](#)
F196 Words spent

Modifications etc. (not altering text)

- C72** S. 93 applied (1.4.1993) by [Further and Higher Education Act 1992 \(c. 13\), s. 57\(6\); S.I. 1992/831, art. 2, Sch. 3](#)

Marginal Citations

- M8** 1972 c. 70.

94 Certificates of birth and registrars' returns.

- (1) Where the age of any person is required to be proved for the purposes of this Act or of any enactment relating to the employment of children or young persons, the registrar having the custody of the register of births and deaths containing the entry relating to the birth of that person shall, upon being presented by any person with a written

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requisition in such form and containing such particulars as may be determined by regulations made by the [^{F197}Secretary of State for Social Services], and upon payment of a fee of [£1.50], supply that person with a copy of the entry certified under his hand.

Every registrar shall, upon being requested so to do, supply free of charge a form of requisition for the purposes of this subsection.

- (2) Every registrar shall supply to a local education authority such particulars of the entries contained in any register of births and deaths in his custody, and in such form, as, subject to any regulations made by the [^{F197}Secretary of State for Social Services], the authority may from time to time require; . . . ^{F198}
- (3) In this section, the expression “register of births and deaths” means a register of births and deaths kept in pursuance of the [^{F199M9M10}Births and Deaths Registration Act 1953 and the Registration Service Act 1953], and the expression “registrar” includes a registrar of births and deaths and a superintendent registrar.

Textual Amendments

F197 Words substituted by virtue of S.I. 1968/1699, art. 5(4)

F198 Words repealed by S.I. 1968/1242, Sch. 2

F199 Words substituted by virtue of Interpretation Act 1889 (c. 63), s. 38(1)

Modifications etc. (not altering text)

C73 Power to amend s. 94 conferred by Public Expenditure and Receipts Act 1968 (c. 14), s. 5(1), Sch. 3 para. 1(a)

Marginal Citations

M9 1953 c. 20.

M10 1953 c. 37.

VALID FROM 01/10/1993

95 Provisions as to evidence.

- (1) Where in any proceedings under this Act the person by whom the proceedings are brought alleges that any person whose age is material to the proceedings is under, of, or over, any age, and satisfies the court that having used all reasonable diligence to obtain evidence as to the age of that person he has been unable to do so, then, unless the contrary is proved, the court may presume that person to be under, of, or over, the age alleged.
- (2) In any legal proceedings any document purporting to be—
- a document issued by a local education authority, and to be signed by the clerk of that authority or by the chief education officer of that authority or by any other officer of the authority authorised to sign it;
 - an extract from the minutes of the proceedings of the . . . ^{F200} governors of any county school or voluntary school, and to be signed by the chairman of the . . . ^{F200} governors or by their clerk;

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- (c) a certificate giving particulars of the attendance of a child or young person at a school or at a county college, and to be signed by the head teacher of the school or college; or
- (d) a certificate issued by a medical officer of a local education authority and to be signed by such an officer;

shall be received in evidence and shall, unless the contrary is proved, be deemed to be the document which it purports to be, and to have been signed by the person by whom it purports to have been signed, without proof of his identity, signature, or official capacity, and any such extract or certificate as is mentioned in paragraph (b) (c) or (d) of this subsection shall be evidence of the matters therein stated.

Textual Amendments

F200 Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), [Sch. 1 para. 1](#)

Modifications etc. (not altering text)

C74 [S. 95\(1\)](#) excluded by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\)](#), s. 9(2)
[S. 95\(1\)](#) excluded (1.10.1993) by [1993 c. 35, s. 200\(3\)](#); S.I. 1993/1975, art. 9, [Sch. 1](#)

96 Provisions consequential on cessation of functions of former authorities.

- (1) If upon the application of a former authority the Minister is satisfied with respect to any property which was immediately before the date of the commencement of Part II of this Act held by that authority for the purposes of functions exercisable by them under the Education Acts 1921 to 1939, that, although the property was so held, it was held upon trust for purposes of such a nature that the transfer thereof to a local education authority would be inexpedient, the Minister may by order direct that the property shall be deemed not to have been transferred by virtue of section six of this Act to the local education authority for the county in which the area of the former authority is situated.
- (2) Where any question arises as to whether any officers, property, rights, or liabilities, have been transferred by virtue of this Act from a former authority to a local education authority, that question shall be determined by the Minister.
- (3) Where any officers, property, rights, or liabilities, have been transferred by virtue of this Act from a former authority to a local education authority, the local education authority and the former authority may by agreement provide for the making of such adjustments in relation to their respective property, rights, and liabilities, as appear to the authorities to be desirable having regard to the transfer, and any such agreements may, in particular, provide for the making of payments by either party thereto.
- (4) Where it appears to the Minister that having regard to any such transfer it is desirable that any such adjustment as aforesaid (including any payment by either of the authorities concerned) should be made, he may, subject to any agreement made under the last foregoing subsection, by directions make provision for that adjustment.
- (5) Where at the commencement of Part II of this Act any former authority were parties to any proceedings pending with respect to any property, rights, or liabilities, which by virtue of this Act are transferred from the former authority to a local education authority, the proceedings may be carried on thereafter with the substitution of the local education authority for the former authority as parties thereto.

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Modifications etc. (not altering text)

C75 Functions of the Minister now exercisable by the Secretary of State for Education and Science: [S.I. 1964/490](#), [art. 2\(1\)](#)

97 ^{F201}

Textual Amendments

F201 SS. 90(2)(3), 97 repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 38(6), [Sch. 7](#)

98 Compensation of persons prejudicially affected by this Act.

- (1) If in consequence of the extinguishment or transfer by this Act of any functions exercisable by the council of any county district, or the transfer by this Act of any officers employed by any such council, any person who, immediately before the date of the commencement of Part II of this Act, was an officer employed by that council or by the council of the county in which the county district is situated suffers direct pecuniary loss by reason of the determination of his appointment or the diminution of his emoluments, he shall, unless provision for his compensation for that loss is made by or under any other enactment for the time being in force, be entitled to receive compensation under this subsection from the local education authority for the area in which the county district is situated; and, for the purposes of any claim for compensation under this subsection, the provisions of subsections (2) and (3) of section one hundred and fifty of the ^{M11}Local Government Act 1933, shall have effect as if:—
 - (a) the extinguishment or transfer had been effected by virtue of an order made by the Minister of Health under Part VI of the said Act of 1933 and coming into operation upon the date of the commencement of Part II of this Act; and
 - (b) the expression “existing officer,” in those subsections, meant any person who, immediately before the said date, was an officer employed by the council of a county or county district in connection with any functions exercisable by that council under any enactment repealed or amended by this Act.
- (2) If, in consequence of any school becoming a special agreement school or a controlled school, or in consequence of the discontinuance within six years after the passing of this Act of any school maintained by a local education authority, any person who was a teacher in the school immediately before it became a special agreement school or a controlled school, or before the school was discontinued, as the case may be, suffers direct pecuniary loss by reason of his dismissal or the diminution of his emoluments, he shall, unless provision for his compensation for that loss is made by or under any other enactment for the time being in force, be entitled to receive compensation from the authority under this section.
- (3) For the purposes of the determination and payment of compensation under this section, the provisions of the Fourth Schedule to the ^{M12}Local Government Act 1933 shall have effect subject to the following modifications, that is to say:—
 - (a) references therein to the Minister shall be construed as references to the Minister of Education, and sub-paragraph (1) of paragraph 1 thereof shall have

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effect as if after the word “prescribed” there were inserted the words “by the Minister of Education”;

- (b) references therein to a scheme or order shall be construed as references to this Act; and
- (c) any period during which a person has been engaged in war service within the meaning of the ^{M13}Local Government Staffs (War Service) Act 1939, shall be reckoned for the purposes of the said Schedule as a period of service in his office, and where any such period is so reckoned, his emoluments during that period shall, for the purposes of sub-paragraph (2) of paragraph 4 of the said Schedule, be deemed to be such as he would have received if he had not been engaged in war service.

Modifications etc. (not altering text)

C76 Functions of the Minister of Education now exercisable by the Secretary of State for Education and Science: S.I. 1964/490, **art. 2(1)**

Marginal Citations

M11 1933 c. 51.

M12 1933 c. 51.

M13 1939 c. 94.

99 Powers of Minister in default of local education authorities or . . . ^{F202}governors.

- (1) If the [^{F203}Secretary of State for Education and Science] is satisfied, either upon complaint by any person interested or otherwise, that any local education authority, or the . . . ^{F202}governors of any county school or voluntary school, have failed to discharge any duty imposed upon them by or for the purposes of this Act, the [^{F203}Secretary of State for Education and Science] may make an order declaring the authority, or the . . . ^{F202}governors, as the case may be, to be in default in respect of that duty, and giving such directions for the purpose of enforcing the execution thereof as appear to the [^{F203}Secretary of State for Education and Science] to be expedient; and any such directions shall be enforceable, on an application made on behalf of the [^{F203}Secretary of State for Education and Science], by mandamus.
- (2) Where it appears to the [^{F203}Secretary of State for Education and Science] that by reason of the default of any person there is no properly constituted body of . . . ^{F202}governors of any county school or voluntary school, the [^{F203}Secretary of State for Education and Science] may make such appointments and give such directions as he thinks desirable for the purpose of securing that there is a properly constituted body of . . . ^{F202}governors thereof, and may give directions rendering valid any acts or proceedings which in his opinion are invalid or otherwise defective by reason of the default.
- (3) Where it appears to the [^{F203}Secretary of State for Education and Science] that a local education authority have made default in the discharge of their duties relating to the maintenance of a voluntary school, the [^{F203}Secretary of State for Education and Science] may direct that any act done by or on behalf of the . . . ^{F202}governors of the school for the purpose of securing the proper maintenance thereof shall be deemed to have been done by or on behalf of the authority, and may reimburse to the . . . ^{F202}governors any sums which in his opinion they have properly expended for that purpose; and the amount of any sum so reimbursed shall be a debt due to the Crown

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from the authority, and, without prejudice to any other method of recovery, the whole or any part of such a sum may be deducted from any sums payable to the authority by the [F203Secretary of State for Education and Science] in pursuance of any regulations relating to the payment of grants.

Textual Amendments

F202 Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 1**

F203 Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

Modifications etc. (not altering text)

C77 S. 99 extended by Local Government Act 1958 (c. 55), Sch. 8 paras. 16(1), **35**, Education (No. 2) Act 1968 (c. 37), **s. 3(3)**, Sex Discrimination Act 1975 (c. 65), **s. 25(2)** and Race Relations Act 1976 (c. 74), **s. 19(2)**

C78 S. 99 restricted by Education Reform Act 1988 (c. 40, SIF 41:1), **ss. 23(2)**, 231(7), 235(6)
S. 99 restricted (1.9.1994) by 1993 c. 35, s. 298, **Sch. 18 para. 6(4)**; S.I. 1994/2038, art. 3, **Sch.2**.

C79 S. 99(1)(2) modified by Education (No.2) Act 1986 (c. 61, SIF 41), s. 12(10), **Sch. 2 para. 29(c)**

C80 S. 99(1)(2) extended by Education Reform Act 1988 (c. 40, SIF 41:1), **ss. 219(3)**, 231(7), 235(6)

C81 S. 99(1) extended (22.8.1991) by School Teacher's Pay and Conditions Act 1991 (c. 49, SIF 41:1), **s. 5(5)**; S.I. 1991/1874, **art.2**

C82 S. 99(1) applied (1.4.1994) by 1993 c. 35, **s. 9(4)**; S.I. 1994/507, **art.3(1)**.

C83 S. 99(1)(2) applied (1.4.1994) by 1994/653, reg. 42(1), Sch. Pt.I.

C84 S. 99(1)(2) applied (9.5.1994) by 1994/1084, reg. 8(1), Sch. 2 Pt.I.

FINANCIAL PROVISIONS

100 Grants in aid of educational services.

(1) The [F204Secretary of State for Education and Science] shall by regulations make provision:—

(a) for the payment by him to local education authorities of annual grants in respect of the expenditure incurred by such authorities;

[F205(i) F206

(iii) in the removal of works constructed for the purposes of air-raid precautions or of temporary works constructed for defence purposes by or on behalf of the Secretary of State, the Admiralty or the Minister of Home Security in pursuance of Regulation fifty or fifty-one of the Defence (General) Regulations, 1939, or by agreement, and in the reinstatement of premises so far as it is rendered necessary by any such removal;]

(b) for the payment by him to persons other than local education authorities of grants in respect of expenditure incurred or to be incurred [F207by them for the purposes of, or in connection with, the provision (or proposed provision) of educational services] or for the purposes of educational research; and

(c) for the payment by him, for the purpose of enabling pupils to take advantage without hardship to themselves or their parents of any educational facilities available to them, of the whole or any part of the fees and expenses payable in respect of children attending schools at which fees are payable, . . . F208

(2) F209

Status: Point in time view as at 01/04/1992. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)

- (3) Any regulations made by the [^{F204}Secretary of State for Education and Science] . . . ^{F210} under this section may make provision whereby the making of payments by him in pursuance thereof is dependent upon the fulfilment of such conditions as may be determined by or in accordance with the regulations, and may also make provision for requiring local education authorities and other persons to whom payments have been made in pursuance thereof to comply with such requirements as may be so determined.
- (4) ^{F211}
- (5) Nothing in this section shall affect any grants in aid of university education payable out of moneys provided by Parliament otherwise than in accordance with the provisions of this Act.

Subordinate Legislation Made

P5 S. 100(1) and (3): s. 100(1) (with s. 100(3) and 111A) power exercised by S.I.1991/1975

P6 S. 100(1)(b) and (3): s. 100(1)(b) (with s. 100(3)) power exercised by S.I. 1991/1831

For previous exercises of power see Index to Government Orders

Textual Amendments

F204 Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

F205 Words substituted by **Local Government Act 1958** (c. 55), Sch. 8 paras. 16(2), **35**

F206 S. 100(1)(a)(i)(ii) repealed by **Education Act 1980** (c.20, SIF 41:1), s. 38(6), **Sch. 7**

F207 Words substituted by **Education Reform Act 1988** (c. 40, SIF 41:1), **ss. 213(3)**, 231(7), 235(6)

F208 Words repealed by **Education Act 1962** (c. 12), s. 13, **Sch. 2**

F209 Ss. 100(2), 101 repealed by **Local Government Act 1958** (c. 55), s. 67, **Sch. 9 Pt. II**

F210 Words repealed by **Local Government Act 1958** (c. 55), s. 67, **Sch. 9 Pt. II**

F211 S. 100(4) repealed by **Education Act 1973** (c. 16), **Sch. 2 Pt. II**

101 ^{F212}

Textual Amendments

F212 Ss. 100(2), 101 repealed by **Local Government Act 1958** (c. 55), s. 67, **Sch. 9 Pt. II**

102 †Maintenance contributions payable by the Minister in respect of aided schools and special agreement schools.

The [^{F213}Secretary of State for Education and Science] shall pay to the . . . ^{F214} governors of every aided school and of every special agreement school maintenance contributions equal to [^{F215}85 per cent.] of any sums expended by them in carrying out their obligations under paragraph (a) of subsection (3) of section fifteen of this Act in respect of alterations [^{F216}and repairs] to the school buildings . . . ^{F217} [^{F218}and may pay the . . . ^{F214} governors of any aided school or special agreement school maintenance contributions not exceeding [^{F215}85 per cent.] of any sums expended by them on the provision of a site or of school buildings in pursuance of proposals approved under [^{F219}section 13 of the Education Act 1980] for a significant enlargement of the school premises:]

Provided that no maintenance contribution shall be payable under this section in respect of any expenditure incurred by the . . . ^{F214} governors of a special agreement school in

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the execution of repairs or alterations for the execution of which provision is made by the special agreement relating to the school, [F218 nor shall a maintenance contribution be payable under this section in respect of any expenditure incurred by the . . . F214 governors of a special agreement school in pursuance of proposals for a significant enlargement of the school premises, being proposals to which the special agreement for the school relates.]

Textual Amendments

F213 Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

F214 Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), **Sch. 1 para. 1**

F215 Words substituted by [Education Act 1975 \(c. 2\)](#), s. 3

F216 Words inserted retrospectively by [Education Act 1946 \(c. 50\)](#), s. 14(1), **Sch. 2 Pt. II**

F217 Words repealed retrospectively by [Education Act 1946 \(c. 50\)](#), s. 14(1), **Sch. 2 Pt. II**

F218 Words inserted by [Education Act 1968 \(c. 17\)](#), **Sch. 1 para. 4(1)**

F219 Words substituted by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 16(4), **Sch. 3 para. 4**

Modifications etc. (not altering text)

C85 Unreliable marginal note.

103 Power of the Minister to make grants in respect of aided schools and special agreement schools transferred to new sites or established in substitution for former schools.

- (1) Where the [F220 Secretary of State for Education and Science] by an order made under section sixteen of this Act authorises the transfer of any voluntary school to a new site . . . F221, then, if the school to be transferred . . . F221 in pursuance of the order is to be maintained as an aided school or a special agreement school, the [F220 Secretary of State for Education and Science] may pay to the . . . F222 governors of the school in respect of any sums expended by them in the construction of the school a grant not exceeding [F223 85 per cent.] thereof:

Provided that no grant shall be payable under this section to the . . . F222 governors of a special agreement school in respect of any sums expended by them in the execution of proposals to which the special agreement for the school relates.

- (2) F224

- (3) Without prejudice to the general discretion of the [F220 Secretary of State for Education and Science] as to the making of any grant under this section and as to the amount of any such grant, the [F220 Secretary of State for Education and Science] shall, in determining the amount of any such grant, take into account any sums which may accrue to the . . . F222 governors or trustees of the school in respect of the disposal of the site from which the school is to be transferred, . . . F221

Textual Amendments

F220 Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

F221 Words repealed by [Education Act 1967 \(c. 3\)](#), s. 1(5)(a)

F222 Words repealed by [Education Act 1980 \(c. 20\)](#), s. 1(3), **Sch. 1 para. 12**

F223 Words substituted by [Education Act 1975 \(c. 2\)](#), s. 3

F224 S. 103(2) repealed by [Education \(Miscellaneous Provisions\) Act 1953 \(c. 33\)](#), **Sch. 2**

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Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)

Modifications etc. (not altering text)

C86 S. 103(1) amended retrospectively by Education (Miscellaneous Provisions) Act 1953 (c. 33), s. 8(1)

C87 S. 103(3) extended by Education Act 1967 (c. 3), s. 1(3)

104 ^{F225}

Textual Amendments

F225 S. 104 repealed by Education Act 1967 (c. 3), s. 1(5)(b)

105 †Power of the Minister to make loans to aided schools and special agreement schools in respect of initial expenditure.

(1) If upon the application of the . . . ^{F226} governors of any aided school or special agreement school the [^{F227}Secretary of State for Education and Science] is satisfied after consultation with persons representing them that their share of any initial expenses required in connection with the school premises will involve capital expenditure which, in his opinion having regard to all the circumstances of the case, ought properly to be met by borrowing, he may make to the . . . ^{F226} governors of the school for the purpose of helping them to meet that expenditure, a loan of such amount at such rate of interest and otherwise on such terms and conditions as may be specified in an agreement made between him and them with the consent of the Treasury.

(2) For the purposes of this section, the expression “initial expenses” means in relation to any school premises—

(a) expenses to be incurred in defraying the cost of any alterations required by the development plan approved by the [^{F227}Secretary of State for Education and Science] for the area;

(b) expenses to be incurred in pursuance of any special agreement;

^{F228}(c) (i) expenses to be incurred in providing a site or school buildings on a significant enlargement of the school premises, being expenses in respect of which a maintenance contribution may be paid;

(ii) expenses to be incurred in providing school buildings on a site to which the school is to be transferred under the authority of an order under section 16(1) of this Act;

(iii) expenses to be incurred in providing a site or school buildings for a new school which by virtue of an order under section 16(2) of this Act is deemed to be in substitution for a discontinued school or schools];

(d) expenses certified by the [^{F227}Secretary of State for Education and Science] under the last foregoing section as being attributable to the provision of education for displaced pupils;

and the . . . ^{F226} governors’ share of any such initial expenses shall be taken to be so much thereof as remains to be borne by them after taking into account the amount of any maintenance contribution, grant under a special agreement, or grant under either of the last two foregoing sections, as may be paid or payable in respect of those expenses.

(3) If upon an application being made to him under subsection (2) of section fifteen of this Act for an order directing that a school shall be an aided school or a special agreement school it appears to the [^{F227}Secretary of State for Education and Science] that the

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area served by the school will not be also served by any county school or controlled school, then, unless he is satisfied that the . . . ^{F226} governors of the school will be able to defray the expenses which would fall to be borne by them under paragraph (a) of subsection (3) of that section without the assistance of a loan under this section, the [^{F227}Secretary of State for Education and Science] shall consult such persons or bodies of persons as appear to him to be representative of any religious denomination which, in his opinion having regard to the circumstances of the area, is likely to be concerned; and, unless after such consultation he is satisfied that the holding of a local inquiry is unnecessary, shall cause such inquiry to be held before determining the application.

Textual Amendments

F226 Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 1**

F227 Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

F228 S. 105(2)(c) substituted by Education Act 1968 (c. 17), **Sch. 1 para. 4(2)**

Modifications etc. (not altering text)

C88 Unreliable marginal note.

C89 S. 105 amended by Education (Miscellaneous Provisions) Act 1953 (c. 33), s. 8(3), Education Act 1959 (c. 60), s. 1(4) and Education Act 1967 (c. 3), s. 1(4)

106 ^{F229}

Textual Amendments

F229 Ss. 106, 108—110, 114(4) and Sch. 7 repealed by Statute Law (Repeals) Act 1975 (c. 10), **Sch. Pt. IV**

107 ^{F230}

Textual Amendments

F230 S. 107 repealed by Statute Law (Repeals) Act 1978 (c. 45), **Sch. 1 Pt. V**

PART V

SUPPLEMENTAL

108— ^{F231}

110.

Textual Amendments

F231 Ss. 106, 108—110, 114(4) and Sch. 7 repealed by Statute Law (Repeals) Act 1975 (c. 10), **Sch. Pt. IV**

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111 Revocation and variation of orders and directions.

Any order made or directions given by the [^{F232}Secretary of State for Education and Science], the [^{F233}Secretary of State for Social Services], or a local education authority under the provisions of this Act may be varied or revoked by a further order or further directions made or given by the [^{F232}Secretary of State for Education and Science], the [^{F233}Secretary of State for Social Services], or that authority, as the case may be:

Provided that where the power to make or give any such order or directions is exercisable only upon the application or with the consent of any person or body of persons, or after consultation with any person or body of persons, or otherwise subject to any conditions, no order or directions made or given thereunder shall be varied or revoked except upon the like application, with the like consent, after the like consultation, or subject to the like conditions, as the case may be.

Textual Amendments

F232 Words substituted by virtue of [S.I. 1964/490, art. 3\(2\)\(a\)](#)

F233 Words substituted by virtue of [S.I. 1968/1699, art. 5\(4\)\(a\)](#)

Modifications etc. (not altering text)

C90 [S. 111](#) extended (6.5.1992) by [Further and Higher Education Act 1992 \(c. 13\), s. 89\(5\)](#); [S.I. 1992/831, art.2, Sch. 1](#)

[S. 111](#) extended (1.10.1993) by [1993 c. 35, s. 260\(8\)](#); [S.I. 1993/1975, art. 9, Sch.1](#)

C91 [S. 111](#) applied (27.7.1993) by [1993 c. 35, s. 301\(7\)](#)

[^{F234}111A] Regulations: different provision for Wales.

- (1) Regulations under this Act may make in relation to Wales provision different from that made in relation to England.
- (2) Subsection (1) above is without prejudice to any express or implied power to make different provision for different cases or circumstances.]

Subordinate Legislation Made

P7 [S. 111A](#): s. 100(1) (with ss. 100(3) and 111A) power exercised by [S.I.1991/1975](#)

For previous exercises of power see [Index to Government Orders](#)

Textual Amendments

F234 [S. 111A](#) inserted by [Education Reform Act 1988 \(c. 40, SIF 41:1\), ss. 229\(1\), 231\(7\), 235\(6\)](#)

112 Regulations to be laid before Parliament.

All regulations made under this Act shall be laid before Parliament as soon as may be after they are made, and if either House of Parliament, within the period of forty days beginning with the day on which any such regulations are laid before it, resolves that the regulations be annulled, the regulations shall cease to have effect, but without prejudice to anything previously done thereunder or to the making of any new regulations.

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In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

113 Notices.

Any [^{F235}order, notice or other document] required or authorised by this Act to be served upon any person may be served by delivering it to that person, or by leaving it at his usual or last known place of residence, or by sending it in a pre-paid letter addressed to him at that place.

Textual Amendments

F235 Words substituted by [Education Act 1946 \(c. 50\), Sch. 2 Pt. I](#)

114 Interpretation.

(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“Agreed syllabus” means, subject to the provisions of subsection (4) of this section, an agreed syllabus of religious [^{F236}education] prepared in accordance with the provisions of the Fifth Schedule to this Act and adopted or deemed to be adopted thereunder;

[^{F237} “alterations”, in relation to any school premises, includes improvements, extensions and additions, but does not include any significant enlargement of the school premises;]

“Assist”, in relation to any school . . . ^{F238} or institution, has the meaning assigned to it by [^{F239}subsections (2) and (2A)] of this section;

“Child” means a person who is not over compulsory school age;

“Clothing” includes boots and other footwear;

“Compulsory school age” has, . . . ^{F240}, the meaning assigned to it by section thirty-five of this Act;

“County” means [^{F241}a county within the meaning of the ^{M14}Local Government Act 1972];

[^{F242} “enlargement”, in relation to any school premises, includes any modification of the existing premises which has the effect of increasing the number of pupils for whom accommodation can be provided, and “enlarge” shall be construed accordingly;]

“Former authority” means any authority which was a local education authority within the meaning of any enactment repealed by this Act or any previous Act;

[^{F243} “foundation governors” means, in relation to any voluntary school, governors appointed] otherwise than by a local education authority or a minor authority for the purpose of securing, so far as is practicable, that the character of the school as a voluntary school is preserved and developed, and, in particular, that the school is conducted in accordance with the provisions of any trust deed relating thereto; and, unless the context otherwise requires, references in this Act to . . . ^{F244} “governors” shall, in relation to any function

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thereby conferred or imposed exclusively on . . . ^{F244} foundation governors, be construed as references to such . . . ^{F244} governors;

“Further education” has the meaning assigned to it by section forty-one of this Act;

[^{F245} “Higher education” has the meaning assigned to it by section 120(1) of the Education Reform Act 1988;]

“Independent school” means any school at which full-time education is provided for five or more pupils of compulsory school age (whether or not such education is also provided for pupils under or over that age), not being a school maintained by a local education authority [^{F246} a grant-maintained school] or [^{F247} a special school not maintained by a local education authority];

“Junior pupil” means a child who has not attained the age of twelve years;

“Local education authority” means, in relation to any area for which a joint education board is constituted as the local education authority under the provisions of Part I of the First Schedule to this Act, the board so constituted, and, save as aforesaid, means, [^{F248} in relation to a non-metropolitan county, the council of the county, and in relation to a metropolitan district, the council of the district];

^{F249}

“Local government elector” has the meaning assigned to it by [^{F250} section 270(1) of the ^{M15}Local Government Act 1972]; and in relation to the area of any joint education board constituted under Part I of the First Schedule to this Act a local government elector for the area of any council by whom members are appointed to the board shall be deemed to be a local government elector for the area of the authority;

“Maintain” in relation to any school . . . ^{F251} has the meaning assigned to it by subsection (2) of this section;

“Maintenance contribution”, in relation to any voluntary school, means a contribution payable under section one hundred and two of this Act;

^{F252}

“Medical officer” means, in relation to any local education authority, a duly qualified medical practitioner employed or engaged, whether regularly or for the purposes of any particular case, by that authority [^{F253} or whose services are made available to that authority by the Secretary of State];

^{F252}

[^{F254} “Minor authority” means, in relation to a school maintained by a local education authority,—

- (a) where the area which appears to the local education authority to be served by the school is a parish or community, the parish or community council or, in the case of a parish which has no council, the parish meeting;
- (b) where the said area is a community having no community council or is an area in England which is not within a parish and is not situated in a metropolitan county, the council of the district for the area concerned;
- (c) where the said area comprises two or more of the following, a parish, a community or an area in England which is not within a parish and is not situated in a metropolitan county—
 - (i) the parish or community council or councils, if any;
 - (ii) in the case of a parish which has no council, the parish meeting;

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(iii) in the case of an area which is a community having no community council or which is in England and is not within a parish, the council of the district concerned;

acting jointly];

[^{F255} . . .]

[^{F256} “Part-time senior education” has the meaning assigned to it by section 41 of this Act;

“Post-school age education” has the meaning assigned to it by section 41 of this Act;]

“Premises”, in relation to any school, includes any detached playing fields, but, except where otherwise expressly provided, does not include a teacher’s dwelling-house;

“Prescribed”, means prescribed by regulations made by the [^{F257} Secretary of State for Education and Science];

“Primary education” has the meaning assigned to it by section eight of this Act;

“Primary school” means . . . ^{F258} a school for providing primary education;

“Proprietor”, in relation to any school, means the person or body of persons responsible for the management of the school, and for the purposes of the provisions of this Act relating to applications for the registration of independent schools, includes any person or body of persons proposing to be so responsible;

“Provisionally registered school” means an independent school registered in the register of independent schools, whereof the registration is provisional only;

“Pupil”, where used without qualification, means a person of any age for whom education is required to be provided under this Act; [^{F259} but includes a junior pupil who has not attained the age of five years.]

“Registered pupil” means, in relation to any school, a pupil registered as such in the register kept in accordance with the requirements of this Act . . . ^{F260}

“Registered school” means an independent school registered in the register of independent schools, whereof the registration is final;

“School” means an institution for providing primary or secondary education or both primary and secondary education, being a school maintained by a local education authority, [^{F261} a grant-maintained school], an independent school, or [^{F262} a special school not maintained by a local education authority]; and the expression “school” where used without qualification includes any such school or all such schools as the context may require;

“Secondary education” has the meaning assigned to it by section eight of this Act;

“Secondary school” means, subject to the provisions of subsection (3) of this section, a school for providing secondary education;

“Senior pupil” means a person who has attained the age of twelve years but has not attained the age of nineteen years;

[^{F263} “Significant”, in relation to a change in the character of a school or an enlargement of school premises, implies that there is a substantial change in the function or size of the school];

“Special agreement” means an agreement made under the provisions of the Third Schedule to this Act;

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Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)

[^{F264} “Special educational needs” and “Special educational provision” have the meanings given to them by section 1 of the Education Act 1981;]

“Trust deed”, in relation to any voluntary school, includes any instrument (not being an . . . ^{F265} instrument of government, . . . ^{F265} or articles of government, made under this Act) regulating the maintenance management or conduct of the school or the constitution of the body of . . . ^{F265} governors thereof;

“Young person” means a person over compulsory school age who has not attained the age of eighteen years.

[^{F266}(1A) References in this Act to an institution within the PCFC funding sector are references to any institution which falls to be treated as within that sector for the purposes of the Education Reform Act 1988 by virtue of section 132 of that Act (which establishes the Polytechnics and Colleges Funding Council).

(1B) For the purposes of this Act, an institution which provides part-time senior education or post-school age education shall be regarded as providing such education to a significant extent if the provision of such education by the institution is not merely incidental to the provision of education which is not part-time senior education or post-school age education.

(1C) For the purpose of determining whether an institution is a school as defined by subsection (1) of this section, the provision by the institution of part-time senior education or post-school age education shall be disregarded if the institution does not provide such education to a significant extent.]

[^{F267}(1D) In this Act, unless the context otherwise requires, ‘parent’, in relation to a child or young person, includes any person-

- (a) who is not a parent of his but who has parental responsibility for him, or
- (b) who has care of him,

except for the purposes of the enactments mentioned in subsection (1E) of this section, where it only includes such a person if he is an individual.

(1E) The enactments are—

- (a) sections 5(4), 15(2) and (6), 31 and 65(1) of, and paragraph 7(6) of Schedule 2 to, the Education (No. 2) Act 1986; and
- (b) sections 53(8), 54(2), 58(5)(k), 60 and 61 of the Education Reform Act 1988.

(1F) For the purposes of subsection (1D) of this section—

- (a) “parental responsibility” has the same meaning as in the Children Act 1989; and
- (b) in determining whether an individual has care of a child or young person any absence of the child or young person at a hospital or boarding school and any other temporary absence shall be disregarded.]

(2) [^{F268}Subject to subsection (2A) of this section] for the purposes of this Act:—

- (a) the duty of a local education authority to maintain a school . . . ^{F269} shall include the duty of defraying all the expenses of maintaining the school . . . ^{F269} except, in the case of an aided school or a special agreement school, any expenses that by virtue of any provision of this Act or of any special agreement made thereunder are payable by the . . . ^{F270} governors of the school, and the expression “maintain” shall be construed accordingly; and

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- (b) where a local education authority make to the proprietor of any school which is not maintained by the authority, or to the persons responsible for the maintenance of any ^{F271}institution other than a school], any grant in respect of the school . . . ^{F272} or institution or any payment in consideration of the provision of educational facilities thereat, the school . . . ^{F272} or institution shall be deemed to be assisted by the authority.

^{F273}(2A) Neither a university nor any institution within the PCFC funding sector shall be deemed under subsection (2)(b) of this section to be assisted by a local education authority by virtue of the making by that authority to the persons responsible for the maintenance of that university or institution of any such grant or payment as is there mentioned.]

(3) ^{F274}

(4) ^{F275}

(5) ^{F276}

(6) ^{F277}

(7) Where at any time before the date of the commencement of Part II of this Act the premises of any school which was for the time being a public elementary school within the meaning of the enactments repealed by this Act have ceased by reason of war damage, or by reason of any action taken in contemplation or in consequence of war, to be used for the purposes of a school, then, for the purposes of this Act, the school, unless it has been closed in accordance with those enactments, shall be deemed to have been a public elementary school within the meaning of those enactments immediately before that date and, if it was maintained by a former authority immediately before the premises ceased to be used for the purposes of a school, to have been maintained by such an authority immediately before that date.

(8) In this Act, unless the context otherwise requires, references to any enactment or any provision of any enactment shall be construed as references to that enactment or provision as amended by any subsequent enactment, including this Act.

Textual Amendments

F236 Word substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 1, 231(7), 235(6), **Sch. 1 para. 6**

F237 Definition substituted by Education Act 1968 (c. 17), **Sch. 1 para. 5(a)**

F238 Word repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 234(4), 235(7), 237(2), **Sch. 13 Pt. II**

F239 Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. **231(7)**, 234(4)(b), 235(6)

F240 Words repealed by Education (School-leaving Dates) Act 1976 (c. 5), **Sch.**

F241 Words substituted by virtue of Interpretation Act 1889 (c. 63), s. **38(1)** and Local Government Act 1972 (c. 70), s. **179(2)**

F242 Definition inserted by Education Act 1968 (c. 17), **Sch. 1 para. 5(b)**

F243 Words substituted by Education Act 1980 (c.20, SIF 41:1), s. 1(3), **Sch. 1 para. 13(a)**

F244 Words repealed by Education Act 1980 (c.20, SIF 41:1), s. 1(3), **Sch. 1 para. 13(a)**

F245 Definition inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. **120(9)(a)(i)**, 231(7), 235(6)

F246 Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 7(2)**

F247 Words substituted by virtue of Education Act 1980 (c. 20, SIF 41:1), s. **34(1)**

F248 Words substituted by S.I. 1977/293, **art. 4(1)**

Status: Point in time view as at 01/04/1992. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)

- F249** Definition repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), **Sch. 7**
- F250** Words substituted by virtue of Interpretation Act 1889 (c. 63), s. 38(1)
- F251** Words repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. II**
- F252** Definitions repealed by National Health Service Reorganisation Act 1973 (c. 32), **Sch. 5**
- F253** Words inserted by National Health Service Reorganisation Act 1973 (c. 32), **Sch. 4 para. 8**
- F254** Definition substituted by Local Government Act 1972 (c. 70), s. 192(4)
- F255** Definition repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), Sch. 14 paras. 1(1), 27(4), **Sch. 15; S.I. 1991/828, art. 3(2)**
- F256** Definitions inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 120(9)(a)(ii), 231(7), 235(6), 236(2)
- F257** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**
- F258** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), **Sch. 7**
- F259** Words added by Education Act 1980 (c. 20, SIF 41:1), s. 24(3)
- F260** Words repealed by Education (Miscellaneous Provisions) Act 1948 (c. 40), **Sch. 2**
- F261** Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 7(3)**
- F262** Words substituted by Education Act 1980 (c. 20, SIF 41:1), s. 34(1)
- F263** Definition inserted by Education Act 1968 (c. 17), **Sch. 1 para. 5(c)**
- F264** Definition substituted by Education Act 1981 (c. 60, SIF 41:1), **Sch. 3 para. 6**
- F265** Words repealed by Education Act 1980 (c. 20, SIF 41:1), **Sch. 1 para. 13(b)**
- F266** S. 114(1A)(1B)(1C) inserted by Education Reform Act 1988 (c.40, SIF 41:1), ss. 120(9)(b), 231(7), 235(6)
- F267** S. 114(1D)(1E)(1F) inserted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(5)(6), Sch. 13 para. 10, **Sch. 14 para. 1(1); S.I. 1991/828, art. 3(2)**
- F268** Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 234(2)(a), 235(6)
- F269** Words repealed by Education Reform Act 1988 (c. 40, SIF 41), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. II**
- F270** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 1**
- F271** Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 234(3)(a), 235(6)
- F272** Word repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 234(3)(b), 235(6), 237(2), **Sch. 13 Pt. II**
- F273** S. 114(2A) inserted by Education Reform Act 1988 (c. 40, SIF 41:1), s. 234(2)(b)(with ss. 231(7), 235(7))(which s. 234(2)(b) was repealed (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 57(b), **Sch. 9; S.I. 1992/831, art. 2, Sch. 3**)
- F274** S. 114(3) repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), **Sch. 7**
- F275** Ss. 106, 108—110, 114(4) and Sch. 7 repealed by Statute Law (Repeals) Act 1975 (c. 10), **Sch. Pt. IV**
- F276** S. 114(5) repealed by Education Act 1946 (c. 50), s. 8(4)
- F277** S. 114(6) repealed by Education (School-leaving Dates) Act 1976 (c. 5), **Sch.**

Modifications etc. (not altering text)

- C92** Definitions of “local education authority”, “minor authority” amended by London Government Act 1963 (c. 33), ss. 30(1), 31(10)
- C93** S. 114(2)(a) explained by Rating and Valuation Act 1961 (c. 45), s. 12(6)

Marginal Citations

- M14** 1972 c. 70.
- M15** 1972 c. 70.

Status: Point in time view as at 01/04/1992. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)

115 Saving as to persons in the service of the Crown.

No power or duty conferred or imposed by this Act on the [^{F278}Secretary of State for Education and Science], on local education authorities, or on parents, shall be construed as relating to any person who is employed by or under the Crown in any service or capacity with respect to which the [^{F278}Secretary of State for Education and Science] certifies that, by reason of the arrangements made for the education of children and young persons employed therein, the exercise and performance of those powers and duties with respect to such children and young persons is unnecessary.

Textual Amendments

F278 Words substituted by virtue of [S.I. 1964/490, art. 3\(2\)\(a\)](#)

116 Saving as to persons of unsound mind and persons detained by order of a court.

No power or duty conferred or imposed by this Act on the [^{F279}Secretary of State for Education and Science], on local education authorities, or on parents, shall be construed as relating . . . ^{F280} to any person who is detained in pursuance of an order made by any court [^{F281}or of an order of recall made by the Prison Commissioners, but a local education authority shall have power to make arrangements for a person who is detained in pursuance of an order made by a court, or of such an order of recall, to receive the benefit of educational facilities provided by the authority. Where a child or young person is being educated as a boarder at a school, the fact that he is required to be at the school by virtue of an order made by a court under the [^{F282M16}Children and Young Persons Act 1969] or by virtue of anything done under such an order, or by virtue of a requirement of a probation order or by virtue of anything done under such a requirement, shall not render him a person detained in pursuance of an order made by a court within the meaning of those words in this section.]

Textual Amendments

F279 Words substituted by virtue of [S.I. 1964/490, art. 3\(2\)\(a\)](#)

F280 Words repealed by [Education \(Handicapped Children\) Act 1970 \(c. 52\), Sch.](#)

F281 Words inserted by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\), Sch. 1 Pt. I](#)

F282 Words inserted by virtue of [Interpretation Act 1889 \(c. 63\), s. 38\(1\)](#)

Marginal Citations

M16 [1969 c. 54.](#)

117 ^{F283}

Textual Amendments

F283 [S. 117](#) repealed by [London Government Act 1963 \(c. 33\), Sch. 18 Pt. II](#)

Status: Point in time view as at 01/04/1992. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)

118 Application to Isles of Scilly.

The Minister shall by order provide for the application of this Act to the Isles of Scilly as if those isles were [^{F284}a separate non-metropolitan county], and any such order may provide for the application of this Act to those isles subject to such modifications as may be specified in the order.

Textual Amendments

F284 Words substituted by [S.I. 1977/293, art. 4\(1\)](#)

119 ^{F285}

Textual Amendments

F285 [S. 119, Sch. 9](#) repealed by [Education Act 1973 \(c. 16\), Sch. 2 Pt. I](#)

120 Amendment of enactments.

(1) On and after the date of the commencement of Part II of this Act any enactment passed before that date shall, unless the context otherwise requires, be construed as if:—

- (a) for references therein to an elementary school or to a public elementary school (whether or not any reference is made therein to the payment of parliamentary grants in respect of the school) there were substituted references to a county school or voluntary school as the context may require;
- (b) for references therein to a school certified by the Board of Education, in accordance with the provisions of Part V of the ^{M17}Education Act 1921, as suitable for providing education for blind deaf defective or epileptic children, there were substituted references to a special school;
- (c) for references therein to the managers of a school there were substituted, in relation to a county . . . ^{F286} school or a voluntary . . . ^{F286} school, references to the governors of the school;
- (d) for references therein to elementary education or to higher education there were substituted references to such education as may be provided by a local education authority in the exercise of their functions under Part II of this Act;
- (e) for references therein to a local education authority, to a local education authority for elementary education, or to a local education authority for higher education, there were substituted references to a local education authority within the meaning of this Act.

(2) ^{F287}

(3) The enactments mentioned in the first column of the Eighth Schedule to this Act shall, except in so far as any them extend to Scotland, have effect subject to the amendments specified in the secon column of that Schedule :

Provided that Part I of the said Schedule shall come into operation on the date of the commencement of Part II of this Act, and Part II of the said Schedule shall come into operation on the date on which section forty-four of this Act comes into operation.

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Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)

- (4) Where by virtue of this Act any functions cease to be exercisable by the council of a county district under the ^{M18}Children and Young Persons Acts, 1933 ^{M19} and 1938, the following provisions of this Act, that is to say:—
- (a) subsections (3) and (4) of section six; and
 - (b) section ninety-seven;
- shall have effect as if those functions had been exercisable under the Education Acts, 1921 and 1939; and, in relation to any such functions, the provisions of section ninety-six and of subsection (3) of section ninety-eight of this Act shall have effect as if for the references therein to the Minister of Education there were substituted references to the Secretary of State.
- (5) For the purposes of any byelaws under Part II of the ^{M20}Children and Young Persons Act 1933, the expression “child” shall have the same meaning as it has for the purposes of the said Part II; and any byelaws made by the council of a county district under the said Part II which are in force immediately before the date of the commencement of Part II of this Act shall, in relation to the area to which they extend, continue in operation on and after that date as if they had been made by the local education authority for the area in which the county district is situated, and may be varied or revoked accordingly.

Textual Amendments

F286 Word repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), [Sch. 1 para. 14](#)

F287 S. 120(2) repealed by [Statute Law \(Repeals\) Act 1978 \(c. 45\)](#), [Sch. 1 Pt. V](#)

Modifications etc. (not altering text)

C94 The text of ss. 120(3), 121, and Sch. 8 Pt. 1 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M17 1921 c. 51.

M18 1933 c. 12.

M19 1938 c. 40.

M20 1933 c. 12.

121 Repeal of enactments.

Section eighty-three of the ^{M21}Elementary Education Act, 1870, the Board of Education Act, 1899, and sections one and two of the Education act, 1921, are hereby repealed as from the date declared by His Majesty in Council to be the date on which the first appointment under this Act of a Minister of Education took effect ; the enactments mentioned in the first column of Part I of the Ninth Schedule to this Act are, to the extent mentioned in the third column of that Part, hereby repealed, except in so far as any of them extend to Scotland, as from the date of the commencement of Part II of this Act ; and the enactments mentioned in the first column of Part II of that Schedule are to the extent mentioned in the third column of that Part hereby repealed, except in so far as they extend to Scotland, as from the date on which section forty-four of this Act comes into operation :

Provided that—

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Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)

- (a) any regulation Order in Council order or other instrument in force under any enactment hereby repealed shall continue in operation and have effect as if made under this Act and may be varied or revoked accordingly ; and
- (b) the provisions of the Education Act, 1921, relating to continuation schools shall, in any area in which sections seventy-six, seventy seven and ninety-three of that Act were in operation immediately before the commencement of Part II of this Act, continue in force until the date on which section forty-four of this Act comes in to operation.

Modifications etc. (not altering text)

C95 The text of ss. 120(3), 121, and Sch. 8 Pt. I is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M21 33 & 34 Vict. c. 75.

122 Short title and extent.

- (1) This Act may be cited as the Education Act 1944.
- (2) This Act shall not extend to Scotland or to Northern Ireland.

Status:

Point in time view as at 01/04/1992. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:

There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996).