



# Education (Scotland) Act 1980

## 1980 CHAPTER 44

### PART I

#### PROVISION OF EDUCATION BY EDUCATION AUTHORITIES

##### *School education and further education*

#### **1 Duty of education authorities to secure provision of education.**

(1) Subject to [<sup>F1</sup>subsections [<sup>F2</sup>(1A)] and (2A)] below, it shall be the duty of every education authority to secure that there is made for their area adequate and efficient provision of school education and further education.

[<sup>F3</sup>(1A) The duty imposed on education authorities by subsection (1) above shall, in relation to children who are under school age, be exercisable only as respects children of such description or descriptions as may be prescribed by order.

(1B) Where an order is made under subsection (1A) above, the amount of school education with which children of a description prescribed in that order are to be provided shall also be prescribed in the order.

(1C) An education authority shall have power in relation to pre-school children to secure for their area the provision of such school education, other than that which they are required by subsection (1) above to secure, as they think fit.]

[<sup>F4</sup>(2) .....

[<sup>F5</sup>(2A) The duty imposed on an education authority by subsection (1) above shall not include the provision of further education within the meaning of Part I of the Further and Higher Education (Scotland) Act 1992, but an education authority shall have power to provide such further education for their area.]

(3) Every education authority [<sup>F6</sup>shall for the purposes of their duty under subsection (1) above—

(a)] have power to secure for their area, and

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- (b) <sup>F7</sup> . . . be under a duty to secure for pupils in attendance at schools in their area, the provision of adequate facilities for social, cultural and recreative activities and for physical education and training.
- (4) The facilities for further education that may be provided by an education authority shall include facilities for vocational and industrial training.
- [<sup>F8</sup>(4A) The power to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (4B) In this section “pre-school children” means—
- (a) children who are under school age and have not commenced attendance at a primary school (other than a nursery class in such a school); and
  - (b) children who have attained school age but have not commenced attendance at such a school.]
- (5) In this Act—
- (a) “school education” means progressive education appropriate to the requirements of pupils <sup>F9</sup> . . . , regard being had to the age, ability and aptitude of such pupils, and includes—
    - (i) activities in schools and classes ([<sup>F10</sup>such schools and classes being] in this Act called “nursery schools” and “nursery classes”), being activities of a kind suitable in the ordinary case for pupils who are under school age;
    - [<sup>F11</sup>(ii) provision for special educational needs;]
    - (iii) the teaching of Gaelic in Gaelic-speaking areas;
  - (b) further education includes—
    - (i) . . . . . <sup>F12</sup>
    - (ii) voluntary part-time and full-time courses of instruction for persons over school age;
    - (iii) social, cultural and recreative activities and physical education and training, either as [<sup>F13</sup>voluntary organised activities designed to promote the educational development of persons taking part therein or as] part of a course of instruction <sup>F7</sup> . . . ;
    - (iv) the teaching of Gaelic in Gaelic-speaking areas;
  - [<sup>F14</sup>(c) “provision for special educational needs”, in relation to a child [<sup>F15</sup>who has attained school age] or to a young person receiving school education, means educational provision which is additional to, or otherwise different from, the educational provision made generally for children or, as the case may be, young persons of his age in schools under the management of the education authority for the area to which he belongs in accordance with section 23(3) of this Act [<sup>F16</sup>and in relation to any other child means such educational provision as is appropriate to those needs];
  - (d) “special educational needs”, in relation to a child or young person, are needs caused by a learning difficulty which he has which calls for provision for special educational needs to be made for him, and a child or young person has a learning difficulty for the purposes of this paragraph if—
    - (i) he has significantly greater difficulty in learning than the majority of children or, as the case may be, young persons of his age; or

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- (ii) he suffers from a disability which either prevents or hinders him from making use of educational facilities of a kind generally provided for children or, as the case may be, young persons of his age in schools under the management of the education authority for the area to which he belongs in accordance with section 23(3) of this Act; or
- (iii) he is under the age of five years and is, or would be if provision for special educational needs were not made for him, likely to fall within sub-paragraph (i) or (ii) above when over that age,
- but a child or young person is not to be taken as having a learning difficulty solely because the language in which he is or will be taught (the “teaching language”) is different from a language, or from a form of the teaching language, which has at any time been spoken in his home.]

#### Textual Amendments

- F1** Words in s. 1(1) substituted (1.4.1993) by [Further and Higher Education Act \(Scotland\) Act 1992 \(c. 37\), s. 2\(a\)](#) (with s. 30(2)); S.I. 1992/817, art. 3(2), [Sch. 4](#)
- F2** Word in s. 1(1) substituted (4.3.2002) by 2000 asp 6, s. 32(2); S.S.I. 2002/72, [art. 2\(1\)\(a\)](#)
- F3** S. 1(1A)-(1C) inserted (4.3.2002) by 2000 asp 6, s. 32(3); S.S.I. 2002/72, [art. 2\(1\)\(a\)](#)
- F4** S. 1(2) repealed (4.3.2002) by 2000 asp 6, s. 32(4); S.S.I. 2002/72, [art. 2\(1\)\(a\)](#)
- F5** S. 1(2A) inserted (1.4.1993) by [Further and Higher Education Act \(Scotland\) Act 1992 \(c. 37\), s. 2\(b\)](#) (with s. 30(2)); S.I. 1992/817, art. 3(2), [Sch. 4](#)
- F6** Words in s. 1(3) substituted (1.4.1983) by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), s. 69\(2\), Sch. 3 para. 37\(a\)\(i\)](#) and S.I. 1982/1397, [Sch. 2](#)
- F7** Words repealed (1.4.1983) by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), s. 69\(2\), Sch. 4 Pt. I](#) and S.I. 1982/1397, [Sch. 2](#)
- F8** S. 1(4A)(4B) inserted (4.3.2002) by 2000 asp 6, s. 32(5); S.S.I. 2002/72, [art. 2\(1\)\(a\)](#)
- F9** Words in s. 1(5)(a) repealed (13.10.2000) by 2000 asp 6, s. 60(2), [Sch. 3](#); S.S.I. 2000/361, art. 3(1)(2), [Sch. Pt. I](#)
- F10** Words in s. 1(5)(a)(i) substituted (13.10.2000) by 2000 asp 6, s. 60(1), [Sch. 2 para. 3\(2\)](#); S.S.I. 2000/361, art. 3(1)(2), [Sch. Pt. I](#)
- F11** S. 1(5)(a)(ii) substituted by [Education \(Scotland\) Act 1981 \(c. 58\), s. 3\(1\)\(a\), Sch. 8](#)
- F12** S. 1(5)(b)(i) repealed by [Self-Governing Schools etc. \(Scotland\) Act 1989 \(c. 39, SIF 41:2\), s. 82\(2\), Sch. 11](#)
- F13** Words inserted (1.4.1983) by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), s. 69\(2\), Sch. 3 para. 37\(b\)\(i\)](#) and S.I. 1982/1397, [Sch. 2](#)
- F14** S. 1(5)(c)(d) substituted for s. 1(5)(c) by [Education \(Scotland\) Act 1981 \(c. 58\), s. 3\(1\)\(b\), Sch. 8](#)
- F15** Words inserted by [Self-Governing Schools etc. \(Scotland\) Act 1989 \(c. 39, SIF 41:2\), s. 82\(1\), Sch. 10 para. 8\(2\)\(a\)](#)
- F16** Words inserted by [Self-Governing Schools etc. \(Scotland\) Act 1989 \(c. 39, SIF 41:2\), s. 82\(1\), Sch. 10 para. 8\(2\)\(b\)](#)

#### Modifications etc. (not altering text)

- C1** S. 1 amended (4.3.2002) by 2000 asp 6, s. 33(1)-(3); S.S.I. 2002/72, [art. 2\(1\)\(b\)](#)

## 2 Secretary of State may prescribe standards, etc., for education authorities.

The Secretary of State may make regulations prescribing the standards and <sup>F17</sup> . . . requirements to which every education authority shall conform in discharging their functions under section 1 of this Act <sup>F18</sup> and without prejudice to the generality of

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the foregoing, such regulations may include provision as to the testing of pupils in primary schools.]

**Textual Amendments**

- F17** Word in s. 2 repealed (18.9.1996) by 1996 c. 43, s. 36, **Sch. 6**; S.I. 1996/2250, **art. 2**.  
**F18** Words inserted by **Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 69(1)**

**[2A** <sup>F19</sup> **Assessment of secondary school pupils.**

- (1) The Secretary of State may by regulations make provision for the testing and assessment of pupils undertaking the first or second year of secondary education in public <sup>F20</sup>... schools.
- (2) It shall be the duty of an education authority <sup>F21</sup>... to comply with the provisions of regulations made in pursuance of subsection (1) above.
- (3) Regulations made in pursuance of subsection (1) above may make different provision as to different cases or circumstances.]

**Textual Amendments**

- F19** S. 2A inserted (18.9.1996) by 1996 c. 43, s. 32; S.I. 1996/2250, **art. 2**.  
**F20** Words in s. 2A(1) repealed (31.12.2004) by **Standards in Scotland's Schools etc. Act 2000 (asp 6), s. 61(2), sch. 3; S.S.I. 2004/528, art. 2(b)**  
**F21** Words in s. 2A(2) repealed (31.12.2004) by **Standards in Scotland's Schools etc. Act 2000 (asp 6), s. 61(2), sch. 3; S.S.I. 2004/528, art. 2(b)**

**3 Fees not to be charged in public schools, etc: exceptions.**

- (1) Subject to the provisions of subsections (2) to (5) below, school education <sup>F22</sup>... provided by an education authority shall be provided without payment of fees.
- (2) An education authority shall have power to charge fees for school education in some or all of the classes in a limited number of schools under their management.
- (3) An education authority may award to any pupil in a class in which fees are charged by virtue of subsection (2) above a scholarship, by way of remission in whole or in part of the fee, in any case where, having regard to the pupil's ability and aptitude, it appears to the authority proper to do so; but such a pupil shall not be regarded for the purposes of section 11(1)(a) of this Act (provision of free books, etc.) as receiving free education.
- (4) An education authority shall not exercise the power conferred by subsection (2) above except where it may be exercised without prejudice to the adequate provision of free school education for their area whether—
  - (a) at schools under their management, or
  - (b) at other schools by virtue of arrangements made by them with the managers of those schools or, in the case of schools under the management of another education authority, with that authority.

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- (5) Where an education authority are providing school education for an outwith-area pupil in a school under their management—
- (a) in classes in which fees are charged under the provisions of subsection (2) above, the education authority may charge in respect of that pupil, in addition to the fee charged by virtue of that subsection, such extra fee as they think proper,
  - (b) in classes in which no fees are charged, the education authority may charge in respect of that pupil such fee as they think proper.

In this subsection “outwith-area pupil” means, in relation to any education authority, a pupil who is not deemed to belong for the purposes of section 23 of this Act to the area of that authority.

- (6) An education authority shall have power to make charges in respect of the use of some or all of—
- (a) any facilities for <sup>F23</sup>. . . further education provided by them,
  - (b) any facilities provided by them under section 1(3) of this Act.

[<sup>F24</sup>(7) This section does not apply as respects the provision of school education by virtue of subsections (1) and (1A), or as the case may be subsection (1C), of section 1 of this Act.]

#### Textual Amendments

- F22** Words in s. 3(1) repealed (16.5.1992) by Further and Higher Education Act 1992 (c. 37), s. 62(3), **Sch. 10**; S.I. 1992/817, art. 3(2), **Sch. 1**
- F23** Word in s. 3(6)(a) repealed (16.5.1992) by Further and Higher Education Act 1992 (c. 37), s. 62(3), **Sch. 10**; S.I. 1992/817, art. 3(2), **Sch. 1**
- F24** S. 3(7) added (4.3.2002) by 2000 asp 6, s. 33(4); S.S.I. 2002/72, **art. 2(1)(b)**

## 4 Duty of education authorities to provide child guidance service.

It shall be the duty of every education authority to provide for their area [<sup>F25</sup> [<sup>F26</sup>. . .] psychological service in clinics] or elsewhere, and the functions of that service shall include—<sup>F27</sup>

- (a) the study of children with special educational needs;]
- (b) the giving of advice to parents and teachers as to appropriate methods of education. . . <sup>F28</sup> for such children;
- (c) in suitable cases, . . . <sup>F29</sup> provision [<sup>F30</sup>for the special educational needs of] such children in. . . <sup>F31</sup> clinics;
- (d) the giving of advice to a local authority within the meaning of the <sup>M1</sup>Social Work (Scotland) Act 1968 regarding the assessment of the needs of any child for the purposes of any of the provisions of that or any other enactment.

#### Textual Amendments

- F25** Words substituted by Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33, SIF 113:1), s. 14(2)(a)
- F26** Words in s. 4 repealed (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 118(2), **Sch.14**; S.I. 1996/323, **art. 4(1)(c)**.
- F27** S. 4(a) substituted by Education (Scotland) Act 1981 (c. 58), Sch. 2 Pt. I para. 2(a), **Sch. 8**

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- F28** Words repealed by Education (Scotland) Act 1981 (c. 58), **Sch. 9**
- F29** Word repealed by Education (Scotland) Act 1981 (c. 58), **Sch. 9**
- F30** Words substituted by Education (Scotland) Act 1981 (c. 58), Sch. 2 Pt. I para. 2(c), **Sch. 8**
- F31** Words repealed by Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33, SIF 113:1), **s. 14(2)(b)**

**Marginal Citations**

- M1** 1968 c. 49.

**F32** 5 .....

**Textual Amendments**

- F32** Ss. 5, 28(2), 59, 66(2), 111(4)(5), 129(5)(6), 132(1), Sch. 2 paras. 1, 3 repealed by Education (Scotland) Act 1981 (c. 58), **Sch. 9**

**6 Social activities, physical education, etc.**

- (1) For the purpose of securing [<sup>F33</sup>, under section 1(3) of this Act,] the provision of facilities for social, cultural and recreative activities and physical education and training, an education authority may—
  - (a) establish, maintain and manage—
    - (i) camps, outdoor centres, playing fields and swimming pools;
    - (ii) play areas and centres;
    - (iii) sports halls, centres and clubs;
    - (iv) youth, community and cultural centres and clubs,
 and other places at which any such facilities as aforesaid are available;
  - (b) organise holiday classes, games, expeditions and other activities.
- (2) In the exercise of their powers under subsection (1) above an education authority—
  - <sup>F34</sup>(0) may assist any body whose objects include;
  - <sup>F35</sup>(b) .....  
the provision or promotion of social, cultural and recreative activities and physical education and training or the facilities for such activities, education and training.
- <sup>F36</sup>(3) .....

**Textual Amendments**

- F33** Words inserted (1.4.1983) by Local Government and Planning (Scotland) Act 1982 (c. 43), s. 69(2), **Sch. 3 para. 38** and S.I. 1982/1397, **Sch. 2**
- F34** Letter “(a)” in s. 6(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 118(3)(a)(i), **Sch.14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**.
- F35** s. 6(2)(b) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 118(3)(a)(ii), **Sch.14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**.
- F36** S. 6(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 118(3)(b), **Sch.14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**.

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## 7 Provision of educational facilities to be in accordance with schemes.

<sup>F37</sup>(1) .....

<sup>F37</sup>(2) .....

<sup>F37</sup>(3) .....

(4) In considering and determining for the purposes of [<sup>F38</sup>their functions under the foregoing provisions of this Act in relation to] the provision of school education what amount of public school accommodation or additional public school accommodation is required for their area, an education authority shall have regard to and take into account every school, whether public or not, and whether situated in the area or not, which, in their opinion, gives, or will when completed give, efficient school education, and is, or will when completed be, suitable and available for the education of the pupils in their area.

(5) An education authority shall for the purposes of subsection (4) above have power to call upon all head teachers and managers of schools other than public schools for such information and for access to and delivery of all such documents as shall to the education authority appear to be necessary to enable them to discharge their duties under this Act, and an education authority may from time to time appoint fit and proper persons to procure such information and to inspect such documents.

(6) [<sup>F39</sup>In the performance of their functions under the foregoing provisions of this Act in relation to] the provision of school education, an education authority shall, in particular, have regard to the expediency of securing the provision of boarding accommodation, either in boarding schools or in hostels, for pupils for whom education as boarders is considered by their parents and by the authority to be desirable.

<sup>F40</sup>(7) .....

<sup>F40</sup>(8) .....

### Textual Amendments

**F37** S. 7(1)-(3) repealed (16.5.1992) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(3), Sch. 10; S.I. 1992/817, art. 3(2), Sch.1

**F38** Words substituted with saving by Education (Scotland) Act 1981 (c. 58), s. 8(1)(a)(iv)(3), Sch. 8

**F39** Words substituted with saving by Education (Scotland) Act 1981 (c. 58), s. 8(1)(a)(v)(3), Sch. 8

**F40** S. 7(7)(8) repealed (16.5.1992) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(3), Sch. 10; S.I. 1992/817, art. 3(2), Sch.1

## 8 Religious instruction.

(1) Whereas it has been the custom in the public schools of Scotland for religious observance to be practised and for instruction in religion to be given to pupils whose parents did not object to such observance or instruction, but with liberty to parents, without forfeiting any of the other advantages of the schools, to elect that their children should not take part in such observance or receive such instruction, be it enacted that education authorities <sup>F41</sup>... shall be at liberty to continue the said custom, subject to the provisions of section 9 of this Act.



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- (2) It shall not be lawful for an education authority <sup>F41</sup>... to discontinue religious observance or the provision of instruction in religion in terms of subsection (1) above, unless and until a resolution in favour of such discontinuance duly passed by the authority has been submitted to a poll of the local government electors for the education area taken for the purpose, and has been approved by a majority of electors voting thereat.
- (3) A poll under subsection (2) above shall be by ballot and shall be taken in accordance with rules to be made by the Secretary of State, which rules may apply with any necessary modifications any enactments relating to parliamentary or local government elections.

#### Textual Amendments

**F41** Words in s. 8(1)(2) repealed (31.12.2004) by [Standards in Scotland's Schools etc. Act 2000 \(asp 6\)](#), s. 61(2), [sch. 3](#); S.S.I. 2004/528, art. 2(b)

## 9 Conscience clause.

Every public school [<sup>F42</sup>and every grant-aided school] shall be open to pupils of all denominations, and any pupil may be withdrawn by his parents from any instruction in religious subjects and from any religious observance in any such school; and no pupil shall in any such school be placed at any disadvantage with respect to the secular instruction given therein by reason of the denomination to which such pupil or his parents belong, or by reason of his being withdrawn from any instruction in religious subjects.

#### Textual Amendments

**F42** Words in s. 9 substituted (31.12.2004) by [Standards in Scotland's Schools etc. Act 2000 \(asp 6\)](#), s. 61(2), [sch. 2 para. 3\(3\)](#); S.S.I. 2004/528, art. 2(b)

## 10 Safeguards for religious beliefs.

Where the parent of any pupil who is a boarder at any public school <sup>F43</sup> . . . or other educational establishment under the management of an education authority <sup>F44</sup> . . . requests that the pupil be permitted to attend worship in accordance with the tenets of a particular religious denomination on Sundays or other days exclusively set apart for religious observance by the religious body to which his parent belongs, or to receive religious instruction or to practise religious observance in accordance with such tenets outside the working hours [<sup>F45</sup>of the school or other educational establishment, the education authority] shall make arrangements for affording to the pupil reasonable opportunities for so doing, and such arrangements may provide for affording facilities for such worship, instruction or observance on the premises of the school <sup>F43</sup> . . . [<sup>F46</sup>or other educational establishment], so however that such arrangements shall not entail expenditure by the education authority <sup>F47</sup> . . .

#### Textual Amendments

**F43** Words repealed by [Self-Governing Schools etc. \(Scotland\) Act 1989 \(c. 39, SIF 41:2\)](#), s. 82(2), [Sch. 11](#)



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- F44** Words in s. 10 repealed (31.12.2004) by [Standards in Scotland's Schools etc. Act 2000 \(asp 6\)](#), s. 61(2), [sch. 2 para. 3\(4\)\(a\)](#); S.S.I. 2004/528, art. 2(b)
- F45** Words in s. 10 substituted (31.12.2004) by [Standards in Scotland's Schools etc. Act 2000 \(asp 6\)](#), s. 61(2), [sch. 2 para. 3\(4\)\(b\)](#); S.S.I. 2004/528, art. 2(b)
- F46** Words in s. 10 substituted (31.12.2004) by [Standards in Scotland's Schools etc. Act 2000 \(asp 6\)](#), s. 61(2), [sch. 2 para. 3\(4\)\(c\)](#); S.S.I. 2004/528, art. 2(b)
- F47** Words in s. 10 repealed (31.12.2004) by [Standards in Scotland's Schools etc. Act 2000 \(asp 6\)](#), s. 61(2), [sch. 2 para. 3\(4\)\(d\)](#); S.S.I. 2004/528, art. 2(b)

## 11 Provision of books, materials and special clothing free of charge.

(1) An education authority shall provide free of charge for all pupils belonging to their area who are given free education—

- (a) at schools, . . . <sup>F48</sup> under their management, or
- (b) at other schools by virtue of arrangements made by them with the managers of those schools or, in the case of schools under the management of another education authority, with that authority,

books, writing materials, stationery, mathematical instruments, practice material and other articles which are necessary to enable the pupils to take full advantage of the education provided; and the authority may make similar provision, with or without charge, for other pupils resident in their area and attending any school or other educational establishment.

(2) An education authority may provide—

- (a) for pupils in attendance at any school, . . . <sup>F48</sup> or other educational establishment under their management, articles of clothing suitable for physical exercise or for other activities of the school, . . . <sup>F49</sup> or establishment for which special clothing is desirable, and
- (b) for persons who make use of facilities for physical education or training provided by the authority under section 1(3) of this Act, articles of clothing suitable for such physical education or training.

### Textual Amendments

- F48** Words repealed by [Self-Governing Schools etc. \(Scotland\) Act 1989 \(c. 39, SIF 41:2\)](#), s. 82(2), [Sch. 11](#)
- F49** Word repealed by [Self-Governing Schools etc. \(Scotland\) Act 1989 \(c. 39, SIF 41:2\)](#), s. 82(2), [Sch. 11](#)

## 12 Library service.

(1) An education authority may, as an ancillary means of promoting education, provide, by purchase or otherwise, such books and other printed matter, pictures, gramophone records, tape recordings, films and other materials as they may think desirable, for pupils attending schools, . . . <sup>F50</sup> or other educational establishments in their area.

(2) For the purposes of this section, an education authority may—

- (a) make such arrangements as they consider necessary for the management of a library service provided by them including the accommodation and distribution of books and other materials, and
- (b) enter into arrangements with the managers of public libraries.

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#### Textual Amendments

**F50** Words repealed by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(2), **Sch. 11**

### 13 Provision of hotels.

An education authority may provide and maintain hostels for pupils attending educational establishments in their area.

### [<sup>F51</sup> 14 Education for children unable to attend school etc.

- (1) If an education authority are satisfied that, by reason of—
- (a) any extraordinary circumstances (not being circumstances mentioned in paragraph (b), or subsection (2) or (3), below)—
    - (i) a pupil is unable; or
    - (ii) it would be unreasonable to expect a pupil, to attend a suitable educational establishment for the purpose of receiving education, they may;
  - (b) a pupil's prolonged ill-health [<sup>F52</sup> or a pupil's being subject to any measures authorised by virtue of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) or authorised, in consequence of the pupil's mental disorder, by virtue of the Criminal Procedure (Scotland) Act 1995 (c. 46)]—
    - (i) the pupil is unable; or
    - (ii) it would be unreasonable to expect the pupil, to attend such an establishment for that purpose, they shall, without undue delay after those circumstances become apparent to them, make special arrangements for the pupil to receive education elsewhere than at an educational establishment.
- (2) If an education authority have, under section 34(1) of this Act, granted a pupil exemption from the obligation to attend school, the exemption being to enable the pupil to give assistance at home in circumstances arising out of the illness or infirmity of a member of the pupil's family, they shall in so far as is practicable and without undue delay make such special arrangements as are mentioned in subsection (1) above.
- (3) If a pupil withdraws, excluded by the education authority (or with the consent of the authority in circumstances where he would have been so excluded but for his withdrawal), from a public school in their area they shall, without undue delay—
- (a) provide school education for him in a school managed by them;
  - (b) make arrangements for him to receive such education in any other school the managers of which are willing to receive him; or
  - (c) make such special arrangements as are mentioned in subsection (1) above.]

#### Textual Amendments

**F51** S. 14 substituted (13.10.2000) by 2000 asp 6, s. 40; S.S.I. 2000/361, art. 3(1)(2), **Sch. Pt. I**

**F52** Words in s. 14(1)(b) inserted (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), ss. 277(2), 333(2); S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)

*Status: Point in time view as at 05/10/2005.*

*Changes to legislation: Education (Scotland) Act 1980, Part I is up to date with all changes known to be in force on or before 31 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Modifications etc. (not altering text)**

**C2** S. 14 amended (13.10.2000) by 2000 asp 6, ss. 3(2)(3), 5(1); S.S.I. 2000/361, art. 3(1)(2), **Sch. Pt. I**

[<sup>F53</sup>**14ZA** Meaning of pupil in sections 12 to 14.

In sections 12 to 14 of this Act and in section 52 of this Act as it relates to the said section 13, any reference to a pupil shall include a reference to a student attending a college of further education within the meaning of section 36(1) of the Further and Higher Education (Scotland) Act 1992.]

**Textual Amendments**

**F53** S. 14ZA inserted (1.4.1993) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(2), **Sch. 9 para. 7(2)**; S.I. 1992/817, art. 3(2), **Sch. 4**

[<sup>F54</sup>**14A** Education in social work establishments.

- (1) An education authority may, in accordance with this section, provide for their area school education in any establishment provided by a local authority under section 59(1) or (2) of the <sup>M2</sup>Social Work (Scotland) Act 1968 which is provided wholly or mainly for children under school age (other than any establishment whose provision is secured by them under paragraph (c) of the said section 59(2)).
- (2) The provision of school education referred to in subsection (1) above shall consist of the making available by the education authority, in accordance with arrangements made by them in that behalf with the local authority providing the establishment, of the services of any teacher who is employed by them.
- (3) Arrangements under subsection (2) above may make provision for—
  - (a) the supply of equipment for use in connection with the provision of school education made available under the arrangements;
  - (b) any supplementary or incidental matters connected with the arrangements.
- (4) A teacher whose services are made available by an education authority in pursuance of arrangements under subsection (2) above shall, during the period in which his services are made available, be deemed to be in a post in a primary department of a school under the management of the education authority.]

**Textual Amendments**

**F54** S. 14A inserted by Education (Scotland) Act 1981 (c. 58), s. 12

**Marginal Citations**

**M2** 1968 c. 49.

*Status: Point in time view as at 05/10/2005.*

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### *Transference of schools to education authorities*

#### **15 Transference of endowed schools to education authorities.**

- (1) The governing body of any school providing a course of secondary education administered under a scheme approved in terms of the Act of 1882, or under any Act or any provisional order confirmed by Act of Parliament, may, with a view to the maintenance of such school as a school providing a course of secondary education resolve to transfer the management thereof, together with the school buildings, and the revenue of the school from endowments in whole or in part, or, where the endowments are held solely for the purpose of such school, together with the endowments, to the education authority of the education area in which the school is situated. The education authority shall have power to receive the same, to manage the school as a school providing a course of secondary education and to make good any deficiency in the income of the school as managed by them.
- (2) The Secretary of State may by order make provision for all matters which appear to him necessary or proper for giving full effect to any transfer under this section, including provision for the determination of any existing trust whose whole endowments are so transferred.
- (3) A resolution by a governing body under this section shall not take effect unless it is confirmed by a subsequent meeting called for that special purpose with not less than three weeks notice by circular sent to each member of the governing body and held not sooner than one month nor later than two months after the date of the first meeting, and at such second meeting the requisite majority to secure confirmation shall be not less than the absolute majority of the governing body.

#### **16 Transference of denominational schools to education authorities.**

- (1) It shall be lawful for the person or persons vested with the title of any school established after 21st November 1918, to which section 18 of the Act of 1918 would have applied had the school been in existence at that date, with the consent of the trustees of any trust upon which the school is held and of the Secretary of State, to transfer the school together with the site thereof and any land or buildings and furniture held and used in connection therewith, by sale, lease or otherwise, to the education authority, who shall be bound to accept such transfer, upon such terms as to price, rent, or other consideration as may be agreed, or as may be determined, failing agreement, by an arbiter appointed by the Secretary of State upon the application of either party.
- (2) The consent of trustees to the transference of a school to an education authority under this section may be given by a majority of not less than two thirds of the trustees present at a meeting duly summoned for that purpose. The transference may be effected
  - [<sup>F55</sup>(a)] by an ordinary disposition or other deed of conveyance by the persons vested with the title, recorded in the register of sasines [<sup>F56</sup>; or
  - (b) where—
    - (i) the [<sup>F57</sup>transferee's right in the land] is registrable under the <sup>M3</sup>Land Registration (Scotland) Act 1979; or
    - (ii) the transference itself is so registrable,

by registration under that Act]

and no stamp or other duty shall be exigible on such disposition or other deed; and the persons whose consent is hereby required need not be parties to the conveyance,

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and the validity of the transference and the title of the education authority shall not be subject to challenge on the ground that the requisite consents were not duly given, unless such challenge shall be judicially made within six months after the recording of the deed of conveyance [<sup>F58</sup>or, as the case may be, registration].

- (3) The existing staff of teachers in a school transferred under this section shall be taken over by the education authority and shall as from the date of transfer be placed upon the same scale of salaries as teachers of corresponding qualifications appointed to corresponding positions in other schools of the same authority; and any question which may arise as to the due fulfilment or observance of any provision or requirement of this subsection shall be determined by the Secretary of State.

#### Textual Amendments

- F55** Word inserted by Education (Scotland) Act 1981 (c. 58), **Sch. 7 para. 3(a)**  
**F56** Words inserted by Education (Scotland) Act 1981 (c. 58), **Sch. 7 para. 3(b)**  
**F57** Words in s. 16(2)(b)(i) substituted (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **sch. 12 para. 41(2)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2  
**F58** Word inserted by Education (Scotland) Act 1981 (c. 58), **Sch. 7 para. 3(c)**

#### Marginal Citations

- M3** 1979 c. 33.

### *Provision, maintenance and equipment of schools and other buildings*

## **17 Provision, maintenance and equipment of schools and other buildings.**

- (1) [<sup>F59</sup>Subject to subsection (6) below,][i]t shall be the duty of an education authority [<sup>F60</sup>, in the performance of their functions under sections 1 to 6 of this Act,] to provide for their area, . . . <sup>F61</sup> sufficient accommodation in public schools (whether day schools or boarding schools), . . . <sup>F62</sup> and other educational establishments under their management to enable them to [<sup>F63</sup>perform their said functions].

[<sup>F64</sup>(2) In any case where an education authority are satisfied, whether upon representations made to them by any church or denominational body acting on behalf of the parents of children belonging to such church or body or otherwise, that a new school is required for the accommodation of children whose parents are resident within the area of the authority, regard being had to the religious belief of such parents, it shall be lawful for the education authority to provide a new school.]

- (3) [<sup>F65</sup>Subject to subsection (6) below,][a]n education authority shall maintain and keep efficient every public school, . . . <sup>F62</sup> and other educational establishment under their management, and shall from time to time provide such additional accommodation as may be necessary to [<sup>F66</sup>enable them to perform their functions under sections 1 to 6 of this Act.].
- (4) An education authority may, for the purposes of their duty under this section, provide, alter, improve, enlarge, equip and maintain schools, . . . <sup>F62</sup> and other educational establishments outwith as well as within their area.
- (5) An education authority may provide, alter, improve, enlarge, equip, maintain and furnish houses and hostels, with such outbuildings and gardens as they think expedient,

*Status: Point in time view as at 05/10/2005.*

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for teachers and other officers employed by them (whether or not employed in or about an educational establishment).

[<sup>F67</sup>(6) Subsections (1) and (3) above shall have effect as regards further education only to the extent that the education authority is under a duty to do anything under the said sections 1 to 6.]

#### Textual Amendments

- F59** Words in s. 17(1) inserted (1.4.1993) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(2), **Sch. 9 para. 7(3)(a)**; S.I. 1992/817, art. 3(2), **Sch. 4**
- F60** Words inserted with saving by Education (Scotland) Act 1981 (c. 58), s. 8(1)(b)(i)(3)
- F61** Words repealed with saving by Education (Scotland) Act 1981 (c. 58), s. 8(1)(b)(i)(3), **Sch. 9**
- F62** Words repealed by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(2), **Sch. 11**
- F63** Words substituted with saving by Education (Scotland) Act 1981 (c. 58), s. 8(1)(b)(i)(3), **Sch. 8**
- F64** S. 17(2) substituted by Education (Scotland) Act 1981 (c. 58), s. 7(1), **Sch. 8**
- F65** Words in s. 17(3) inserted (1.4.1993) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(2), **Sch. 9 para. 7(3)(a)**; S.I. 1992/817, art. 3(2), **Sch. 4**
- F66** Words substituted with saving by Education (Scotland) Act 1981 (c. 58), s. 8(1)(b)(ii)(3), **Sch. 8**
- F67** S. 17(6) inserted (1.4.1993) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(2), **Sch. 9 para. 7(3)(b)**; S.I. 1992/817, art. 3(2), **Sch. 4**

## 18 Improvements as to premises of educational establishments for the safety of pupils.

(1) Subject to the provisions of this section, an education authority may for the purpose of reducing the risk of accident to pupils going to or returning from schools or other educational establishments in their area and under their management, or while actually present at such schools or establishments, do work to improve the safety of any private road which is used by these pupils or which is in the vicinity of such a school or establishment, and provide or arrange for the provision of safety barriers at or near the entrances to such schools and establishments.

(2) Any work for the purpose of subsection (1) above may be undertaken by the education authority in co-operation with any other person.

(3) For the purpose of subsection (1) above an education authority may enter on and carry out work on any land:

Provided that where an education authority propose to carry out any such work on land which is in possession of another person, the authority shall obtain the consent of the owner and of the occupier of such land, unless the owner or the occupier cannot be found.

(4) Where an education authority propose to provide or arrange for the provision of safety barriers for the purpose of subsection (1) above on any road, the authority shall—

- (a) if it is a public road, obtain the consent of the authority responsible for the maintenance of such road;
- (b) if it is a private road, consult the authority responsible for the maintenance of public roads in the area in which that private road is situated.

[<sup>F68</sup>(5) In this section “road”, “public road” and “private road” have the meanings ascribed to them by section 151(1) of the Roads (Scotland) Act 1984.]

*Status: Point in time view as at 05/10/2005.*

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### Textual Amendments

**F68** S. 18(5) substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 80**

## 19 Power of Secretary of State to prescribe standards for premises, etc., of educational establishments.

(1) The Secretary of State may make regulations prescribing standards and <sup>F69</sup> . . . requirements which are to apply to the premises and equipment of educational establishments under the management of education authorities <sup>F70</sup> . . . , and regulations under this subsection may prescribe different standards or requirements in respect of such different classes (however defined) of educational establishment as may be specified in the regulations.

(2) It shall be the duty

[<sup>F71</sup>(a) of an education authority to secure that the premises and equipment of any educational establishment under their management conform to the standards and requirements applicable to that establishment][<sup>F72</sup>;

(b) of the board of management of a self-governing school to secure that the premises and equipment of the school conform to the standards and requirements applicable to that school]

and, in particular, that the premises and equipment of all educational establishments under their management <sup>F73</sup> . . . are maintained in such a condition as to conduce to the good health and safety of all persons occupying or frequenting the premises or using the equipment.

(3) Where the premises or equipment of any educational establishment under the management of an education authority <sup>F74</sup> . . . , do not conform to the standards or requirements applicable to that establishment <sup>F74</sup> . . . or are not maintained as mentioned in subsection (2) above, the Secretary of State may, after consultation with the authority <sup>F74</sup> . . . , direct that the premises or equipment be brought into conformity with the said standards or requirements or into the state of maintenance mentioned in that subsection (as the case may be) within a period to be specified in the direction; and it shall thereupon be the duty of [<sup>F75</sup>that authority <sup>F74</sup> . . .] to comply with the direction.

### Textual Amendments

**F69** Word in s. 19(1) repealed (18.9.1996) by 1996 c. 43, s. 36, **Sch. 6**; S.I. 1996/2250, **art. 2**.

**F70** Words in s. 19(1) repealed (31.12.2004) by Standards in Scotland's Schools etc. Act 2000 (asp 6), s. 61(2), **sch. 3**; S.S.I. 2004/528, **art. 2(b)**

**F71** Words from “of an education authority” to “that establishment” have become paragraph (a) of s. 19(2) by virtue of Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(6)(b)(i)**

**F72** Words inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(6)(b)(ii)**

**F73** Words in s. 19(2)(b) repealed (31.12.2004) by Standards in Scotland's Schools etc. Act 2000 (asp 6), s. 61(2), **sch. 3**; S.S.I. 2004/528, **art. 2(b)**

**F74** Words in s. 19(3) repealed (31.12.2004) by Standards in Scotland's Schools etc. Act 2000 (asp 6), s. 61(2), **sch. 3**; S.S.I. 2004/528, **art. 2(b)**



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**F75** Words substituted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(6)(c)(iv)**

**[<sup>F76</sup>19A Secretary of State’s power to control use of dangerous materials or apparatus in educational establishments.**

- (1) The Secretary of State may by regulations make provision for requiring his approval to be obtained for the use in such educational establishments as may be specified in the regulations of such materials or apparatus as may be so specified, being materials or apparatus which could or might involve a serious risk to health.
- (2) The power referred to in subsection (1) above includes power to make different provision in respect of different educational establishments.]

**Textual Amendments**

**F76** S. 19A inserted by Education (Amendment) (Scotland) Act 1984 (c. 6, SIF 41:2), s. 1

**20 Acquisition of land and execution of works.**

- (1) In order to enable them to execute any of their functions, an education authority may <sup>F77</sup> . . . from time to time—
  - (a) acquire, whether by way of purchase, <sup>F78</sup>... lease, excambion or donation, any land whether situated within or outwith the area of the authority;
  - (b) erect and furnish buildings or execute any other works on any land belonging to them, or on land leased by them;
  - (c) convert, alter, enlarge or improve any existing building or other works belonging to the authority or leased by them;

Provided always that paragraphs (b) and (c) above shall not of themselves authorise the authority to do anything contrary to the conditions contained in the title to or lease of any such land, buildings or other works.

<sup>F79</sup>(2) . . . . .

<sup>F79</sup>(3) . . . . .

- (4) For the purpose of the acquisition of land by an education authority under this Act, the Land Clauses Acts, except in so far as they relate to the purchase and taking of land otherwise than by agreement, shall be incorporated with this Act.
- (5) An education authority may be authorised by the Secretary of State to purchase land compulsorily for the purposes of this Act, and the <sup>M4</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to any such compulsory purchase as if this Act had been in force immediately before the commencement of that Act.
- (6) In this section, and in the Lands Clauses Acts as hereby incorporated, “land” includes water and any right or servitude in or over land or water.

**Textual Amendments**

**F77** Words in s. 20(1) repealed (18.9.1996) by 1996 c. 43, s. 36, **Sch. 6; S.I. 1996/2250, art. 2.**

*Status: Point in time view as at 05/10/2005.*

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- F78** Word in s. 20(1)(a) repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 41(3), **sch. 13 pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F79** S. 20(2)(3) repealed (18.9.1996) by [1996 c. 43](#), s. 36, **Sch. 6**; S.I. 1996/2250, **art. 2**.

#### Marginal Citations

- M4** [1947 c. 42](#).

### *Management of denominational schools*

#### **21 Management of denominational schools.**

(1) Any school transferred to an education authority under section 16(1) of this Act shall be held, maintained and managed by the education authority as a public school.

(2) [<sup>F80</sup>Subject to subsections (2A) and (2C) below,] in any such school the education authority shall have the sole power of regulating the curriculum and of appointing teachers:

[<sup>F81</sup>(2A) A teacher appointed to any post on] the staff of any such school by the education authority shall. . . <sup>F82</sup>satisfy the Secretary of State as to qualification, and [<sup>F83</sup>shall be required to be] approved as regards [<sup>F84</sup>his] religious belief and character by representatives of the church or denominational body in whose interest the school has been conducted;

[<sup>F85</sup>(2B) Where the said representatives of a church or denominational body refuse to give the approval mentioned in subsection (2A) above they shall state their reasons for such refusal in writing.

(2C)] subject to the provisions of section 9 of this Act, the time set apart for religious instruction or observance in any such school shall not be less than that so set apart according to the use and wont of the former management of the school.

(3) For each such school the education authority shall appoint as supervisor of religious instruction, without remuneration, a person approved as regards religious belief and character as aforesaid, and the supervisor so appointed shall report to the education authority as to the efficiency of the religious instruction given in such school, and shall be entitled to enter the school at all times set apart for religious instruction or observance.

(4) In every such school the education authority shall give facilities for the holding of religious examinations.

(5) Subsections (1) to (4) above, so far as applicable, shall have effect in relation to any school provided by an education authority under section 17(2) of this Act as they have effect in relation to schools transferred to an education authority as mentioned in subsection (1) above, subject to the modification that the time set apart for religious instruction in any school so provided shall be not less than that so set apart in schools in the same education area which have been transferred as mentioned in subsection (1) above.

(6) Any question which may arise as to the due fulfilment or observance of any provision or requirement of the foregoing provisions of this section shall be determined by the Secretary of State.

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(7) In this section, the reference to section 16(1) or 17(2) of this Act shall include a reference to the corresponding provision of the Act of 1918, the Act of 1946 and the Act of 1962.

**Textual Amendments**

- F80** Words inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(7)(a)**
- F81** Words substituted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(7)(b)**
- F82** Words repealed by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1)(2), Sch. 10 para. 8(7)(c), **Sch. 11**
- F83** Words substituted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(7)(d)**
- F84** Word substituted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(7)(e)**
- F85** Words substituted for by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(7)(f)**

**Modifications etc. (not altering text)**

- C3** Ss. 21(2)–(4)(6) applied (with modifications) by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), **s. 12**

*Discontinuance and moves of educational establishments*

**22 Discontinuance and moves of educational establishments.**

- (1) Subject to any special conditions attaching thereto . . . <sup>F86</sup>, an education authority may—
- (a) sell, <sup>F87</sup> . . . excamb or let any land vested in them; and
  - (b) . . . . . <sup>F86</sup>
- (2) Where an education authority propose to discontinue any educational establishment under their management, or to discontinue the use, in connection with such an educational establishment, of any part of that establishment, or of any building or part of a building ancillary to the establishment, and land forming the site, or part of the site, of that establishment or of that part of the establishment or of that building or part of a building, as the case may be, is subject to—
- (a) the third proviso to section 2 of the <sup>M5</sup>School Sites Act 1841 (which provides that, if any land granted in accordance with the provisions of that section ceases to be used for the purposes mentioned in that Act, that land shall revert to the grantor), or
  - (b) any condition of a similar nature in any Act, deed or other instrument,
- the Secretary of State, on the application in that behalf of the education authority, may by order direct that the said proviso or condition shall not have effect in relation to that land:

Provided that such a direction shall not be given in relation to any land unless the Secretary of State is satisfied either—

- (i) that the person to whom the land would revert in accordance with the said proviso or condition cannot after due inquiry be found, or

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- (ii) that, if that person can be found, he has consented to relinquish his rights in relation to the land under the said proviso or condition, and that, if he has consented to do so in consideration of the payment of a sum of money to him, adequate provision can be made for the payment to him of that sum.
- (3) A direction given by the Secretary of State under subsection (2) above in relation to any land may make provision for the payment out of the proceeds of any sale of that land of any sum which is payable to any person in consideration of the relinquishment of his rights in relation to the land under the said proviso or condition.
- (4) If at any time after the expiry of ten years from the transfer of a school under section 16 of this Act, or from the provision of a new school under section 17(2) of this Act, the education authority by whom the school is maintained are of opinion that the school is no longer required, or that, having regard to the religious belief of the parents of the children attending the school, the conditions prescribed in subsections (1) to (4) of section 21 of this Act or in the said subsections so far as applicable and having effect by virtue of subsection (5) of that section, as the case may be, ought no longer to apply thereto, . . . <sup>F86</sup> it shall [<sup>F88</sup>subject to sections 22A, 22B, 22C and 22D of this Act] be lawful for the education authority thereafter to discontinue the school, or, as the case may be, to hold, maintain and manage the same in all respects as a public school not subject to those conditions:

Provided that—

- (i) in the case of any school which has been transferred as aforesaid to an education authority, that authority shall in either of those events make to the trustees by whom the school was transferred, or to their successors in office or representatives, such compensation (if any) in respect of the school or other property so transferred as may be agreed, or as may be determined, failing agreement, by an arbiter appointed by the Secretary of State upon the application of either party; and
- (ii) if before the expiry of ten years from the transfer of any such school, the education authority are of opinion as aforesaid and so represent, and the trustees by whom the school was transferred, or their successors in office or representatives, formally intimate to the [<sup>F89</sup>authority] that they concur with the authority in their opinion as represented, then in such case, . . . <sup>F86</sup>, it shall [<sup>F90</sup>subject to sections 22A, 22B, 22C and 22D of this Act] be lawful for the education authority forthwith to discontinue or to hold, maintain or manage the school as aforesaid, subject to the like provision with respect to compensation.
- (5) In subsection (4) above, the reference to section 16 or 17(2) of this Act shall include a reference to the corresponding provision of the Act of 1918, the Act of 1946 and the Act of 1962.

#### Textual Amendments

- F86** Words repealed by [Education \(Scotland\) Act 1981 \(c. 58\)](#), [Sch. 9](#)
- F87** Word in s. 22(1)(a) repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 41(3), [sch. 13 pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F88** Words inserted by [Education \(Scotland\) Act 1981 \(c. 58\)](#), [s. 7\(2\)\(a\)\(ii\)](#)
- F89** Word substituted by [Education \(Scotland\) Act 1981 \(c. 58\)](#), s. 7(2)(b)(i), [Sch. 8](#)
- F90** Words inserted by [Education \(Scotland\) Act 1981 \(c. 58\)](#), [s. 7\(2\)\(b\)\(iii\)](#)

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#### Marginal Citations

M5 1841 c. 38.

### *Consultation on, and consent for, changes in certain educational matters*

#### [<sup>F91</sup>22A Consultation on certain changes in educational matters.

- (1) Where an education authority make a proposal of a prescribed kind, they shall, in such manner as may be prescribed, publish it or otherwise make it available and consult such persons as may be prescribed and shall not reach a decision on it without having regard to any representations made to them on it by those persons.
- (2) In this section “prescribed” means prescribed for the purposes of this section by the Secretary of State by regulations and in so prescribing kinds of proposals the Secretary of State shall include proposals to discontinue or change the site of any school under the management of an education authority.]

#### Textual Amendments

F91 Ss. 22A–22D inserted by [Education \(Scotland\) Act 1981 \(c. 58\), s. 6](#)

#### Modifications etc. (not altering text)

C4 S. 22A(1) extended by [Education \(Scotland\) Act 1981 \(c. 58\), Sch. 8 para. 5](#)

#### 22B Consent for certain changes in educational matters.

- (1) An education authority shall submit to the Secretary of State for his consent any proposal of theirs of a prescribed kind and shall not implement such a proposal without his consent.
- (2) In this section “prescribed” means prescribed for the purposes of this section by the Secretary of State by regulations and the Secretary of State may prescribe different kinds of proposals in relation to different education authorities.

#### 22C Consent for certain changes affecting denominational schools.

- (1) An education authority shall submit to the Secretary of State for his consent any proposal of theirs to which this section applies and shall not implement such a proposal without his consent.
- (2) A proposal to which this section applies is one which—
  - (a) relates to a school transferred to an education authority under section 16(1) or provided by them under section 17(2) of this Act; and
  - (b) will, if implemented, have the effect that all or some of the pupils who attend the school will no longer receive school education in a school of the kind referred to in paragraph (a) above or that all or some of the children who would, but for the implementation of the proposal, have been likely to attend it will not be likely to receive such education in a school of that kind.
- (3) The Secretary of State shall not grant consent under this section unless he is satisfied that adequate arrangements have been made for the religious instruction of pupils and

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children who would, as a result of implementation of the proposal, no longer receive or be likely to receive school education in a school of the kind referred to in paragraph (a) of subsection (2) above.

(4) In granting consent under this section the Secretary of State may impose such conditions as he thinks fit with regard to the religious instruction of the pupils and children referred to in paragraph (b) of subsection (2) above and to related matters and conditions imposed by the Secretary of State under this section may be revoked or amended by him at any time.

(5) Any question which may arise—

- (a) whether a proposal is one to which this section applies;
- (b) as to the implementation of a proposal to which the Secretary of State has consented under this section;
- (c) as to the fulfilment or observation of any conditions upon his consent imposed under subsection (4) above

shall be determined by the Secretary of State and the education authority shall perform their duties under this Act in accordance with any such determination.

(6) In this section, the reference to section 16(1) or 17(2) of this Act shall include a reference to the corresponding provision of the Act of 1918, the Act of 1946 and the Act of 1962.

## **22D Further provisions relating to denominational schools.**

(1) An education authority shall submit to the Secretary of State for his consent any proposal of theirs to which this section applies and shall not implement such a proposal without his consent.

(2) A proposal to which this section applies is one—

(a) which relates to a school transferred to [F92]an] education authority under section 16(1) or provided by them under section 17(2) of this Act;

(b) to—

- (i) discontinue the school or a part of it;
- (ii) amalgamate the school or a part of it with another school;
- (iii) change the site of the school;
- (iv) change the arrangements for admission to the school; or
- (v) disapply to the school the conditions prescribed in subsections (1) to (4) of section 21 of this Act or in the said subsections so far as applicable and having effect by virtue of subsection (5) of that section; and

(c) in relation to which the Secretary of State, having consulted [F93]any education authority affected by it], is satisfied, upon written representations made, in the case of any church or denominational body in whose interest the school is conducted other than the Roman Catholic Church, by a person authorised for that purpose by that church or denominational body and, in the case of the Roman Catholic Church, by the Scottish Hierarchy of that Church, that—

- (i) if implemented, it will have [F94]any of the results] specified in subsection (3) below; and
- (ii) the education authority [F95]submitting the proposal under subsection (1) above]and the church, denominational body or

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Hierarchy, as the case may be, have, after discussion, failed to reach agreement that it should be implemented.

[<sup>F96</sup>(3) The results referred to in subsection (2)(c)(i) above are—

- (a) a significant deterioration for pupils belonging to the area of the education authority submitting the proposal under subsection (1) above; or
- (b) a significant deterioration for pupils belonging to the area of any other education authority; or
- (c) where neither paragraph (a) nor paragraph (b) above applies, such a deterioration for pupils as mentioned in the said paragraph (a) and pupils belonging to the area of another education authority as, taken together, amounts to a significant deterioration,

in the provision, distribution or availability of school education in schools of the kind referred to in subsection (2)(a) above compared with such provision, distribution or availability in other public schools.]

(5) The Secretary of State shall not grant consent under this section in relation to a school unless he is satisfied that adequate arrangements have been made for the religious instruction of the children who will no longer receive or be likely to receive school education in a school of the kind referred to in subsection (2)(a) above.

(6) In granting consent under this section in relation to a school the Secretary of State may impose such conditions as he thinks fit with regard to the religious instruction of the children who will no longer receive or be likely to receive school education in a school of the kind referred to in subsection (2)(a) above and to related matters and, in doing so, he shall have regard to the duties imposed by section 21 of this Act on education authorities in relation to schools of that kind, and conditions imposed by the Secretary of State under this section may be revoked or amended by him at any time.

(7) Any question which may arise—

- (a) whether a proposal is one to which this section applies;
- (b) as to the implementation of a proposal to which the Secretary of State has consented under this section;
- (c) as to the fulfilment or observation of any conditions upon his consent imposed under subsection (6) above

shall be determined by the Secretary of State and the education authority shall perform their duties under this Act in accordance with any such determination.

(8) In this section the reference to section 16(1) or 17(2) of this Act shall include a reference to the corresponding provision of the Act of 1918, the Act of 1946 and the Act of 1962.

#### Textual Amendments

**F92** Word in s. 22D(2)(a) substituted (1.4.1996) by 1994 c. 39, s. 144(a); S.I. 1996/323, art. 4(1)(a), **Sch. 1**.

**F93** Words in s. 22D(2)(c) substituted (1.4.1996) by 1994 c. 39, s. 144(b)(i); S.I. 1996/323, art. 4(1)(a), **Sch. 1**.

**F94** Words in s. 22D(2)(c)(i) substituted (1.4.1996) by 1994 c. 39, s. 144(b)(ii); S.I. 1996/323, art. 4(1)(a), **Sch. 1**.

**F95** Words in s. 22D(2)(c)(ii) inserted (1.4.1996) by 1994 c. 39, s. 144(b)(iii); S.I. 1996/323, art. 4(1)(a), **Sch. 1**.



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**F96** S. 22D(3) substituted for s. 22D(3)(4) (1.4.1996) by 1994 c. 39, s. 144(c); S.I. 1996/323, art. 4(1)(a), Sch. 1.

*Co-operation between education authorities and others*

**23 Provision by education authority for education of pupils belonging to areas of other authorities.**

(1) An education authority shall have power to provide in or in connection with any public school, . . . <sup>F97</sup> or other educational establishment under their management, school education or further education and other services under this Act for any pupil belonging to the area of some other education authority [<sup>F98</sup>or of a local education authority in England and Wales].

[<sup>F99</sup>(1A) Without prejudice to any other provision of this Act, for the purposes of their duty under section 1 of this Act an education authority shall have power to make arrangements with another education authority (in this subsection referred to as a “provider authority”) for the provision of school education or further education for any pupils belonging to the area of the authority in a school or educational establishment under the management of the provider authority.

(1B) Arrangements made under this Act by an education authority for the placing of children in schools may include provision to give effect to any arrangements made under subsection (1A) above.

(1C) Where the arrangements for the placing of children in schools subsisting before the establishment of new local government areas under Part I of the Local Government etc. (Scotland) Act 1994 lead, as a consequence of such establishment, to school education for pupils belonging to the area of one education authority being provided at schools or educational establishments under the management of another education authority, nothing in this Act shall prevent such arrangements from continuing until they are changed by an education authority in accordance with this Act.]

(2) Where an education authority. . . <sup>F100</sup> have provided school education with or without other services for any pupil belonging to the area of some other authority, the education authority. . . <sup>F100</sup>, may, if a claim therefor is made within the prescribed period, recover from that other authority such contributions in respect of such provision as may be agreed by the authorities concerned. . . <sup>F100</sup> or, in default of such agreement, as may be determined by the Secretary of State, who shall have regard to the estimated cost of such provision:

. . . <sup>F101</sup>

(3) The Secretary of State may make regulations prescribing the areas to which particular classes of pupils receiving school education are to be deemed to belong for the purposes of this section [<sup>F102</sup>and sections 1(5)(c) and (d), 28A(1) (as it has effect under Schedule A2 to this Act), 50, 51 and 60 to 65F of this Act] and any such pupil to whom the regulations apply shall be deemed to belong to the area determined in accordance with the regulations. Any other pupil receiving school education shall, for the aforesaid purposes, be deemed to belong to the area in which his parent is ordinarily resident, and any pupil receiving further education shall be deemed to belong to the area in which he himself is ordinarily resident:

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Provided that any pupil who becomes ordinarily resident in any area wholly or mainly for the purposes of attending an educational establishment providing further education shall be deemed to belong not to that area but to any area to which he was deemed to belong immediately before he became so resident.

[<sup>F103</sup>(3A) Where an education authority's arrangements for the placing of children in schools under their management give any priority to siblings of pupils attending such schools, those arrangements shall not discriminate between siblings belonging to the area of that education authority and siblings belonging to the area of another education authority.]

(4) Where on 1st January 1947 or at any subsequent date it was or is the practice of an education authority or of the managers of a school situated in the area of that authority to provide school education for pupils belonging to the area of another education authority, then whether contributions have been recovered under section 24(2) of the Act of 1946, section 24(2) of the Act of 1962 or this section or not, they shall not be entitled to discontinue such practice except after giving such notice as the Secretary of State may, in the event of a dispute, consider reasonable.

(5) ..... <sup>F104</sup>

#### Textual Amendments

**F97** Words repealed by [Self-Governing Schools etc. \(Scotland\) Act 1989 \(c. 39, SIF 41:2\)](#), s. 82(2), [Sch. 11](#)

**F98** Words inserted by [Education \(Scotland\) Act 1981 \(c. 58\)](#), [Sch. 7 para. 5](#)

**F99** S. 23(1A)-(1C) inserted (1.4.1996) by 1994 c. 39, s. [32\(2\)](#) (with s. 7(2)); S.I. 1996/323, art. 4(1)(a), [Sch. 1](#).

**F100** Words repealed by [Education \(Scotland\) Act 1981 \(c. 58\)](#), [Sch. 9](#)

**F101** Proviso repealed by [Education \(Scotland\) Act 1981 \(c. 58\)](#), [Sch. 9](#)

**F102** Words inserted by [Education \(Scotland\) Act 1981 \(c. 58\)](#), [Sch. 7 para. 6](#)

**F103** S. 23(3A) inserted (1.4.1996) by 1994 c. 39, s. [32\(3\)](#) (with s. 7(2)); S.I. 1996/323, art. 4(1)(a), [Sch. 1](#).

**F104** S. 23(5)-(7) repealed by [Education \(No. 2\) Act 1986 \(c. 61, SIF 41:1\)](#), s. 67(6), [Sch. 6 Pt. I](#)

#### Modifications etc. (not altering text)

**C5** S. 23 amended by [Self-Governing Schools etc. \(Scotland\) Act 1989 \(c. 39, SIF 41:2\)](#), s. [29\(1\)](#)

## 24 Power of education authorities to make payments to persons providing education, etc.

(1) An education authority may, for the purpose of promoting education generally, or of improving the facilities for education available, or the education provided, for their area in particular, make payments—

- (a) to another education authority,
- (b) to a university, or to the managers of a hostel or other residence used by students attending a university,
- (c) to the managers of any school (other than a public school),
- (d) to the managers of any educational establishment (other than a school),
- (e) to any other person providing education or educational services,
- (f) to any person to assist the carrying out of educational research,

and any such payment may be made either unconditionally or subject to such conditions as may be agreed between the parties.

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(2) Where—

- (a) it is agreed between an education authority and the managers of any educational establishment, as a condition of the making of payments under subsection (1) above, that the authority shall have representation or additional representation on the governing body of that establishment, but
- (b) the provisions of any trust deed or other instrument relating to the establishment will not, unless they are modified, permit provision to be made for such representation or additional representation as aforesaid,

the Secretary of State may, on being requested to do so by the managers of the establishment, by order make such modifications in the provisions of that trust deed or other instrument as may be necessary to enable provision to be made for such representation or additional representation, as the case may be, as aforesaid, and any such trust deed or other instrument shall, so long as the said payments continue to be made, have effect subject to any modifications so made.

*Promotion of educational developments*

**25 Educational research.**

An education authority may 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 education provided for their area.

**26 Educational conferences.**

An education authority may arrange or organise, or participate in the arrangement or organisation of, conferences or meetings 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 or meetings for the discussion of such questions, including the expenses of any person authorised by them to attend any such conference or meeting.

**27 Provision of museums by education authorities.**

(1) An education authority may provide and maintain museums within their area, and shall have power—

- (a) to acquire any objects which, in their opinion, it is desirable to include in a collection contained in a museum maintained by them under this section;
- (b) to lend any object vested in them and comprised in any such collection, on such terms and conditions as they think fit, to any person for any purpose;
- (c) subject to subsection (3) below, to transfer any object vested in them and comprised in any such collection to the governing body of a museum maintained by a person other than the education authority, for the purpose of being included in a collection contained in that museum;
- (d) subject to subsection (3) below, to sell, exchange, give away or otherwise dispose of any object vested in them and comprised in a collection contained in a museum maintained by them under this section, if for any reason that object is not, in their opinion, required for retention in any such collection;
- (e) to co-operate with any other education authority or any other body;

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- (f) generally to do all such things as they may consider necessary or expedient for or in connection with the provision and maintenance of museums under this section.
- (2) An education authority may, if they think fit, make such charge as they consider reasonable for admission to a museum maintained by them under this section, and in determining whether, and in what manner, to exercise their powers under this subsection in relation to any museum, an authority shall take into account the need to secure that the museum plays its full part in the promotion of education in their area, and shall have particular regard to the interests of children and students.
- (3) Where an object has become vested in an education authority subject to any trust or condition—
- (a) that object shall, on being transferred under subsection (1)(c) above, be subject to the like trust or condition in the hands of the transferee;
  - (b) the powers conferred by subsection (1) (d) above shall not be exercisable in relation to that object in a manner inconsistent with that trust or condition.

**Status:**

Point in time view as at 05/10/2005.

**Changes to legislation:**

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