



Education (Scotland) Act 1980

1980 CHAPTER 44

PART VII **S**

MISCELLANEOUS PROVISIONS

General

135 Interpretation. **S**

(1) In this Act, unless the context otherwise requires,—

“the ^{M1}Act of 1882” means the Educational Endowments (Scotland) Act 1882;

“the ^{M2}Act of 1918” means the Education (Scotland) Act 1918;

“the Acts of 1928 to 1935” means the Educational Endowments (Scotland) Acts 1928 to 1935;

“the Act of 1937” means the ^{M3}Children and Young Persons (Scotland) Act 1937;

“the ^{M4}Act of 1946” means the Education (Scotland) Act 1946;

“the ^{M5}Act of 1962” means the Education (Scotland) Act 1962;

“attendance order” has the meaning assigned to it by section 38 of this Act;

[^{F1}“board of management”, in relation to a self-governing school means a board incorporated under section 19(2) of the Self-Governing Schools etc. (Scotland) Act 1989;]

“central institution” means an educational establishment for the provision of further education recognised as a central institution by regulations made by the Secretary of State;

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

“clothing” includes boots and other footwear;

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...

“dental examination” means examination by a registered dentist, so however that in conducting an examination of any such class as may be

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prescribed, such dentist may be assisted by other persons having such special qualifications or experience as may be prescribed;

“dental inspection” and “dental supervision” mean, respectively, inspection and supervision by a registered dentist;

“dental treatment” includes prevention and treatment of dental diseases by or (so far as permitted by law) under the direction of any registered dentist, and the supply of appliances on the recommendation of such dentist, but does not, in relation to any pupil other than a pupil receiving school education elsewhere than at a school under arrangements made by an education authority under section 14 of this Act, include treatment in that pupil’s home;

“education authority” means a regional or islands council, and “area” in relation to an education authority shall be construed accordingly;

“educational establishment”—

- (i) means a school ^{F3} and any ^{F4} institution for the provision of any form of further education and the premises of such school, ^{F3} or institution, and
- (ii) without prejudice to the foregoing generality, includes [^{F5}a designated institution within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992,] a central institution, ^{F6}. . . a hostel used mainly by pupils attending such schools ^{F3} or institutions, and a residential institution conducted under a scheme under the Acts of 1928 to 1935, Part VI of the Act of 1946, Part VI of the Act of 1962 or Part VI of this Act, but
- (iii) does not include a university, a theological college, a hostel or other residence used exclusively by students attending a university or a theological college, or a club or other centre conducted by a voluntary society or body for the purpose of providing facilities for social, cultural or recreative activities or for physical education or training unless the society or body are in receipt of a grant from the Secretary of State or of a contribution from an education authority or have obtained the consent of the Secretary of State to the club or centre being treated in all respects as an educational establishment;

“employment” includes employment in any labour exercised by way of trade or for purposes of gain whether the gain be to the child or to the young person or to any other person, and a person who assists in a trade or occupation carried on for profit shall be deemed to be employed notwithstanding that he receives no reward for his labour; and “employ” shall be construed accordingly;

“employer” includes a parent who employs his children;

“enactment” includes an order, regulation, rule or other instrument having effect by virtue of an Act;

“functions” includes powers and duties;

“further education” includes the forms of instruction, occupation and teaching described in section 1(5)(b) of this Act;

“grant-aided school” means a school in respect of which grants are made by the Secretary of State to the managers of the school other than [^{F7}(a)] grants in aid of the employers’ contributions provided for in Teachers (Superannuation) Regulations, [^{F8}and (b) sums paid under a scheme under section 75A of this Act, or by virtue of section 75B of this Act,] but does not include a public school [^{F9}, a self-governing school or a technology academy (within the meaning of the Self-Governing Schools etc. (Scotland) Act 1989)];

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“Health Board” means a Health Board constituted under section 2 of the ^{M6}National Health Service (Scotland) Act 1978;

“independent school” means a school at which full-time education is provided for five or more pupils of school age (whether or not such education is also provided for pupils under or over that age), not being a public school [^{F10}, a grant-aided school or a self-governing school];

“Her Majesty’s inspectors” means the inspectors of schools appointed by Her Majesty on the recommendation of the Secretary of State;

^{F11}“managers”, in relation to an educational establishment, means the governing body, trustees, or other person or body of persons responsible for the management of the establishment but does not include an education authority;

“medical examination” means examination by a registered medical practitioner: Provided that in conducting an examination of any such class as may be prescribed, such practitioner may be assisted by other persons having such special qualifications or experience as may be prescribed;

“medical inspection” and “medical supervision” mean, respectively, inspection and supervision by or under the directions of a registered medical practitioner;

“medical treatment” includes prevention and treatment of diseases by any registered medical practitioner, and the supply of appliances on the recommendation of such practitioner, but does not, in relation to any pupil other than a pupil receiving school education elsewhere than at school under arrangements made by an education authority under section 14 of this Act, include treatment in that pupil’s home;

“nursery school” and “nursery class” have the respective meanings assigned to them by section 1(5)(a)(i) of this Act;

“officers” includes servants;

“parent” includes guardian and any person who is liable to maintain or has the actual custody of a child or young person;

[^{F12}“placing request” has the meaning assigned to it by section 28A(1) of this Act;]

“premises” in relation to any educational establishment includes the site of such establishment, any building in which pupils attending such establishments are boarded whether managed by the managers of such establishment or by any other person by arrangement with such managers, and any playing fields used in connection with such establishment whether contiguous to or detached therefrom;

“prescribed” means prescribed by the Secretary of State;

“proprietor” in relation to an independent school means the managers of such 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 the managers;

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

“psychological examination” means an examination by an educational or clinical psychologist appointed by an education authority for the purpose;

“public school” means any school under the management of an education authority;

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“pupil”, where used without qualification, means a person of any age for whom education is or is required to be provided under this Act; and a pupil shall be deemed to be attending or in attendance at a school if he is shown by the register of admission and withdrawal kept at the school in accordance with regulations made under this Act, or by any other register approved by the Secretary of State and kept for a similar purpose, to have been admitted to, but not to have been withdrawn from, or to have been readmitted to, and not thereafter to have been withdrawn from, the school; and similar expressions, whether relating to schools or to other educational establishments, shall be similarly interpreted;

[^{F13}“Record”, and “recorded” and other cognate expressions have the same respective meanings as in section 60 of this Act;]

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

“registered teacher” means a teacher registered under the ^{M7}Teaching Council (Scotland) Act 1965;

“reporter of the appropriate local authority” means the reporter of the appropriate local authority for the purposes of the ^{M8}Social Work (Scotland) Act 1968;

“residential establishment” has the same meaning as in the ^{M9}Social Work (Scotland) Act 1968;

“school” means an institution for the provision of primary or secondary education or both primary and secondary education being a public school, a grant-aided school [^{F14}, a self-governing school] or an independent school, and includes a nursery school and a special school; and the expression “school” where used without qualification includes any such school or all such schools as the context may require ^{F15};

“school age” shall be construed in accordance with section 31 of this Act;

[^{F16}“school board” has the meaning assigned to it by section 1 of the School Boards (Scotland) Act 1988;]

“school education” has the meaning assigned to it by section 1(5)(a) of this Act;

[^{F17}“self-governing school” has the meaning given by section 1(3) of the Self-Governing Schools etc. (Scotland) Act 1989;]

[^{F18}“special educational needs” has the meaning assigned to it by section 1(5)(d) of this Act;]

[^{F19F20}“special school” means a school making provision wholly or mainly for recorded children, and includes special classes forming part of primary schools or secondary schools and child guidance clinics;]

[^{F12}“specified school” has the meaning assigned to it by section 28A(1) and (2) of this Act;]

“supervision requirement” has the same meaning as in the ^{M10}Social Work (Scotland) Act 1968;

“teachers’ superannuation regulations” means regulations made under section 9 of the ^{M11}Superannuation Act 1972;

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

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- (2) Any reference in any enactment or other instrument (including this Act and, unless the contrary intention appears, any enactment or other instrument passed or made after the commencement of this Act) to—
- (a) primary education shall be construed as a reference to school education of a kind [^{F21}(i)] which is appropriate in the ordinary case to the requirements of pupils who have not attained the age of twelve years; [^{F22}; and (ii) which is, in the case of a pupil with special educational needs, within the provision made for the purpose of meeting his special educational needs until he is transferred to the stage of secondary education;]
 - (b) secondary education shall be construed as a reference to school education of a kind [^{F23}(i)] which is appropriate in the ordinary case to the requirements of pupils who have attained that age; [^{F24}; and (ii) which is, in the case of a pupil with special educational needs, within the provision made for the purpose of meeting his special educational needs until he ceases to be of school age or to receive school education, whichever is the later.]
- and any reference in any such enactment or other instrument as aforesaid to primary or secondary schools or departments or classes shall be construed accordingly.

Textual Amendments

- F1** Definition inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(22)(a)**
- F2** In s. 135(1) definition of 'college of education' 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**
- F3** Words repealed by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(2), **Sch. 11**
- F4** Word repealed by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(2), **Sch. 11**
- F5** In s. 135(1) words in definition of 'educational establishment' inserted (16.5.1992) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(2), **Sch. 9 para. 7(7)**; S.I. 1992/817, art. 3(2), **Sch.1**
- F6** In s. 135(1) words in definition of 'educational establishment' 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**
- F7** “(a)” inserted by Education (Scotland) Act 1981 (c. 58), s. 5(2)(a)
- F8** Words inserted by Education (Scotland) Act 1981 (c. 58), s. 5(2)(b)
- F9** Words inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(22)(b)**
- F10** Words substituted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(22)(c)**
- F11** Definition repealed by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(2), **Sch. 11**
- F12** Definition inserted by Education (Scotland) Act 1981 (c. 58), s. 1(4)
- F13** Definition inserted by Education (Scotland) Act 1981 (c. 58), Sch. 2 Pt. II para. 8, **Sch. 8**
- F14** Words inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(22)(d)**
- F15** Words repealed by Registered Establishments (Scotland) Act 1987 (c. 40, SIF 81:3), s. 2(2)
- F16** Definition inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(22)(e)**
- F17** Definition inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(22)(f)**
- F18** Definition inserted by Education (Scotland) Act 1981 (c. 58), Sch. 2 Pt. I para. 4(a)(ii), **Sch. 8**
- F19** Definition substituted by Education (Scotland) Act 1981 (c. 58), Sch. 2 Pt. I para. 4(a)(iii), **Sch. 8**
- F20** Definition repealed by Education (Scotland) Act 1981 (c. 58), **Sch. 9**

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- F21** “(i)” inserted by Education (Scotland) Act 1981 (c. 58), **Sch. 2 Pt. I para. 4(b)(i)**
- F22** Words inserted by Education (Scotland) Act 1981 (c. 58), Sch. 2 Pt. I para. 4(b)(ii), **Sch. 8**
- F23** “(i)” inserted by Education (Scotland) Act 1981 (c. 58), **Sch. 2 Pt. I para. 4(b)(iii)**
- F24** Words inserted by Education (Scotland) Act 1981 (c. 58), Sch. 2 Pt. I para. 4(b)(iv), **Sch. 8 para. 1**

Marginal Citations

- M1** 1882 c. 59.
- M2** 1918 c. 48.
- M3** 1937 (1 Edw. 8 & 1 Geo. 6 c. 37).
- M4** 1946 c. 72.
- M5** 1962 c. 47.
- M6** 1978 c. 29.
- M7** 1965 c. 19.
- M8** 1968 c. 49.
- M9** 1968 c. 49.
- M10** 1968 c. 49.
- M11** 1972 c. 11.

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