



Education Act 1944 (repealed 1.11.1996)

1944 CHAPTER 31 7 and 8 Geo 6

PART II

THE STATUTORY SYSTEM OF EDUCATION

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 [^{F1}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, . . . ^{F2}[^{F3}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)^{F4}
- [^{F5}(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.

[^{F6}(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

- F1** Words substituted by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\), s. 3\(2\)](#)
- F2** 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](#)
- F3** Words inserted by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\), s. 3\(3\)](#)
- F4** [S. 8\(2\)\(b\)](#) repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 38(6), [Sch. 7](#)
- F5** [S. 8\(2\)\(c\)](#) substituted by [Education Act 1981 \(c. 60, SIF 41:1\)](#), [s. 2\(1\)](#)
- F6** [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)

- C1** [S. 8](#) restricted by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\), s. 4\(2\)](#)
- C2** [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 . . .^{F7} 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.
- [^{F8}(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

- F7** Words repealed by virtue of [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 38(6), [Sch. 7](#)
- F8** [S. 9\(5\)](#) substituted by [Education Act 1981 \(c. 60, SIF 41:1\)](#), s. 11(1)

10 Requirements as to school premises.

- (1) The [^{F9}Secretary of State for Education and Science] shall make regulations prescribing the standards to which the premises of schools maintained by local education authorities [^{F10}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 [^{F11}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:
[^{F12}Provided that, if the [^{F9}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 [^{F13}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

- F9 Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**
- F10 Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 1(2)**
- F11 Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 1(3)**
- F12 S. 10(2) proviso substituted retrospectively by Education (Miscellaneous Provisions) Act 1948 (c. 40), **s. 7(1)(3)**
- F13 Words substituted by Education Act 1968 (c. 17), **s. 3(3)**

Modifications etc. (not altering text)

- C3 S. 10 applied (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I.**
- C4 S. 10 applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I.**

11, 12. ^{F14}

Textual Amendments

- F14 Ss. 11, 12 repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), **Sch. 7**

13 ^{F15}

Textual Amendments

- F15 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 . . . ^{F16} governors of a voluntary school shall not discontinue the school except after serving on the [^{F17}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: [^{F18}Provided that, except by leave of the [^{F17}Secretary of State for Education and Science], no such notice as aforesaid shall be served by the . . . ^{F16} governors of any voluntary school in respect of the premises of which expenditure has been incurred otherwise than in connection with repairs by the [^{F17}Secretary of State for Education and Science] or by any local education authority or former authority.

If the [^{F17}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 [^{F17}Secretary of State for Education and Science];
 - (b) where the [^{F17}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 . . . ^{F16} 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 . . . ^{F16} 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 . . . ^{F16} 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

F16 Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), [Sch. 1 para. 1](#)

F17 Words substituted by virtue of [S.I. 1964/490, art. 3\(2\)\(a\)](#)

F18 [S. 14\(1\)](#) proviso substituted retrospectively by [Education Act 1946 \(c. 50\)](#), s. 14(1), [Sch. 2 Pt. II](#)

Modifications etc. (not altering text)

C5 [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\(6\)](#)

C6 [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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- C7 S. 14 modified (1.4.1994) by 1993 c. 35, s. 115(6) (with s. 155(11)); S. I. 1994/507, art.3(1).
 C8 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 [^{F19}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 . . . ^{F20} or governors of the school will be able and willing, with the assistance of the maintenance contribution payable by the [^{F19}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 [^{F21}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 . . . ^{F20} 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 [^{F19}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 [^{F22}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 . . . ^{F20} 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 . . . ^{F20} 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 . . . ^{F20} governors of the school or any trustees thereof [^{F23}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 [^{F23}school buildings] not being repairs which are excluded from their responsibility by the following paragraph:

[^{F24}(b) the . . . ^{F20} 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 . . . ^{F20} 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 [^{F19}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 [^{F19}Secretary of State for Education and Science] shall revoke the order.
- (5) If at any time the [^{F19}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 [^{F19}Secretary of State for Education and Science] shall, upon application being made to him for that purpose by the . . . ^{F20} 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 . . . ^{F20} governors of the school will be able and willing, with the assistance of the maintenance contribution payable by the [^{F19}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) ^{F25}

Textual Amendments

- F19** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**
F20 Words repealed by [Education Act 1980](#) (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 1**
F21 Words inserted by [Education \(No.2\) Act 1986](#) (c. 61, SIF 41:1), s. 67(4), **Sch. 4 para. 1(a)**
F22 Words inserted by [Education \(No.2\) Act 1986](#) (c. 61, SIF 41:1), s. 67(4), **Sch. 4 para. 1(b)**
F23 Words substituted retrospectively by [Education Act 1946](#) (c. 50), ss. 4(2), 14(1), **Sch. 2 Pt. II**
F24 [S. 15\(3\)\(b\)](#) substituted retrospectively by [Education Act 1946](#) (c. 50), ss. 4(2), 14(1), **Sch. 2 Pt. II**
F25 [S. 15\(6\)](#) repealed by [Education Act 1946](#) (c. 50), **Sch. 2 Pt. II**

Modifications etc. (not altering text)

- C9** [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 [^{F26}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 [^{F26}Secretary of State for Education and Science] may by order authorise the transfer of the school to the new site; [^{F27}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 [F26Secretary of State for Education and Science] under [F28section 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 [F26Secretary 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 [F26Secretary 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 . . . F29 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 . . . F29 governors and may contain such incidental and consequential provisions as the [F26Secretary of State for Education and Science] thinks fit.

Textual Amendments

F26 Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)

F27 Words substituted by Education Act 1968 (c. 17), Sch. 1 para. 1

F28 Words substituted by Education Act 1980 (c. 20, SIF 41:1), s. 16(4), Sch. 3 para. 1

F29 Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), Sch. 1 para. 1

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