



Education (Scotland) Act 1945

1945 CHAPTER 37

PART I

PROVISION OF EDUCATION BY EDUCATION AUTHORITIES.

Primary, Secondary and Further Education.

1 Provision of educational facilities by education authorities.

- (1) It shall be the duty of every education authority to secure that adequate and efficient provision is made throughout their area of all forms of primary, secondary and further education (including the teaching of Gaelic in Gaelic-speaking areas).
- (2) " Primary education " means progressive elementary education in such subjects as may be prescribed in the code, regard being had to the age, ability and aptitude of the pupils concerned, and such education shall be given in primary schools or departments. Primary education includes training by appropriate methods in schools and classes (hereinafter referred to as " nursery schools " and " nursery classes ") for pupils between the age of two years and such later age as may be permitted by the code.
- (3) " Secondary education " means progressive courses of instruction of such length and in such subjects as may be approved in terms of the code as appropriate to the age, ability and aptitude of pupils who have been promoted from primary schools and departments and to the period for which they may be expected to remain at school. Such courses shall be given in secondary schools or departments.
- (4) " Primary education " and " secondary education " include education by special methods (hereinafter referred to as " special educational treatment ") appropriate to the special requirements of pupils who suffer from disability of mind or body. Special educational treatment shall be given " in special schools approved by the Secretary of State for the purpose, or by other means so approved.
- (5) " Further education " includes—
 - (a) compulsory part-time and in exceptional cases full-time courses of instruction approved in terms of the code given in colleges (hereinafter referred to as

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- " junior colleges ") to young persons not exempt from attendance under subsection (8) of section twenty-nine of this Act and designed to enable them to develop their various aptitudes and capacities and to prepare them for the responsibilities of citizenship ;
- (b) voluntary part-time and full-time courses of instruction for persons over school age ; and
 - (c) voluntary leisure-time occupation, in such organised cultural training and recreative activities as are suited to their requirements, for persons over school age.
- (6) The provision of primary education in nursery schools and nursery classes shall be deemed to be adequate if such provision is made at centres where sufficient children whose parents desire such education for them can be enrolled to form a school or class of a reasonable size.
- (7) The provision of secondary education shall be deemed to be adequate if a reasonable variety of courses is provided, from which the parent of a pupil may select a course from which, in the opinion of the education authority, the pupil shows reasonable promise of profiting, and the parent shall not be entitled to select a course of secondary education from which in the opinion of the education authority (confirmed by the Secretary of State in the event of a dispute between the parent and the authority) the pupil shows no reasonable promise of profiting.

2 Provision of educational facilities to be in accordance with schemes.

- (1) The functions of an education authority under the foregoing section shall be exercised in accordance with schemes prepared as hereinafter provided and approved by the Secretary of State under section fifty-nine of this Act.
- (2) It shall be the duty of an education authority within such time as may be prescribed to prepare and submit for the approval of the Secretary of State a scheme or schemes for the exercise of their powers and duties under the foregoing section.
- (3) An education authority may at any time, and shall if and when so required by the Secretary of State, prepare and submit for his approval a revised scheme or modification of an existing scheme under this section.
- (4) In considering and determining for the purposes of any scheme for the provision' of primary and secondary 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 primary or secondary education, and is, or will when completed be, suitable and available for the education of the pupils in such education area.
- (5) An education authority shall for the purposes of the last foregoing subsection 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) In the preparation of any scheme for the provision of primary and secondary 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.

- (7) In the preparation of any scheme for further education, an education authority shall have regard to such of the following considerations as may be relevant—
- (a) to any facilities for such education provided for their area by universities, central institutions, training centres, training colleges, educational associations and other bodies and to the need for consultation with any such organisations as- aforesaid and with the education authorities for adjacent areas ; and the scheme may include such provisions as to the co-operation of any such bodies or authorities as may have been agreed between them and the authority preparing the scheme ;
 - (b) to the need for consultation with persons concerned or engaged in crafts, industries, commerce or other employments in their area ;
 - (c) to the need for securing the adequate provision of technical education and, keeping in view the requirements of the crafts, industries, commerce and other employments in the area and the provision therefor made elsewhere, to the need for the establishment of local technical colleges offering courses of suitable standard;
 - (d) to the expediency of securing the provision of boarding accommodation, either as part of a junior college or in hostels,- for pupils for whom residence at a distance from their homes is necessary in order that the greatest advantage may be derived from compulsory further education ; and
 - (e) to the desirability of securing the provision of residential colleges for other forms of further education.
- (8) Where general arrangements under section thirty-three of this Act are part of the measures to be taken by the authority to secure the adequate provision of primary or secondary or compulsory further education for persons resident in any part of their area, information regarding the said arrangements shall be included in the appropriate scheme prepared under this section.

3 Facilities for recreation and social and physical training.

- (1) It shall be the duty of an education authority to secure that the facilities for primary, secondary and further education provided for their area include adequate facilities for recreation and social and physical training. For that purpose an education authority, with the approval of the Secretary of State, may establish, maintain and manage, or assist the establishment, maintenance and management of camps, holiday classes, playing fields, play centres and other places (including playgrounds, gymnasiums and swimming baths not appropriated to any school or college) at which facilities for recreation and for such training as aforesaid are available for persons for whom primary, secondary or further education is provided by the authority. They may also organise games, expeditions and other activities for such persons, and may defray or contribute towards the expenses thereof.
- (2) An education authority, in making arrangements for the provision of facilities or the organisation of activities under the powers conferred on them by the last foregoing subsection, shall, in particular, have regard to the expediency of co-operating with any voluntary societies or bodies whose objects include the provision of facilities or the organisation of activities of a similar character.

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- (3) It shall be in the power of an education authority to provide, for pupils in attendance at any school or junior college under their management, articles of clothing suitable for physical exercise.
- (4) Sections one and two of the Physical Training and Recreation Act, 1937, (which, as applied to Scotland, relate to a National Advisory Council and regional committees and subcommittees for the promotion of physical training), and so much of section three of that Act as relates to the grants committee, to recommendations of that committee and to consultation with the aforesaid Council shall cease to have effect.

4 Amendment of s. 68 of Act of 1872.

Section sixty-eight of the Act of 1872, in so far as it limits the time or times during which religious observance may be practised or instruction in religious subjects may be given, shall cease to have effect, and accordingly the words in the said section from " for elementary " to " meeting, and " shall be repealed.

5 Safeguards for religious beliefs.

Where the parent of any pupil who is a boarder at any public school, junior college or other educational establishment under the management of an education authority 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 of the school, junior college 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, - junior college or other educational establishment, so however that such arrangements shall not entail expenditure by the education authority.

6 Child guidance service.

It shall be lawful for an education authority to provide a child guidance service in child guidance clinics or elsewhere. The function of the service shall be to study handicapped, backward and difficult children, to give advice to parents and teachers as to appropriate methods of education and training and in suitable cases to provide special educational treatment for such children in child guidance clinics.

7 Education of pupils requiring special educational treatment.

- (1) The Secretary of State shall make regulations defining the several categories of pupils requiring special educational treatment and making provision as to the special educational arrangements appropriate for pupils of each category.
- (2) The arrangements made by an education authority for the special educational treatment of pupils of any such category shall be such as to ensure, as far as practicable, that the education is given in an appropriate special school or by other appropriate means.

- (3) The code may prescribe the requirements to be complied with as a condition of approval as a special school, and as to the withdrawal of approval from any special school which fails to comply with requirements so prescribed.
- (4) The requirements prescribed by the code with respect to Special schools shall be such as to secure that a pupil shall in no case be compelled to take part in religious observance or to receive religious instruction contrary to the wishes of his parent.

8 Power to provide education elsewhere than at an educational establishment.

If an education authority are satisfied that by reason of any extraordinary circumstances a pupil is unable to attend a suitable educational establishment for the purpose of receiving education, they shall have power, with the approval of the Secretary of State, to make special arrangements for him to receive education elsewhere than at an educational establishment.

9 Provision of hostels, etc..

An education authority shall have power to provide and maintain hostels for pupils attending day schools or young persons attending junior colleges or other educational establishments in their area, and shall if required by the Secretary of State exercise, in accordance with such conditions as he may prescribe, the power hereby conferred.

10 Combination of institutions for mental defectives and special schools.

- (1) Subject to the approval of the Secretary of State and of the General Board of Control for Scotland, any council being a local authority for the purposes of the Mental Deficiency Acts and also an education authority may, in the exercise of their functions as such local authority and as an education authority, provide and maintain institutions to be used both as certified institutions under the said Acts and as special schools under the Education Acts.
- (2) The Secretary of State shall determine in what proportion the expenses incurred in the provision and maintenance of any such institutions ought to be treated as having been incurred by the council in the exercise of their functions under the Mental Deficiency Acts and in the exercise of their functions under the Education Acts respectively, and the said expenses shall be defrayed accordingly.

Free Education.

11 Free education.

- (1) Primary, secondary and compulsory further education provided in public schools and junior colleges under the management of an education authority shall be without payment of fees, provided that if the authority think it expedient they may charge fees in some or all of the classes in a limited number of primary and secondary schools, provided further that the power to charge fees may be exercised only where it can be exercised without prejudice to the adequate provision of free (primary and secondary) education in public schools in which no fees are charged, or in other schools the managers of which agree, in respect of such payment by the education authority as may be agreed, to admit and educate pupils free of charge on the nomination of the education authority.

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- (2) An education authority shall provide free of charge for all pupils who are given free education at schools or junior colleges under their management or at other schools in accordance with the last foregoing subsection 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. The authority may also make similar provision, with or without charge, for other pupils resident in their area and attending any school or other educational establishment.
- (3) For the purposes of the last foregoing subsection, a pupil in respect of whose education fees are charged in a school or class managed by an education authority shall be deemed to be given free education if the authority remit his fees, or pay his fees or grant a scholarship, bursary or allowance under section thirty-two of this Act which is not less in amount than the amount of the fees, or if an award not less in amount than the amount of the fees is made to the pupil by the governing body of any educational endowment within the meaning of the Educational Endowments (Scotland) Act, 1928, a condition of which is that the candidates require financial assistance, or if a combination of such remission, payments, grants or awards together amounts to or exceeds the amount of the fees.

School Buildings, etc..

12 Provision and maintenance of schools, etc..

- (1) It shall be the duty of an education authority to provide for their area, in accordance with any scheme under section two of this Act for the time being in force in the area, sufficient accommodation in public schools (whether day schools or boarding schools), junior colleges and other educational establishments under their management for all pupils resident in the area for whose education efficient and suitable provision is not otherwise made.
- (2) An education authority shall maintain and keep efficient every public school, junior college and other educational establishment under their management and shall from time to time provide such additional accommodation as may be necessary to carry out the provisions of any such scheme as aforesaid.
- (3) An education authority may, for the purposes of their duty under this section, provide, alter, improve, enlarge, equip and maintain schools, junior colleges and other educational establishments outside as well as within their area.
- (4) An education authority may provide, alter, improve, enlarge, equip, maintain and furnish houses and hostels, with such outbuildings and gardens as they think expedient, for teachers and other officers employed by them.

13 Requirements as to premises of schools, etc..

- (1) The Secretary of State may make regulations prescribing the standards to which the premises, furnishing and equipment of schools, junior colleges and other educational establishments under the management of education authorities are to conform, and such regulations may prescribe appropriate standards for such descriptions of schools, junior colleges and other establishments as may be specified in the regulations.
- (2) Subject as hereinafter provided, it shall be the duty of an education authority to secure that the premises, furnishing and equipment of every school, junior college and other

educational establishment maintained by them conform to the standards prescribed for schools, colleges or educational establishments of the description to which the school, college or educational establishment belongs :

Provided that if the Secretary of State is satisfied with respect to the premises of any school, college or educational establishment that, having regard to the nature of the site or to any existing buildings thereon or to other special circumstances affecting such premises, it would be unreasonable to require conformity with the requirements of the regulations in any particular respect, he may direct that those premises shall be deemed to conform to the prescribed standards if in lieu of conforming to the requirements of the regulations in that respect they conform to such other requirements as may be specified.

- (3) With a view to securing that the premises, furnishing and equipment of schools, junior colleges and other educational establishments under the management of an education authority are maintained in such a condition as to contribute to the good health of the pupils, it shall be the duty of an education authority to cause their medical officers as part of their ordinary work from time to time to inspect and to report to them upon the said premises, furnishing and equipment, and in making the said inspections the medical officers shall have special regard to' the lighting, heating and ventilation, and to the sanitary arrangements.

14 Discontinuance of educational establishments.

- (1) Subject to any special conditions attaching thereto and to any scheme under section two of this Act relating thereto, an education authority may, with the sanction of the Secretary of State,—
- (a) discontinue, or change the site of, any educational establishment under their management, or part thereof ; and
 - (b) sell, excamb or let any land vested in them :

Provided that the sanction of the Secretary of State shall not be required in the case of a let for a period of one year or less or of a let with breaks in favour of the education authority at intervals not exceeding one year.

- (2) The School Grants Act, 1855, (which restricts the sale of land for the purchase of which money was advanced out of the parliamentary grant for education) shall cease to have effect.

15 Acquisition of land, etc..

In order to enable them to execute any of their functions, an education authority may from time to time—

- (a) acquire, whether by way of purchase, feu, 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) of this section 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.

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16 Borrowing powers.

—Where an education authority require to incur expenditure in the exercise of any of the powers conferred upon them by the last foregoing section, or in purchasing any moveable property, or in making any other payment, and the authority are of opinion that the expenditure cannot conveniently be met out of revenue, they shall report the position to the Secretary of State, and if he considers that, by reason of the permanent character of the works involved, or of the length of time for which the moveable property may be expected to remain serviceable, or of the purpose for which such other payment is to be made, the expenditure may properly be met by borrowing, and that the repayment of the loan should be spread over a term of years, the authority may borrow money for the purpose, and shall repay the money so borrowed within such period not exceeding fifty years as the Secretary of State may determine.

Co-operation between Education Authorities and Others.

17 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, junior college or other educational establishment under their management, primary, secondary or further education and other services under this Act for any pupil belonging to the area of some other education authority.
- (2) Where an education authority or the managers of any school not conducted for private profit situated in the area of that authority have provided primary or secondary education with or without other services for any pupil belonging to the area of some other authority, the education authority or the managers, as the case may be, 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 or by the authority and the managers concerned, as the case may be, 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 :

Provided that, if in the case of any pupil the Secretary of State is satisfied, having regard to all the circumstances including the religious belief of the parents, that there was no sufficient reason why he should not have attended a school provided by the authority of the area to which he belongs, the Secretary of State may, on the application of that authority, direct that no contribution shall be recoverable in respect thereof under this subsection.

- (3) For the purposes of this section, a pupil shall be deemed to belong to the area in which his parent resides.
- (4) Where at the appointed day or at any subsequent date it is the practice of an education authority or of the managers of a school situated in the area of that authority to provide for the primary or secondary education of pupils belonging to the area of another education authority, then, whether contributions have been recovered under subsection (2) of 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) Nothing in this section shall be construed as preventing the payment by agreement between education authorities or between an education authority and the managers

of an educational establishment not conducted for private profit of contributions in respect of education and other services under this Act provided by one authority on behalf of another or by such managers on behalf of an authority in cases where the authority or the managers by whom the education or services are provided are not entitled to recover contributions under this section.

18 Co-operation in the performance of functions.

- (1) An education authority may, and shall, if required by the Secretary of State, make arrangements for co-operation or combination with another education authority in the performance of any duty or the exercise of any power under the Education Acts, and any scheme submitted to the Secretary of State under the said Acts may include provision for such co-operation or combination.
- (2) Where any question, difference or dispute arises between authorities in regard to or out of any such arrangements as aforesaid, the same shall be finally determined by the, Secretary of State, and it shall be the duty of such authorities to comply with any such determination or any direction given for the purpose thereof.

19 Contributions to universities.

An education authority may provide financial assistance to (any university for the purpose of improving the facilities for t further education available for their area.

PART II

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

General Principle.

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

In the exercise and performance of their powers and duties under the Education Acts the Secretary of State and education authorities shall have regard to the general principle that, so far; as is compatible with the provision of suitable instruction and training and the avoidance of unreasonable public expenditure, pupils are to be educated in accordance with the wishes of their parents.

Promotion from Primary to Secondary Education.

21 Promotion schemes.

- (1) It shall be the duty of an education, authority within such time as may be prescribed to prepare and submit for the approval of the Secretary of State under section fifty-nine of this Act a, scheme (hereinafter referred to as a " promotion scheme") relating to the schools under their management and showing the method to be adopted for promoting pupils from primary schools or departments to secondary schools or departments and for enabling an opinion to be formed as to the courses from Which each pupil Shows

reasonable promise of profiting and a decision to be made, after taking into account the wishes of the parent, as to the course to which the pupil is to be admitted,

- (2) An education authority may at any time, and shall if and when so required by the Secretary of State, prepare and submit for his approval a revised scheme or modification of an existing scheme under this section.

Attendance at School.

22 Duty of parents to provide education for their children.

- (1) It shall be the duty of the parent of every child of school age to provide efficient education for him suitable to his age, ability and aptitude either by causing him to attend a public school regularly or by other means.
- (2) Sections two and three of the Act of 1936 (which relate to employment certificates) shall cease to have effect.

23 School age.

- (1) Subject to the provisions of subsections (3) and (4) of this section and of section twenty-four of this Act, the expression " school age " means any age between the age of five years and the age of fifteen years, and accordingly a person shall be deemed to be of school age if he has attained the age of five years and has not attained the age of fifteen years, and a person shall be deemed to be over school age if he has attained the age of fifteen years.
- (2) The last foregoing subsection shall have effect with the substitution of the word " fourteen " for the word " fifteen " until the first day of April nineteen hundred and forty-six or such subsequent day within one year thereafter as the Secretary of State, having regard to the time required for enabling adequate provision to be made for a supply of teachers or of school accommodation to meet the needs of children between the ages of fourteen and fifteen years, may by order appoint.
- (3) As soon as the Secretary of State is satisfied that it is practicable to raise the upper limit of the school age to sixteen, he shall make regulations prescribing that subsection (1) of this section shall have effect with the substitution of references to the age of sixteen for references to the age of fifteen.
- (4) Where an education authority have decided under section forty-one of this Act that a child requires special educational treatment, that child shall, unless the said decision is rescinded, be deemed to be of school age until he attains the age of sixteen although the upper limit of school age in relation to other children is less than sixteen.
- (5) Section three of the Act of 1901 shall have effect with the substitution for references to twelve and fourteen respectively—
- (a) when the upper limit of school age is fifteen, of references to fourteen and fifteen ; and
 - (b) when that limit is sixteen, of references to fourteen and sixteen.
- (6) Section four of the Act of 1936 (which limits the power to grant exemption under the Act of 1901) shall come into operation on the day upon which the upper limit of the school age is raised to fifteen.

24 Dates for commencing and terminating attendance at school.

The Secretary of State may from time to time require an education authority to fix for their area any or all of the following dates :—

- (a) two or more dates for commencing school attendance, and
- (b) two or more dates for terminating school attendance.

The education authority shall intimate to the Secretary of State the dates which they propose to fix, and the Secretary of State may approve the said dates or may, after consultation with the authority and with such other persons as he thinks fit, require the authority to fix other dates. The authority shall fix dates in accordance with the approval or requirement of the Secretary of State, and thereupon a child resident in the area shall for the purpose of attendance at school be deemed to attain any given age on the fixed date next following the day when he actually attains that age.

25 Failure to attend regularly at a public school.

- (1) Where a child of school age who has attended a public school on one or more occasions fails without reasonable excuse to attend regularly at the said school, then, unless the education authority have consented to the withdrawal of the child from the school (which consent shall not be unreasonably withheld), his parent shall be guilty of an offence against this section.
- (2) It shall be the duty of the education authority, if they consider that a parent has committed an offence against this section, to serve a notice on the parent requiring him, within such time as may be specified in the notice (not being less than forty-eight hours or more than seven days from the service thereof) to appear (with or without the child) before the authority, or any committee or sub-committee to whom the function may have been delegated, and explain the reason for the absence of the child from school. If the parent fails to satisfy the authority or such committee or sub-committee that he had a reasonable excuse, the education authority or such committee or sub-committee may instruct that he be prosecuted forthwith under section twenty-eight of this Act, or may warn the parent and postpone for a period not exceeding one month a decision as to whether to prosecute.
- (3) A child shall be deemed to attend regularly at a day school if he attends every meeting of the school at which attendance is compulsory. He shall be deemed to attend regularly at a boarding school if he is present at the school throughout the school term except when he is granted leave of absence by the head teacher or by another person duly authorised by him.

26 Attendance orders.

- (1) Where a child of school age has not attended a school under the management of the education authority of the area in which his parent is residing, or has attended such a school and has been withdrawn therefrom with the consent of the authority, then, if the education authority are not satisfied that the parent is providing efficient education for him suitable to his age, ability and aptitude, it shall be the duty of the education authority to serve a notice on the parent requiring him within such time as may be specified in the notice (not being less than seven or more than fourteen days from the service thereof) either—
 - (i) to appear (with or without the child) before the authority or any committee or sub-committee to whom the function may have been delegated (in this section

referred to as " the authority") and give such information as the authority may require regarding the means, if any, he has adopted for providing education, or, (ii) in the option of the parent, to give such information in writing.

- (2) If a parent on whom a notice has been served in pursuance of the last foregoing subsection fails to satisfy the authority that he is providing efficient education for the child suitable to his age, ability and aptitude or that there is reasonable excuse for his failure to do so, the authority shall, after considering any views expressed by the parent as to the school which he desires his child to attend, by an order in writing (hereinafter referred to as an " attendance order ") require the parent to cause the child to attend a school named in the order being a school the managers of which are willing to receive him :

Provided that a school at which the parent will be required to pay fees shall not be named in the order except at the request of the parent:

Provided further that a special school shall not be named in the order unless a certificate issued under subsection (2) of section forty-one of this Act is in force certifying that the child is suffering from such disability as to require special educational treatment.

- (3) The authority shall cause a copy of any attendance order made by them under the last foregoing subsection to be served upon the parent, and it shall thereupon be the duty of the parent, subject to an appeal to the sheriff under the next succeeding subsection, to cause the child to attend regularly at the school named in the order.
- (4) A parent aggrieved by the making of an attendance order may within fourteen days after the date upon which a copy of the order was served upon him under the last foregoing subsection appeal against it to the sheriff, who may confirm, vary or annul the order and whose decision shall be final.
- (5) An authority may at any time while an attendance order is in force with respect to any child serve upon the parent of the , said child a notice of their intention to amend the order by substituting the name of another school for that named in the order. The parent may within fourteen days of the service of the said notice intimate in writing to the authority any objections he may have to the proposed amendment. After the expiry of the said period of fourteen days and after considering any objections made by the parent, the authority may amend the attendance order, and the provisos to subsection (2) and subsections (3) and (4) of this section shall apply in the case of the amended attendance order as they apply in the case of an attendance order.
- (6) If at any time while an attendance order is in force with respect to any child the parent of the child makes application to the authority by whom the order was made requesting that another school be substituted for that named in the order, or requesting that the order be revoked on the ground that arrangements have been made for the child to receive efficient education suitable to his age, ability and aptitude at a school other than that named in the order or elsewhere than at school, the authority shall amend or revoke the order in compliance with the request unless they are of opinion that the proposed change of school is unreasonable or inexpedient in the interests of the child, or that the arrangements made for the education of the child at a school other than that named in the order or elsewhere than at school are not satisfactory, as the case may be; and, if a parent is aggrieved by a failure of the authority to reach a decision upon his application within one month after the date thereof or by refusal of the authority to comply with any such request, he may appeal to the sheriff, who shall give such direction as he thinks fit. It shall not be deemed to be a reasonable excuse for failure

to cause a child to attend regularly at a school named in an attendance order that an application or an appeal has been made under this subsection.

- (7) An attendance order made with respect to any child shall, subject to any amendment thereof made by the authority or variation made by the sheriff, and unless revoked by the authority or annulled by the sheriff, continue in force so long as the child is of school age and continues to reside in their area :

Provided that if a certificate under subsection (2) of section forty-one certifying that a child is suffering from such disability as to require special educational treatment is withdrawn, any attendance order requiring the attendance of that child at a special school shall be deemed to be annulled.

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

27 Reasonable excuses.

- (1) For the purposes of the last two foregoing sections, there shall be deemed to be a reasonable excuse if—
- (a) there is within walking distance of the child's home measured by the nearest available route no school of a kind mentioned in the second proviso to subsection (1) of section eleven of this Act the managers of which are willing to receive the child, and either—
 - (i) no arrangements have been made by the education authority under section thirty-three of this Act with regard to the child, or
 - (ii) any arrangements so made are such as to require the child to walk more than walking distance in the course of any journey between his home and school; or
 - (b) the child has been prevented by sickness from attending school or receiving education as the case may be ; or
 - (c) there are other circumstances which in the opinion of the education authority or the court afford a reasonable excuse.
- (2) When a parent alleges that his child has been prevented by sickness from attending school or receiving education as the case may be, the parent shall, if required by the education authority, permit a medical officer of the education authority to examine the child, and any parent who fails to do so shall be guilty of an offence against this section.
- (3) In this section the expression " walking distance " means, in the case of a child who has not attained the age of eight years, two miles, and, in the case of any other child, three miles.

28 Legal proceedings.

- (1) Any person guilty of an offence against any of the last three foregoing sections shall be liable, on conviction by a court of summary jurisdiction, in the case of a first conviction to a fine not exceeding one pound, in the case of a second conviction, whether in respect of the same or of another child, to a fine not exceeding five pounds, and, in the case of a third or subsequent conviction, whether in respect of the same or of another

child, to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.

- (2) If the court before which a prosecution is brought for any such offence as aforesaid is satisfied that the child has failed to attend regularly at school, then, whether or not the parent is convicted, the court may direct that the child be brought before a juvenile court by the education authority of the area in which the child resides, and the court shall so direct, if the education authority so request. The juvenile court may, if it is satisfied that it is necessary to do so for the purpose of securing the regular attendance of the child at school, make any order which a juvenile court has power to make under section sixty-six of the Children and Young Persons (Scotland) Act, 1937, in the case of children and young persons in need of care or protection who are brought before that court under that section.
- (3) Proceedings under this section may be taken at the instance either, of the public prosecutor of the court of summary jurisdiction in which the proceedings are to be taken or of another person authorised by the education authority to institute proceedings on their behalf.
- (4) For the purposes of the Children and Young Persons (Scotland) Act, 1937, any child with respect to whom a direction has been given under this section that he be brought before a juvenile court shall be deemed to be a child about to be brought, or brought, before such a court under section sixty-six of that Act, and any order made by a juvenile court under this section shall be deemed to be an order made under that section, and all the provisions of that Act shall have effect accordingly, but subject to the modification that in relation to any such child-subsection (1) of section seventy-one of the said Act shall have effect as if the words " A constable, or " were omitted therefrom.

Attendance at Junior Colleges.

29 Attendance at junior colleges.

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

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

the case of every subsequent year the period of twelve months beginning immediately after the expiration of the last preceding year:

Provided that in respect of the year in which the young person attains the age of eighteen the requirements specified in the notice shall be reduced to such extent as the education authority think expedient for securing that the attendances required of him until he attains that age shall be as nearly as may be proportionate to those which would have been required of him during a full period of twelve months:

Provided also that the Secretary of State may from time to time require an education authority to fix for their area two or more dates for terminating attendance at junior colleges. The education authority shall intimate to the Secretary of State the dates which they propose to fix, and the Secretary of State may approve the said dates or may, after consultation with the authority and with such other persons as he thinks fit, require the authority to fix other dates. The authority shall fix dates in accordance with the approval or requirement of the Secretary of State, and, thereupon a young person resident in the area shall for the purpose of attendance at a junior college be deemed to attain the age of eighteen on the fixed date next following the day when he actually attains that age.

- (3) If by reason of the nature of the employment of any young person or of other circumstances affecting him the education authority are satisfied that attendance in accordance with the provisions of the last foregoing subsection would not be suitable in his case, an attendance notice may, with the consent of the young person, require his attendance in accordance with such other arrangements as may be specified in the notice, so, however, that the requirements specified in the notice in accordance with Such arrangements as aforesaid shall be such as to secure the attendance of the young person for periods amounting in the aggregate to three hundred and thirty hours in each year, or, in the case of the year in which he attains the age of eighteen, to the proportionately reduced number of hours.
- (4) Except where continuous attendance at a junior college involves residence at the college or at a hostel, no attendance notice shall require a young person to attend a junior college on a Sunday or during any holiday or half-holiday to which by any enactment regulating his employment or by agreement he is entitled, or, so far as practicable, during any holiday or half-holiday which is allowed in accordance with any custom of his employment, or between the hours of six in' the evening and half past eight in the morning:

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

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

- (6) In determining what requirements shall be imposed upon a young person by an attendance notice or by any amendments to such a notice the education authority shall have regard, so far as practicable, to any preference which he and, in the case of a young person under the age of sixteen years, his parent may express, to the circumstances of his employment or prospective employment, and to any representations that may be made to the authority by his employer any person proposing to employ him.
- (7) If a pupil satisfies the education authority that any religious observance or any part of the instruction at a junior college which the pupil is required to attend is contrary to his religious belief or likely to give offence to his religious feelings) the education authority shall permit the pupil to withdraw from such observance or, instruction and shall, so far as practicable, arrange "for him to be suitably occupied while such Observance or instruction is in progress.
- (8) The following persons shall be exempt from compulsory attendance at a Junior college, that is to say—
- (a) any person who is in full-time attendance at any school or other educational establishment (not being a junior college) approved by "the Secretary of State for the purpose;
 - (b) any person who is shown to the satisfaction of the education authority to be receiving suitable and efficient instruction in some other manner either full-time or for such times as in the opinion of the authority are equivalent to not less than three hundred and thirty hours instruction in a period of twelve months;
 - (c) any person who having been Exempt under either of the last two foregoing paragraphs did not cease to be so exempt until after he had attained the age of seventeen years and eight months ;
 - (d) any person who is undergoing a course of training approved by the Secretary of State for the mercantile marine or the sea fishing industry or who, having satisfactorily completed such a course, is engaged in the mercantile marine or in the sea fishing industry ;
 - (e) any person to whom, by reason of section eighty-one or section eighty-two of this Act, the duties of education authorities do not relate ;
 - (f) any person who attained the age of fifteen years before the date when the scheme for the provision of junior colleges came into force.

If any person is aggrieved by a decision of an education authority given under paragraph (b) of this subsection, he may refer the question to the Secretary of State, who shall give such direction thereon as he thinks fit.

- (9) If any young person upon whom an attendance notice has been served fails to comply with any requirement of the notice, he shall be guilty of an offence against this section unless he proves either—
- (a) that he was exempt from compulsory attendance for further education ; or
 - (b) that he was prevented from complying with the requirement by reason of sickness or any other unavoidable cause,

or unless the court is satisfied that there was some other reasonable cause for such failure.

30 Provisions for securing attendance at junior colleges.

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

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

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

31 Enforcement of attendance at junior colleges.

- (1) Any person guilty of an offence against either of the last two foregoing sections shall be liable on conviction by a court of summary jurisdiction in the case of a first offence against that section to a fine not exceeding one pound, in the case of a second offence against that section to a fine not exceeding five pounds, and in the case of a third or subsequent offence against that section to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.

- (2) If, in furnishing any information for the purposes of either of the last two foregoing sections, any person makes any statement which he knows to be false in any material particular, or recklessly makes any statement which is false in any material particular, he shall be liable on summary conviction to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.
- (3) If the parent of a young person or any person by whom a young person is employed or the servant or agent of any such person has connived at any offence committed by the young person against either of the last two foregoing sections, the person who has connived at the offence shall, whether or not any person is proceeded against or convicted in respect of the offence connived at, be guilty of the like offence and punishable accordingly.

Provision to enable Pupils to take advantage of Educational Facilities.

32 Power of education authorities to enable persons to take advantage of educational facilities.

- (1) For the purpose of enabling persons resident in their area to take advantage, without financial hardship to themselves or their parents, of any educational facilities available to them, an education authority shall have power—
- (a) to defray such expenses of pupils attending any school as may be expedient to enable them to take full part in the activities of the school; and
 - (b) to pay the whole or any part of the fees payable in respect of pupils attending schools at which fees are payable; and
 - (c) to grant scholarships, bursaries and other allowances to persons over school age.
- (2) The powers conferred by the last foregoing subsection shall be exercised in accordance with regulations made by the Secretary of State.
- (3) The said regulations may include a provision requiring the education authority to leave out of account, in assessing the needs of the applicants, the whole or such part of any scholarship, bursary, prize or other award won in open competition as may be prescribed and any award made by the Carnegie Trustees for the Universities of Scotland. The expression " open competition " means a competition with regard to which the education authority are satisfied that there are no restrictions upon entry which unduly limit the field from which candidates may be drawn.

33 Education of pupils in exceptional circumstances, 34. Provision of transport and other facilities.

- (1) Where in the opinion of an education authority—
- (a) any pupil resident in their area is, owing to the remoteness of his home or the conditions under which he is living or other exceptional circumstances, unable to receive the full benefit of primary or secondary education unless special arrangements are made for him, or
 - (b) primary or secondary education suitable to the age, ability and aptitude of any pupil can best be provided for him at any particular school, or

- (c) compulsory further education should in the case of any pupil be provided by requiring his continuous attendance at a junior college under section twenty-nine of this Act,

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

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

34 Provision of transport and other facilities.

An education authority shall make such arrangements as they consider necessary or as the Secretary of State may direct—

- (a) for the conveyance of pupils without charge for the whole or part of the journey between their homes and the schools or other educational establishments which they are attending ;
- (b) for making bicycles or other suitable means of transport available to the pupils attending schools or other educational establishments, or to their parents for the use of the pupils, upon such terms and conditions as may be arranged, or for paying a money allowance in lieu thereof ; .
- (c) for paying the reasonable travelling expenses of pupils attending schools and other educational establishments for whom no provision is made under the foregoing paragraphs.

35 Recovery of cost of board and lodging.

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

Provided that—

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

parent under this section, may recover that sum or that part thereof from the young person instead of from the parent.

Provision of Milk, Meals, etc..

36 Provision of milk and meals at schools and other educational establishments under the management of education authorities.

- (1) It shall be the duty of an education authority to provide milk and a midday meal, and it shall be lawful for them to provide other meals and refreshments, for pupils in attendance at public schools and junior colleges under their management on days when the schools meet or when the pupils are required, by attendance notices to be present at a junior college, as the case may be, and they may make similar provision for the said pupils on other days, for children who have attained the age of five pending their admission to school, and for pupils in attendance at other educational establishments under their management.
- (2) Where in the opinion of an education authority any pupil attending a public school in their area would otherwise be unable to take full advantage of the education provided, they shall make such arrangements for such period as they deem necessary for the provision to the pupil of milk and mid-day meals on days when the school does not meet.
- (3) The Secretary of State may make regulations as to the manner in which and the persons by whom the expense of providing such milk, meals and other refreshment is to be defrayed, as to the facilities to be afforded (including any buildings or other equipment" to be provided) and as to such other consequential matters as he considers expedient.
- (4) For the purposes of this section, a pupil for whom an education authority have made special arrangements under section eight of this Act may, at the discretion of the education authority, be deemed to be in attendance at a public school under their management.

37 Provision of ancillary services for pupils not in attendance at public schools.

An education authority may, with the consent of the managers of any school in their area which is not a public school, and upon such financial and other terms, if any, as may be determined by agreement between the authority and the managers, make arrangements for securing—

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

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

*Medical Inspection, Supervision and Treatment.***38 Medical inspection and treatment of pupils.**

- (1) It shall be the duty of an education authority to provide for the medical inspection, at appropriate intervals, and for the medical supervision of all pupils in attendance at any school or junior college under their management and of all young persons in attendance at any other educational establishment under their management, and an education authority shall have power to provide for such inspection and supervision of other pupils in attendance at any educational establishment under their management who desire such inspection and supervision.
- (2) For the purpose of securing the proper medical inspection of the pupils for whom it is their duty to provide such inspection, an education authority may require the parent of any pupil in attendance at any such school to submit the pupil for medical inspection in accordance with arrangements made by the authority, and may require any young person in attendance at such junior college or other educational establishment to submit himself to such medical inspection ; and any person who fails without reasonable excuse to comply with any such requirement shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding five pounds.
- (3) It shall be the duty of an education authority to make such arrangements for securing the provision of free medical treatment for pupils in attendance at any such school and for young persons in attendance at any such junior college or other educational establishment as are necessary for securing that comprehensive facilities, for free medical treatment are available to them either under this Act or otherwise, and an education authority shall have power to make such arrangements as aforesaid with respect to other pupils in attendance at any educational establishment under their management who desire such treatment.
- (4) It shall be the duty of an education authority to make arrangements for encouraging and assisting pupils to take advantage of such facilities as aforesaid :

Provided that if the parent of any child or young person gives to the authority notice that he objects to the child or young person availing himself of any medical treatment provided under this section, the child or young person shall not be encouraged or assisted so to do.
- (5) Where under powers conferred by section eight of this Act an education authority make special arrangements for any child or young person to receive primary or secondary education elsewhere than at school, the authority may provide for the medical inspection, supervision and treatment of that pupil as if he were in attendance at a school under their management.
- (6) An education authority may, with the consent of the managers of any school or other educational establishment in their area which is not under their management, and upon such terms, if any, as may be determined by agreement between the authority and the managers, make arrangements for securing the medical inspection and supervision of, and the provision of medical treatment for, pupils in attendance at the school or educational establishment:

Provided that the arrangements shall be such as to secure, so far as is practicable, that the expense incurred by the authority in connection with such inspection, supervision and treatment shall not exceed the expense, which would have been incurred by them

if the pupil had been a pupil at a school or educational establishment under their management.

39 Power to ensure cleanliness.

- (1) An education authority may, by directions in writing issued with respect to all schools, junior colleges and other educational establishments under their management or with respect to any of such schools, colleges or establishments named in the directions, authorise a medical officer of the authority to cause examinations to be made of the bodies and clothing of all or any of the pupils in attendance at such schools and young persons in attendance at such colleges or establishments whenever in his opinion such examinations are necessary in the interests of cleanliness.
- (2) Any such examination as aforesaid shall be made by the said medical officer or by a person authorised in writing by him to make such examinations (in this section referred to as an " authorised person "), and, if the body or clothing of any pupil or young person is found upon such an examination to be infested with vermin or in a foul condition, the medical officer, the authorised person or any officer of the authority on their behalf may serve upon the parent of such pupil or upon the young person a notice requiring the parent to cause the body and clothing of the pupil to be cleansed or the young person to cause himself and his clothing to be cleansed as the case may be.
- (3) A notice served under the last foregoing subsection shall inform the person upon whom it is served that, unless within the period limited by the notice, not being more than twenty-four hours after the service thereof, the body and clothing of the pupil or young person to whom the notice relates are cleansed to the satisfaction of the medical officer or an authorised person as may be specified in the notice, the cleansing thereof will be carried out under arrangements made by the education authority ; and if at the expiration of that period the medical officer or an authorised person is not satisfied that the body and clothing of the pupil or young person have been properly cleansed, the medical officer or an authorised person may issue an order directing that the body and clothing of the pupil or young person be cleansed under such arrangements. The order shall be sufficient to authorise any officer of the authority to cause the body and clothing of the pupil or young person named in the order to be cleansed in accordance with such arrangements, and for that purpose to convey him to the premises where the cleansing is to be carried out and to detain him there until such time as the cleansing has been completed.
- (4) It shall be the duty of the education authority to make arrangements for securing that any cleansing under this section, whether at the request of a parent or young person or in pursuance of an order issued under this section, may be carried out in suitable premises by suitable persons and with suitable appliances.
- (5) If after the cleansing of the body or clothing of any pupil or young person has been carried out under this section his body or clothing is again found to be infested with vermin or in a foul condition at any time while he is in attendance at such school, junior college or other educational establishment, and it is proved that the condition of his body or clothing is due to neglect on the part of his parent, or, in the case of a young person in attendance at a junior college or other educational establishment, to his own neglect, the parent or the young person, as the case may be, shall be liable on conviction by a court of summary jurisdiction in the case of a first conviction to a fine not exceeding one pound, in the case of a second conviction to a fine not exceeding five pounds, and in the case of a third or subsequent conviction to a fine not exceeding

ten pounds or to a term of imprisonment not exceeding one month or to both such fine and such imprisonment.

- (6) Where a medical officer or authorised person has reason to believe that the body or clothing of any pupil or young person in attendance at such school, junior college or other educational establishment is infested with vermin or in a foul condition, but action for the examination or cleansing thereof cannot immediately be taken, he may, if he considers it necessary so to do in the interests either of the pupil or young person or of other children or young persons in attendance at the school, college or other educational establishment, direct that the pupil or young person be excluded from the school, college or other educational establishment until such action has been taken ; and such a direction shall be a defence to any proceedings under this Act in respect of the failure of the pupil or young person to attend school or to comply with the requirements of an attendance notice, as the case may be, on any day on which he is excluded in pursuance of the direction, unless it is proved that the issue of the direction was necessitated by the wilful default of the parent or of the young person.
- (7) No female shall be examined or cleansed under the powers conferred by this section except by a duly qualified medical practitioner or by a woman authorised for that purpose by a medical officer of an education authority.

Handicapped Children.

40 Duty of education authorities to ascertain what children are suffering from disability.

- (1) It shall be the duty of an education authority to ascertain what children in their area who have attained the age of five years—
- (a) require special educational treatment ; or
 - (b) are suffering from a disability of mind of such a nature or to such an extent as to make them incapable of receiving education at school, or as to make it inexpedient that they should be educated in association with other children either in their own interests or in those of the other children.
- (2) If for the purpose of their duty under the last foregoing subsection an authority consider it necessary that a child should be medically examined, they shall by notice in writing served upon the parent of the child require him to submit the child for medical examination by a medical officer of the authority in order to obtain advice as to whether the child is suffering from any disability of mind or body and as to the nature and extent of any such disability ; and if a parent upon whom such a notice is served fails without reasonable excuse to comply with the requirements thereof he shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding five pounds.
- (3) Before any child is so medically examined as aforesaid, the authority shall cause notice to be given to the parent of the time and place at which the examination will be held, and the parent shall be entitled to be present at the examination if he so desires.
- (4) If the parent of any child who has attained the age of two years requests the education authority for the area to cause the child to be so medically examined as aforesaid, the authority shall comply with the request unless in their opinion the request is unreasonable.

- (5) It shall be the duty of an education authority to disseminate in their area information as to the educational importance to any child suffering from disability of mind or body of the early ascertainment of his disability, and of the opportunity for medical examination available under this section.

41 Children requiring special educational treatment.

- (1) The education authority shall consider the advice given with respect to any child in consequence of the medical examination under the last foregoing section and any reports or information which they are able to obtain from teachers or other persons with respect to the ability and aptitude of the child, and if the authority decide that the child requires special educational treatment, they shall give to the parent notice of their decision and shall ensure that any education provided for the child is by means of special educational treatment.

- (2) The advice given with respect to any child in consequence of any such medical examination as aforesaid shall be communicated to the parent of the child, and the medical practitioner by whom the examination was made shall, if required by the parent or by the authority so to do, issue to the parent and to the authority a certificate in the prescribed form showing whether the child is suffering from any such disability as aforesaid and, if so, the nature and extent thereof, and any parent who is aggrieved by the terms of the certificate may refer the case to the Secretary of State :

Provided that an education authority shall not require the issue of such a certificate in respect of any child unless the certificate is, in their opinion, necessary for the purpose of securing that the child shall receive special educational treatment.

- (3) Any certificate issued under the last foregoing subsection may be withdrawn by the Secretary of State or by a medical officer of the education authority, and upon the withdrawal of such a certificate the decision of the education authority under subsection (1) of this section in regard to the child with respect to whom the certificate was issued shall be deemed to have been rescinded, and the education authority shall cease to provide special educational treatment for the child and shall notify the parent accordingly.
- (4) Where an education authority have decided under subsection (1) of this section that a child requires special educational treatment, and where such treatment is being provided for that child in a special school, by or with the approval of the authority, the child shall not while of school age be withdrawn from that school without the consent of the authority, provided always that if the parent of any child is aggrieved by the failure of the authority to reach a decision upon his application for their consent to such withdrawal within one month after the date of his application or by the refusal of the authority to comply with such application, he may within fourteen days after the expiry of the said period of one month or after such refusal, as the case may be, appeal to the sheriff, who shall give such direction as he thinks fit.

42 Duty of education authorities to report to local authorities under 3 and 4 Geo. 5. c. 38 in certain cases.

- (1) If, after considering, in accordance with the provisions of subsection (1) of the last foregoing section, advice, reports and information with respect to any child who has attained the age of five years, the authority decide that the child is suffering from a disability of mind of such a nature or to such an extent as to make him incapable of

receiving education or training in a special school or as to make it inexpedient that he should be educated or trained in association with other children, it shall be the duty of the authority to issue to the local authority for the purposes of the Mental Deficiency Acts and to the General Board of Control for Scotland a report that the child has been found incapable of receiving education or training in a special school:

Provided that before issuing such a report with respect to any child the education authority shall give to the parent of the child not less than fourteen days' notice in writing of their intention to do so, and if within that period the parent refers to the Secretary of State the question whether such a report should be issued, the report shall not be issued except by direction of the Secretary of State.

- (2) If an education authority are of opinion that any child in attendance at a school in their area, or under their management, or at a special school is suffering from a disability of mind of such a nature or to such an extent that he may require to be dealt with under the Mental Deficiency Acts after leaving school, the authority shall, not earlier than the beginning of such period before the child ceases to be of school age as may be prescribed, issue to the local authority for the purposes of the Mental Deficiency Acts, to the General Board of Control for Scotland and to the parent of the child a report that by reason of a disability of mind the child may require to be dealt with under the Mental Deficiency Acts after leaving school.
- (3) Any report issued under this section to a local authority for the purposes of the Mental Deficiency Acts shall be accompanied by such records and other information relating to the child as may be prescribed ; and upon receiving such a report it shall be the duty of that- authority to consider whether the person in respect of whom the report was issued ought to be dealt with under these Acts.

Restriction of Employment.

43 Power of education authorities to prohibit or restrict employment of children.

- (1) If it appears to an education authority that the employment of a child on the roll of a school in their area is or is likely to be prejudicial to his health or otherwise to render him unfit to obtain the full benefit of the education provided for him, the authority shall serve upon the parent and upon any person who is employing him for the time being a notice prohibiting the employment of the child in any employment or imposing such restrictions upon the employment of the child as appear to them to be expedient in the interests of the child :

Provided that if the parent or the employer feels aggrieved by the prohibition or restriction, he may appeal to the Secretary of State, who shall have power to confirm, vary or annul the notice as he thinks fit.

- (2) An education authority may, by notice in writing served upon the parent or employer of any child on the roll of a school in their area, require the parent or employer to provide the authority, within such period as may be specified in the notice, with such information as appears to the authority to be necessary for the purpose of enabling them to ascertain whether the child is being employed in such a manner as to be or to be likely to be prejudicial to his health or to render him unfit to obtain the full benefit of the education provided for him.
- (3) Any person who knowingly employs a child in contravention of any prohibition or restriction imposed under subsection (1) of this section, or who fails to comply

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with the requirements of a notice served under subsection (2) of this section, shall be guilty of an offence against this section, and liable on conviction by a court of summary jurisdiction to a fine not exceeding five pounds, or, in the case of a second or subsequent offence, not exceeding twenty pounds.

- (4) Subsections (1) and (3) of section thirty-six of the Children and Young Persons (Scotland) Act, 1937, (which relate to powers of entry for the enforcement of the provisions of Part III of that Act with respect to the employment of children), shall apply with respect to the provisions of any notice served under this section as they apply with respect to the provisions of the said Part III.

PART III

ADMINISTRATION AND STAFFING.

Business Arrangements of Education Authorities.

44 Amendment of law regarding schemes under 19 and 20 Geo. 5. c. 25.

- (1) Subsection (10) of section fourteen of the Act of 1929 (which relates to the revocation and variation of schemes) shall cease to apply to a scheme for the constitution of the education committee or for the administration of the functions of a council relating to education, and the following subsections shall be added at the end of the said section :

“(12) A council being an education authority may, at any time, and shall if so required by the Secretary of State, prepare and submit for his approval under subsection (8) of this section a revised scheme for the constitution of the education committee or for the administration of the functions of the council relating to education. Notwithstanding anything in any scheme approved under the said subsection (8) the preparation under this subsection of the first revised scheme for the constitution of the education committee and of the first revised scheme for the administration of the functions of the council relating to education shall stand referred to the education committee.

- (13) If a council when required by the Secretary of State under the last foregoing subsection to submit for his approval—
- (a) a revised scheme for the constitution of the education committee fail to comply with such requirement within two months after the date thereof, or
 - (b) a revised scheme for the administration of the functions of the Council relating to education fail to comply with such requirement within three months after the date thereof,

the Secretary of State may himself make a revised scheme, but before making such scheme he shall publish in one or more newspapers circulating in the education area a notice stating his intention to make such scheme, and that a copy of a draft of the schemes is open to inspection at a specified place and that representations thereon may be made to him within fourteen days after the publication of the notice, and shall consider, any representations which may be submitted to him within that period, and any scheme so made shall have effect as if it were a scheme submitted by that council and approved by the Secretary of State.

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- (14) In the last two foregoing subsections any reference to a revised scheme includes a reference to a modification of an existing scheme.”
- (2) Paragraph (a) and the first sentence of paragraph (c) of subsection (3) and subsection (6) of section twelve of the Act of 1929, (which relate to reference and delegation to committees), shall cease to apply to the education committee and the following paragraphs shall be inserted after paragraph (a) of subsection (3) of the said section :—
- “(aa) Notwithstanding anything in any local Act, every scheme for the administration of the functions of a council relating to education shall, save as hereinafter provided, provide for the delegation to the education committee of all the functions of the council relating to education.
- (ab) The following functions shall be excluded from the' delegation to the education committee :—
- (i) the raising of money by rate or loan ;
 - (ii) the approval with or without adjustment of the estimates (including supplementary estimates) of capital and revenue expenditure and the authorisation of the expenditure included therein ;
 - (iii) the power to incur expenditure on behalf of the council other than expenditure previously authorised in accordance with the estimates approved by the council or otherwise or expenditure necessarily incurred in circumstances of urgency.
- (ac) The following functions may be excluded from the delegation to the education committee :—
- (i) the acquisition and disposal of land, provided always that, except in cases of urgency, before acquiring land for, or disposing of land held for, an educational purpose, the council shall give the education committee an opportunity of considering the matter and shall receive and consider a report from the committee as to the suitability of the land for the purpose for which it is proposed to acquire it or as to whether the land is no longer required or likely to be required for an educational purpose, as the case may be ;
 - (ii) the appointment, dismissal, remuneration and conditions of service (other than functions) of the director of education and of any deputy or assistant director of education, provided that the council shall have regard to any recommendations made by the education committee with regard to such matters ;
 - (iii) the remuneration and the conditions of service of staff other than teachers, provided that the council shall have regard to any recommendations made by the education committee with regard thereto ;
 - (iv) the school medical service, provided that any arrangements made for the administration of the said service shall be such as to ensure close co-operation between the education committee and the teachers and other officers responsible to that committee on the one hand, and any committee charged

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with the responsibility for the said service and the officers responsible to that committee, on the other;

- (v) any function with regard to which the council satisfy the Secretary of State that, having regard to other functions of the council, it is expedient that that function should not be so delegated : provided that in such a case, and without prejudice to the reference or delegation of the said function to any other committee, the scheme shall provide that the said function shall stand referred to the education committee, and the council or any other committee to whom the function may have been delegated shall not, unless, in their opinion the matter is urgent, be entitled to exercise the said function until they have received and considered the report of the education committee thereon.”

45 Admission of Press to meetings of education committees.

- (1) Representatives of the Press shall be admitted to any meeting of an education committee at which any matter is to be dealt with, a decision on which does not require to be submitted for the approval of the education authority;

Provided that it shall be competent to an education committee to exclude the representatives of the Press temporarily from, any such meeting as often as may be desirable when in the opinion of a majority of the members of the committee present at the meeting, expressed by resolution, in view of the special nature of the business being, or about to be, dealt with, such exclusion is advisable in the public interest.

- (2) In this section " representatives of the Press " means duly accredited representatives of newspapers and duly accredited representatives of news agencies which systematically carry on the business of selling and supplying reports and information to newspapers.

46 Minutes of education committee meetings.

The minutes of proceedings of the education committee of an education authority shall be open to the inspection of any local government elector for the area at all reasonable hours on payment of a fee not exceeding one shilling, and any such local government elector may make a copy thereof or an extract therefrom.

47 Education estimates.

The estimates (including supplementary estimates) of capital and revenue expenditure relating to education shall be in the prescribed form, and approval by the education authority of those estimates and authorisation of the expenditure included therein shall be sufficient authority to incur, on purposes falling within the description of any head in the prescribed form, expenditure not exceeding in amount the total under that head in the estimates so approved. Savings under one head may not be used to defray expenditure under another head without the consent of the education authority.

Director of Education.

48 Appointment of director of education.

- (1) The education authority shall employ a director of education, who shall be the chief education officer of the authority, and, on a vacancy occurring in the office, shall appoint a suitable person to fill the vacancy. The director of education shall not, except with the approval of the Secretary of State, hold any other office or appointment under the education authority whether in its capacity as such authority or in its capacity as a county or town council.
- (2) The director of education shall hold office during the pleasure of the education authority, so however that he shall not be removed from office except by a resolution of the authority passed by not less than two-thirds of the members present at a meeting of the authority of which written notice stating -that the removal from office of the director of education is to be considered shall have been given to each member of the authority and to the director at least three weeks before the meeting.
- (3) Every scheme for the administration of the functions of a council relating to education shall set forth the powers to be exercised and the duties to be performed by the director of education.

Teachers.

49 Training of teachers and certificates of competency.

- (1) The Secretary of State may by regulations constitute, alter the constitution of, incorporate and dissolve committees or other bodies for the training of teachers for service in schools and other educational establishments, and may prescribe the duties to be performed by the said committees or other bodies, including the courses of training to be provided, may confer upon them such powers as may seem appropriate and may make such consequential provisions as may appear to him to be expedient.
- (2) The Secretary of State may award certificates of competency to teach, and he may by regulations prescribe the forms of the said certificates, the conditions of award and the conditions under which they may be withdrawn, whether temporarily or permanently.
- (3) Regulations made under this section may empower the said committees or other bodies to provide courses of training for teachers, leaders, wardens and other persons for the purposes of section three of this Act and for other purposes of a similar nature and enable the Secretary of State to issue documents recognising persons who have satisfactorily completed such courses, and persons who have otherwise qualified themselves for recognition, as persons competent to fulfil the duties of teachers, leaders or wardens under the said section.
- (4) The National Committee, the Provincial Committees and the Committees of Management shall be deemed to be committees constituted under subsection (1) of this section.

50 Salaries of teachers.

- (1) Section fifty-five of the Act of 1872 in so far as it relates to the salaries and emoluments of teachers and paragraph (c) of subsection (1) of section six of the Act of 1918 shall

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cease to have effect, and it shall be the duty of every education authority to pay to the teachers appointed by them salaries in accordance with such scales as may from time to time be prescribed by regulations made by the Secretary of State :

Provided always that—

- (i) it shall not be lawful for an education authority to pay additional remuneration to any teacher in respect of services already remunerated in accordance with the prescribed scale ; and
 - (ii) it shall be lawful for an education authority to pay such salary as they think fit to any teacher to whose salary no prescribed scale is for the time being applicable ; and
 - (iii) the regulations first made under this section in respect of any category of teacher may require that salaries in accordance with the scales therein prescribed shall be payable with effect from such date not earlier than the first day of April, nineteen hundred and forty-five, as may be prescribed.
- (2) Before making regulations under this section, the Secretary of State shall intimate his intention to make such regulations to any council or other body which include among their objects the making of recommendations with regard to the salaries of teachers, being a council or other body constituted with his approval by agreement between the education authorities and the teachers employed by them, or, failing such agreement, by him, and he shall have regard to any recommendations made by the said council or other body.

51 Married Women teachers.

No woman shall be disqualified for employment as a teacher in any school, junior college or other educational establishment under the management of an education authority or be dismissed from such employment by reason only of marriage.

Amendment of the teachers Superannuation Scheme.

52 Amendment of superannuation scheme.

The articles set forth in the First Schedule to this Act shall be incorporated at the appropriate places in the Teachers Superannuation Scheme, and any provision of that scheme which is inconsistent with any of those articles is hereby repealed. The said articles shall be deemed to have been included in the scheme by an amending scheme approved by Order in Council under section eight of the Act of 1919, and may be amended by a subsequent scheme approved by Order in Council under the said Act. As soon after the appointed day as may be, the scheme shall be reprinted with the said articles included therein and suitably numbered.

Inspection of Schools and Educational Establishments.

53 Inspection of educational establishments.

- (1) ; It shall be the duty of the Secretary of State to cause inspection to be made of every-educational establishment being a school or junior college at such intervals as appear to him to be appropriate, and to cause a special inspection of any such school or junior college to be made whenever he considers such an inspection to be desirable,

and he may from time to time cause inspection to be made of any other educational establishment, and such inspections shall be made by His Majesty's Inspectors or other persons appointed by the Secretary of State for the purpose.

- (2) It shall be no part of the duty of a person authorised under this section to make an inspection of any educational establishment, to inquire into instruction in religious subjects given therein or to examine any pupil in religious knowledge or in any religious subject or book.
- (3) If any person obstructs any person authorised to make an inspection in pursuance of this section in the execution of his duty, he shall be liable on summary conviction to a fine not exceeding twenty pounds or in the case of a second or subsequent conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.
- (4) Any provision in a scheme under the Educational Endowments (Scotland) Act, 1882, or the Educational Endowments (Scotland) Acts, 1928 to 1935, regarding the inspection of any educational establishment or the cost of such inspection shall cease to have effect.

54 Inspection of schools on request of managers.

Where the managers of a school other than a public school apply to the Secretary of State for an inspection of the school with a view to ascertaining its general efficiency or the efficiency of the instruction in any specified subject, and undertake to pay towards the expenses of such inspection such sum as the Secretary of State may fix, it shall be lawful for the Secretary of State to cause the school to be inspected either by one or more of His Majesty's Inspectors or by such other persons as the Secretary of State may appoint for the purpose.

Supplementary Provisions as to Grants.

55 Payment of grants to be subject" to conditions.

- (1) The Secretary of State may by regulations make provision that any payment which he is required or authorised to make by or under the Education Acts shall be subject to such conditions as may be prescribed in the regulations, and that education authorities and other persons to whom such payments have been made shall comply with such requirements as may be specified in the regulations. The said regulations may include codes relating to the conduct of schools, junior colleges and other educational establishments and the education to be provided therein.
- (2) Where the Secretary of State is satisfied that the persons to whom any grant is payable under the Education Acts are, by reason of the provisions of any trust deed or other instrument, unable to fulfil any condition or comply with any requirement imposed under this section, he may, after consultation with them, by order make such modifications of the said provisions as may be necessary for the purpose of enabling the said persons to fulfil that condition or comply with that requirement; and any such trust deed or other instrument shall, during such period as may be specified in the order, have effect subject to any modifications so made.
- (3) Nothing in the Education Acts shall affect any grants in aid of university education payable out of moneys provided by Parliament otherwise than in accordance with the provisions of the Education Acts.

56 Provision for certain payments out of Education (Scotland) Fund for certain purposes.

Notwithstanding anything in section sixteen of the Act of 1908 or subsection (2) of section twenty-one of the Act of 1918, the Secretary of State may by regulations make provision for payment out of the " Education (Scotland) Fund—

- (a) for the purposes of promoting the progressive development of education and educational establishments and of promoting educational research, of such sums as he may think necessary;
- (b) for the purpose of enabling pupils over school age to take advantage without hardship to themselves or their parents of any educational facilities available to them, of sums by way of scholarships, bursaries and other allowances ;
- (c) of grants in respect of any residential institution not under the management of an education authority which is shown to the satisfaction of the Secretary of State to be either—
 - (i) a special school attended largely by pupils whose parents or guardians are resident outside the education area in which the school is situated, or
 - (ii) an orphanage required for the proper education of pupils destitute of efficient guardianship.

Miscellaneous Powers of Secretary of State.

57 Powers of Secretary of State as to medical examination and inspection.

- (1) The Secretary of State may make regulations as to the conduct of medical examinations and medical inspections for the purposes of this Act. Such regulations may, in particular, prescribe the special qualifications or experience to be possessed by the medical practitioners by whom any class of medical examinations may be conducted, by the persons who may assist in the conduct of such examinations, and by the medical practitioners by or under whose directions any class of medical inspections may be conducted.
- (2) Every education authority shall furnish to the Secretary of State such particulars as he may from time to time require of the arrangements made by the authority in the exercise of their functions relating to medical examination, inspection, supervision and treatment ; and the Secretary of State may give to any such authority such directions as to the discharge by the authority of those functions as appear to him to be expedient.
- (3) Where any question is to be decided by the Secretary of State under the Education Acts or under any rule, regulation or order made thereunder, then, if in the opinion of the Secretary of State the medical examination of any pupil would assist the determination of the question, the Secretary of State may by notice in writing served on the parent of that pupil, if the pupil is enrolled at a school, or, if that pupil is enrolled at a junior college or other educational establishment, upon him, require the parent to submit him, or require him to submit himself, as the case may be, for such examination ; and if any person on whom such a notice is served fails without reasonable excuse to comply with the requirements thereof, he shall be liable on summary conviction to a fine not exceeding five pounds.

58 Local inquiries.

The Secretary of State may cause a local inquiry to be held for the purpose of the exercise of any of his functions under the Education Acts, and the provisions of the Second Schedule to this Act shall have effect with regard to any such inquiry.

59 Approval and carrying out of schemes.

- (1) The Secretary of State may, after considering any representations made to him on the subject and the report of any local inquiry which may have been held under the last foregoing section, approve, either as submitted or with such modifications and amendments as he thinks proper, any scheme or revised scheme or modification of an existing scheme (in this section referred to as " the scheme ") submitted to him under the Education Acts ; and thereupon it shall be the duty of the education authority to carry the scheme into effect as so approved.
- (2) If an education authority inform the Secretary of State that they are aggrieved by his approval with modifications or amendments of the scheme, the Secretary of State shall cause the scheme as so approved to be laid before Parliament as soon as may be thereafter together with the report of any local inquiry which may have been held under the last foregoing section. If either House of Parliament within the period of forty days beginning with the day on which the scheme is laid before it resolves that the approval of the scheme be annulled, the scheme as so approved shall cease to have effect, but without prejudice to anything previously done thereunder or to the submission and approval with or without modifications and amendments of any new scheme, revised scheme or modification of an existing scheme.
- (3) In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

60 Powers of Secretary of State to enforce duty of authorities and other persons.

If the Secretary of State is satisfied, either on complaint by any person interested or otherwise, that an education authority, the managers of a school or educational establishment, or other persons have failed to discharge any duty imposed on them by or for the purposes of the Education Acts, the Secretary of State may make an order declaring them to be in default in respect of that duty and requiring them before a date stated in the order to discharge that duty. If by the said date the education authority, managers or other persons have not discharged the duty, one or other of the following steps may be taken to secure the discharge thereof—

- (a) the Secretary of State may make such arrangements as he thinks fit for the discharge of the duty, and all expenses incurred by the Secretary of State in so doing shall be recoverable as a debt due by the authority, managers or other persons to the Secretary of State ; or
- (b) the Court of Session may, on the application of the Lord Advocate, order specific performance of the duty.

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Miscellaneous Administrative Provisions.

61 Revocation and variation of orders and directions.

Any rule, regulation or order made or direction given by the Secretary of State or an education authority under the provisions of the Education Acts may be varied or revoked by a further rule, regulation or order made or direction given by the Secretary of State or that authority, as the case may be :

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

62 Regulations to be laid before Parliament.

- (1) The Secretary of State shall, not less than forty days before making regulations under the Education Acts, cause a draft of the regulations to be published and send a copy thereof to every education authority, and shall have regard to any representations made by an education authority or by any person interested before he makes the regulations. The regulations may be made in the same form as in the published draft or in an amended form:

Provided that where the Secretary of State certifies that on account of urgency or any special reason any regulation ought to come into immediate operation, he may make such regulation come into operation immediately as a provisional regulation, but such regulation shall continue in force only until a regulation to the same effect has been made in accordance with the foregoing provisions.

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

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

- (3) A reference in any provision of the Education (Scotland) Acts, 1872 to 1942, to a minute by the Secretary of State shall be construed as a reference to regulations.

63 Certificates of birth.

- (1) Where the age of any person is required to be ascertained or proved for the purposes of the Education Acts or of any enactment relating to the employment of children or young persons, the registrar of births, deaths and marriages having the custody of the register of births containing the entry relating to the birth of that person shall, upon being presented by any person with a written requisition in such form and containing such particulars as may be prescribed and upon payment of a fee of sixpence, supply that person with a copy of the entry certified under his hand,

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

64 Notices.

Any notice or other document required or authorised by the Education Acts to be served on or sent to any person may be served or sent—

- (a) by delivering it to him personally ; or
- (b) by leaving it for him at his dwelling-place or place of business with some person resident or employed therein, or, if he has no known dwelling-place or place of business, at any other place in which he may at the time be resident, or, in the case of a master of or seaman or person employed in any ship or vessel, in the hands of a person on board thereof and connected therewith, or in the case of a company, association, or incorporation, at their ordinary place of business in the hands of -a partner, director, secretary or other official thereof, or in the case of a body of trustees in the hand's of one of their number or of their known solicitor ; or
- (c) by sending it in a prepaid registered letter addressed to him at his dwelling-place or last known place of residence, or in the case of a company, association or incorporation at their ordinary place of business, or in the case of a body of trustees at the dwelling-place or last known place of residence of one of their number or at the office of their known solicitor.

65 Actuarial inquiry under 15 and 16 Geo. 5. c. 55.

The Secretary of State shall, as soon as may be after the passing of this Act and thereafter at intervals of seven years, cause an actuarial inquiry to be held for the purpose mentioned in section seven of the Act of 1925 (which section relates to actuarial inquiries with regard to the Education (Scotland) (Superannuation) Acts, 1919 to 1939) ; and that section shall have effect, and shall be deemed always to have had effect, as if the words " and at the expiration of every subsequent period of seven years " were omitted therefrom.

PART IV

INDEPENDENT SCHOOLS.

66 Registration of independent schools.

- (1) The Secretary of State shall appoint one of his officers to be the Registrar of Independent Schools in Scotland (hereafter in this Part of this Act referred to as " the Registrar "), and it shall be the duty of the Registrar to keep a register of independent schools, which shall be open to public inspection at all reasonable times, and the Registrar shall register therein—
- (a) the prescribed particulars relating to any independent school the proprietor of which makes application for the purpose and furnishes the information required by regulations made under this section, and
 - (b) every order of an Independent Schools Tribunal or of the Secretary of State imposing or removing any disqualification under this Part of this Act:

Provided that—

- (a) no independent school shall be registered if, by virtue of an order made under the provisions hereinafter contained, the proprietor is disqualified from being the proprietor of an independent school or if the school premises are disqualified from being used as a school or if the school premises are used or proposed to be used for any purpose for which they are disqualified by virtue of any such order ; and
 - (b) the registration of any school shall be provisional only until the Secretary of State, after the school has been inspected on his behalf under section fifty-three of this Act, gives notice to the proprietor that the registration is final.
- (2) If after the expiration of six months from the appointed day any person—
- (a) conducts an independent school (whether established before or after the appointed day) which is not a registered school or a provisionally registered school, or
 - (b) being the proprietor of an independent school does any act calculated to lead to the belief that the school is a registered school while it is a provisionally registered school,
- he shall be liable on summary Conviction to a fine not exceeding twenty pounds or in the case of a second or subsequent conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.
- (3) The Secretary of State shall make regulations—
- (a) prescribing the particulars information as to which is to be furnished to the Registrar by the proprietors of independent schools and the manner in which it shall be so furnished;
 - (b) requiring the notification to the Registrar of any changes in such particulars;
 - (c) prescribing the circumstances in which the name of a school may be deleted from the register if the Registrar is unable to obtain sufficient information of such changes; and
 - (d) dealing with such incidental matters as the Secretary of State may deem expedient.

67 Complaints.

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

the Secretary of State shall serve upon the proprietor of the school a notice of complaint stating the grounds of complaint together with full particulars of the matters complained of, and, except in so far as any of such matters are stated in the notice

to be in the opinion of the Secretary of State irremediable, the notice shall specify the measures necessary in the opinion of the Secretary of State to remedy the matters complained of, and shall specify the time, not being less than six months after the service of the notice, within which such measures are thereby required to be taken.

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

68 Determination of complaints.

- (1) Any person upon whom a notice of complaint or a copy of such a notice is served under the last foregoing section may, within the time limited by the notice, appeal therefrom by referring the complaint, in such manner as may be provided by rules made under this Part of this Act, to an Independent Schools Tribunal constituted in accordance with the provisions of the Third Schedule to this Act.
- (2) Upon a complaint being referred to an Independent Schools Tribunal the tribunal shall, after affording to all parties concerned an opportunity of being heard, and after considering such evidence as may be tendered by them or on their behalf, have power—
 - (a) to order that the complaint be annulled ;
 - (b) to order that the school in respect of which the notice of complaint was served be struck off the register;
 - (c) to order that the school be so struck off unless the requirements of the notice, with such modifications, if any, as may be specified in the order, are complied with to the satisfaction of the Secretary of State before the expiration of such time as may be specified in the order:

Provided that where the Secretary of State intimates that he is not satisfied that such requirements are complied with, the person upon whom the notice of complaint or a copy thereof has been served may, within fourteen days after such intimation, refer the matter to the tribunal, who shall have power to dispose of the reference in such manner as shall appear to them to be just;

- (d) if satisfied that the premises alleged by the notice of complaint to be unsuitable for use as a school or any part of such premises are in fact unsuitable for such use, by order to disqualify the premises or part from being so used, or if satisfied that the accommodation provided at the school premises or any part thereof is inadequate or unsuitable having regard to the number, ages and sex of the pupils attending the school, by order to disqualify the premises or the said part as the case may be from being used as a school or part of a school for pupils exceeding such number or of such age or sex as may be specified in the order ;
- (e) if satisfied that any person alleged by the notice of complaint to be a person who is not proper to be the proprietor of an independent school or to be a teacher in any school is in fact such a person, by order to disqualify that person

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from being the proprietor of any-independent school or from being a teacher in any school, as the case may be.

- (3) Where a notice of complaint has been served under this Part of this Act on the proprietor of any school and the complaint is not referred by him to an Independent Schools Tribunal within the time limited in that behalf by the notice, the Secretary of State shall have power to make any order which such a tribunal would have had power to make if the complaint had been so referred :

Provided that if the Secretary of State makes any such order as is mentioned in paragraph (c) of the last foregoing subsection, the proviso to the said paragraph shall apply in like manner as if the order had been made by the tribunal:

Provided also that, if it was alleged by the notice of complaint that any person employed as a teacher at the school is not a proper person to be a teacher in any school and that person has, within the time limited in that behalf by the copy of the notice served upon him, referred the complaint to an Independent Schools Tribunal, the Secretary of State shall not have power to make an order requiring his dismissal or disqualifying him from being a teacher in any school.

- (4) Where by virtue of an order made by an Independent Schools Tribunal or by the Secretary of State any person is disqualified either from being the proprietor of an independent school or from being a teacher in any school, then, unless the order otherwise directs, that person shall, by virtue of the order, be disqualified both from being the proprietor of an independent school and from being a teacher in any school.

69 Enforcement of orders.

- (1) Where an order is made by the Secretary of State or by an Independent Schools Tribunal, directing that any school be struck off the register, the Registrar shall as from the date on which the direction takes effect strike the school off the register.
- (2) If any person uses any premises for purposes for which they are disqualified by virtue of any order made under this Part of this Act, that person shall be liable on summary conviction to a fine not exceeding twenty pounds or in the case of a second or subsequent conviction, whether in respect of the same or of other premises, to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.
- (3) If any person acts as the proprietor of an independent school, or accepts or endeavours to obtain employment as a teacher in any school, while he is disqualified from so acting or from being so employed by any such order as aforesaid, he shall be liable on summary conviction to- a fine not exceeding twenty pounds, or in the case of a second or subsequent conviction to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.
- (4) For the purposes of the foregoing provisions of this Part of this Act, a person who is disqualified by an order made under Part III of the Education Act, 1944, from being the proprietor of an independent school, or from being a teacher in any school shall be deemed to be so disqualified by an order made under this Part of this Act.

70 Removal of disqualifications.

- (1) If on the application of any person the Secretary of State is satisfied that any disqualification imposed by an order made under this Part of this Act is, by reason

of any change of circumstances, no longer necessary, the Secretary of State shall by order remove the disqualification.

- (2) Any person who. is aggrieved by the refusal of the Secretary of State to remove a disqualification so imposed may, within such time after the refusal, has been communicated to him as may be limited by rules made under this Part of this Act, appeal to an Independent Schools Tribunal, who- may or may not order the removal of the disqualification as they think fit.

71 Proceedings before Independent Schools Tribunals and matters relating thereto.

- (1) The Lord President of the Court of Session may, with the concurrence of the Secretary of State, make rules as to the manner of making appeals to Independent Schools Tribunals and as to proceedings before such tribunals and matters incidental to or consequential on such proceedings ; and, in particular, such rules may make provision requiring any such tribunal to sit at such places as may be directed in accordance with the rules, and may make provision as to appearance before such tribunals by counsel or solicitor and as to the payment to members of such tribunals, as part of the expenses of the Secretary of State under this Act, of such remuneration and allowances as may, with the consent of the Treasury, be provided by the rules.
- (2) Rules under the last foregoing subsection may make provision for reference to the Court of Session, by way of stated case, of any question of law arising in such proceedings.
- (3) An Independent Schools Tribunal shall have power to make such orders as to expenses, and as to such other consequential or incidental matters as appear to the tribunal to be necessary for giving effect to any order made by the tribunal, as the tribunal considers to be just, and any such order as to expenses may be enforced as if it were a recorded decree arbitral.

PART V

GENERAL.

Expenses of Secretary of State.

72 Expenses of Secretary of State.

In so far as any expenses incurred by the Secretary of State in the exercise of his functions under the Education Acts are not met from the Education (Scotland) Fund or under subsection (2) of section one of the Reorganisation of Offices (Scotland) Act; 1939, the said expenses shall be defrayed out of moneys provided by Parliament.

Educational Endowments.

73 Register of educational endowments.

- (1) The Secretary of State shall appoint one of his officers to be Registrar of Educational Endowments, and it shall be the duty of the Registrar to keep a register of all

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educational endowments, which shall contain such information as may be prescribed, and shall be open to public inspection at all reasonable times.

- (2) Except as hereinafter provided, it shall be the duty of the governing body of every educational endowment within twelve months after the appointed day or after the date upon which the deed, creating the endowment came into operation, whichever is the later, to furnish the Registrar with such information about the endowment as may be prescribed by regulations made by the Secretary of State.
- (3) This section shall not apply to a university endowment, to a theological endowment, or to the Carnegie Trust, and regulations made under this section may exempt any endowment or class of endowments from any of the provisions of this section.
- (4) Expressions used in this section which are defined in the Educational Endowments (Scotland) Acts, 1928 to 1935, shall have the like meaning as in those Acts.

74 Alteration of schemes under 45 and 46 Vict. c. 59.

Any provision in a scheme under the Educational Endowments (Scotland) Act, 1882, providing for the alteration of the scheme shall cease to have effect.

75 Date of endowment accounts.

Notwithstanding anything in any scheme under the Educational Endowments (Scotland) Act, 1882, or the Educational Endowments (Scotland) Acts, 1928 to 1935, relating to the accounts of an educational endowment of which a county council or a town council is the governing body, the said accounts shall be made up and balanced to the same day in every year as the accounts of the county fund or the burgh fund as the case may be :

Provided that the accounts of any such endowment as aforesaid current on the day when the council's financial year ends first occurring after the appointed day may be made up and balanced to the first mentioned day or to a day one year thereafter as the council think fit.

76 Amendment of 18 and 19 Geo. 5. c. 30.

Sections nineteen, twenty, twenty-one and twenty-seven and paragraph (e) of subsection (1) of section forty-one of the Educational Endowments (Scotland) Act, 1928, (which relate, to objections to draft schemes, and the framing, consideration, confirmation and approval of schemes under that Act), shall have effect as if for any reference therein to two months there were substituted a reference to one month.

77 Sale of land belonging to educational endowments.

- (1) Where it appears to the Secretary of State to be desirable that a scheme under the Educational Endowments (Scotland) Acts, 1928 to 1935, in relation to any educational endowment should make provision for the sale of any land forming the endowment or part thereof and for the application of the proceeds of sale in accordance with the provisions of the scheme, but that such provision cannot be made by reason of the third proviso to section two of the 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, the land shall revert to the grantor), or by

reason of any condition of a similar nature contained in the governing instrument of the endowment, he may by order direct that the said proviso or condition shall not have effect in relation to the land :

Provided that no such direction shall be given in relation to any land unless the Secretary of State is satisfied either—

- (a) that the person to whom the land would revert in accordance with the said proviso or condition cannot after due inquiry be found ; or
 - (b) 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 so to do 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 out of the proceeds of the sale of the land.
- (2) A scheme under the Educational Endowments (Scotland) Acts, 1928 to 1935, relating to any educational endowment which includes land in respect of which an order has been made under the last foregoing subsection may make provision for the payment out of the proceeds of the 'sale of the 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.
- (3) In this section the expression " educational endowment " has the meaning assigned to it by section forty-two- of the Educational Endowments (Scotland) Act, 1928, provided that any land conveyed under section two of the School Sites Act, 1841, or held under a governing instrument containing a condition of the nature referred to in subsection (1) of this section shall be deemed to be an educational endowment or part thereof notwithstanding anything in the third proviso to that section or in the said condition.

Promotion of Educational Developments.

78 Research.

An education authority may with the approval of the Secretary of State 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.

79 Educational conferences.

Subject to any regulations made by the Secretary of State, 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.

*Evidence.***80 Provisions as to evidence.**

- (1) Where in any proceedings under the Education Acts the prosecutor alleges that any person whose age is material to the proceedings is under, of, or over, any age, and satisfies the court that 'having used all reasonable diligence to obtain evidence as to the age of that person he has been unable to do so, then, unless the contrary is proved, the court may presume that person to be under, of, or over, the age alleged.
- (2) In any legal proceedings any document purporting to be—
- (a) a document issued by an education authority, and to be signed by the clerk of that authority or by the director of education of that authority or by any other officer of the authority authorised to sign it;
 - (b) an extract from the minutes of the proceedings of an education authority or of any committee or subcommittee thereof, and to be signed by the chairman of the authority or of the committee or sub-committee or by the officer having the custody of the minutes ;
 - (c) a certificate giving particulars of the attendance of a pupil at a school or junior college, and to be signed by the head teacher of the school or college ;
 - (d) a certificate issued by a medical officer of an education authority, and to be signed by such an officer ;
 - (e) a certificate issued by an education authority that an attendance order has been made by the authority and a copy thereof served upon the parent of the child to whom the order relates, and to be signed by the clerk to the authority or by the director of education or by any other officer authorised to sign it ; or
 - (f) a certificate in the prescribed form of exemption from attendance at a junior college, and to be authenticated in the prescribed manner;

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

*Savings.***81 Saving as to persons in the service of the Crown.**

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

82 Saving as to lunatics, mental defectives, etc..

Subject to the provisions of the Education (Scotland) (Superannuation) Acts, 1919 to 1939, and to the scheme and rules made thereunder and to the provisions of section

forty-two of this Act, no power or duty conferred or imposed by the Education Acts on the Secretary of State, on education authorities or on parents or young persons shall be construed as relating to any person who is the subject of an order or warrant for his detention or custody under the Lunacy (Scotland) Acts, 1857 to 1919, or is being entertained and kept in an asylum in pursuance of section fifteen of the Lunacy (Scotland) Act, 1866, or is a person for whose safe custody during His Majesty's pleasure His Majesty is authorised to give order or is a prisoner whom the Secretary of State has in pursuance of any Act directed to be removed to a criminal lunatic asylum or to the criminal lunatic department of Perth prison or to an asylum or is, a person placed in an institution or a certified house or under guardianship under section four of the Mental Deficiency and Lunacy (Scotland) Act, 1913, or is the subject of an order under sections seven, nine or ten of that Act, or has been reported under section forty-two of this Act as having been found incapable of receiving education at school, onto any person who is detained in pursuance of an order made by any court.

Miscellaneous.

83 Effect of attendance notices on computation of working hours.

- (1) Where a young person is employed in any employment with respect to which a limitation upon the number of working hours during which he may be employed in that employment otherwise, than by way of overtime in any week is imposed by or under any enactment, any period of attendance at a junior college required of him during that week by an attendance notice served on him shall, for the purposes of the limitation, be deemed to be time during which he has been so employed in that week.
- (2) Where a young person employed in any employment is entitled by or under the provisions of any enactment or of any agreement to overtime rates of pay in respect of any time during which he is employed in that employment on any day or in any week in excess of any specified number of hours or before or after any specified hour, any period of attendance at a junior college, required of him on that day or during that week by an attendance notice served on him shall, for the purposes of those provisions, be deemed to be a period during which he was employed in that employment otherwise than in excess of the specified number of hours or before or after the specified hour, as the case may be.

84 Adaptation of enactments relating to employment of children and young persons.

- (1) For the purpose of any enactment relating to the prohibition or regulation of the employment of children or young persons, any person who is not for the purposes of this Act over school age shall be deemed to be a child within the meaning of that enactment.
- (2) For the purposes of any byelaws under Part III of the Children and Young Persons (Scotland) Act, 1937, the expression " child " shall have the same meaning as it has for the purposes of the said Part III.

85 Exemption from rates.

No assessment or rate under any general or local Act for any county, burgh or other local purpose shall be assessed or levied upon or in respect of any land or building

used exclusively or mainly for the purposes of the premises of a special school or orphanage in respect of which grants may be paid under paragraph (c) of section fifty-six of this Act, except to the extent of any profit derived by the managers from the letting thereof.

86 Amendment of enactments.

- (1) In relation to any young person punishable under this Act or under section seventy-eight of the Unemployment Insurance Act, 1935, subsection (3) of section fifty-six and section fifty-eight of the Children and Young Persons (Scotland) Act, 1937, (which relate to the substitution of other punishments -for imprisonment), shall have effect as if references therein to a young person included references to any person who has not attained the age of eighteen years.
- (2) Any reference in an enactment passed before the appointed day to a school in receipt of a parliamentary grant shall, unless the context otherwise requires, be construed as a reference to a school other than an independent school.
- (3) The amendments specified in the third column of the Fourth Schedule to this Act, being amendments of a minor or consequential nature, shall be made in the enactments specified in the first and second columns of that Schedule.

87 Interpretation.

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings respectively assigned to them :—
 - " Act of 1872 " means the Education (Scotland) Act, 1872 ;
 - " Act of 1889 " means the Local Government (Scotland) Act, 1889 ;
 - " Act of 1901 " means the Education (Scotland) Act, 1901 ;
 - " Act of 1908 " means the Education (Scotland) Act, 1908 ;
 - " Act of 1918 " means the Education (Scotland) Act, 1918 ;
 - " Act of 1919 " means the Education (Scotland) (Superannuation) Act, 1919 ;
 - " Act of 1925 " means the Education (Scotland) (Superannuation) Act, 1925 ;
 - " Act of 1929 " means the Local Government (Scotland) Act, 1929 ;
 - " Act of 1936 " means the Education (Scotland) Act, 1936 ;
 - " Act of 1939 " means the Education (Emergency) (Scotland) Act, 1939 ;
 - " Child " means a person who is not over school age ;
 - " Clothing " includes boots and other footwear ;
 - " Code " means a code included in regulations under section fifty-five of this Act;
 - " Education Acts " means the Education (Scotland) Acts, 1872 to 1942, the Education (Scotland) (Superannuation) Acts, 1919 to 1939, the Educational Endowments (Scotland) Act, 1882, the Educational Endowments (Scotland) Acts, 1928 to 1935, the Highland Schools Act, 1873, and this Act;
 - " Educational establishment "—
 - (i) means a school, a junior college and any other institution for the provision of any form of further education and the premises of such school, junior college or institution, and

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- (ii) without prejudice to the foregoing generality, includes a central institution, a training centre, a training college, a hostel used mainly by pupils attending such schools or junior colleges or institutions, and a residential institution conducted under a scheme under the Educational Endowments (Scotland) Acts, 1928 to 1935, 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 or organising activities of a character similar to those which may be provided by an education authority under section three of this Act, 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 apply in writing to the Secretary of State for the club or centre to be 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 ;

" Functions " includes powers and duties ; and " functions relating to education", used in relation to an education authority, includes any function conferred or imposed on an education authority by the Education Acts or by any other enactment;

"Further education " has the meaning assigned to it by subsection (5) of section one of this Act;

" 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 or a school in respect of which grants are made by the Secretary of State to the managers of the school other than grants in aid of the managers' contributions under the Education (Scotland) (Superannuation) Acts, 1919 to 1939 ;

" Junior college " has the meaning assigned to it by subsection (5) of section one of this Act;

" 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;

" Medical examination " means examination by a duly qualified 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 duly qualified medical practitioner or in appropriate cases by a person registered under the Dentists Act, 1878 ;

" Medical officer " means, in relation to any education authority, a duly qualified medical practitioner employed or engaged, whether regularly or for the purposes of any particular case, by that authority ;

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" Medical treatment " includes prevention and treatment of diseases by any duly qualified medical practitioner or by any person registered under the Dentists Act, 1878, and the supply of appliances on the recommendation of such practitioner or person, but does not, in relation to any pupil other than a pupil receiving primary or secondary education elsewhere than at school under arrangements made by an education authority under section eight of this Act, include treatment in that pupil's home ;

" Mental Deficiency Acts " means the Mental Deficiency and Lunacy (Scotland) Acts, 1913 and 1940 ;

" National committee ", " provincial committee " and " committee of management " mean respectively the National Committee for the Training of Teachers, a Provincial Committee and a Committee of Management established under the minute of the Scottish Education Department dated the tenth day of February, 1920, and include any committee or other body that may be appointed in their place under section forty-nine of this Act;

" Nursery school " and " nursery class " have the respective meanings assigned to them by subsection (2) of section one 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;

" Premises " in relation to any educational establishment includes any building in which pupils attending such establishment 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 ;

" Primary education " has the meaning assigned to it by subsection (2) of section one of this Act;

" 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;

" Public school " means any school under the management of an education authority ;

" Pupil " where used without qualification means a person of any age for whom education is or is required to be provided under the Education Acts ;

" Registered school " means an independent school the registration of which in the register of independent schools is final;

" School " means an institution providing primary or secondary education or both primary and secondary education being a public school, an independent school, or a school in respect of which grants are made by the Secretary of State to the managers of the 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 but does not include an approved school within the meaning of the Children and Young Persons (Scotland) Act, 1937 ;

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" School age " has, subject to the provisions of section twenty-four and of subsection (3) of this section, the meaning assigned to it by section twenty-three of this Act ;

" Secondary education " has the meaning assigned to it by subsection (3) ,of section one of this Act;

" Special educational treatment " has the meaning assigned to it by subsection (4) of section one of this Act ;

" Special school " includes special classes forming part of primary schools and secondary schools, child guidance clinics and occupational centres ;
Teachers superannuation scheme " means the superannuation scheme framed and approved under the Education (Scotland) Superannuation Acts, 1919 to 1939, and any amendment thereof ;

" Training centre " and " training college " mean a centre or college for the purposes of section forty-nine of this Act managed respectively by a provincial committee or a committee of management ;

" Young person " means a person over school age who has not attained the age of eighteen.

- (2) Where any function is delegated by one body to another in pursuance of this Act, that other body shall have power to exercise the function in like manner in all respects as the first mentioned body could have exercised it had there been no delegation, and, save as otherwise provided in the administrative scheme, to enter into any contract or execute any deed necessary for that purpose.
- (3) Any person who before the date when section twenty-three of this Act comes into operation has attained an age at which under the Education (Scotland) Acts, 1872 to 1942, his parent ceased to be under obligation to provide efficient education for him shall be deemed to be over school age, and any person who after the said date ceases to be of school age shall not in the event of any subsequent change in the upper limit of school age again become a person of school age.
- (4) In this Act, unless the context otherwise requires, references to any enactment or any provision of any enactment shall be construed as references to that enactment or provision as amended by any subsequent enactment, including this Act.
- (5) Any minute, rule, regulation, order or scheme, passed or made, or any certificate, direction or approval given, or thing done under any enactment repealed or amended by this Act, shall, if in force at the appointed day, continue in force notwithstanding such repeal or amendment in like manner as if it had been passed, made, given or done under this Act.

88 Repeal of obsolete enactments.

The enactments set out in the Fifth Schedule to this Act, being enactments which, to the extent specified in the third column of that Schedule, have by lapse of time or otherwise become unnecessary or obsolete, shall to that extent be repealed :

Provided that, without prejudice, to the provisions of section thirty-eight of the Interpretation Act, 1889, nothing in this' repeal shall affect—

- (i) the validity of any scheme under the Educational Endowments (Scotland) Act, 1882, in force at the appointed day; or
- (ii) the title of an education authority to any property vested in or held in trust for them at the appointed day ; or

- (iii) the terms and conditions upon which any officer of an education authority holds his office or the powers of an education authority in relation thereto.

89 Citation, repeal and commencement.

- (1) This Act may be cited as the Education (Scotland) Act, 1945, and the Education (Scotland) Acts, 1872 to 1942, the Education (Scotland) (Superannuation) Acts, 1919 to 1939, the Educational Endowments (Scotland) Act, 1882, the Educational Endowments (Scotland) Acts, 1928 to 1935, the Highland Schools Act, 1873, and this Act shall be construed as one, and may be cited together as the Education (Scotland) Acts, 1872 to 1945.
- (2) The enactments set out in the Sixth Schedule to this Act shall be repealed to the extent specified in the third column of that Schedule.
- (3) Save as otherwise expressly provided this Act shall come into operation on the appointed day, and the appointed day shall be such day as the Secretary of State may appoint, and different days may be appointed for different purposes and different provisions of this Act : Provided always that the day appointed for the coming into operation of section twenty-three shall be not later than the first day of April nineteen hundred and forty-six and the day appointed for the coming into operation of sections twenty-nine to thirty-one and eighty-three shall be not later than three years after the date on which the upper limit of the school age is raised to fifteen.