



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

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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.

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- (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

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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

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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.