



# Education Act 1944

## 1944 CHAPTER 31

### PART II

#### THE STATUTORY SYSTEM OF EDUCATION.

#### PRIMARY AND SECONDARY EDUCATION.

##### *Provision and Maintenance of Primary and Secondary Schools.*

### **8 Duty of local education authorities to secure provision of primary and secondary schools.**

- (1) It shall be the duty of every local education authority to secure that there shall be available for their area sufficient schools—
- (a) for providing primary education, that is to say, full-time education suitable to the requirements of junior pupils; and
  - (b) for providing secondary education, that is to say, full-time education suitable to the requirements of senior pupils, other than such full-time education as may be provided for senior pupils in pursuance of a scheme made under the provisions of this Act relating to further education ;

and the schools available for an area shall not be deemed to be sufficient unless they are sufficient in number, character, and equipment to afford for all pupils opportunities for education offering such variety of instruction and training as may be desirable in view of their different ages, abilities, and aptitudes, and of the different periods for which they may be expected to remain at school, including practical instruction and training appropriate to their respective needs.

- (2) In fulfilling their duties under this section, a local education authority shall, in particular, have regard—
- (a) to the need for securing that primary and secondary education are provided in separate schools;
  - (b) to the need for securing that provision is made for pupils who have not attained the age of five years by the provision of nursery schools or, where the authority

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consider the provision of such schools to be inexpedient, by the provision of nursery classes in other schools ;

- (c) to the need for securing that provision is made for pupils who suffer from any disability of mind or body by providing, either in special schools or otherwise, special educational treatment, that is to say, education by special methods appropriate for persons suffering from that disability; and
- (d) to the expediency of securing the provision of boarding accommodation, either in boarding schools or otherwise, for pupils for whom education as boarders is considered by their parents and by the authority to be desirable:

Provided that paragraph (a) of this subsection shall not have effect with respect to special schools.

## **9 County schools, voluntary schools, nursery schools, and special schools.**

- (1) For the purpose of fulfilling their duties under this Act, a local education authority shall have power to establish primary and secondary schools, to maintain such schools whether established by them or otherwise, and, so far as may be authorised by arrangements approved by the Minister, to assist any such school which is not maintained by them.
- (2) Primary and secondary schools maintained by a local education authority, not being nursery schools or special schools, shall, if established by a local education authority or by a former authority, be known as county schools and, if established otherwise than by such an authority, be known as voluntary schools :

Provided that any school which by virtue of any enactment repealed by this Act was to be deemed to be, or was to be treated as, a school provided by a former authority shall, notwithstanding that it was not in fact established by such an authority as aforesaid, be a county school.

- (3) Subject to the provisions hereinafter contained as to the discontinuance of voluntary schools, every school which immediately before the commencement of this Part of this Act was, within the meaning of the enactments repealed by this Act, a public elementary school provided otherwise than by a former authority shall, if it was then maintained by a former authority, be maintained as a voluntary school by the local education authority for the area in which the school is situated.
- (4) Primary schools which are used mainly for the purpose of providing education for children who have attained the age of two years but have not attained the age of five years shall be known as nursery schools.
- (5) Schools which are especially organised for the purpose of providing special educational treatment for pupils requiring such treatment and are approved by the Minister for that purpose shall be known as special schools.
- (6) The powers conferred by subsection (1) of this section on local education authorities shall be construed as including power to establish maintain and assist schools outside as well as inside their areas.

## **10 Requirements as to school premises.**

- (1) The Minister shall make regulations prescribing the standards to which the premises of schools maintained by local education authorities are to conform, and such regulations

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may prescribe different standards for such descriptions of schools as may be specified in the regulations.

- (2) Subject as hereinafter provided, it shall be the duty of a local education authority to secure that the premises of every school maintained by them conform to the standards prescribed for schools of the description to which the school belongs:

Provided that if the Minister is satisfied with respect to any school that having regard to the nature of the site or to any existing buildings thereon or to other special circumstances affecting the school premises it would be unreasonable in that case to require conformity with the requirements of the regulations in any particular respect, he may direct that the school 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 in the direction.

## **11 Development plans as to primary and secondary schools.**

- (1) As soon as may be after the date of the commencement of this Part of this Act, every local education authority shall estimate the immediate and prospective needs of their area, having regard to the provisions of this Act and of any regulations made thereunder and to the functions relating to primary and secondary education thereby conferred on them, and shall, within one year after that date or within such extended period as the Minister may in any particular case allow, prepare and submit to the Minister a plan (in this Act referred to as a "development plan") in such form as the Minister may direct showing the action which the authority propose should be taken for securing that there shall be sufficient primary and secondary schools available for their area and the successive measures by which it is proposed to accomplish that purpose.
- (2) A local education authority, before submitting to the Minister the development plan for their area, shall take into consideration all schools available for providing primary and secondary education for pupils in the area, and the development plan for the area shall:—
- (a) specify which of the said schools the authority propose should be county primary schools, county secondary schools, voluntary primary schools, and voluntary secondary schools respectively, and, in relation to every such school, give particulars of the proposals of the authority as to the nature of the education to be provided in the school and as to the ages of the pupils to be taught therein ;
  - (b) specify what alterations are, by reason of the provisions of this Act or of any regulations made thereunder, required in the premises of any school proposed to be either a county school or a voluntary school, and furnish estimates of the cost of those alterations;
  - (c) specify what additional county schools and voluntary schools, if any, will be required for their area ;
  - (d) include information as to any arrangements proposed to be made with respect to schools not to be maintained by the authority, for the purpose of helping to secure that there shall be sufficient primary and secondary schools available for their area;
  - (e) give particulars of the arrangements made and proposed to be made by the authority for meeting the needs of pupils who have not attained the age of five years and of pupils who require special educational treatment ;

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- (f) give particulars of the arrangements made and proposed to be made by the authority for the provision of boarding schools ;
- (g) include information as to any other measures which the authority propose to take in fulfilment of their duty to secure the provision of schools for providing primary and secondary education, such as the making of general arrangements for the transport of pupils to and from school ; and
- (h) contain such other particulars of the proposals of the authority with respect to schools for providing primary and secondary education for their area as the authority think necessary, or as the Minister may require :

Provided that, if the local education authority are satisfied that any county school or voluntary school which is for the time being organised for the provision of both primary and secondary education ought to continue to be so organised, the development plan may make provision for its continuing to be so organised during such period as they think necessary.

- (3) A local education authority shall, before submitting their development plan to the Minister, consult the managers or governors, or persons representing the managers or governors, of all schools other than county schools, whether within or without the area of the authority, which would in the opinion of the authority be affected by the execution of the plan, and shall, after submitting the plan to the Minister, forthwith furnish to the managers or governors of every such school such particulars relating to the plan as are sufficient to show the manner in which the school would be affected by the execution thereof.

Where a development plan has been submitted to the Minister under this section, the Minister shall, if he is of opinion that no particulars or insufficient particulars of the plan have been furnished to any person who, in his opinion, would be affected by the execution of the plan, give such directions as he considers expedient for securing that sufficient particulars are so furnished.

- (4) After considering any objections to a development plan made to him within the period of two months after the date on which he is satisfied that all necessary particulars have been furnished in accordance with the last foregoing subsection, and after making in the plan such modifications, if any, as after consultation with the local education authority he considers necessary or expedient for the purpose of securing that the plan makes proper provision for the immediate and prospective needs of the area with respect to primary and secondary schools, the Minister shall approve the plan, and shall give such directions to the local education authority as he considers desirable for the purpose of giving to the managers or governors of every voluntary school affected by the plan notice of the approval thereof, and otherwise for giving publicity to the plan as approved by him.
- (5) The approval of the development plan submitted by a local education authority shall not, of itself, affect the duties of the authority, but in so far as the Minister considers it expedient to impose duties upon the authority for the purpose of securing that effect will be given to the plan as approved by him, those duties shall be imposed by the local education order for the area made under the next following section.

## **12 Local education orders with respect to primary and secondary education.**

- (1) As soon as may be after approving the development plan for the area of any local education authority, the Minister shall make an order to be called the local education order for the area specifying the county schools and voluntary schools which it is the

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duty of the authority to maintain, and the order shall, to such extent as the Minister considers desirable, define the duties of the authority with respect to the measures to be taken by the authority for securing that there shall be sufficient primary and secondary schools available for their area, and shall make provision as to which of the schools maintained or assisted by the authority for providing primary and secondary education shall be primary schools and secondary schools respectively and as to which of them, if any, shall, for the time being, be organised for the provision of both primary and secondary education.

- (2) The local education order for every area shall continue to regulate the duties of the local education authority in respect of the matters therein mentioned and shall be amended by the Minister whenever, in his opinion, the amendment thereof is expedient by reason of any change or proposed change of circumstances:

Provided that, before amending the local education order for any area in such manner as to vary the duties of a local education authority in any respect not either provided for by the development plan approved for the area or by proposals approved by him or occasioned by the discontinuance of a voluntary school under the provisions hereinafter contained relating to those matters respectively, the Minister shall give to the local education authority, and to the managers, governors or other proprietor of any school which, in his opinion, would be affected by the amendment, notice of the amendment proposed to be made and shall consider any objections made to him by the authority or by such managers, governors or proprietor within two months after the service of the notice.

- (3) If a local education authority inform the Minister that they are aggrieved by an order or by an amendment of an order made under this section, the order or amendment shall be laid before Parliament as soon as may be thereafter, and if either House of Parliament within the period of forty days beginning with the day on which any such order or amendment is laid before it resolves that the order or amendment be annulled, the order or amendment shall cease to have effect, but without prejudice to anything previously done thereunder or to the making of any new order or amendment.

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.

### **13 Establishment and discontinuance of county and voluntary schools.**

- (1) Where a local education authority intend—
- (a) to establish a new county school;
  - (b) to maintain as a county school any school which at the time being is not such a school; or
  - (c) to cease to maintain any county school or, save as provided by the next following section of this Act, any voluntary school;
- they shall submit proposals for that purpose to the Minister.
- (2) Where any persons propose that any school established by them or by persons whom they represent which at the time being is not a voluntary school, or any school proposed to be so established, should be maintained by a local education authority as a voluntary school, they shall after consultation with the authority submit proposals for that purpose to the Minister.

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- (3) After any proposals have been submitted to the Minister under this section, the authority or persons by whom the proposals were submitted shall forthwith give public notice of the proposals in the prescribed manner, and the managers or governors of any voluntary school affected by the proposals or any ten or more local government electors for the area and any local education authority concerned may within three months after the first publication of the notice submit to the Minister objections to the proposals :

Provided that this subsection shall not have effect in the case of proposals for the maintenance as a voluntary school of a school which is at the time being a school in respect of which grants are made by the Minister, if the proposals are made with the concurrence of the authority and of the proprietor of the school and of any trustees in whom is vested any interest in the school premises.

- (4) Any proposals submitted to the Minister under this section may be approved by him after making such modifications therein, if any, as appear to him to be desirable :

Provided that the Minister shall not approve proposals for the maintenance as a county school of any school which, at the time being, is a voluntary school, unless he has, in accordance with the provisions of the Second Schedule to this Act, approved an agreement made under the powers conferred by that Schedule between the authority and the managers or governors of the school for the transfer to the authority of all necessary interests in the school premises.

- (5) A local education authority shall not, without the leave of the Minister, do or undertake to do anything (whether or not provided for by the development plan for the area) for which proposals are required by this section to be submitted to the Minister until such proposals have been approved by him.

- (6) After proposals for the establishment of a new school have been approved by the Minister under this section, the authority or persons by whom the proposed school is to be established shall submit to him in such form and in such manner as he may direct specifications and plans of the school premises, and the Minister, on being satisfied that the school premises will conform to the prescribed standards, may approve the specifications and plans:

Provided that, before submitting specifications and plans in respect of a school which is to be maintained as a voluntary school, the persons by whom the school is to be established shall consult the local education authority.

- (7) When the proposals specifications and plans for a new school have been approved by the Minister under this section, it shall be the duty of the authority or persons by whom the proposed school is to be established to give effect to the proposals in accordance with the specifications and plans so approved, except that in the case of proposals submitted under subsection (2) of this section the duty of providing playing fields and any buildings required only for affording facilities for medical inspection or treatment or for providing milk, meals, or other refreshment shall be the duty of the local education authority.

- (8) When proposals for the maintenance of any school have been approved by the Minister under this section, it shall be the duty of the local education authority to maintain it; and an authority shall not be under any duty to maintain a school after proposals that the authority shall cease to maintain it have been approved by the Minister under this section.

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#### **14 Restrictions on discontinuance of voluntary schools by managers and governors.**

- (1) Subject to the provisions of this section, the managers or governors of a voluntary school shall not discontinue the school except after serving on the Minister and on the local education authority by whom the school is maintained not less than two years' notice of their intention to do so :

Provided that, except by leave of the Minister, no such notice as aforesaid shall be served by the managers or governors of any voluntary school in respect of the establishment or alteration of which expenditure has been incurred by the Minister or by any local education authority or former authority, and, if the Minister grants such leave, he may require the repayment of such portion of the amount of the expenditure as he thinks just.

- (2) No such notice as aforesaid shall be withdrawn except with the consent of the local education authority.
- (3) If, while any such notice as aforesaid is in force with respect to a voluntary school, the managers or governors of the school inform the local education authority that they are unable or unwilling to carry on the school until the expiration of the notice, the authority may conduct the school during the whole or any part of the unexpired period of the notice as if it were a county school, and shall be entitled to the use of the school premises, free of charge, for that purpose.
- (4) While any school is being conducted by a local education authority as a county school under the last foregoing subsection, the authority shall keep the school premises in good repair, and for all purposes relating to the condition of the school premises, the occupation and use thereof, and the making of alterations thereto, any interest in the said premises which is held for the purposes of the school shall be deemed to be vested in the authority :

Provided that the managers or governors of the school shall be entitled to the use of the school premises or any part thereof when not required for the purposes of the school to the like extent as if they had continued to carry on the school during the unexpired period of the notice.

- (5) Where any school is discontinued in accordance with the provisions of this section, the duty of the local education authority to maintain the school as a voluntary school shall be extinguished.

#### **15 Classification of voluntary schools as controlled schools, aided schools, or special agreement schools.**

- (1) Voluntary schools shall be of three categories, that is to say, controlled schools, aided schools, and special agreement schools, and in schools of those several categories the management of the school, the secular instruction and religious education, and the appointment and dismissal of teachers, shall be regulated in accordance with the provisions hereinafter contained relating to those matters in controlled schools aided schools and special agreement schools respectively.
- (2) Upon application being duly made to him with respect to any voluntary school, the Minister may by order direct that the school shall be a controlled school an aided school or a special agreement school, and where he is satisfied that the managers or governors of the school will be able and willing, with the assistance of the maintenance contribution payable by the Minister under this Act, to defray the expenses which

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would fall to be borne by them under paragraph (a) of the next following subsection, the order shall direct that the school shall be an aided school, or, in the case of a school with respect to which a special agreement has been made under the Third Schedule to this Act, a special agreement school :

Provided that, subject to the provisions of this section, any application for an order directing that a school shall be an aided school or a special agreement school must be made, in the case of a school which became a voluntary school by virtue of subsection (3) of section nine of this Act not later than six months after the date on which the managers or governors of the school received notice of the approval of the development plan for the area, and in any other case not later than the submission to the Minister of the proposals that the school should be maintained by the local education authority as a voluntary school; and, subject to the transitional provisions of this Act as to the management and maintenance of voluntary schools, a voluntary school with respect to which no order is in force under this section directing that it shall be an aided school or a special agreement school shall be a controlled school.

- (3) The managers or governors of a controlled school shall not be responsible for any of the expenses of maintaining the school, but the following provisions shall have effect with respect to the maintenance of aided schools and special agreement schools:
- (a) the following expenses shall be payable by the managers or governors of the school, that is to say, the expenses of discharging any liability incurred by them or on their behalf or by or on behalf of any former managers or governors of the school or any trustees thereof for the purposes of establishing or carrying on the school, any expenses incurred in effecting such alterations to the school buildings as may be required by the local education authority for the purpose of securing that the school premises should conform to the prescribed standards, and any expenses incurred in effecting repairs to the school premises not being repairs which are excluded from their responsibility by the following paragraph:
  - (b) the managers or governors of the school shall not be responsible for repairs to the school playground or playing fields or to the interior of any buildings forming part of the school premises or for repairs necessary in consequence of the use of the premises, in pursuance of any direction or requirement of the authority, for purposes other than those of the school.
- (4) If at any time the managers or governors of an aided school or a special agreement school are unable or unwilling to carry out their obligations under paragraph (a) of the last foregoing subsection, it shall be their duty to apply to the Minister for an order revoking the order by virtue of which the school is an aided school or a special agreement school, and upon such an application being made to him the Minister shall revoke the order.
- (5) If at any time the Minister is satisfied that the grant made in respect of a special agreement school in pursuance of the special agreement made with respect to the school under this Act has been repaid to the local education authority by which the school is maintained, the Minister shall, upon application being made to him for that purpose by the managers or governors of the school, by order revoke the order by virtue of which the school is a special agreement school and, if satisfied that the managers or governors of the school will be able and willing, with the assistance of the maintenance contribution payable by the Minister under this Act, to defray the expenses which would fall to be borne by them under paragraph (a) of subsection (3) of this section, shall by order direct that the school shall be an aided school.



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- (6) In this section the expression " school buildings ", in relation to any school, does not include any buildings required only for affording facilities for enabling the local education authority to carry out their functions with respect to medical inspection or treatment or for affording facilities for providing milk, meals or other refreshment for pupils in attendance at the school.

**16 Transfer of county and voluntary schools to new sites, and substitution of new voluntary schools for old ones.**

- (1) Where the Minister is satisfied that it is expedient that any county school or any voluntary school should be transferred to a new site either because it is not reasonably practicable to make to the existing premises of the school the alterations necessary for securing that they should conform to the prescribed standards, or in consequence of any movement of population or of any action taken or proposed to be taken under the enactments relating to housing or to town and country planning, the Minister may by order authorise the transfer of the school to the new site ; and any transfer so authorised shall not be deemed, for the purposes of this Act, to constitute the discontinuance of the school or the establishment of a new school.
- (2) Where in connection with any proposals submitted to the Minister under subsection (2) of section thirteen of this Act it is claimed that any school or schools thereby proposed to be established should be maintained by the local education authority as a voluntary school in substitution for another school at the time being maintained by a local education authority as a voluntary school or for two or more such schools which is or are to be discontinued, then, if the Minister is satisfied that the school or schools proposed to be established will be so maintained, he may, if he approves the proposals with or without modifications, by order direct that the school or schools proposed to be established shall be established in substitution for the school or schools to be discontinued, and where such an order is made, the provisions of this Act relating to the discontinuance of voluntary schools shall not apply with respect to the discontinuance of the school or schools to be discontinued.
- (3) Before making any order under this section, the Minister shall consult any local education authority which will, in his opinion, be affected by the making of the order, and the managers or governors of any voluntary school which in his opinion will be so affected ; and any such order may impose such conditions on any such local education authority or managers or governors and may contain such incidental and consequential provisions as the Minister thinks fit.