



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.

Management of Primary Schools and Government of Secondary Schools.

17 Constitution of managers and governors and conduct of county schools and voluntary schools.

- (1) For every county school and for every voluntary school there shall be an instrument providing for the constitution of the body of managers or governors of the school in accordance with the provisions of this Act, and the instrument providing for the constitution of the body of managers of a primary school is in this Act referred to as an instrument of management, and the instrument providing for the constitution of the body of governors of a secondary school is in this Act referred to as an instrument of government.

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- (2) The instrument of management or the instrument of government, as the case may be, shall be made in the case of a county school by an order of the local education authority and in the case of a voluntary school by an order of the Minister.
- (3) Subject to the provisions of this Act and of any trust deed relating to the school:—
 - (a) every county primary school and every voluntary primary school shall be conducted in accordance with rules of management made by an order of the local education authority; and
 - (b) every county secondary school and every voluntary secondary school shall be conducted in accordance with articles of government made in the case of a county school by an order of the local education authority and approved by the Minister, and in the case of a voluntary school by an order of the Minister ; and such articles shall in particular determine the functions to be exercised in relation to the school by the local education authority, the body of governors, and the head teacher respectively.
- (4) Where it appears to the Minister that any provision included or proposed to be included in the instrument of management, rules of management, instrument of government, or articles of government, for a county school or a voluntary school is in any respect inconsistent with the provisions of any trust deed relating to the school, and that it is expedient in the interests of the school that the provisions of the trust deed should be modified for the purpose of removing the inconsistency, he may by order make such, modifications in the provisions of the trust deed as appear to him to be just and expedient for that purpose.
- (5) Before making any order under this section in respect of any school, the Minister shall afford to the local education authority and to any other persons appearing to him to be concerned with the management or government of the school an opportunity of making representations to him with respect thereto, and in making any such order the Minister shall have regard to all the circumstances of the school, and in particular to the question whether the school is, or is to be, a primary or secondary school, and, in the case of an existing school, shall have regard to the manner in which the school has been conducted theretofore.

18 Managers of primary schools.

- (1) The instrument of management for every county primary school serving an area in which there is a minor authority shall provide for the constitution of a body of managers consisting of such number of persons, not being less than six, as the local education authority may determine:

Provided that two-thirds of the managers shall be appointed by the local education authority and one-third shall be appointed by the minor authority.

- (2) The instrument of management for every county primary school serving an area in which there is no minor authority shall provide for the constitution of a body of managers constituted in such manner as the local education authority may determine.
- (3) The instrument of management for every voluntary primary school shall provide for the constitution of a body of managers consisting of such number of persons not being less than six as the Minister may, after consultation with the local education authority, determine:

Provided that—

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- (a) if the school is an aided school or a special agreement school, two-thirds of the managers shall be foundation managers, and, if the school is a controlled school, one-third of the managers shall be foundation managers ;
- (b) where the school serves an area in which there is a minor authority, then of the managers who are not foundation managers not less than one-third nor more than one-half shall be appointed by the minor authority and the remainder shall be appointed by the local education authority; and
- (c) where the school serves an area in which there is no minor authority, all the managers who are not foundation managers shall be appointed by the local education authority.

19 Governors of secondary schools.

- (1) The instrument of government for every county secondary school shall provide for the constitution of a body of governors consisting of such number of persons appointed in such manner as the local education authority may determine.
- (2) The instrument of government for every voluntary secondary school shall provide for the constitution of a body of governors of the school consisting of such number of persons as the Minister may after consultation with the local education authority determine :

Provided that—

- (a) where the school is a controlled school, one-third of the governors shall be foundation governors and two-thirds of the governors shall be appointed by the local education authority;
- (b) where the school is an aided school or a special agreement school, two-thirds of the governors shall be foundation governors and one-third of the governors shall be appointed by the local education authority.

20 Grouping of schools under one management.

- (1) A local education authority may make an arrangement for the constitution of a single governing body for any two or more county schools or voluntary schools maintained by them, and any such arrangement may relate exclusively to primary schools, or exclusively to secondary schools or partly to primary schools and partly to secondary schools :

Provided that an authority shall not make any such arrangement with respect to a voluntary school except with the consent of the managers or governors thereof.

- (2) The governing body constituted in pursuance of any such arrangement as aforesaid shall, if all the schools to which the arrangement relates are county schools, consist of such number of persons appointed in such manner as the local education authority may determine.
- (3) Where all or any of the schools to which any such arrangement relates are voluntary schools, the governing body constituted in pursuance of the arrangement shall consist of such number of persons appointed in such manner as may be determined by agreement between the local education authority and the managers or governors of those schools, or, in default of such agreement, by the Minister.
- (4) The local education authority, in making any such arrangement as aforesaid which relates to a primary school serving an area in which there is a minor authority, shall

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make provision for securing that the minor authority is adequately represented upon the governing body constituted in pursuance of the arrangement.

- (5) Every arrangement made under this section may, if it does not relate to any voluntary school, be terminated at any time by the local education authority by which it was made, and any such arrangement which relates to such a school may be terminated by agreement between the local education authority and the governing body constituted in pursuance of the arrangement, or, in default of such agreement, by one year's notice served by the local education authority on the said governing body or by one year's notice served by the said governing body on the local education authority.
- (6) While an arrangement under this section is in force with respect to any schools, the provisions of the last three foregoing sections as to the constitution of the body of managers or governors shall not apply to the schools, and for the purposes of any enactment the governing body constituted in accordance with the arrangement shall be deemed to be the body of managers or governors of each of those schools, and references to a manager or governor in any enactment shall, in relation to every such school, be construed accordingly.

21 Proceedings of managers and governors of county and voluntary schools.

- (1) Any manager or governor of a county school or of a voluntary school may resign his office, and any such manager or governor appointed by a local education authority or by a minor authority shall be removable by the authority by whom he was appointed.
- (2) The provisions of the Fourth Schedule to this Act shall have effect with respect to the meetings and proceedings of the managers or governors of any county school or voluntary school.
- (3) The minutes of the proceedings of the managers or governors of any county school or voluntary school shall be open to inspection by the local education authority.

22 Powers of local education authority as to use and care of premises of voluntary schools.

- (1) The managers or governors of a controlled school shall be entitled to determine the use to which the school premises or any part thereof shall be put on Saturdays, except when required to be used on Saturdays for the purposes of the school or for any purpose connected with education or with the welfare of the young for which the local education authority desire to provide accommodation on the premises or on that part thereof, and the foundation managers or foundation governors shall be entitled to determine the use to which the school premises or any part thereof shall be put on Sundays, but save as aforesaid the local education authority may give such directions as to the occupation and use of the school premises of a controlled school as they think fit.
- (2) If the local education authority desire to provide accommodation for any purpose connected with education or with the welfare of the young and are satisfied that there is no suitable alternative accommodation in their area for that purpose, they may direct the managers or governors of any aided school or special agreement school to provide free of charge accommodation for that purpose on the school premises or any part thereof on any week-day when not required for the purposes of the school, so however, that the managers or governors shall not be directed to provide such accommodation on more than three days in any week.

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- (3) Subject to any directions given by a local education authority under the foregoing provisions of this section and to the requirements of any enactment other than this Act or the regulations made thereunder, the occupation and use of the school premises of any voluntary school shall be under the control of the managers or governors thereof.
- (4) At any controlled school or special agreement school the persons employed for the purposes of the care and maintenance of the school premises shall be appointed and dismissed by the local education authority, and the local education authority may give directions to the managers or governors of an aided school as to the number and conditions of service of persons employed at the school for such purposes.
- (5) In relation to any school with respect to which the trust deed provides for any person other than the managers or governors of the school being entitled to control the occupation and use of the school premises, this section shall have effect as if for the references to the managers or governors there were substituted references to that person.

*Secular Instruction and Appointment and Dismissal
of Teachers in County and Voluntary Schools.*

23 Secular instruction in county schools and in voluntary schools.

- (1) In every county school and, subject to the provisions hereinafter contained as to religious education, in every voluntary school except an aided secondary school, the secular instruction to be given to the pupils shall, save in so far as may be otherwise provided by the rules of management or articles of government for the school, be under the control of the local education authority.
- (2) Subject to the provisions hereinafter contained as to religious education, the secular instruction to be given to the pupils in every aided secondary school shall, save in so far as may be otherwise provided by the articles of government for the school, be under the control of the governors of the school.
- (3) Save in so far as may be otherwise provided by the rules of management or articles of government for the school, the power to control the secular instruction provided in any county school or voluntary school shall include power to determine the times at which the school session shall begin and end on any day, to determine the times at which the school terms shall begin and end, to determine the school holidays, and to require that pupils in attendance at the school shall attend any class not conducted on the school premises for the purpose of receiving instruction or training included in the secular curriculum of the school.

24 Appointment and dismissal of teachers in county schools and in voluntary schools.

- (1) In every county school and, subject to the provisions hereinafter contained as to religious education, in every controlled school and special agreement school, the appointment of teachers shall, save in so far as may be otherwise provided by the rules of management or articles of government for the school, be under the control of the local education authority, and no teacher shall be dismissed except by the authority.
- (2) In every aided school the respective functions of the local education authority and of the managers or governors of the school with respect to the appointment of teachers,

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and, subject to the provisions hereinafter contained as to religious education, with respect to the dismissal of teachers, shall be regulated by the rules of management or articles of government for the school:

Provided that the rules of management or articles of government for every aided school—

- (a) shall make provision for the appointment of the teachers by the managers or governors of the school, for enabling the local education authority to determine the number of teachers to be employed, and for enabling the authority, except for reasons for which the managers or governors are expressly empowered by this Act to dismiss teachers without such consent, to prohibit the dismissal of teachers without the consent of the authority and to require the dismissal of any teacher ; and
 - (b) may make such provision as may be agreed between the local education authority and the managers or governors of the school, or in default of such agreement as may be determined by the Minister, for enabling the authority to prohibit the appointment, without the consent of the authority, of teachers to be employed for giving secular instruction, and .for enabling the authority to give directions as to the educational qualifications of the teachers to be so employed.
- (3) No woman shall be disqualified for employment as a teacher in any county school or voluntary school, or be dismissed from such employment, by reason only of marriage.

Religious Education in County and Voluntary Schools.

25 General provisions as to religious education in county and in voluntary schools.

- (1) Subject to the provisions of this section, the school day in every county school and in every voluntary school shall begin with collective worship on the part of all pupils in attendance at the school, and the arrangements made therefor shall provide for a single act of worship attended by all such pupils unless, in the opinion of the local education authority or, in the case of a voluntary school, of the managers or governors thereof, the school premises are such as to make it impracticable to assemble them for that purpose.
- (2) Subject to the provisions of this section, religious instruction shall be given in every county school and in every voluntary school.
- (3) It shall not be required, as a condition of any pupil attending any county school or any voluntary school, that he shall attend or abstain from attending any Sunday school or any place of religious worship.
- (4) If the parent of any pupil in attendance at any county school or any voluntary school requests that he be wholly or partly excused from attendance at religious worship in the school, or from attendance at religious instruction in the school, or from attendance at both religious worship and religious instruction in the school, then, until the request is withdrawn, the pupil shall be excused from such attendance accordingly.
- (5) Where any pupil has been wholly or partly excused from attendance at religious worship or instruction in any school in accordance with the provisions of this section, and the local education authority are satisfied :—

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- (a) that the parent of the pupil desires him to receive religious instruction of a kind which is not provided in the school during the periods during which he is excused from such attendance;
- (b) that the pupil cannot with reasonable convenience be sent to another county or voluntary school where religious instruction of the kind desired by the parent is provided ; and
- (c) that arrangements have been made for him to receive religious instruction during school hours elsewhere,

the pupil may be withdrawn from the school during such periods as are reasonably necessary for the purpose of enabling him to receive religious instruction in accordance with the arrangements :

Provided that the pupil shall not be so withdrawn unless the local education authority are satisfied that the arrangements are such as will not interfere with the attendance of the pupil at school on any day except at the beginning or end of the school session on that day.

- (6) No directions shall be given by the local education authority as to the secular instruction to be given to pupils in attendance at a voluntary school so as to interfere with the provision of reasonable facilities for religious instruction in the school during school hours ; and no such direction shall be given so as to prevent a pupil from receiving religious instruction in accordance with the provisions of this section during the hours normally set apart for that purpose, unless arrangements are made whereby the pupil shall receive such instruction in the school at some other time.
- (7) Where the parent of any pupil who is a boarder at a county school or a voluntary school 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 in accordance with such tenets outside school hours, the managers or governors of the school shall make arrangements for affording to the pupil reasonable opportunities for so doing and such arrangements may provide for affording facilities for such worship or instruction on the school premises, so however that such arrangements shall not entail expenditure by the local education authority.

26 Special provisions as to religious education in county schools.

Subject as hereinafter provided, the collective worship required by subsection (1) of the last foregoing section shall not, in any county school, be distinctive of any particular religious denomination, and the religious instruction given to any pupils in attendance at a county school in conformity with the requirements of subsection (2) of the said section shall be given in accordance with an agreed syllabus adopted for the school or for those pupils and shall not include any catechism or formulary which is distinctive of any particular religious denomination :

Provided that, where a county secondary school is so situated that arrangements cannot conveniently be made for the withdrawal of pupils from the school in accordance with the provisions of this Act to receive religious instruction elsewhere, then, if the local education authority are satisfied :—

- (a) that the parents of pupils in attendance at the school desire them to receive religious instruction in the school in accordance with the tenets of a particular religious denomination ; and

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- (b) that satisfactory arrangements have been made for the provision of such instruction to those pupils in the school and for securing that the cost of providing such instruction to those pupils in the school will not fall upon the authority;

the authority shall, unless they are satisfied that owing to any special circumstances it would be unreasonable so to do, provide facilities for the carrying out of those arrangements.

27 **Special provisions as to religious education in controlled schools.**

- (1) Where the parents of any pupils in attendance at a controlled school request that they may receive religious instruction in accordance with the provisions of the trust deed relating to the school, or where provision for that purpose is not made by such a deed in accordance with the practice observed in the school before it became a controlled school, the foundation managers or foundation governors shall, unless they are satisfied that owing to special circumstances it would be unreasonable so to do, make arrangements for securing that such religious instruction is given to those pupils at the school during not more than two periods in each week.

- (2) Without prejudice to the duty to make such arrangements as aforesaid whatever the number of the teaching staff of the school, where the number of the teaching staff of a controlled school exceeds two the teaching staff shall include persons (hereinafter referred to as "reserved teachers") selected for their fitness and competence to give such religious instruction as is required to be given under such arrangements and specifically appointed to do so :

Provided that the number of reserved teachers in any controlled school shall not exceed one-fifth of the number of the teaching staff of the school including the head teacher, so, however, that where the number of the teaching staff is not a multiple of five it shall be treated for the purposes of this subsection as if it were the next higher multiple thereof.

- (3) The head teacher of a controlled school shall not, while holding that position, be a reserved teacher, but before appointing any person to be the head teacher of such a school the local education authority shall inform the managers or governors of the school as to the person whom they propose to appoint and shall consider any representations made by the managers or governors with respect to the proposed appointment.
- (4) Where the local education authority propose to appoint any person to be a reserved teacher in a controlled school, the authority shall consult the foundation managers or foundation governors of the school, and, unless the said managers or governors are satisfied as to that person's fitness and competence to give such religious instruction as is required in pursuance of such arrangements as aforesaid the authority shall not appoint that person to be a reserved teacher.
- (5) If the foundation managers or foundation governors of a controlled school are of opinion that any reserved teacher has failed to give such religious instruction as aforesaid efficiently and suitably, they may require the authority to dismiss him from employment as a reserved teacher in the school.
- (6) Subject to any arrangements made under subsection (1) of this section, the religious instruction given to the pupils in attendance at a controlled school shall be given in accordance with an agreed syllabus adopted for the school or for those pupils.

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28 Special provisions as to religious education in aided schools and in special agreement schools.

- (1) The religious instruction given to the pupils in attendance at an aided school or at a special agreement school shall be under the control of the managers or governors of the school and shall be in accordance with any provisions of the trust deed relating to the school, or, where provision for that purpose is not made by such a deed, in accordance with the practice observed in the school before it became a voluntary school:

Provided that where the parents of pupils in attendance at the school desire them to receive religious instruction in accordance with any agreed syllabus adopted by the local education authority and cannot with reasonable convenience cause those pupils to attend any school at which that syllabus is in use, then, unless the authority are satisfied that owing to any special circumstances it would be unreasonable so to do, arrangements shall be made for religious instruction in accordance with that syllabus to be given to those pupils in the school during the times set apart for the giving of religious instruction therein, and such arrangements shall be made by the managers or governors of the school, so, however, that if the local education authority are satisfied that the managers or governors are unwilling to make such arrangements, the arrangements shall be made by the authority.

- (2) If a teacher appointed to give in an aided school religious instruction, other than instruction in accordance with an agreed syllabus, fails to give such instruction efficiently and suitably, he may be dismissed on that ground by the managers or governors of the school without the consent of the local education authority.
- (3) Where the special agreement made with respect to any special agreement school provides for the employment of reserved teachers, the local education authority shall, when they propose to appoint any person to be such a teacher in the school, consult the foundation managers or foundation governors of the school, and unless the said managers or governors are satisfied as to that person's fitness and competence to give such religious instruction as aforesaid, the authority shall not appoint that person to be such a teacher.
- (4) If the foundation managers or foundation governors of a special agreement school are of opinion that any such reserved teacher as aforesaid has failed to give, efficiently and suitably, such religious instruction as he was appointed to give, they may require the authority to dismiss him from employment as a reserved teacher in the school.

29 Provisions as to religious instruction in accordance with agreed syllabus.

- (1) The provisions of the Fifth Schedule to this Act shall have effect with respect to the preparation, adoption, and reconsideration, of an agreed syllabus of religious instruction.
- (2) A local education authority shall have power to constitute a standing advisory council on religious education to advise the authority upon matters connected with the religious instruction to be given in accordance with an agreed syllabus and, in particular, as to methods of teaching, the choice of books, and the provision of lectures for teachers.
- (3) The method of appointment of the members of any council constituted under the last foregoing subsection and the term of office and conditions of retirement of the members thereof shall be such as may be determined by the local education authority.

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- (4) A local education authority shall have regard to any unanimous recommendations which may be made to them by any conference convened in accordance with the provisions of the said Fifth Schedule with respect to the expediency of constituting such an advisory council as aforesaid or with respect to the method by which or the terms and conditions upon which members of any such council should be appointed.

30 Saving as to position of teachers.

Subject as hereinafter provided, no person shall be disqualified by reason of his religious opinions, or of his attending or omitting to attend religious worship, from being a teacher in a county school or in any voluntary school, or from being otherwise employed for the purposes of such a school ; and no teacher in any such school shall be required to give religious instruction or receive any less emolument or be deprived of, or disqualified for, any promotion or other advantage by reason of the fact that he does or does not give religious instruction or by reason of his religious opinions or of his attending or omitting to attend religious worship :

Provided that, save in so far as they require that a teacher shall not receive any less emolument or be deprived of, or disqualified for, any promotion or other advantage by reason of the fact that he gives religious instruction or by reason of his religious opinions or of his attending religious worship, the provisions of this section shall not apply with respect to a teacher in an aided school or with respect to a reserved teacher in any controlled school or special agreement school.

Transitional Provisions as to County and Voluntary Schools.

31 Transitional provisions as to the separation of primary and secondary schools.

- (1) The provisions of this section shall have effect with respect to the area of every local education authority, until the local education order for that area first comes into operation.
- (2) Save as may be otherwise directed by the Minister, every county school and voluntary school which immediately before the commencement of this Part of this Act was used for providing primary education shall be managed and conducted as a primary school, every such school which was used for providing secondary education shall be managed and conducted as a secondary school, and every such school which was used for providing primary and secondary education indiscriminately shall be managed and conducted as if it were a primary school.
- (3) If it appears to the Minister to be expedient that any county school or voluntary school should be managed and conducted otherwise than in accordance with the provisions of the last foregoing subsection, he may direct that the school be managed and conducted as a primary school or as a secondary school as the case may be :

Provided that no such direction shall be given except after consultation with the local education authority and, in the case of a voluntary school, with the managers or governors of the school.

- (4) Where it appears to a local education authority that the process of securing that primary and secondary education shall be provided in separate schools can be accelerated by the giving of a direction under this section, it shall be the duty of the authority to apply to the Minister for such a direction.

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32 Transitional provisions as to the management and maintenance of voluntary schools.

- (1) Any school which became a voluntary school by virtue of the provisions of subsection (3) of section nine of this Act shall, during the period until the question whether the school shall be a controlled school an aided school or a special agreement school is determined by an order made under this Act with respect to the school or by reason of the expiration of the time limited by this Act for making application for such an order, be deemed to be an aided school so, however, that the provisions of this Act relating to aided schools shall, in relation to any such school as aforesaid, have effect during that period subject to the following modifications, that is to say :—
 - (a) the provisions relating to the constitution of a body of managers or governors shall not apply, and the body of managers or governors shall be constituted in like manner as the body of managers was constituted immediately before the date of the commencement of this Part of this Act:
 - (b) the provisions relating to rules of management or articles of government shall not apply, and the school shall be managed and conducted in like manner as it was immediately before that date :
 - (c) the school shall be maintained in like manner as it was immediately before that date, but the local education authority shall not require any alteration to be made to the school premises :
 - (d) the Minister shall not, under the powers conferred by this Act, make to the managers or governors of the school any maintenance contribution in respect of alterations or repairs to the school premises.
- (2) If, during the period during which a school is by virtue of this section deemed to be an aided school, the Minister is satisfied that the managers or governors of the school have failed to discharge any of their duties with respect to the maintenance of the school, he may authorise the local education authority to discharge that duty on behalf of the managers or governors and shall reimburse to the authority any sums which in his opinion have been properly expended by them for that purpose; and the amount of any sums so reimbursed shall be a debt due to the Crown from the managers or governors.

Primary and Secondary Education of pupils requiring Special Educational Treatment.

33 Education of pupils requiring special educational treatment.

- (1) The Minister shall make regulations defining the several categories of pupils requiring special educational treatment and making provision as to the special methods appropriate for the education of pupils of each category.
- (2) The arrangements made by a local education authority for the special educational treatment of pupils of any such category shall, so far as is practicable, provide for the education of pupils in whose case the disability is serious in special schools appropriate for that category, but where that is impracticable, or where the disability is not serious, the arrangements may provide for the giving of such education in any school maintained or assisted by the local education authority.
- (3) The Minister may by regulations make provision as to the requirements to be complied with by any school as a condition of approval of the school as a special school, and as to the withdrawal of approval from any school which fails to comply with requirements so prescribed, and, notwithstanding that the provisions of this Act

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requiring local education authorities to have regard to the need for securing that primary and secondary education are provided in separate schools do not apply with respect to special schools, such regulations may impose requirements as to the organisation of any special school as a primary school or as a secondary school.

- (4) The regulations made under this section with respect to special schools shall be such as to secure that, so far as practicable, every pupil in attendance at any such school will attend religious worship and religious instruction or will be withdrawn from attendance at such worship or instruction in accordance with the wishes of his parent.

34 Duty of local education authorities to ascertain what children require special educational treatment.

- (1) It shall be the duty of every local education authority to ascertain what children in their area require special educational treatment; and for the purpose of fulfilling that duty any officer of a local education authority authorised in that behalf by the authority may by notice in writing served upon the parent of any child who has attained the age of two years require him to submit the child for examination by a medical officer of the authority for 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 summary conviction to a fine not exceeding five pounds.
- (2) If the parent of any child who has attained the age of two years requests the local 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.
- (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, after considering the advice given with respect to any child by a medical officer in consequence of any such medical examination as aforesaid and any reports or information which the local education authority are able to obtain from teachers or other persons with respect to the ability and aptitude of the child, the authority decide that the child requires special educational treatment, they shall give to the parent notice of their decision and shall provide such treatment for the child.
- (5) The advice given with respect to any child by a medical officer in consequence of any such medical examination as aforesaid shall be communicated to the parent of the child and to the local education authority; and the medical officer by whom the examination was made shall, if required by the parent or by the authority so to do, issue to the authority and to the parent 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 :

Provided that a local 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 the attendance of the child at a special school in accordance with the provisions of this Act relating to compulsory attendance at primary and secondary schools.

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- (6) Any certificate issued under the last foregoing subsection may be cancelled by the Minister or by a medical officer of the local education authority; and upon the cancellation of such a certificate the local education authority shall cease to provide special educational treatment for the child with respect to whom the certificate was issued and shall notify the parent accordingly.

Compulsory Attendance at Primary and Secondary Schools.

35 Compulsory school age.

In this Act the expression " compulsory school age " means any age between five years and fifteen years, and accordingly a person shall be deemed to be of compulsory 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 compulsory school age as soon as he has attained the age of fifteen years:

Provided that, as soon as the Minister is satisfied that it has become practicable to raise to sixteen the upper limit of the compulsory school age, he shall lay before Parliament the draft of an Order in Council directing that the foregoing provisions of this section shall have effect as if for references therein to the age of fifteen years there were substituted references to the age of sixteen years ; and unless either House of Parliament, within the period of forty days beginning with the day on which any such draft as aforesaid is laid before it, resolves that the draft be not presented to His Majesty, His Majesty may by Order in Council direct accordingly.

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.

36 Duty of parents to secure the education of their children.

It shall be the duty of the parent of every child of compulsory school age to cause him to receive efficient full-time education suitable to his age, ability, and aptitude, either by regular attendance at school or otherwise.

37 School attendance orders.

- (1) If it appears to a local education authority that the parent of any child of compulsory school age in their area is failing to perform the duty imposed on him by the last foregoing section, it shall be the duty of the authority to serve upon the parent a notice requiring him, within such time as may be specified in the notice not being less than fourteen days from the service thereof, to satisfy the authority that the child is receiving efficient full-time education suitable to his age, ability, and aptitude either by regular attendance at school or otherwise.
- (2) If, after such a notice has been served upon a parent by a local education authority, the parent fails to satisfy the authority in accordance with the requirements of the notice that the child to whom the notice relates is receiving efficient full-time education suitable to his age, ability, and aptitude, then, if in the opinion of the authority it is expedient that he should attend school, the authority shall serve upon the parent an order in the prescribed form (hereinafter referred to as a " school attendance order ")

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requiring him to cause the child to become a registered pupil at a school named in the order :

Provided that before serving such an order upon a parent the authority shall, where practicable, afford him an opportunity of selecting the school to be named in the order, and if a school is selected by him, that school shall, unless the Minister otherwise directs, be the school named in the order.

- (3) If the local education authority are of opinion that the school selected by the parent as the school to be named in a school attendance order is unsuitable to the age, ability or aptitude of the child with respect to whom the order is to be made, or that the attendance of the child at the school so selected would involve unreasonable expense to the authority, the authority may, after giving to the parent notice of their intention to do so, apply to the Minister for a direction determining what school is to be named in the order.
- (4) If at any time while a school attendance order is in force with respect to any child the parent of the child makes application to the local education 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 full-time education suitable to his age, ability, and aptitude otherwise 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 no satisfactory arrangements have been made for the education of the child otherwise than at school, as the case may be; and if a parent is aggrieved by a refusal of the authority to comply with any such request, he may refer the question to the Minister, who shall give such direction thereon as he thinks fit.
- (5) If any person upon whom a school attendance order is served fails to comply with the requirements of the order, he shall be guilty of an offence against this section unless he proves that he is causing the child to receive efficient full-time education suitable to his age, ability, and aptitude otherwise than at school.
- (6) If in proceedings against any person for a failure to comply with a school attendance order that person is acquitted, the court may direct that the school attendance order shall cease to be in force, but without prejudice to the duty of the local education authority to take further action under this section if at any time the authority are of opinion that having regard to any change of circumstances it is expedient so to do.
- (7) Save as provided by the last foregoing subsection, a school attendance order made with respect to any child shall, subject to any amendment thereof which may be made by the local education authority, continue in force so long as he is of compulsory school age unless revoked by that authority.

38 Additional provisions as to compulsory attendance at special schools.

- (1) While the upper limit of the compulsory school age is, in relation to other children, less than sixteen, a person who is a registered pupil at a special school shall nevertheless be deemed to be of compulsory school age until he attains the age of sixteen years and shall not be deemed to be over compulsory school age until he has attained that age.
- (2) A child who has under arrangements made by a local education authority become a registered pupil at a special school shall not be withdrawn from the school without the consent of that authority ; but if the parent of any such child is aggrieved by a

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refusal of the authority to comply with an application made by the parent requesting such consent, he may refer the question to the Minister, who shall give such direction thereon as he thinks fit.

- (3) No direction given by the Minister under the last foregoing subsection or under subsection (3) or subsection (4) of the last foregoing section shall be such as to require a pupil to be a registered pupil at a special school unless either the parent consents to his attending such a school or there is in force a certificate issued by a medical officer of the local education authority showing that the child is suffering from some disability of mind or body of such a nature and extent that, in the opinion of the Minister, it is expedient that the child should attend a special school.

39 Duty of parents to secure regular attendance of registered pupils.

- (1) If any child of compulsory school age who is a registered pupil at a school fails to attend regularly thereat, the parent of the child shall be guilty of an offence against this section.
- (2) In any proceedings for an offence against this section in respect of a child who is not a boarder at the school at which he is a registered pupil, the child shall not be deemed to have failed to attend regularly at the school by reason of his absence therefrom with leave or—
- (a) at any time when he was prevented from attending by reason of sickness or any unavoidable cause ;
 - (b) on any day exclusively set apart for religious observance by the religious body to which his parent belongs ;
 - (c) if the parent proves that the school at which the child is a registered pupil is not within walking distance of the child's home, and that no suitable arrangements have been made by the local education authority either for his transport to and from the school or for boarding accommodation for him at or near the school or for enabling him to become a registered pupil at a school nearer to his home.
- (3) Where in any proceedings for an offence against this section it is proved that the child has no fixed abode, paragraph (c) of the last foregoing subsection shall not apply, but if the parent proves that he is engaged in any trade or business of such a nature as to require him to travel from place to place and that the child has attended at a school at which he was a registered pupil as regularly as the nature of the trade or business of the parent permits, the parent shall be acquitted :

Provided that, in the case of a child who has attained the age of six years, the parent shall not be entitled to be acquitted under this subsection unless he proves that the child has made at least two hundred attendances during the period of twelve months ending with the date on which the proceedings were instituted.

- (4) In any proceedings for an offence against this section in respect of a child who is a boarder at the school at which he is a registered pupil, the child shall be deemed to have failed to attend regularly at the school if he is absent therefrom without leave during any part of the school term at a time when he was not prevented from being present by reason of sickness or any unavoidable cause.
- (5) In this section the expression " leave " in relation to any school means leave granted by any person authorised in that behalf by the managers, governors or proprietor of the school, and the expression " walking distance " means, in relation to a child who

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has not attained the age of eight years two miles, and in the case of any other child three miles, measured by the nearest available route.

40 Enforcement of school attendance.

- (1) Subject to the provisions of this section, any person guilty of an offence against section thirty-seven or section thirty-nine of this Act shall be liable on summary conviction, 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) It shall be the duty of the local education authority to institute proceedings for such offences as aforesaid wherever, in their opinion, the institution of such proceedings is necessary for the purpose of enforcing the duty imposed upon a parent by this Act to cause his child to receive efficient full-time education suitable to his age, ability, and aptitude, and no such proceedings shall be instituted except by or on behalf of a local education authority.
- (3) Where the court before which a prosecution is brought for an offence against the last foregoing section is satisfied that the child in respect of whom the offence is alleged to have been committed has failed to attend regularly at the school at which he is a registered pupil, then, whether or not the parent is convicted, the court may direct that the child be brought before a juvenile court by the authority by whom or on whose behalf the proceedings were instituted, and the juvenile court may, if it is satisfied that it is necessary so to do for the purpose of securing the regular attendance of the child at school, make any order which such a court has power to make under section sixty-two of the Children and Young Persons Act, 1933, in the case of children and young persons in need of care or protection who are brought before it under that section.
- (4) Where proceedings have been instituted for an offence against the last foregoing section alleged to have been committed in respect of any child and it appears to the officer by whom the proceedings were instituted on behalf of the local education authority that there is reasonable cause to believe that the punishment of the parent would not be sufficient for the purpose of securing the regular attendance of the child at school, it shall be his duty to apply to the court for a direction under the last foregoing subsection; and where application is so made, such a direction shall be given unless the court is satisfied that no such direction is necessary for the purpose aforesaid.
- (5) For the purposes of the Children and Young Persons Act, 1933, 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-two 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 sixty-seven of the said Act shall have effect as if the words "A constable, or " were omitted therefrom.