



# Education Act 1944

## 1944 CHAPTER 31

### PART V

#### SUPPLEMENTAL.

#### **108 Power to facilitate commencement of Part II.**

- (1) Without prejudice to any powers exercisable under section thirty-seven of the Interpretation Act, 1889, the Minister may exercise, and may authorise or require any local education authority, former authority, or other person or body of persons, to exercise during the period before the date on which Part II of this Act comes into operation any functions, which will, on or after that date, become exercisable by him or them under any provision of this Act, in so far as the exercise of those functions during that period is, in his opinion, necessary or expedient for securing that that Part may be brought into operation without delay or for preventing difficulties in the operation of that Part after the date aforesaid.
- (2) The Minister shall, in exercise of the power conferred by the last foregoing subsection, constitute any joint education boards and secure the constitution of any education committees and sub-committees and of any divisional executives which are, in his opinion, essential for the initial operation of the said Part II.
- (3) If the Minister is satisfied that it is necessary to make an order under this subsection by reason of time being required after the commencement of the said Part II for enabling adequate provision to be made for a supply of teachers or of school accommodation sufficient to meet the needs of children between the ages of fourteen and fifteen years, he may by order direct that, while the order remains in force, section thirty-five of this Act shall have effect as if for references therein to fifteen there were substituted references to fourteen and section forty-three of this Act shall have effect as if for the reference therein to the date of the commencement of the said Part II there were substituted a reference to the date of the expiry of the order:

Provided that, if any order made under this subsection is still in operation at the expiration of the period of two years after the commencement of the said Part II, the order shall then cease to have effect.

**109 Power of Minister to authorise local education authorities to provide temporary assistance for voluntary schools.**

If upon representations made to him by any local education authority the Minister is satisfied that by reason of difficulties arising out of war conditions or out of conditions occasioned by the coming into operation of Part II of this Act temporary accommodation for children who are, or whose parents desire them to be, registered pupils at any voluntary school is required until permanent accommodation can be provided for them by the managers or governors of the school in accordance with the development plan for the area, the Minister may authorise the local education authority to provide, or assist in providing, such temporary accommodation in accordance with arrangements approved by him, so, however, that any such authorisation shall be withdrawn as soon as there has, in the opinion of the Minister, been sufficient opportunity for permanent accommodation for such pupils to be provided by the managers or governors of the school.

**110 Power of Minister to adjust variations of rates consequent upon commencement of Part II.**

If it appears to the Minister that the transfer by this Act to the local education authority for any county of functions formerly exercisable by the council of any county district is likely to bring about in the county excessive variations in the incidence of rates during the period immediately following the commencement of Part II of this Act, he shall, if application is made to him in that behalf either by the local education authority or by any such council, cause an investigation to be made in accordance with the provisions of Part I of the Seventh Schedule to this Act, and, subject to the provisions of Part II of that Schedule, may make an order for the county under the powers thereby conferred.

**111 Revocation and variation of orders and directions.**

Any order made or directions given by the Minister, the Minister of Health, or a local education authority under the provisions of this Act may be varied or revoked by a further order or further directions made or given by the Minister, the Minister of Health, or that authority, as the case may be :

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

**112 Regulations to be laid before Parliament.**

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

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

### **113 Notices.**

Any notice required or authorised by this Act to be served upon any person may be served by delivering it to that person, or by leaving it at his usual or last known place of residence, or by sending it in a pre-paid letter addressed to him at that place.

### **114 Interpretation.**

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

" Agreed syllabus " means, subject to the provisions of subsection (4) of this section, an agreed syllabus of religious instruction prepared in accordance with the provisions of the Fifth Schedule to this Act and adopted or deemed to be adopted thereunder ;

" Alterations ", in relation to any school premises, includes any improvements or enlargements which do not amount to the establishment of a new school;

" Assist ", in relation to any school college or institution, has the meaning assigned to it by subsection (2) of this section;

" Child " means a person who is not over compulsory school age ;

" Clothing " includes boots and other footwear ;

" Compulsory school age " has, subject to the provisions of section thirty-eight of this Act, the meaning assigned to it by section thirty-five of this Act;

" County " means an administrative county within the meaning of the Local Government Act. 1933 ;

" Former authority " means any authority which was a local education authority within the meaning of any enactment repealed by this Act or any previous Act;

" Foundation managers " and " foundation governors " mean, in relation to any voluntary school, managers and governors appointed otherwise than by a local education authority or a minor authority for the purpose of securing, so far as is practicable, that the character of the school as a voluntary school is preserved and developed, and, in particular, that the school is conducted in accordance with the provisions of any trust deed relating thereto ; and, unless the context otherwise requires, references in this Act to " managers " or " governors " shall, in relation to any function thereby conferred or imposed exclusively on foundation managers or foundation governors, be construed as references to such managers or governors;

" Further education " has the meaning assigned to it by section forty-one of this Act ;

" Independent school " means any school at which full-time education is provided for five or more pupils of compulsory school age (whether or not such education is also provided for pupils under or over that age), not being a school maintained by a local education authority or a school in respect of which grants are made by the Minister to the proprietor of the school;

" Junior pupil " means a child who has not attained the age of twelve years ;

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*Status: This is the original version (as it was originally enacted).*

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" Local education authority " means, in relation to any area for which a joint education board is constituted as the local education authority under the provisions of Part I of the First Schedule to this Act, the board so constituted, and, save as aforesaid, means, in relation to a county, the council of the county, and, in relation to a county borough, the council of the county borough ;

" Local education order " means an order made by the Minister under section twelve of this Act;

" Local government elector " has the meaning assigned to it by section three hundred and five of the Local Government Act, 1933 ; and in relation to the area of any joint education board constituted under Part I of the First Schedule to this Act a local government elector for the area of any council by whom members are appointed to the board shall be deemed to be a local government elector for the area of the authority.

" Maintain " in relation to any school or county college has the meaning assigned to it by subsection (2) of this section ;'

" Maintenance contribution " , in relation to any voluntary school, means a contribution payable under section one hundred and two of this Act;

" Medical inspection " means inspection by or under the directions of a medical officer of a local education authority or by a person registered under the Dentists Act, 1878, employed or engaged, whether regularly or for the purposes of any particular case, by a local education authority ;

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

" Medical treatment " includes treatment by any duly qualified medical practitioner or by any person registered under the Dentists Act, 1878, but does not, in relation to any pupil other than a pupil receiving primary or secondary education otherwise than at school under arrangements made by a local education authority, include treatment in that pupil's home ;

" Minor authority " means, in relation to any school maintained by the local education authority for a county, the council of any borough (other than a county borough) or urban district or rural parish which appears to the local education authority to be the area served by the school, so, however, that where it appears to the local education authority that the area served by the school is a rural parish which has no parish council, the parish meeting of that parish shall be the minor authority, and where it appears to the local education authority that a school serves the area of two or more minor authorities, that expression shall be construed as referring to all those minor authorities acting jointly;

" Parent " , in relation to any child or young person, includes a guardian and every person who has the actual custody of the child or young person ;

" Premises " , in relation to any school, includes any detached playing fields, but, except where otherwise expressly provided, does not include a teacher's dwelling-house ;

" Prescribed " means prescribed by regulations made by the Minister;

" Primary education " has the meaning assigned to it by section eight of this Act ;

" Primary school " means, subject to the provisions of subsection (3) of this section, a school for providing primary education ;

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" Proprietor ", in relation to any school, means the person or body of persons responsible for the management of the school, and for the purposes of the provisions of this Act relating to applications for the registration of independent schools, includes any person or body of persons proposing to be so responsible ;

" Provisionally registered school " means an independent school registered in the register of independent schools, whereof the registration is provisional only ;

" Pupil ", where used without qualification, means a person of any age for whom education is required to be provided under this Act;

" Registered pupil " means, in relation to any school, a pupil registered as such in the register kept in accordance with the requirements of this Act, but does not include any child who has been withdrawn from the school in the prescribed manner;

" Registered school " means an independent school registered in the register of independent schools, whereof the registration is final;

" School " means an institution for providing primary or secondary education or both primary and secondary education, being a school maintained by a local education authority, an independent school, or a school in respect of which grants are made by the Minister to the proprietor of the school; and the expression " school " where used without qualification includes any such school or all such schools as the context may require ;

" Secondary education " has the meaning assigned to it by section eight of this Act;

" Secondary school " means, subject to the provisions of subsection (3) of this section, a school for providing secondary education ;

" Senior pupil " means a person who has attained the age of twelve years but has not attained the age of nineteen years ;

" Special agreement " means an agreement made under the provisions of the Third Schedule to this Act;

" Special educational treatment " has the meaning assigned to it by paragraph (c) of subsection (2) of section eight of this Act;

" Trust deed ", in relation to any voluntary school, includes any instrument (not being an instrument of management, instrument of government, rules of management, or articles of government, made under this Act) regulating the maintenance management or conduct of the school or the constitution of the body of managers or governors thereof;

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

(2) For the purposes of this Act:—

- (a) the duty of a local education authority to maintain a school or county college shall include the duty of defraying all the expenses of maintaining the school or college except, in the case of an aided school or a special agreement school, any expenses that by virtue of any provision of this Act or of any special agreement made thereunder are payable by the managers or governors of the school, and the expression " maintain " shall be construed accordingly ; and
- (b) where a local education authority make to the proprietor of any school which is not maintained by the authority, or to the persons responsible for the maintenance of any training college or other institution which is not so maintained, any grant in respect of the school college or institution or any

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payment in consideration of the provision of educational facilities thereat, the school college or institution shall be deemed to be assisted by the authority.

- (3) So long as any county school or voluntary school is used for providing both primary and secondary education, references in this Act to primary schools shall be construed as including references to that school and references therein to secondary schools shall be construed as excluding any reference thereto :

Provided that where the primary education provided in any such school is provided in a separate junior or preparatory department, the Minister may direct that the school shall be deemed for the purposes of this Act to be a secondary school and such references as aforesaid shall be construed accordingly.

- (4) Where before the date of the commencement of Part II of this Act a syllabus of religious instruction had been adopted by a former authority for use in any school which after that date is a county school or a voluntary school or for any class or description of pupils, that syllabus shall be deemed to be the agreed syllabus for that school, or for that class or that description of pupils, as the case may be, until a syllabus in substitution therefor is prepared in accordance with the provisions of the Fifth Schedule to this Act and adopted or deemed to be adopted thereunder, or until the expiration of two years after the said date, whichever first occurs.
- (5) For the purposes of this Act, a person in attendance at a school or county college who attains any age during the term of the school or college shall be deemed not to have attained that age until the end of the term.
- (6) Any person who before the commencement of Part II of this Act had attained an age at which his parent had ceased to be under any obligation imposed under section forty-six of the Education Act, 1921, shall be deemed to be over compulsory school age, and any person who after the said date ceases to be of compulsory school age shall not, in the event of any subsequent change in the upper limit of the compulsory school age, again become a person of compulsory school age.
- (7) Where at any time before the date of the commencement of Part II of this Act the premises of any school which was for the time being a public elementary school within the meaning of the enactments repealed by this Act have ceased by reason of war damage, or by reason of any action taken in contemplation or in consequence of war, to be used for the purposes of a school, then, for the purposes of this Act, the school, unless it has been closed in accordance with those enactments, shall be deemed to have been a public elementary school within the meaning of those enactments immediately before that date and, if it was maintained by a former authority immediately before the premises ceased to be used for the purposes of a school, to have been maintained by such an authority immediately before that date.
- (8) In this Act, unless the context otherwise requires, references to any enactment or any provision of any enactment shall be construed as references to that enactment or provision as amended by any subsequent enactment, including this Act.

## **115 Saving as to persons in the service of the Crown.**

No power or duty conferred or imposed by this Act on the Minister, on local education authorities, or on parents, shall be construed as relating to any person who is employed by or under the Crown in any service or capacity with respect to which the Minister certifies that, by reason of the arrangements made for the education of children and

young persons employed therein, the exercise and performance of those powers and duties with respect to such children and young persons is unnecessary.

**116 Saving as to persons of unsound mind and persons detained by order of a court.**

No power or duty conferred or imposed by this Act on the Minister, on local education authorities, or on parents, shall be construed as relating to any person who is the subject of an order or inquisition under the Lunacy and Mental Treatment Acts, 1890 to 1930, or is being detained in pursuance of section twenty-five of the Lunacy Act, 1890, or as a criminal lunatic, or in pursuance of an order made under the Criminal Lunatics Act, 1884, or is undergoing treatment as a voluntary patient under section one or a temporary patient under section five of the Mental Treatment Act, 1930, or is a person placed in an institution or a certified house, or under guardianship, under section three of the Mental Deficiency Act, 1913, or is the subject of an order under section six, eight or nine of that Act, or is an inmate of a home approved under section fifty of that Act, or is the subject of a notification under subsection (2) of section fifty-one of that Act, or has been reported under subsection (3) of section fifty-seven of this Act as having been found incapable of receiving education at school, or to any person who is detained in pursuance of an order made by any court.

**117 Application to London.**

- (1) For the purposes of the application of this Act to the County of London, references in the definition of the expression " minor authority " to a borough shall be construed as references to the City of London and to a metropolitan borough, and references in that definition to the council of a borough shall be construed as references to the Common Council of the City of London and to the council of a metropolitan borough respectively.
- (2) Subsection (4) of section fifty-four of this Act shall, in relation to the County of London, have effect as if for references therein to the council of a county district there were substituted references to a sanitary authority for the purposes of the Public Health (London) Act, 1936.
- (3) Before approving any proposals submitted to him under section thirteen of this Act with respect to any school which is or is to be, situated within the area of the City of London or within the area of a metropolitan borough, the Minister shall afford to the Common Council of the City of London or to the council of the borough, as the case may be, an opportunity of making representations to him with respect to the proposals.
- (4) For the purposes of the application of sections eighty-eight, ninety, ninety-three and one hundred and fourteen of this Act in relation to the local education authority for the County of London :—
  - (a) the references in those sections to the Local Government Act, 1933, shall be construed as references to the London Government Act, 1939 ; and
  - (b) the references in those sections to sections one hundred and sixty-three, one hundred and sixty-four, one hundred and sixty-five, two hundred and ninety and three hundred and five of the said Act of 1933 shall be respectively construed as references to sections one hundred and six, one hundred and seven, one hundred and eight, one hundred and eighty-nine and two hundred and six of the said Act of 1939.

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- (5) Parts I and III of the First Schedule to this Act shall not apply to the London County Council.

**118 Application to Isles of Scilly.**

The Minister shall by order provide for the application of this Act to the Isles of Scilly as if those isles were a separate county, and any such order may provide for the application of this Act to those isles subject to such modifications as may be specified in the order.

**119 Commencement.**

Parts I and V of this Act shall come into operation on the passing of this Act; Parts II and IV of this Act shall come into operation on the first day of April nineteen hundred and forty-five ; and Part III of this Act shall come into operation on such date after the said first day of April as His Majesty may by Order in Council appoint for the commencement of that Part.

**120 Amendment of enactments.**

- (1) On and after the date of the commencement of Part II of this Act any enactment passed before that date shall, unless the context otherwise requires, be construed as if:—
  - (a) for references therein to an elementary school or to a public elementary school (whether or not any reference is made therein to the payment of parliamentary grants in respect of the school) there were substituted references to a county school or voluntary school as the context may require;
  - (b) for references therein to a school certified by the Board of Education, in accordance with the provisions of Part V of the Education Act, 1921, as suitable for providing education for blind deaf defective or epileptic children, there were substituted references to a special school;
  - (c) for references therein to the managers of a school there were substituted, in relation to a county secondary school or a voluntary secondary school, references to the governors of the school;
  - (d) for references therein to elementary education or to higher education there were substituted references to such education as may be provided by a local education authority in the exercise of their functions under Part II of this Act;
  - (e) for references therein to a local education authority, to a local education authority for elementary education, or to a local education authority for higher education, there were substituted references to a local education authority within the meaning of this Act.
- (2) In relation to any young person punishable under this Act or under section seventy-eight of the Unemployment Insurance Act, 1935, subsection (3) of section fifty-two and section fifty-four of the Children and Young Persons Act, 1933 (which relate to the substitution of other punishments for imprisonment), shall have effect as if references therein to a young person included references to any person who has not attained the age of eighteen years.
- (3) The enactments mentioned in the first column of the Eighth Schedule to this Act shall, except in so far as any of them extend to Scotland, have effect subject to the amendments specified in the second column of that Schedule :



Provided that Part I of the said Schedule shall come into operation on the date of the commencement of Part II of this Act, and Part II of the said Schedule shall come into operation on the date on which section forty-four of this Act comes into operation.

- (4) Where by virtue of this Act any functions cease to be exercisable by the council of a county district under the Children and Young Persons Acts, 1933 and 1938, the following provisions of this Act, that is to say :—

- (a) subsections (3) and (4) of section six; and
- (b) section ninety-seven;

shall have effect as if those functions had been exercisable under the Education Acts, 1921 and 1939; and, in relation to any such functions, the provisions of section ninety-six and of subsection (3) of section ninety-eight of this Act shall have effect as if for the references therein to the Minister of Education there were substituted references to the Secretary of State.

- (5) For the purposes of any byelaws under Part II of the Children and Young Persons Act, 1933, the expression " child " shall have the same meaning as it has for the purposes of the said Part II; and any byelaws made by the council of a county district under the said Part II which are in force immediately before the date of the commencement of Part II of this Act shall, in relation to the area to which they extend, continue in operation on and after that date as if they had been made by the local education authority for the area in which the county district is situated, and may be varied or revoked accordingly.

## **121 Repeal of enactments.**

Section eighty-three of the Elementary Education Act, 1870, the Board of Education Act, 1899, and sections one and two of the Education Act, 1921, are hereby repealed as from the date declared by His Majesty in Council to be the date on which the first appointment under this Act of a Minister of Education took effect; the enactments mentioned in the first column of Part I of the Ninth Schedule to this Act are, to the extent mentioned in the third column of that Part, hereby repealed, except in so far as any of them extend to Scotland, as from the date of the commencement of Part II of this Act; and the enactments mentioned in the first column of Part II of that Schedule are to the extent mentioned in the third column of that Part hereby repealed, except in so far as they extend to Scotland, as from the date on which section forty-four of this Act comes into operation :

Provided that—

- (a) any regulation Order in Council order or other instrument in force under any enactment hereby repealed shall continue in operation and have effect as if made under this Act and may be varied or revoked accordingly ; and
- (b) the provisions of the Education Act, 1921, relating to continuation schools shall, in any area in which sections seventy-six, seventy-seven and ninety-three of that Act were in operation immediately before the commencement of Part II of this Act, continue in force until the date on which section forty-four of this Act comes into operation.

## **122 Short title and extent.**

- (1) This Act may be cited as the Education Act, 1944.
- (2) This Act shall not extend to Scotland or to Northern Ireland.