



Education (Scotland) Act 1945

1945 CHAPTER 37

PART V

GENERAL.

Expenses of Secretary of State.

72 Expenses of Secretary of State.

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

Educational Endowments.

73 Register of educational endowments.

- (1) The Secretary of State shall appoint one of his officers to be Registrar of Educational Endowments, and it shall be the duty of the Registrar to keep a register of all educational endowments, which shall contain such information as may be prescribed, and shall be open to public inspection at all reasonable times.
- (2) Except as hereinafter provided, it shall be the duty of the governing body of every educational endowment within twelve months after the appointed day or after the date upon which the deed, creating the endowment came into operation, whichever is the later, to furnish the Registrar with such information about the endowment as may be prescribed by regulations made by the Secretary of State.
- (3) This section shall not apply to a university endowment, to a theological endowment, or to the Carnegie Trust, and regulations made under this section may exempt any endowment or class of endowments from any of the provisions of this section.

- (4) Expressions used in this section which are defined in the Educational Endowments (Scotland) Acts, 1928 to 1935, shall have the like meaning as in those Acts.

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

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

75 Date of endowment accounts.

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

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

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

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

77 Sale of land belonging to educational endowments.

- (1) Where it appears to the Secretary of State to be desirable that a scheme under the Educational Endowments (Scotland) Acts, 1928 to 1935, in relation to any educational endowment should make provision for the sale of any land forming the endowment or part thereof and for the application of the proceeds of sale in accordance with the provisions of the scheme, but that such provision cannot be made by reason of the third proviso to section two of the School Sites Act, 1841, (which provides that if any land granted in accordance with the provisions of that section ceases to be used for the purposes mentioned in that Act, the land shall revert to the grantor), or by reason of any condition of a similar nature contained in the governing instrument of the endowment, he may by order direct that the said proviso or condition shall not have effect in relation to the land :

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

- (a) that the person to whom the land would revert in accordance with the said proviso or condition cannot after due inquiry be found ; or
- (b) that, if that person can be found, he has consented to relinquish his rights in relation to the land under the said proviso or condition, and that, if he has consented so to do in consideration of the payment of a sum of money to him,

adequate provision can be made for the payment to him of that sum out of the proceeds of the sale of the land.

- (2) A scheme under the Educational Endowments (Scotland) Acts, 1928 to 1935, relating to any educational endowment which includes land in respect of which an order has been made under the last foregoing subsection may make provision for the payment out of the proceeds of the 'sale of the land of any sum which is payable to any person in consideration of the relinquishment of his rights in relation to the land under the said proviso or condition.
- (3) In this section the expression " educational endowment " has the meaning assigned to it by section forty-two- of the Educational Endowments (Scotland) Act, 1928, provided that any land conveyed under section two of the School Sites Act, 1841, or held under a governing instrument containing a condition of the nature referred to in subsection (1) of this section shall be deemed to be an educational endowment or part thereof notwithstanding anything in the third proviso to that section or in the said condition.

Promotion of Educational Developments.

78 Research.

An education authority may with the approval of the Secretary of State make such provision for conducting or assisting the conduct of research as appears to the authority to be desirable for the purpose of improving the education provided for their area.

79 Educational conferences.

Subject to any regulations made by the Secretary of State, an education authority may arrange or organise, or participate in the arrangement or organisation of, conferences or meetings for the discussion of questions relating to education, and may expend such sums as may be reasonable in paying or contributing towards any expenditure incurred in. connection with conferences or meetings for the discussion of such questions, including the expenses of any person authorised by them to attend any such conference or meeting.

Evidence.

80 Provisions as to evidence.

- (1) Where in any proceedings under the Education Acts the prosecutor alleges that any person whose age is material to the proceedings is under, of, or over, any age, and satisfies the court that ' having used all reasonable diligence to obtain evidence as to the age of that person he has been unable to do so, then, unless the contrary is proved, the court may presume that person to be under, of, or over, the age alleged.
- (2) In any legal proceedings any document purporting to be—
 - (a) a document issued by an education authority, and to be signed by the clerk of that authority or by the director of education of that authority or by any other officer of the authority authorised to sign it;
 - (b) an extract from the minutes of the proceedings of an education authority or of any committee or subcommittee thereof, and to be signed by the chairman of

the authority or of the committee or sub-committee or by the officer having the custody of the minutes ;

- (c) a certificate giving particulars of the attendance of a pupil at a school or junior college, and to be signed by the head teacher of the school or college ;
- (d) a certificate issued by a medical officer of an education authority, and to be signed by such an officer ;
- (e) a certificate issued by an education authority that an attendance order has been made by the authority and a copy thereof served upon the parent of the child to whom the order relates, and to be signed by the clerk to the authority or by the director of education or by any other officer authorised to sign it ; or
- (f) a certificate in the prescribed form of exemption from attendance at a junior college, and to be authenticated in the prescribed manner;

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

Savings.

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

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

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

Subject to the provisions of the Education (Scotland) (Superannuation) Acts, 1919 to 1939, and to the scheme and rules made thereunder and to the provisions of section forty-two of this Act, no power or duty conferred or imposed by the Education Acts on the Secretary of State, on education authorities or on parents or young persons shall be construed as relating to any person who is the subject of an order or warrant for his detention or custody under the Lunacy (Scotland) Acts, 1857 to 1919, or is being entertained and kept in an asylum in pursuance of section fifteen of the Lunacy (Scotland) Act, 1866, or is a person for whose safe custody during His Majesty's pleasure His Majesty is authorised to give order or is a prisoner whom the Secretary of State has in pursuance of any Act directed to be removed to a criminal lunatic asylum or to the criminal lunatic department of Perth prison or to an asylum or is, a person placed in an institution or a certified house or under guardianship under section four of the Mental Deficiency and Lunacy (Scotland) Act, 1913, or is the subject of an order under sections seven, nine or ten of that Act, or has been reported under section forty-two of this Act as having been found incapable of receiving education at school, onto any person who is detained in pursuance of an order made by any court.

Miscellaneous.

83 Effect of attendance notices on computation of working hours.

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

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

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

85 Exemption from rates.

No assessment or rate under any general or local Act for any county, burgh or other local purpose shall be assessed or levied upon or in respect of any land or building used exclusively or mainly for the purposes of the premises of a special school or orphanage in respect of which grants may be paid under paragraph (c) of section fifty-six of this Act, except to the extent of any profit derived by the managers from the letting thereof.

86 Amendment of enactments.

- (1) In relation to any young person punishable under this Act or under section seventy-eight of the Unemployment Insurance Act, 1935, subsection (3) of section fifty-six and section fifty-eight of the Children and Young Persons (Scotland) Act, 1937, (which relate to the substitution of other punishments -for imprisonment), shall have effect as if references therein to a young person included references to any person who has not attained the age of eighteen years.

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- (2) Any reference in an enactment passed before the appointed day to a school in receipt of a parliamentary grant shall, unless the context otherwise requires, be construed as a reference to a school other than an independent school.
- (3) The amendments specified in the third column of the Fourth Schedule to this Act, being amendments of a minor or consequential nature, shall be made in the enactments specified in the first and second columns of that Schedule.

87 Interpretation.

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

- " Act of 1872 " means the Education (Scotland) Act, 1872 ;
- " Act of 1889 " means the Local Government (Scotland) Act, 1889 ;
- " Act of 1901 " means the Education (Scotland) Act, 1901 ;
- " Act of 1908 " means the Education (Scotland) Act, 1908 ;
- " Act of 1918 " means the Education (Scotland) Act, 1918 ;
- " Act of 1919 " means the Education (Scotland) (Superannuation) Act, 1919 ;
- " Act of 1925 " means the Education (Scotland) (Superannuation) Act, 1925 ;
- " Act of 1929 " means the Local Government (Scotland) Act, 1929 ;
- " Act of 1936 " means the Education (Scotland) Act, 1936 ;
- " Act of 1939 " means the Education (Emergency) (Scotland) Act, 1939 ;
- " Child " means a person who is not over school age ;
- " Clothing " includes boots and other footwear ;
- " Code " means a code included in regulations under section fifty-five of this Act;
- " Education Acts " means the Education (Scotland) Acts, 1872 to 1942, the Education (Scotland) (Superannuation) Acts, 1919 to 1939, the Educational Endowments (Scotland) Act, 1882, the Educational Endowments (Scotland) Acts, 1928 to 1935, the Highland Schools Act, 1873, and this Act;
- " Educational establishment "—
 - (i) means a school, a junior college and any other institution for the provision of any form of further education and the premises of such school, junior college or institution, and
 - (ii) without prejudice to the foregoing generality, includes a central institution, a training centre, a training college, a hostel used mainly by pupils attending such schools or junior colleges or institutions, and a residential institution conducted under a scheme under the Educational Endowments (Scotland) Acts, 1928 to 1935, but
 - (iii) does not include a university, a theological college, a hostel or other residence used exclusively by students attending a university or a theological college, or a club or other centre conducted by a voluntary society or body for the purpose of providing facilities or organising activities of a character similar to those which may be provided by an education authority under section three of this Act, unless the society or body are in receipt of a grant from the Secretary of State or of a contribution from an education authority or apply in writing to the

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Secretary of State for the club or centre to be treated in all respects as an educational establishment;

" Employment " includes employment in any labour exercised - by way of trade or for purposes of gain whether the gain be to the child or to the young person or to any other person, and a person who assists in a trade or occupation carried on for profit shall be deemed to be employed notwithstanding that he receives no reward for his labour; and "employ" shall be construed accordingly;

" Employer " includes a parent who employs his children ;

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

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

" Independent school " means a school at which full-time education is provided for five or more pupils of school age (whether or not such education is also, provided for pupils under or over that age), not being a public school or a school in respect of which grants are made by the Secretary of State to the managers of the school other than grants in aid of the managers' contributions under the Education (Scotland) (Superannuation) Acts, 1919 to 1939 ;

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

" Managers ", in relation to an educational establishment, means the governing body, trustees, or other person or body of persons responsible for the management of the establishment;

" Medical examination " means examination by a duly qualified medical practitioner: Provided that in conducting an examination of any such class as may be prescribed, such practitioner may be assisted by other persons having such special qualifications or experience as may be prescribed ;

" Medical inspection " and " medical supervision " mean, , respectively, inspection and supervision by or under the directions of a duly qualified medical practitioner or in appropriate cases by a person registered under the Dentists Act, 1878 ;

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

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

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

" National committee ", " provincial committee " and " committee of management " mean respectively the National Committee for the Training of Teachers, a Provincial Committee and a Committee of Management established under the minute of the Scottish Education Department dated the

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tenth day of February, 1920, and include any committee or other body that may be appointed in their place under section forty-nine of this Act;

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

"Officers" includes servants ;

"Parent" includes guardian and any person who is liable to maintain or has the actual custody of a child or young person;

"Premises" in relation to any educational establishment includes any building in which pupils attending such establishment are boarded whether managed by the managers of such establishment or by any other person by arrangement with such managers, and any playing fields used in connection with such establishment whether contiguous to or detached therefrom ;

"Prescribed" means prescribed by the Secretary of State ;

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

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

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

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

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

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

"School" means an institution providing primary or secondary education or both primary and secondary education being a public school, an independent school, or a school in respect of which grants are made by the Secretary of State to the managers of the school, and includes a nursery school and a special school; and the expression "school" where used without qualification includes any such school or all such schools as the context may require but does not include an approved school within the meaning of the Children and Young Persons (Scotland) Act, 1937 ;

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

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

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

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

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

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

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

88 Repeal of obsolete enactments.

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

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

- (i) the validity of any scheme under the Educational Endowments (Scotland) Act, 1882, in force at the appointed day; or
- (ii) the title of an education authority to any property vested in or held in trust for them at the appointed day ; or
- (iii) the terms and conditions upon which any officer of an education authority holds his office or the powers of an education authority in relation thereto.

89 Citation, repeal and commencement.

- (1) This Act may be cited as the Education (Scotland) Act, 1945, and the Education (Scotland) Acts, 1872 to 1942, the Education (Scotland) (Superannuation) Acts, 1919 to 1939, the Educational Endowments (Scotland) Act, 1882, the Educational Endowments (Scotland) Acts, 1928 to 1935, the Highland Schools Act, 1873, and this Act shall be construed as one, and may be cited together as the Education (Scotland) Acts, 1872 to 1945.

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- (2) The enactments set out in the Sixth Schedule to this Act shall be repealed to the extent specified in the third column of that Schedule.
- (3) Save as otherwise expressly provided this Act shall come into operation on the appointed day, and the appointed day shall be such day as the Secretary of State may appoint, and different days may be appointed for different purposes and different provisions of this Act : Provided always that the day appointed for the coming into operation of section twenty-three shall be not later than the first day of April nineteen hundred and forty-six and the day appointed for the coming into operation of sections twenty-nine to thirty-one and eighty-three shall be not later than three years after the date on which the upper limit of the school age is raised to fifteen.