



# Education Act 1980

## 1980 CHAPTER 20

### *School government*

#### **1 Change of nomenclature**

- (1) The members of the body constituted for a primary school under subsection (1) of section 17 of the Education Act 1944 (governing bodies of county and voluntary schools) shall be known as governors instead of managers and the instrument providing for the constitution of that body as an instrument of government instead of an instrument of management.
- (2) The rules in accordance with which a primary school is required to be conducted under subsection (3)(a) of that section shall be known as articles of government instead of rules of management.
- (3) The enactments mentioned in Schedule 1 to this Act shall have effect with the amendments there specified, being amendments consequential on the provisions of subsections (1) and (2) above.
- (4) For any reference in any other enactment or document to the managers, foundation managers, instrument of management or rules of management of any primary school to which the provisions of subsections (1) and (2) above apply there shall be substituted, as respects any time after the coming into force of those provisions, a reference to the governors, foundation governors, instrument of government or articles of government of the school.

#### **2 Requirements as to governing bodies**

- (1) The instrument of government made for a county or voluntary school or for a special school maintained by a local education authority shall contain provisions complying with subsections (2) to (8) below.
- (2) The governing body of every such school as is mentioned in subsection (1) above shall include governors appointed by the local education authority by whom it is maintained.

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- (3) The governing body of a county primary school or voluntary primary school serving an area in which there is a minor authority shall include at least one governor appointed by that authority.
- (4) The governing body of a voluntary school shall include foundation governors and—
  - (a) in the case of a controlled school, at least one-fifth of the members of the governing body shall be foundation governors;
  - (b) in the case of an aided or special agreement school—
    - (i) the foundation governors shall outnumber the other members of the governing body by two if that body has eighteen or fewer members and by three if it has more;
    - (ii) at least one of the foundation governors shall at the time of his appointment be a parent of a registered pupil at the school.
- (5) The governing body of a county or controlled school shall include at least two parent governors, that is to say persons who are elected by parents of registered pupils at the school and who are themselves such parents at the time when they are elected; and the governing body of an aided or special agreement school shall include at least one parent governor.
- (6) Subsection (5) above shall apply to a special school maintained by a local education authority as it applies to a county or controlled school except that if the school is established in a hospital and it appears to the authority to be impracticable for the governing body to include parent governors it shall include at least two governors who are parents of children of compulsory school age.
- (7) The governing body of a county or voluntary school or of a special school maintained by a local education authority shall, if the school has less than three hundred registered pupils, include at least one, and in any other case, at least two teacher governors, that is to say persons who are elected by teachers at the school and who are themselves such teachers at the time when they are elected.
- (8) The head teacher of a county or voluntary school or of a special school maintained by a local education authority shall, unless he elects otherwise, be a governor of the school by virtue of his office and shall in any event be treated as a member of the governing body for the purposes of subsection (4) above.
- (9) It shall be for the local education authority, in the case of a county or controlled school or of a special school maintained by the authority, and for the governors, in the case of an aided or special agreement school—
  - (a) to determine any question whether, for the purposes of an election of parent governors or teacher governors, a person is a parent of a registered pupil at the school or a teacher at the school; and
  - (b) to make all necessary arrangements for, and to determine all other matters relating to, any such election (including such matters as qualifying dates and any minimum number of votes required to be cast) but so that any contested election is held by secret ballot
- (10) Nothing in this section shall be construed as preventing the inclusion in the governing body of any school of governors additional to those required by this section.
- (11) This section applies to an instrument of government made for a school only if—
  - (a) the instrument is made after the coming into force of this section; or

- (b) an order is made by the Secretary of State applying this section to the school or to schools of a class or description to which the school belongs.
- (12) Sections 18 and 19 of the Education Act 1944 (composition of governing bodies of county and voluntary schools) and so much of section 2(2) of the Education (No. 2) Act 1968 as enables the local education authority to determine the size and composition of the governing body of a special school shall not apply to any school in relation to which this section applies.

### **3 Grouping of schools under single governing body**

- (1) Subject to the provisions of this section, a local education authority may make an arrangement for the constitution of a single governing body for any two or more schools maintained by the authority.
- (2) Any arrangement under this section, other than one relating only to two primary schools neither of which is a special school, shall require the approval of the Secretary of State.
- (3) Any arrangement under this section relating to a voluntary school shall require the consent of the governors or, in the case of a school in respect of which proposals have been submitted under section 13 below and for which no governors have yet been appointed, of the persons submitting the proposals.
- (4) The governing body constituted by an arrangement under this section shall include parent governors and teacher governors ; and for the purposes of the election of such governors the schools to which the arrangement relates may be treated either separately or as if they were a single school.
- (5) Any arrangement under this section may, if it does not relate to any voluntary school, be terminated at any time by the local education authority by whom it was made, and any such arrangement which relates to a voluntary school may be terminated by agreement between the local education authority and the governing body constituted by the arrangement or, in default of agreement, by one year's notice served by the local education authority on the governing body or by one year's notice served by the governing body on the local education authority.
- (6) The Secretary of State's approval for the making of any arrangement under this section may be given subject to such conditions as he may specify; and the Secretary of State may at any time terminate any such arrangement either wholly or in relation to any school or schools to which it applies.
- (7) While an arrangement under this section is in force in relation to any school—
  - (a) neither section 2 above nor the provisions as to the constitution of the body of governors in sections 17 to 19 of the Education Act 1944 shall apply to the school; and
  - (b) for the purposes of any other enactment the governing body constituted by the arrangement and the members of that body shall be deemed to be the governing body and the governors of that school.
- (8) This section applies to—
  - (a) schools having an instrument of government made after the coming into force of section 2 above ; and

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- (b) schools in relation to which an order has been made under subsection (11)(b) of that section.
- (9) The provisions of section 20 of the said Act of 1944 and section 2(4) of the Education (No. 2) Act 1968 (grouping of schools) shall not apply to any school to which this section applies ; and any arrangements made under those provisions shall cease to apply to any school in relation to which an arrangement is made under this section or an order under section 2(11)(b) above comes into force.

#### **4 Governors' proceedings and tenure of office**

- (1) The Secretary of State may make regulations—
- (a) as to the meetings and proceedings of the governors of county and voluntary schools and of special schools maintained by local education authorities and as to the publication of information relating to those meetings and proceedings;
  - (b) subject to section 21(1) of the Education Act 1944 (resignation and removal of governors), as to the tenure of office and disqualification of the governors of such schools.
- (2) Regulations under subsection (1) above shall make provision for the election of a chairman by the governors of any such school.
- (3) The instrument of government of any such school and any arrangement made under section 3 above may contain provisions with respect to the matters mentioned in subsection (1) above but any provision relating to a matter dealt with by regulations under that subsection shall have effect subject to the regulations.
- (4) Where an aided or special agreement school has an instrument of government made after the coming into force of section 2 above, any decision taken at a meeting of the governors shall, if it is of the kind specified in subsection (5) below, require confirmation at a second meeting of the governors held not less than twenty-eight days after the first.
- (5) The decisions referred to in subsection (4) above are—
- (a) any decision that would result in the submission of proposals under section 13 below ;
  - (b) any decision to serve a notice under section 14(1) of the Education Act 1944 (discontinuance of school);
  - (c) any decision that would result in an application under section 15(4) of that Act (revocation of order whereby school is an aided or special agreement school);
  - (d) any decision to request the making of an order under subsection (2) of section 16 of that Act (discontinuance of school for which another school is substituted) or as to the submissions to be made to the Secretary of State in any consultations under subsection (3) of that section;
  - (e) any decision to make an agreement under Schedule 2 to that Act (agreement for transfer of interest in school to local education authority).
- (6) Section 21(2) of the said Act of 1944 and Schedule 4 to that Act (which are superseded by subsection (1)(a) above) shall cease to have effect; and in section 2(5) of the Education (No. 2) Act 1968 (which applies those provisions to special schools) for the words from " section 21 " to " voluntary schools) " there shall be substituted the words " section 21(1) and (3) of the Education Act 1944 (provisions as to governors of county and voluntary schools) ".

## **5      Governors as ex officio trustees**

- (1) Where a trust deed or other instrument made before the coming into force of section 2 above contains a provision whereby the persons who are for the time being governors of a voluntary school are by virtue of their office trustees of any property held for the purposes of or in connection with the school, that provision shall have effect as if the governors of the school consisted only of the foundation governors and the governors appointed by the local education authority and any minor authority.
- (2) Subsection (1) above is without prejudice to any power to amend any such provision as is mentioned in that subsection.

### *Admission to schools*

## **6      Parental preferences**

- (1) Every local education authority shall make arrangements for enabling the parent of a child in the area of the authority to express a preference as to the school at which he wishes education to be provided for his child in the exercise of the authority's functions and to give reasons for his preference.
- (2) Subject to subsection (3) below, it shall be the duty of a local education authority and of the governors of a county or voluntary school to comply with any preference expressed in accordance with the arrangements.
- (3) The duty imposed by subsection (2) above does not apply—
  - (a) if compliance with the preference would prejudice the provision of efficient education or the efficient use of resources;
  - (b) if the preferred school is an aided or special agreement school and compliance with the preference would be incompatible with any arrangements between the governors and the local education authority in respect of the admission of pupils to the school; or
  - (c) if the arrangements for admission to the preferred school are based wholly or partly on selection by reference to ability or aptitude and compliance with the preference would be incompatible with selection under the arrangements.
- (4) Where the arrangements for the admission of pupils to a school maintained by a local education authority provide for applications for admission to be made to, or to a person acting on behalf of, the governors of the school, a parent who makes such an application shall be regarded for the purposes of subsection (2) above as having expressed a preference for that school in accordance with arrangements made under subsection (1) above.
- (5) The duty imposed by subsection (2) above in relation to a preference expressed in accordance with arrangements made under subsection (1) above shall apply also in relation to—
  - (a) any application for the admission to a school maintained by a local education authority of a child who is not in the area of the authority; and
  - (b) any application made as mentioned in section 10(3) or 11(1) below;and references in subsection (3) above to a preference and a preferred school shall be construed accordingly.

## 7 Appeals against admission decisions

- (1) Every local education authority shall make arrangements for enabling the parent of a child to appeal against—
  - (a) any decision made by or on behalf of the authority as to the school at which education is to be provided for the child in the exercise of the authority's functions; and
  - (b) any decision made by or on behalf of the governors of a county or controlled school maintained by the authority refusing the child admission to such a school.
- (2) The governors of every aided or special agreement school shall make arrangements for enabling the parent of a child to appeal against any decision made by or on behalf of the governors refusing the child admission to the school.
- (3) Joint arrangements may be made under subsection (2) above by the governors of two or more aided or special agreement schools maintained by the same local education authority.
- (4) Any appeal by virtue of this section shall be to an appeal committee constituted in accordance with Part I of Schedule 2 to this Act; and Part II of that Schedule shall have effect in relation to the procedure on any such appeal.
- (5) The decision of an appeal committee on any such appeal shall be binding on the local education authority or governors by or on whose behalf the decision under appeal was made and, in the case of a decision made by or on behalf of a local education authority, on the governors of any county or controlled school at which the committee determines that a place should be offered to the child in question.
- (6) In paragraph 6 of Schedule 1 to the Tribunals and Inquiries Act 1971 (tribunals under direct supervision of the Council on Tribunals) after " 6 ", there shall be inserted " (a) " and at the end there shall be inserted—
  - “(b) appeal committees constituted in accordance with Part I of Schedule 2 to the [Education Act 1980 \(c. 20\)](#).”,and in section 13(1) of that Act for " 6 " there shall be substituted " 6(a) ".
- (7) In section 25 of the Local Government Act 1974 (authorities subject to investigation by Local Commissioner) after subsection (4) there shall be inserted—
  - “(5) Any reference to an authority to which this Part of this Act applies also includes a reference to any appeal committee constituted in accordance with paragraph 1 of Schedule 2 to the Education Act 1980.”

## 8 Information as to schools and admission arrangements

- (1) Every local education authority shall, for each school year, publish particulars of—
  - (a) the arrangements for the admission of pupils to schools maintained by the authority, other than aided or special agreement schools;
  - (b) the authority's arrangements for the provision of education at schools maintained by another local education authority or not maintained by a local education authority; and
  - (c) the arrangements made by the authority under sections 6(1) and 7(1) above.

- (2) The governors of every aided or special agreement school shall, for each school year, publish particulars of—
  - (a) the arrangements for the admission of pupils to the school; and
  - (b) the arrangements made by them under section 7(2) above.
- (3) The particulars to be published under subsections (1)(a) and (2) (a) above shall include particulars of—
  - (a) the number of pupils that it is intended to admit in each school year to each school to which the arrangements relate, being pupils in the age group in which pupils are normally admitted or, if there is more than one such group, in each such group;
  - (b) the respective admission functions of the local education authority and the governors ;
  - (c) the policy followed in deciding admissions ;
  - (d) the arrangements made in respect of pupils not belonging to the area of the local education authority.
- (4) The particulars to be published under subsection (1)(b) above shall include particulars of—
  - (a) the criteria for offering places at schools not maintained by a local education authority ;
  - (b) the names of, and number of places at, any such schools in respect of which the authority have standing arrangements.
- (5) Every local education authority shall, as respects each school maintained by them other than an aided or special agreement school, and the governors of every aided or special agreement school shall, as respects that school, publish—
  - (a) such information as may be required by regulations made by the Secretary of State; and
  - (b) such other information, if any, as the authority or governors think fit,and every local education authority shall also publish such information as may be so required with respect to their policy and arrangements in respect of any matter relating to primary or secondary education in their area.
- (6) The local education authority by whom an aided or special agreement school is maintained may, with the agreement of the governors of the school, publish on their behalf the particulars or information relating to the school referred to in subsection (2) or (5) above.
- (7) References in this section to publication are references to publication at such time or times and in such manner as may be required by regulations made by the Secretary of State.

## **9 Nursery schools and special schools**

- (1) None of the provisions of sections 6, 7 and 8 above have effect in relation to nursery schools or to children who will not have attained the age of five years at the time of their proposed admission except that where the arrangements for the admission of pupils to a school maintained by a local education authority provide for the admission of children who will attain that age within six months after their admission those sections shall have effect in relation to the admission of such pupils to that school.

- (2) None of the provisions of those sections other than subsections (5) and (7) of section 8 have effect in relation to special schools or children in need of special educational treatment.

*School attendance orders*

**10 Determination of school to be named in order**

- (1) Before serving a school attendance order on a parent under section 37 of the Education Act 1944 the local education authority shall serve on him a written notice of their intention to serve the order—
- (a) specifying the school which they intend to name in the order and, if they think fit, one or more other schools which they regard as suitable alternatives ; and
  - (b) stating the effect of subsections (2) to (4) below;
- but no aided or special agreement school shall be specified in the notice without the consent of the governors of the school.
- (2) If the notice specifies one or more alternative schools and the parent selects one of them before the expiration of the period of fourteen days beginning with the day after that on which the notice is served, the school selected by him shall be named in the order.
- (3) If before the expiration of that period the parent—
- (a) applies for the child to be admitted to a school maintained by a local education authority and, if that authority is not the one by whom the notice was served, notifies the latter authority of the application; or
  - (b) applies to the local education authority by whom the notice was served for education to be provided for the child at a school not maintained by a local education authority,
- then, if the child is offered a place at a school as a result of the application mentioned in paragraph (a) above or is offered a place at a school at which the local education authority agree to provide education for him in response to the application mentioned in paragraph (b) above, that school shall be named in the order.
- (4) If before the expiration of the period mentioned in subsection (2) above the parent—
- (a) applies for the child to be admitted to a school which is not maintained by a local education authority and in respect of which he makes no such application as is mentioned in subsection (3)(b) above ; and
  - (b) notifies the local education authority by whom the notice was served of the application,
- then, if as a result of the application the child is offered a place at a school which is suitable to his age, ability and aptitude, that school shall be named in the order.
- (5) The foregoing provisions of this section do not apply to children who are in need of special educational treatment but, except in relation to such children, supersede the proviso to subsection (2) of the said section 37 and subsection (3) of that section.
- (6) In its application to such children as are mentioned in subsection (5) above (and, as respects any time before the coming into force of subsections (1) to (4) above, in its application to other children) subsection (3) of the said section 37 shall have effect as if for the words " would involve unreasonable expense to the authority " there were



substituted the words " would prejudice the provision of efficient education or the efficient use of resources. "

- (7) Where the school to be named in a school attendance order in pursuance of a direction given by the Secretary of State under subsection (3) of the said section 37 is a school maintained by a local education authority, it shall be the duty of the authority and the governors of the school to admit the child to the school.

## **11 Amendment of order**

- (1) If at any time while a school attendance order is in force with respect to a child the parent—

- (a) applies for the child to be admitted to a school maintained by a local education authority ; or
- (b) applies to the local education authority by whom the order was served for education to be provided for the child at a school not maintained by a local education authority,

being, in either case, a school different from the one named in the order, then, if the child is offered a place at a school as a result of the application mentioned in paragraph (a) above or is offered a place at a school at which the local education authority agree to provide education for him in response to the application mentioned in paragraph (b) above, the local education authority by whom the order was served shall at the request of the parent amend the order by substituting that school for the one previously named.

- (2) If at any time while a school attendance order is in force with respect to a child—

- (a) the parent applies for the child to be admitted to a school which is not maintained by a local education authority and in respect of which he makes no such application as is mentioned in subsection (1)(b) above, being a school different from the one named in the order; and
- (b) as a result of the application the child is offered a place at a school which is suitable to his age, ability and aptitude,

the local education authority by whom the order was served shall at the request of the parent amend the order by substituting that school for the one previously named.

- (3) The foregoing provisions of this section do not apply to children who are in need of special educational treatment but, except in relation to such children, supersede so much of section 37(4) of the Education Act 1944 as relates to the amendment of school attendance orders.

### *Establishment, discontinuance and alteration of schools*

## **12 Establishment, discontinuance and alteration of schools by local education authorities**

- (1) Where a local education authority intend—

- (a) to establish a new county school;
- (b) to maintain as a county school any school which is not such a school;
- (c) to cease to maintain any county school or, except as provided by section 14 of the Education Act 1944, any voluntary school;

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- (d) to make any significant change in the character, or significant enlargement of the premises, of a county school; or
  - (e) to cease to maintain a nursery school established by them or a former authority, they shall publish their proposals for that purpose in such manner as may be required by regulations made by the Secretary of State and submit to him a copy of the published proposals.
- (2) The published proposals shall be accompanied by a statement of the effect of subsection (3) below and shall include particulars of the time or times at which it is intended to implement the proposals and (except where the proposal is to cease to maintain a school) particulars of the number of pupils intended to be admitted to the school in each relevant age group in the first school year in relation to which the proposals have been wholly implemented excluding pupils who will not have attained the age of five years within six months after their admission.
- (3) Any ten or more local government electors for the area may within the period of two months after the first publication of the proposals submit an objection to the proposals to the local education authority, and objections to the proposals may also be submitted to the authority within that period by the governors of any voluntary school affected by the proposals and by any other local education authority concerned; and the authority by whom the proposals were published shall within one month after the end of that period transmit to the Secretary of State copies of all objections made (and not withdrawn in writing) in that period, together with their observations on the objections.
- (4) Any proposal—
  - (a) for the maintenance as a county school of a school which is for the time being a voluntary school; or
  - (b) for ceasing to maintain a voluntary school,shall require the approval of the Secretary of State; and he shall not approve proposals for the maintenance as a county school of a school which is for the time being a voluntary school unless he has, in accordance with Schedule 2 to the said Act of 1944, approved an agreement under the powers conferred by that Schedule between the authority and the governors of the school for the transfer to the authority of all necessary interests in the school premises.
- (5) Proposals not falling within subsection (4) above shall require the approval of the Secretary of State—
  - (a) if he gives notice to that effect to the local education authority within two months after the submission to him of the published proposals; or
  - (b) if objections have been made as mentioned in subsection (3) above and all objections so made have not been withdrawn as mentioned in that subsection.
- (6) If the proposals require the approval of the Secretary of State he may reject them, approve them without modification or, after consultation with the local education authority, approve them with such modifications as he thinks desirable.
- (7) If the proposals do not require the approval of the Secretary of State the local education authority shall determine whether the proposals should be implemented ; and the authority shall make that determination not later than four months after the submission of the proposals to the Secretary of State.
- (8) A local authority shall notify the Secretary of State of any determination made by them under subsection (7) above.

- (9) It shall be the duty of a local education authority to implement—
- (a) any proposals which have been approved by the Secretary of State under this section; and
  - (b) any proposals which they have determined to implement in accordance with subsection (7) above ;
- but the Secretary of State may, at the request of the authority, modify any proposals which they are required to implement by virtue of this subsection.

### **13 Establishment and alteration of voluntary schools**

- (1) Where—
- (a) any persons propose that a school established by them or by persons whom they represent which 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; or
  - (b) the governors of a school maintained by a local education authority as a voluntary school intend to make a significant change in the character, or significant enlargement of the premises, of the school,
- they shall, after consultation with the authority, publish proposals for that purpose in such manner as may be required by regulations made by the Secretary of State and submit to him a copy of the published proposals.
- (2) Subsection (2) of section 12 above shall apply to proposals published under this section as it applies to proposals published under that section taking the reference to subsection (3) of that section as a reference to subsection (3) below.
- (3) Any ten or more local government electors for the area may within the period of two months after the first publication of the proposals submit an objection to the proposals to the Secretary of State, and objections to the proposals may also be submitted to him within that period by the governors of any voluntary school affected by the proposals and by any local education authority concerned.
- (4) The proposals shall require the approval of the Secretary of State; and he may reject them, approve them without modification or, after consultation with the persons by whom they were made and the local education authority by whom the school is, or is to be, maintained, approve them with such modifications as he thinks desirable.
- (5) Subject to subsections (6) and (7) below, if the proposals are approved by the Secretary of State it shall be the duty of the persons by whom they were made and, in the case of proposals under subsection (1)(a) above, of the local education authority to implement the proposals.
- (6) Subject to subsection (7) below, it shall be the duty of the local education authority to implement so much of any proposals approved by the Secretary of State as relates to the provision of playing fields or of buildings which are to form part of the school premises but are not to be school buildings.
- (7) The Secretary of State may modify any proposals which are required to be implemented under subsection (5) or (6) above but shall not do so in the case of proposals under subsection (1)(a) above except at the request of the local education authority or in the case of other proposals except at the request of the persons by whom they were made.

## 14 Approval of school premises

- (1) Where proposals submitted under section 12 or 13 above are for—
  - (a) the establishment of a school;
  - (b) the maintenance of a school as a county or voluntary school; or
  - (c) the making of a significant change in the character, or significant enlargement of the premises, of a school, the persons making the proposals shall, at such time and in such form and manner as the Secretary of State may direct, submit to him for his approval such particulars with respect to the premises or proposed premises of the school as he may require.
- (2) Before submitting any particulars under this section in respect of a school which is or is to be maintained as a voluntary school, the governors or the persons by whom the school is to be established shall consult the local education authority.
- (3) Where particulars with respect to any school are required to be submitted under this section, the persons whose duty it is under section 12 or 13 above to implement the proposals shall implement them in accordance with the particulars as approved by the Secretary of State.
- (4) In section 71(a) of the Public Health Act 1936 and section 63(2) of the Education Act 1944 (exemption from building regulations etc.) references to plans approved by the Secretary of State shall include references to any particulars submitted to and approved by him under this section.

## 15 Reduction of school places

- (1) Subject to subsection (2) below, this section has effect where—
  - (a) a local education authority, in the case of a county school, or the governors, in the case of a voluntary school, intend to reduce the number of pupils in any relevant age group who are to be admitted to the school in any school year to a number which is four-fifths or less than four-fifths of the standard number applying under this section to the school in relation to that year and age group; and
  - (b) in the case of a primary school, the standard number is twenty or more.
- (2) Where the age group in question includes children who will not have attained the age of five years within six months after their admission, those children shall be disregarded both in determining the number of pupils who are to be admitted and the standard number applying under this section.
- (3) The authority or governors, as the case may be, shall publish their proposals with respect to the reduction in such manner as may be required by regulations made by the Secretary of State and submit to him a copy of the published proposals ; and subsections (3), (5), (6), (7) and (8) of section 12 above shall apply to proposals published under this section by a local education authority and subsections (3) and (4) of section 13 above shall apply to proposals published under this section by the governors of a voluntary school as they apply in relation to proposals published under those sections respectively.
- (4) The published proposals shall be accompanied by a statement of the effect of section 12(3) or, as the case may be, section 13(3) as applied by subsection (3) above.

- (5) Subject to subsections (6), (7) and (8) below, if pupils in any age group were admitted to a school in the school year beginning in 1979, the number admitted in that year shall be the standard number applying to the school for that age group in any subsequent year.
- (6) Subject to subsections (7) and (8) below, if proposals under section 13 of the Education Act 1944 have fallen to be implemented in relation to a school and the first school year in relation to which they are to be wholly implemented begins after 1979, the number of pupils in any age group admitted to the school in the first school year beginning after 1979 in relation to which the proposals have been wholly or partly implemented shall be the standard number applying to the school for that age group in any subsequent year; but where the standard number would fall to be determined under this subsection by reference to a school year in relation to which the proposals have not been wholly implemented the Secretary of State may vary that number in its application to any subsequent school year.
- (7) Subject to subsection (8) below, if proposals under section 12 or 13 above have fallen to be implemented in relation to a school, the number stated in the proposals in accordance with subsection (2) of section 12 (or that subsection as applied by section 13) for any school year and age group shall be the standard number applying to the school for that age group in any school year in relation to which the proposals have been wholly implemented and, subject to any variation made by the Secretary of State, in any school year in relation to which they have been partly implemented.
- (8) The Secretary of State may by an order applying to any school or to schools of any class or description vary any standard number that would otherwise apply by virtue of the foregoing provisions of this section.
- (9) References in subsection (7) above to proposals under section 12 or 13 are references to the proposals with any modifications made by the Secretary of State under either of those sections; and any standard number applying under that subsection is without prejudice to the application under that subsection of a new standard number if further proposals fall to be implemented under those sections.
- (10) Neither section 12(9) nor section 13(5) above shall be construed as imposing any duty to admit pupils in accordance with the number stated in the proposals in accordance with subsection (2) of section 12 or that subsection as applied by section 13.

## **16 Provisions supplementary to ss. 12 to 15**

- (1) Neither a local education authority nor any other person shall do or undertake to do anything for which proposals are required to be published and submitted in accordance with any of the provisions of sections 12 to 15 above until those provisions have been complied with and any necessary approval has been given; but the Secretary of State may in any case allow such steps to be taken pending compliance with those provisions and the giving of any necessary approval as he considers reasonable in the circumstances of the case.
- (2) References in sections 12, 13 and 14 above to a change in the character of a school include, in particular, changes in character resulting from education beginning or ceasing to be provided for pupils above or below a particular age, for boys as well as girls or for girls as well as boys, or from the making or alteration of arrangements for the admission of pupils by reference to ability or aptitude.

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

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- (3) References in sections 12 and 15 above to a relevant age group are references to an age group in which pupils are or will normally be admitted to the school in question.
- (4) Section 13 of the Education Act 1944 (which is superseded by sections 12 to 14 above) shall cease to have effect; and the enactments mentioned in Schedule 3 to this Act shall have effect with the amendments there specified, being amendments consequential on the replacement of that section.
- (5) Subsection (4) above does not affect the said section 13, or any enactment referring to it, in relation to any proposals which have been approved or of which public notice has been given under that section before the coming into force of sections 12 to 14 above but any proposals required by virtue of that section to be implemented by a local education authority or by any other persons may, at the request of the authority or those persons, be modified by the Secretary of State.
- (6) Section 14(1), (2) and (4) above shall apply, and subsection (6) of the said section 13 shall not apply, in relation to proposals for the matters referred to in paragraphs (a), (b) and (c) of section 14(1) above—
- (a) which are approved under the said section 13 on or after the date on which this subsection comes into force ; or
  - (b) which have then already been approved under that section but in respect of which specifications and plans have not yet been submitted under subsection (6) of that section;
- and, in relation to any such proposals, subsection (7) of the said section 13 shall apply as if references to specifications and plans being approved or not required under that section were references to particulars being approved or not required under section 14 above.
- (7) In subsection (6) above references to subsections (6) and (7) of the said section 13 include references to those subsections as applied by subsection (9) of that section.

#### *Awards and grants*

### **17 Assisted places at independent schools**

- (1) For the purpose of enabling pupils who might otherwise not be able to do so to benefit from education at independent schools, the Secretary of State shall establish and operate a scheme whereby—
- (a) participating schools remit fees that would otherwise be chargeable in respect of pupils selected for assisted places under the scheme ; and
  - (b) the Secretary of State reimburses the schools for the fees that are remitted.
- (2) In this section references to a participating school are references to any independent school providing secondary education with which the Secretary of State makes an agreement (a "participation agreement") for the purposes of the scheme; and in determining whether to make a participation agreement with any school the Secretary of State shall have regard to the desirability of securing an equitable distribution of assisted places throughout England and Wales and between boys and girls.
- (3) The fees in relation to which the scheme is to have effect shall be—

- (a) tuition and other fees the payment of which is a condition of attendance at a participating school but excluding boarding fees and such other fees, if any, as may be excluded by the participation agreement; and
  - (b) entrance fees for public examinations paid by a participating school in respect of candidates from the school.
- (4) A participation agreement shall contain provisions with respect to the number of assisted places to be available at the school and may contain conditions to be complied with by the school in addition to those prescribed under subsection (6) below.
- (5) Schedule 4 to this Act shall have effect with respect to the termination of participation agreements.
- (6) The Secretary of State shall by regulations prescribe—
  - (a) the requirements as to age, residence or otherwise which are to be the conditions of eligibility for selection for an assisted place;
  - (b) the conditions subject to which, the extent to which, and the arrangements in accordance with which, fees are to be remitted by participating schools;
  - (c) the time and manner in which participating schools are to claim and receive reimbursements from the Secretary of State;
  - (d) conditions to be complied with by participating schools with respect to the selection of pupils for assisted places, the admission of pupils, the fees to be charged, the keeping and auditing of accounts and the furnishing of information to the Secretary of State; and
  - (e) such other matters as appear to him to be requisite for the purposes of the scheme.
- (7) Regulations under subsection (6) above may authorise the Secretary of State to make provision for any purpose specified in the regulations.
- (8) Before making regulations under subsection (6) above the Secretary of State shall consult such bodies as appear to him to be appropriate and to be representative of participating schools or, in the case of regulations made within twelve months of the coming into force of this section, of schools eligible to participate in the scheme.
- (9) Regulations made under subsection (6)(b) above shall be reviewed by the Secretary of State in consultation with such bodies as appear to him to be appropriate and to be representative of participating schools—
  - (a) not later than two years after the date on which the first such regulations are made ; and
  - (b) thereafter at intervals not exceeding two years.
- (10) Except where the context otherwise requires, references in this section and section 18 below to a school include references to the proprietors of the school and persons acting with their authority ; and references in this section to an independent school are references to an independent school that is finally registered and conducted for charitable purposes only.

## **18 Incidental expenses of pupils holding assisted places**

- (1) The Secretary of State may make regulations requiring or enabling schools participating in the scheme referred to in section 17 above to make grants in respect of such expenses, and to remit such charges, as may be specified in the regulations, being

expenses or charges in respect of matters incidental to or arising out of the attendance at the schools of pupils holding assisted places under the scheme.

- (2) Any such regulations shall require any amounts granted or remitted by a school in accordance with the regulations to be reimbursed to the school by the Secretary of State.
- (3) Regulations under this section may in particular prescribe—
  - (a) the conditions subject to which, the extent to which, and the arrangements in accordance with which, grants and remissions are to be made;
  - (b) the time and manner in which schools are to claim and receive reimbursements from the Secretary of State.
- (4) Regulations under this section may authorise the Secretary of State to make provision for any purpose specified in the regulations.

## **19 Awards for further and higher education**

For sections 1 to 4 of the Education Act 1962 and Schedule 1 to that Act (awards for further and higher education) there shall be substituted the provisions set out in Schedule 5 to this Act which—

- (a) extend the courses capable of designation under section 1 to include certain courses provided in conjunction with overseas institutions;
- (b) incorporate the effect of amendments made by the Education Act 1973, the Education Act 1975 and the Education Act 1976 ; and
- (c) omit provisions that are spent or no longer required.

## **20 Industrial scholarships**

- (1) The Secretary of State may award industrial scholarships or make payments to any other person in respect of the award of such scholarships by that person.
- (2) In this section " industrial scholarships " means scholarships (however described) tenable by persons undertaking full-time courses of higher education provided by a university, college or other institution in the United Kingdom, being courses which appear to the Secretary of State or, as the case may be, the person awarding the scholarships to be relevant to a career in industry.
- (3) In subsection (2) above the reference to a full-time course includes a reference to a course consisting of alternate periods of—
  - (a) full-time study in the university, college or institution in question; and
  - (b) associated industrial, professional or commercial experience;
 and the reference in that subsection to a course provided by a university, college or institution in the United Kingdom includes a reference to a course provided by such a university, college or institution in conjunction with a university, college or other institution in another country.

## **21 Grants for education in Welsh**

- (1) The Secretary of State shall by regulations make provision for the payment by him to local education authorities and other persons of grants in respect of expenditure incurred or to be incurred in, or in connection with, the teaching of the Welsh language or the teaching in that language of other subjects.



- (2) Any regulations made by the Secretary of State under this section may make provision whereby the making of payments by him in pursuance of the regulations is dependent on the fulfilment of such conditions as may be determined by or in accordance with the regulations, and may also make provision for requiring local education authorities and other persons to whom payments have been made in pursuance of the regulations to comply with such requirements as may be so determined.

### *School meals*

## **22 School meals: England and Wales**

- (1) A local education authority—
- (a) may provide registered pupils at any school maintained by them with milk, meals or other refreshment; and
  - (b) shall provide such facilities as the authority consider appropriate for the consumption of any meals or other refreshment brought to the school by such pupils.
- (2) A local education authority shall exercise their power under subsection (1)(a) above in relation to any pupil whose parents are in receipt of supplementary benefit or family income supplement so as to ensure that such provision is made for him in the middle of the day as appears to the authority to be requisite.
- (3) A local education authority—
- (a) may make such charges as they think fit for anything provided by them under subsection (1)(a) above, except where it is provided by virtue of subsection (2) above ; but
  - (b) shall remit the whole or part of any charge that would otherwise be made if, having regard to the particular circumstances of any pupil or class or description of pupils, they consider it appropriate to do so.
- (4) The governors of a school maintained by a local education authority shall—
- (a) afford the authority such facilities as they require to enable them to exercise their functions under this section; and
  - (b) allow the authority to make such use of the premises and equipment of the school and such alterations to the school buildings as the authority consider necessary for that purpose;
- but nothing in this subsection shall require the governors of a voluntary school to incur any expenditure.
- (5) The power under section 78(2)(a) of the Education Act 1944 to make arrangements as to the provision of milk for pupils in attendance at non-maintained schools shall apply in relation to all such pupils; and accordingly section 1(3) of the Education (Milk) Act 1971 (which restricts the power to provision for children under the age of eight and children at special schools) shall cease to have effect.

## **23 School meals: Scotland**

- (1) An education authority—

- (a) may provide milk, meals or other refreshment for pupils in attendance at public schools and other educational establishments under their management; and
  - (b) shall provide such facilities as the authority consider appropriate for the consumption of any meals or other refreshment brought to the school or other educational establishment by such pupils.
- (2) An education authority shall exercise their power under subsection (1)(a) above in relation to any pupil whose parents are in receipt of supplementary benefit or family income supplement so as to ensure that such provision is made for him in the middle of the day as appears to the authority to be requisite.
- (3) An education authority—
- (a) may make such charges as they think fit for anything provided by them under subsection (1)(a) above, except where it is provided by virtue of subsection (2) above; but
  - (b) shall remit the whole or any part of any charge that would otherwise be made if, having regard to the particular circumstances of any pupil or class or description of pupils, they consider it appropriate to do so.
- (4) For the purposes of this section, a pupil for whom an education authority have made special arrangements under section 14 of the Education (Scotland) Act 1962 may, at the discretion of the authority, be deemed to be in attendance at a public school under their management.
- (5) The power under section 55 of the Education (Scotland) Act 1962 to make arrangements as to the provision of milk for pupils in attendance at schools other than public schools shall apply in relation to all such pupils ; and accordingly section 2(4) of the Education (Milk) Act 1971 (which restricts the power to provision for pupils under the age of eight and pupils receiving special education) shall cease to have effect.
- (6) In section 24(1) of the Education (Scotland) Act 1962 (provision by education authority for education of pupils belonging to areas of other authorities) after the word " Act" there shall be inserted the words " or the Education Act 1980 ".
- (7) This section applies to Scotland only.

### *Nursery education*

## **24 Nursery education: England and Wales**

- (1) A local education authority shall have power to establish nursery schools, to maintain such schools established by them or a former authority and to assist any such school which is not so established.
- (2) A local education authority shall not by virtue of section 8(1)(a) of the Education Act 1944 be under any duty in respect of junior pupils who have not attained the age of five years but this subsection shall not affect the power of an authority under section 9(1) of that Act to establish, maintain or assist a school at which education is provided both for such pupils and older pupils, including a school at which there is a nursery class for such junior pupils as aforesaid.
- (3) In the definition of "pupil" in section 114(1) of the said Act of 1944 (which defines pupils as those for whom education is required to be provided under that Act) there

shall be added at the end the words " but includes a junior pupil who has not attained the age of five years. " .

## **25 Nursery education: Scotland**

- (1) An education authority shall have power to provide for their area school education in nursery schools and nursery classes.
- (2) The duties of an education authority under section 1 of the Education (Scotland) Act 1962 shall not apply in relation to the provision of school education in nursery schools and nursery classes.
- (3) This section applies to Scotland only.

## **26 Day nurseries**

- (1) Subject to subsection (3) below, a local education authority may, in accordance with arrangements made by them in that behalf, make available to any day nursery the services of any teacher who—
  - (a) is employed by them in a nursery school or in a primary school having one or more nursery classes ; and
  - (b) has agreed to provide his services for the purposes of the arrangements.
- (2) Subject to subsection (3) below, the governors of any county or voluntary primary school having one or more nursery classes may, in accordance with arrangements made by them in that behalf, make available to any day nursery the services of any teacher who is employed by them in the school and has agreed to provide his services for the purposes of the arrangements.
- (3) Arrangements made under subsection (1) above in respect of a teacher in a voluntary school shall require the concurrence of the governors of the school; and no arrangements shall be made under subsection (2) above except at the request of the local education authority and on terms approved by them.
- (4) Arrangements under this section may make provision—
  - (a) for the supply of equipment for use in connection with the teaching services made available under the arrangements ;
  - (b) for regulating the respective functions of any teacher whose services are made available under the arrangements, the head teacher of his school and the person in charge of the day nursery;
  - (c) for any supplementary or incidental matters connected with the arrangements, including, where the teacher's school and the day nursery are in the areas of different local education authorities, financial adjustments between those authorities.
- (5) In this section " day nursery " means a day nursery provided under the National Health Service Act 1977 by a local social services authority.
- (6) A teacher shall not be regarded as ceasing to be a member of the teaching staff of his school and subject to the general directions of his head teacher by reason only of his services being made available in pursuance of arrangements under this section.

*Miscellaneous***27 School and further education regulations**

- (1) The Secretary of State may by regulations make provision—
  - (a) for requiring teachers at schools and further education establishments to which this section applies to possess such qualifications as may be determined by or under the regulations and for requiring such teachers to serve probationary periods;
  - (b) with respect to the teaching staff to be provided in such schools and establishments;
  - (c) for requiring the approval of the Secretary of State to be obtained for the use in such schools and establishments of such materials or apparatus as may be specified in the regulations, being materials or apparatus, which could or might involve a serious risk to health;
  - (d) with respect to the keeping, disclosure and transfer of educational records about pupils at such schools and establishments;
  - (e) with respect to the duration of the school day and school year at, and the granting of leave of absence from, any such schools.
- (2) The Secretary of State may by regulations make provision for imposing requirements as to the health and physical capacity of—
  - (a) teachers at schools and further education establishments to which this section applies;
  - (b) teachers employed by local education authorities other wise than at such schools or establishments; and
  - (c) persons employed by local education authorities in work otherwise than as teachers which brings them regularly into contact with persons who have not attained the age of nineteen years.
- (3) The Secretary of State may by regulations make provision for prohibiting or restricting the employment or further employment of persons—
  - (a) as teachers at schools and further education establishments to which this section applies ;
  - (b) by local education authorities as teachers otherwise than at such schools or establishments; or
  - (c) by local education authorities in such work as is mentioned in subsection (2) (c) above,  
on medical grounds, in cases of misconduct and, as respects employment or further employment as a teacher, on educational grounds.
- (4) The Secretary of State may by regulations make provision requiring his approval to be obtained for the provision of new premises for, or the alteration of the premises of, any school or further educational establishment to which this section applies or any boarding hostel provided by a local education authority for pupils attending any such school or establishment and for the inspection of any such hostel.
- (5) In section 71(a) of the Public Health Act 1936 and section 63(2) of the Education Act 1944 (exemption from building regulations etc.) references to plans approved by the Secretary of State shall include references to any particulars submitted to and approved by him under regulations made by virtue of subsection (4) above.

- (6) The Secretary of State may make regulations with respect to the provision of, and the fees to be charged for, courses of further education at further education establishments to which this section applies, including provision for requiring his approval to be obtained for the provision at such establishments of courses designated by or under the regulations as courses of advanced further education and for enabling him to give directions for the discontinuance of any such course at such an establishment or as to the number and categories of students to be admitted to such courses at such establishments.
- (7) This section applies to any school maintained by a local education authority, any special school not so maintained, any further education establishment provided by a local education authority and any further education establishment designated by or under the regulations as an establishment substantially dependent for its maintenance on assistance from local education authorities or on grants under section 100(1)(b) of the said Act of 1944.

## **28 Provision of education at non-maintained schools**

- (1) So much of section 9(1) of the Education Act 1944 and section 6(1) of the Education (Miscellaneous Provisions) Act 1953 (arrangements with non-maintained schools) as makes the exercise of the powers of local education authorities under those provisions subject to the approval of the Secretary of State shall cease to have effect.
- (2) In the said section 6(1) the words " For the purpose of fulfilling their duties under the principal Act" shall be omitted.
- (3) Section 5(2) of the Education Act 1976 (under which regulations empowering local education authorities to pay fees and expenses in respect of children attending fee-paying schools may include provision requiring authorities to exercise their powers in accordance with arrangements approved by the Secretary of State) shall cease to have effect.

## **29 Provision of clothing for physical training etc.**

- (1) In subsection (3) of section 5 of the Education (Miscellaneous Provisions) Act 1948 (provision of clothing for physical training) for the words " The Minister may make regulations empowering a local education authority to provide" there shall be substituted the words " A local education authority may provide " and for the words " as may be prescribed " there shall be substituted the words " as may be determined by the authority ".
- (2) After subsection (6) of that section (under which the parent of a person provided with clothing under that section may be required to make a payment to the local education authority) there shall be inserted—
  - “(6A) Where a person who has attained the age of eighteen years (other than a registered pupil at a school) is provided with clothing under this section any reference in subsection (6) above to his parent shall be construed as a reference to that person.”

**30 Relaxation of Ministerial control of local education authorities**

- (1) So much of the provisions of the Education Act 1944 mentioned in subsection (2) below as makes the exercise of any power by a local education authority subject to the approval or consent of the Secretary of State or subject to the provisions of regulations made by him shall cease to have effect.
- (2) The provisions referred to above are—
  - (a) section 53(1) (recreation facilities);
  - (b) section 61(2) (boarding fees);
  - (c) section 82 (educational research);
  - (d) section 83 (education conferences); and
  - (e) section 84 (assistance for universities etc.).
- (3) Section 12 of the said Act of 1944 (duty to make local education orders) shall cease to have effect.

**31 Recoupment between education authorities**

- (1) Subject to subsection (2) below, where any provision for primary or secondary education is made by a local education authority in respect of a pupil who belongs to the area of another local education authority, the providing authority shall, on making a claim within the prescribed period, be entitled to recoupment of an amount equal to the cost to them of the provision from the other authority and the amount of the recoupment shall be determined by agreement between the authorities or, in default of agreement, by the Secretary of State.
- (2) Subsection (1) above does not apply to any provision for primary education made in respect of a pupil who has not attained the age of five years unless it is made with the consent of the authority from whom recoupment is claimed.
- (3) Where any provision for further education is made by a local education authority in respect of a pupil who belongs to the area of another local education authority, and that other authority have consented to the making of the provision, the providing authority shall, on making a claim within the prescribed period, be entitled to recoupment of the amount of the cost to them of the provision from the other authority and the amount of the recoupment shall be determined by agreement between the authorities or, in default of agreement, by the Secretary of State.
- (4) A local education authority may make a payment by way of recoupment to another such authority of the cost incurred by the other authority in making any provision for primary, secondary or further education in respect of a pupil belonging to the area of the paying authority notwithstanding that no claim in respect of the cost has been made by the other authority in accordance with subsection (1) or (3) above.
- (5) The Secretary of State may make regulations requiring or authorising payments of amounts determined by or under the regulations to be made by one authority to another where—
  - (a) the authority receiving the payment makes, in such cases or circumstances as may be specified in the regulations, provision for education in respect of a pupil having such connection with the area of the paying authority as may be so specified; and
  - (b) one of the authorities is a local education authority and the other an education authority in Scotland.

- (6) References in this section to provision for education include references to provision of any benefits or services for which provision is made by or under the enactments relating to education.
- (7) References in subsections (3) and (4) above to further education do not include references to further education of a kind such that expenditure on its provision would fall within paragraph 3 A of Schedule 2 to the Local Government Act 1974 as amended by section 32 below.
- (8) In section 31(8) of the London Government Act 1963 for the words " section 7(1) of the Education (Miscellaneous Provisions) Act 1953 " there shall be substituted the words " section 31(3) of the Education Act 1980 ".

### **32 Education expenditure and rate support grant**

- (1) Part I of Schedule 2 to the Local Government Act 1974 (adjustment of needs element of rate support grant by reference to education and other expenditure) shall be amended in accordance with Schedule 6 to this Act.
- (2) Regulations under sub-paragraph (4) (a) of paragraph 3 of the said Schedule 2 as amended by this section shall apply that paragraph to—
  - (a) expenditure incurred by local education authorities in the making of provision for primary and secondary education in respect of pupils not belonging to the area of any local education authority or to the area of any education authority in Scotland; and
  - (b) expenditure, other than that to which paragraph 3A of that Schedule applies, incurred by local education authorities in the making of provision for further education in respect of such pupils.
- (3) Regulations under sub-paragraph (4)(a) of paragraph 3 of the said Schedule 2 as amended by this section may be made with retrospective effect to 1st April 1977 insofar as they apply that paragraph to expenditure in making payments to persons who, in consequence of a direction given by the Secretary of State under regulation 3(2) of the Further Education Regulations 1975, have ceased to be employed in colleges for the training of teachers or in institutions having a department for the training of teachers, being—
  - (a) payments made by an authority as compensating authority under the Colleges of Education (Compensation) Regulations 1975; or
  - (b) the amount by which the salary to which such a person is entitled under a document such as is mentioned in section 5(2) of the Remuneration of Teachers Act 1965 exceeds the salary which would normally be appropriate to the post held by him.
- (4) Without prejudice to subsection (3) above, regulations made by virtue of this section under the said Schedule 2 may be made so as to have effect from 1st April 1980 and in relation to regulations made as respects the year beginning on that date under paragraph 3A(2)(a) of that Schedule that paragraph shall have effect as if the words " in advance for each year " were omitted.

### **33 Discrimination by local education authorities**

- (1) In section 23(1) of the Sex Discrimination Act 1975 and section 18(1) of the Race Relations Act 1976 (discrimination by local education authorities) for the words " the

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Education Acts 1944 to 1975 " there shall be substituted the words " the Education Acts 1944 to 1980 ".

- (2) In section 23(2) of the said Act of 1975 and section 18(2) of the said Act of 1976 (discrimination by education authorities) for the words "the Education (Scotland) Acts 1939 to 1974" and " the Education (Scotland) Acts 1939 to 1975 " respectively there shall be substituted the words " the Education (Scotland) Acts 1939 to 1980 ".
- (3) In Schedule 2 to the said Act of 1975, paragraph 2 shall be omitted and for paragraph 4 there shall be substituted—

“4 Regulations under section 27 of the Education Act 1980 may provide for the submission to the Secretary of State of an application for the making by him of a transitional exemption order in relation to any school or further education establishment to which that section applies and not falling within paragraph 3 above, and for the making by him of the order.”

### **34 Definition and registration of independent schools**

- (1) In the definition of " independent school" and "school" in section 114(1) of the Education Act 1944 for the words " a school in respect of which grants are made by the Minister to the proprietor of the school" there shall be substituted the words " a special school not maintained by a local education authority ".
- (2) Subsection (2) of section 70 of the said Act of 1944 (order exempting schools from registration) shall cease to have effect.
- (3) The Registrar of Independent Schools shall, without any application in that behalf, enter in the register kept by him under subsection (1) of the said section 70—
- (a) any school which by virtue of subsection (1) above becomes an independent school; and
  - (b) any school which was exempt from registration by virtue of subsection (2) of the said section 70 immediately before the coming into force of this section.
- (4) Proviso (b) to subsection (1) of the said section 70 (registration of school to be provisional until it has been inspected) shall not apply to the registration of a school under subsection (3) above unless the Registrar has before the coming into force of this section given written notice to the proprietor of the school that the registration will be provisional.
- (5) In this section "the Registrar of Independent Schools" means, in relation to any school in England, the Registrar of Independent Schools for England and, in relation to any school in Wales, the Registrar of Independent Schools for Wales.
- (6) After subsection (3) of the said section 70 (offences) there shall be inserted—
- “(3A) A person shall not be guilty of an offence under subsection (3)(a) above by reason of conducting a school at any time within the period of one month from the date on which it was first conducted (whether by that person or another) if an application for the registration of the school has been duly made within that period.”
- (7) For subsection (4) of the said section 70 (furnishing of particulars about independent schools) there shall be substituted—



“(4) The Secretary of State may by regulations make provision for requiring the proprietor of a registered or provisionally registered school to furnish the Registrar from time to time with such particulars relating to the school as may be prescribed and for enabling the Secretary of State to order the deletion from the register of the name of any school in respect of which any requirement imposed by or under the regulations is not complied with.

(5) The power to make regulations under this section shall be exercisable by the Secretary of State for Education and Science in relation to schools in England and by the Secretary of State for Wales in relation to schools in Wales.”.

### *Supplementary*

## **35 Orders and regulations**

- (1) Any power of the Secretary of State to make orders or regulations under this Act (other than orders under section 2(11)(b)) shall be exercisable by statutory instrument.
- (2) No regulations shall be made under section 17(6) above unless a draft of the regulations has been laid before and approved by a resolution of each House of Parliament.
- (3) Any statutory instrument containing regulations under any provision of this Act other than section 17(6), or an order under section 15(8) above, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Regulations under this Act may make different provision for different cases or different circumstances and may contain such incidental, supplementary or transitional provisions as the Secretary of State thinks fit.
- (5) Without prejudice to subsection (4) above, regulations under any provision of this Act other than section 27(1)(a), (2) or (3) or section 38(5) may make in relation to Wales provision different from that made in relation to England.

## **36 Expenses**

There shall be defrayed out of moneys provided by Parliament—

- (a) any expenses incurred by the Secretary of State under this Act; and
- (b) any increase attributable to this Act in the sums payable out of such moneys under any other Act.

## **37 Commencement**

- (1) This Act shall come into force on such date as the Secretary of State may by order appoint, and different dates may be appointed for different provisions or different purposes.
- (2) Any order under this section may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into force, including such adaptations of those provisions, or of any other provisions of this Act then in force, as appear to him to be necessary or expedient for the purpose or in consequence of the operation of any provision of this Act before the coming into force of any other provision.

### **38 Citation, construction, repeals and extent**

- (1) This Act may be cited as the Education Act 1980.
- (2) This Act and the Education Acts 1944 to 1979 may be cited as the Education Acts 1944 to 1980 and this Act and the Education (Scotland) Acts 1939 to 1976 may be cited as the Education (Scotland) Acts 1939 to 1980.
- (3) Subject to subsection (4) below, this Act shall, in its application to England and Wales, be construed as one with the Education Act 1944 and, in its application to Scotland, with the Education (Scotland) Acts 1939 to 1976.
- (4) In the provisions of this Act relating to admissions to schools " child " includes any person who has not attained the age of nineteen years.
- (5) For the purposes of this Act an individual shall be treated as belonging to the area of a particular local education authority or education authority or as not belonging to the area of any such authority in accordance with regulations made by the Secretary of State and any question under the regulations shall, in case of dispute, be determined by the Secretary of State.
- (6) The enactments mentioned in Schedule 7 to this Act (which include spent provisions) are hereby repealed to the extent specified in the third column of that Schedule.
- (7) In this Act—
  - (a) sections 20, 23, 25, 31(5) and (6), 33, 35 and 37, this section and so much of Schedule 7 as relates to enactments extending to Scotland, extend to Scotland;
  - (b) sections 20, 35 and 37 and this section extend to Northern Ireland;but save as aforesaid this Act extends to England and Wales only.