



# Education Act 1980

## 1980 CHAPTER 20

### *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—

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- (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

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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 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.”.