



# Education Act 1944

## 1944 CHAPTER 31

An Act to reform the law relating to education in England and Wales. [3rd August 1944.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

### PART I

#### CENTRAL ADMINISTRATION

#### **1 Appointment of Minister in charge of education and establishment of Ministry of Education**

- (1) It shall be lawful for His Majesty to appoint a Minister (hereinafter referred to as " the Minister "), whose duty it shall be to promote the education of the people of England and Wales and the progressive development of institutions devoted to that purpose, and to secure the effective execution by local authorities, under his control and direction, of the national policy for providing a varied and comprehensive educational service in every area.
- (2) The Minister shall for all purposes be a corporation sole under the name of the Minister of Education, and the department of which he is in charge shall be known as the Ministry of Education.
- (3) The Minister may appoint a Parliamentary Secretary to the Ministry of Education, and such other secretaries, officers, and servants, as the Minister may, with the consent of the Treasury, determine, and, subject to the provisions of the Ministers of the Crown Act, 1937, as to the remuneration of the Parliamentary Secretary, there shall be paid to such secretaries, officers, and servants, such remuneration as may be determined in like manner.

- (4) The Minister shall take the oath of allegiance and the official oath, and the Promissory Oaths Act, 1868, shall have effect as if the Minister of Education were named in the First Part of the Schedule to that Act.

## **2 Transfer of property and functions to Minister and construction of Acts and documents**

- (1) All property which, immediately before the date declared by His Majesty in Council to be the date on which the first appointment under this Act of a Minister of Education took effect, was held by the Board of Education constituted under the Board of Education Act, 1899, and all functions exercisable by that Board or the President thereof immediately before that date, and all rights and liabilities, whether vested or contingent, to which that Board or the President thereof were entitled or subject immediately before that date, shall, by virtue of this Act, be transferred to the Minister; and, except where the context otherwise requires, references in any enactment or other document to the Board of Education, the President of the Board of Education, the Education Department, or the Department of Science and Art shall be construed as references to the Minister, or, where the case so requires, as references to the Ministry of Education.

- (2) His Majesty may by Order in Council transfer to, or make exercisable by, the Minister any of the functions of the Charity Commissioners in matters appearing to His Majesty to relate to education, and any such Order may make such provision as appears to His Majesty to be necessary for applying to the exercise of those functions by the Minister any enactments relating to the Charity Commissioners; and any Order in Council made under this subsection may be varied or revoked by any subsequent Order so made :

Provided that any such Order shall make provision for the determination by the Charity Commissioners of any question whether an endowment or any part of an endowment is held for, or ought to be applied to, educational purposes.

## **3 Seal and acts of Minister**

- (1) The Minister shall have an official seal which shall be authenticated by the signature of the Minister or of a secretary to the Ministry of Education or of any person authorised by the Minister to authenticate the seal.
- (2) The seal of the Minister shall be officially and judicially noticed, and every document purporting to be an instrument made or issued by the Minister and either to be sealed with the seal of the Minister authenticated in the manner provided by this section, or to be signed by a secretary to the Ministry of Education or by any other officer of the Ministry authorised to sign it, shall in any legal proceedings be deemed to be so made or issued without further proof, unless the contrary is shown.
- (3) A certificate signed by the Minister certifying that any instrument purporting to be made or issued by him was so made or issued shall be conclusive evidence of the fact certified.
- (4) The Documentary Evidence Act, 1868, shall have effect as if there were included in the first column of the Schedule to that Act the words " the Minister of Education ", and as if there were included in the second column of the said Schedule the words " the Minister of Education, any secretary to the Ministry of Education, or any person authorised by the Minister of Education to issue a certificate for the purposes of

subsection (3) of section two of this Act ", and as if the regulations referred to in that Act included any document made or issued by the Minister.

#### **4 Central Advisory Councils**

- (1) There shall be two Central Advisory Councils for Education, one for England and the other for Wales and Monmouthshire, and it shall be the duty of those Councils to advise the Minister upon such matters connected with educational theory and practice as they think fit, and upon any questions referred to them by him.
- (2) The members of each Council shall be appointed by the Minister, and the Minister shall appoint a member of each Council to be Chairman thereof and shall appoint an officer of the Ministry of Education to be secretary thereto.
- (3) Each Council shall include persons who have had experience of the statutory system of public education as well as persons who have had experience of educational institutions not forming "part of that system;
- (4) The Minister shall by regulations make provision as to the term of office and conditions of retirement of the members of each Council, and regulations made by the Minister for either Council may provide for periodical or other meetings of the Council and as to the procedure thereof, but, subject to the provisions of any such regulations, the meetings and procedure of each Council shall be such as may be determined by them.

#### **5 Annual report to Parliament**

The Minister shall make to Parliament an annual report giving an account of the exercise and performance of the powers and duties conferred and imposed upon him by this Act and of the composition and proceedings of the Central Advisory Councils for Education.

## **PART II**

### **THE STATUTORY SYSTEM OF EDUCATION**

#### **LOCAL ADMINISTRATION**

#### **6 Local education authorities**

- (1) Subject to the provisions of Part I of the First Schedule to this Act, the local education authority for each county shall be the council of the county, and the local education authority for each county borough shall be the council of the county borough.
- (2) The local administration of the statutory system of public education shall be conducted in accordance with the provisions of Parts II and III of the said Schedule.
- (3) All property which immediately before the date of the commencement of this Part of this Act was held by the council of any county district solely or mainly for the purposes of any functions exercisable by them under the Education Acts, 1921 to 1939, and all rights and liabilities, whether vested or contingent, to which any such council were entitled or subject immediately before the said date by reason of the exercise of such functions shall, save as may be otherwise directed by the Minister under the

powers conferred on him by this Act, be transferred by virtue of this section to the local education authority for the county in which the county district is situated.

- (4) All officers who immediately before the said date were employed by the council of any county district solely or mainly for the purposes of any such functions as aforesaid shall by virtue of this section be transferred to and become officers of the local education authority for the county in which the county district is situated, and shall be employed by that authority upon the terms and conditions upon which they were employed by the council of the county district immediately before that date. The Three Stages of the System

## 7 **Stages and purposes of statutory system of education**

The statutory system of public education shall be organised in three progressive stages to be known as primary education, secondary education, and further education ; and it shall be the duty of the local education authority for every area, so far as their powers extend, to contribute towards the spiritual, moral, mental, and physical development of the community by securing that efficient education throughout those stages shall be available to meet the needs of the population of their area. Primary and Secondary Education

### *Provision and Maintenance of Primary and Secondary Schools*

## 8 **Duty of local education authorities to secure provision of primary and secondary schools**

- (1) It shall be the duty of every local education authority to secure that there shall be available for their area sufficient schools—
- (a) for providing primary education, that is to say, full-time education suitable to the requirements of junior pupils; and
  - (b) for providing secondary education, that is to say, full-time education suitable to the requirements of senior pupils, other than such full-time education as may be provided for senior pupils in pursuance of a scheme made under the provisions of this Act relating to further education ;

and the schools available for an area shall not be deemed to be sufficient unless they are sufficient in number, character, and equipment to afford for all pupils opportunities for education offering such variety of instruction and training as may be desirable in view of their different ages, abilities, and aptitudes, and of the different periods for which they may be expected to remain at school, including practical instruction and training appropriate to their respective needs.

- (2) In fulfilling their duties under this section, a local education authority shall, in particular, have regard—
- (a) to the need for securing that primary and secondary education are provided in separate schools;
  - (b) to the need for securing that provision is made for pupils who have not attained the age of five years by the provision of nursery schools or, where the authority consider the provision of such schools to be inexpedient, by the provision of nursery classes in other schools ;
  - (c) to the need for securing that provision is made for pupils who suffer from any disability of mind or body by providing, either in special schools or otherwise,

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special educational treatment, that is to say, education by special methods appropriate for persons suffering from that disability; and

- (d) to the expediency of securing the provision of boarding accommodation, either in boarding schools or otherwise, for pupils for whom education as boarders is considered by their parents and by the authority to be desirable:

Provided that paragraph (a) of this subsection shall not have effect with respect to special schools.

## **9 County schools, voluntary schools, nursery schools, and special schools**

- (1) For the purpose of fulfilling their duties under this Act, a local education authority shall have power to establish primary and secondary schools, to maintain such schools whether established by them or otherwise, and, so far as may be authorised by arrangements approved by the Minister, to assist any such school which is not maintained by them.
- (2) Primary and secondary schools maintained by a local education authority, not being nursery schools or special schools, shall, if established by a local education authority or by a former authority, be known as county schools and, if established otherwise than by such an authority, be known as voluntary schools :

Provided that any school which by virtue of any enactment repealed by this Act was to be deemed to be, or was to be treated as, a school provided by a former authority shall, notwithstanding that it was not in fact established by such an authority as aforesaid, be a county school.

- (3) Subject to the provisions hereinafter contained as to the discontinuance of voluntary schools, every school which immediately before the commencement of this Part of this Act was, within the meaning of the enactments repealed by this Act, a public elementary school provided otherwise than by a former authority shall, if it was then maintained by a former authority, be maintained as a voluntary school by the local education authority for the area in which the school is situated.
- (4) Primary schools which are used mainly for the purpose of providing education for children who have attained the age of two years but have not attained the age of five years shall be known as nursery schools.
- (5) Schools which are especially organised for the purpose of providing special educational treatment for pupils requiring such treatment and are approved by the Minister for that purpose shall be known as special schools.
- (6) The powers conferred by subsection (1) of this section on local education authorities shall be construed as including power to establish maintain and assist schools outside as well as inside their areas.

## **10 Requirements as to school premises**

- (1) The Minister shall make regulations prescribing the standards to which the premises of schools maintained by local education authorities are to conform, and such regulations may prescribe different standards for such descriptions of schools as may be specified in the regulations.

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- (2) Subject as hereinafter provided, it shall be the duty of a local education authority to secure that the premises of every school maintained by them conform to the standards prescribed for schools of the description to which the school belongs:

Provided that if the Minister is satisfied with respect to any school that having regard to the nature of the site or to any existing buildings thereon or to other special circumstances affecting the school premises it would be unreasonable in that case to require conformity with the requirements of the regulations in any particular respect, he may direct that the school premises shall be deemed to conform to the prescribed standards if in lieu of conforming to the requirements of the regulations in that respect they conform to such other requirements as may be specified in the direction.

## **11 Development plans as to primary and secondary schools**

- (1) As soon as may be after the date of the commencement of this Part of this Act, every local education authority shall estimate the immediate and prospective needs of their area, having regard to the provisions of this Act and of any regulations made thereunder and to the functions relating to primary and secondary education thereby conferred on them, and shall, within one year after that date or within such extended period as the Minister may in any particular case allow, prepare and submit to the Minister a plan (in this Act referred to as a "development plan") in such form as the Minister may direct showing the action which the authority propose should be taken for securing that there shall be sufficient primary and secondary schools available for their area and the successive measures by which it is proposed to accomplish that purpose.
- (2) A local education authority, before submitting to the Minister the development plan for their area, shall take into consideration all schools available for providing primary and secondary education for pupils in the area, and the development plan for the area shall:—
- (a) specify which of the said schools the authority propose should be county primary schools, county secondary schools, voluntary primary schools, and voluntary secondary schools respectively, and, in relation to every such school, give particulars of the proposals of the authority as to the nature of the education to be provided in the school and as to the ages of the pupils to be taught therein ;
  - (b) specify what alterations are, by reason of the provisions of this Act or of any regulations made thereunder, required in the premises of any school proposed to be either a county school or a voluntary school, and furnish estimates of the cost of those alterations;
  - (c) specify what additional county schools and voluntary schools, if any, will be required for their area ;
  - (d) include information as to any arrangements proposed to be made with respect to schools not to be maintained by the authority, for the purpose of helping to secure that there shall be sufficient primary and secondary schools available for their area;
  - (e) give particulars of the arrangements made and proposed to be made by the authority for meeting the needs of pupils who have not attained the age of five years and of pupils who require special educational treatment ;
  - (f) give particulars of the arrangements made and proposed to be made by the authority for the provision of boarding schools ;

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- (g) include information as to any other measures which the authority propose to take in fulfilment of their duty to secure the provision of schools for providing primary and secondary education, such as the making of general arrangements for the transport of pupils to and from school ; and
- (h) contain such other particulars of the proposals of the authority with respect to schools for providing primary and secondary education for their area as the authority think necessary, or as the Minister may require :

Provided that, if the local education authority are satisfied that any county school or voluntary school which is for the time being organised for the provision of both primary and secondary education ought to continue to be so organised, the development plan may make provision for its continuing to be so organised during such period as they think necessary.

- (3) A local education authority shall, before submitting their development plan to the Minister, consult the managers or governors, or persons representing the managers or governors, of all schools other than county schools, whether within or without the area of the authority, which would in the opinion of the authority be affected by the execution of the plan, and shall, after submitting the plan to the Minister, forthwith furnish to the managers or governors of every such school such particulars relating to the plan as are sufficient to show the manner in which the school would be affected by the execution thereof. Where a development plan has been submitted to the Minister under this section, the Minister shall, if he is of opinion that no particulars or insufficient particulars of the plan have been furnished to any person who, in his opinion, would be affected by the execution of the plan, give such directions as he considers expedient for securing that sufficient particulars are so furnished.
- (4) After considering any objections to a development plan made to him within the period of two months after the date on which he is satisfied that all necessary particulars have been furnished in accordance with the last foregoing subsection, and after making in the plan such modifications, if any, as after consultation with the local education authority he considers necessary or expedient for the purpose of securing that the plan makes proper provision for the immediate and prospective needs of the area with respect to primary and secondary schools, the Minister shall approve the plan, and shall give such directions to the local education authority as he considers desirable for the purpose of giving to the managers or governors of every voluntary school affected by the plan notice of the approval thereof, and otherwise for giving publicity to the plan as approved by him.
- (5) The approval of the development plan submitted by a local education authority shall not, of itself, affect the duties of the authority, but in so far as the Minister considers it expedient to impose duties upon the authority for the purpose of securing that effect will be given to the plan as approved by him, those duties shall be imposed by the local education order for the area made under the next following section.

## **12 Local education orders with respect to primary and secondary education**

- (1) As soon as may be after approving the development plan for the area of any local education authority, the Minister shall make an order to be called the local education order for the area specifying the county schools and voluntary schools which it is the duty of the authority to maintain, and the order shall, to such extent as the Minister considers desirable, define the duties of the authority with respect to the measures to be taken by the authority for securing that there shall be sufficient primary and secondary schools available for their area, and shall make provision as to which of the schools

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maintained or assisted by the authority for providing primary and secondary education shall be primary schools and secondary schools respectively and as to which of them, if any, shall, for the time being, be organised for the provision of both primary and secondary education.

- (2) The local education order for every area shall continue to regulate the duties of the local education authority in respect of the matters therein mentioned and shall be amended by the Minister whenever, in his opinion, the amendment thereof is expedient by reason of any change or proposed change of circumstances:

Provided that, before amending the local education order for any area in such manner as to vary the duties of a local education authority in any respect not either provided for by the development plan approved for the area or by proposals approved by him or occasioned by the discontinuance of a voluntary school under the provisions hereinafter contained relating to those matters respectively, the Minister shall give to the local education authority, and to the managers, governors or other proprietor of any school which, in his opinion, would be affected by the amendment, notice of the amendment proposed to be made and shall consider any objections made to him by the authority or by such managers, governors or proprietor within two months after the service of the notice.

- (3) If a local education authority inform the Minister that they are aggrieved by an order or by an amendment of an order made under this section, the order or amendment shall be laid before Parliament as soon as may be thereafter, and if either House of Parliament within the period of forty days beginning with the day on which any such order or amendment is laid before it resolves that the order or amendment be annulled, the order or amendment shall cease to have effect, but without prejudice to anything previously done thereunder or to the making of any new order or amendment. In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

### **13 Establishment and discontinuance of county and voluntary schools**

- (1) Where a local education authority intend—
- (a) to establish a new county school;
  - (b) to maintain as a county school any school which at the time being is not such a school; or
  - (c) to cease to maintain any county school or, save as provided by the next following section of this Act, any voluntary school;
- they shall submit proposals for that purpose to the Minister.
- (2) Where any persons propose that any school established by them or by persons whom they represent which at the time being is not a voluntary school, or any school proposed to be so established, should be maintained by a local education authority as a voluntary school, they shall after consultation with the authority submit proposals for that purpose to the Minister.
- (3) After any proposals have been submitted to the Minister under this section, the authority or persons by whom the proposals were submitted shall forthwith give public notice of the proposals in the prescribed manner, and the managers or governors of any voluntary school affected by the proposals or any ten or more local government electors for the area and any local education authority concerned may within three

months after the first publication of the notice submit to the Minister objections to the proposals :

Provided that this subsection shall not have effect in the case of proposals for the maintenance as a voluntary school of a school which is at the time being a school in respect of which grants are made by the Minister, if the proposals are made with the concurrence of the authority and of the proprietor of the school and of any trustees in whom is vested any interest in the school premises.

- (4) Any proposals submitted to the Minister under this section may be approved by him after making such modifications therein, if any, as appear to him to be desirable :

Provided that the Minister shall not approve proposals for the maintenance as a county school of any school which, at the time being, is a voluntary school, unless he has, in accordance with the provisions of the Second Schedule to this Act, approved an agreement made under the powers conferred by that Schedule between the authority and the managers or governors of the school for the transfer to the authority of all necessary interests in the school premises.

- (5) A local education authority shall not, without the leave of the Minister, do or undertake to do anything (whether or not provided for by the development plan for the area) for which proposals are required by this section to be submitted to the Minister until such proposals have been approved by him.

- (6) After proposals for the establishment of a new school have been approved by the Minister under this section, the authority or persons by whom the proposed school is to be established shall submit to him in such form and in such manner as he may direct specifications and plans of the school premises, and the Minister, on being satisfied that the school premises will conform to the prescribed standards, may approve the specifications and plans:

Provided that, before submitting specifications and plans in respect of a school which is to be maintained as a voluntary school, the persons by whom the school is to be established shall consult the local education authority.

- (7) When the proposals specifications and plans for a new school have been approved by the Minister under this section, it shall be the duty of the authority or persons by whom the proposed school is to be established to give effect to the proposals in accordance with the specifications and plans so approved, except that in the case of proposals submitted under subsection (2) of this section the duty of providing playing fields and any buildings required only for affording facilities for medical inspection or treatment or for providing milk, meals, or other refreshment shall be the duty of the local education authority.

- (8) When proposals for the maintenance of any school have been approved by the Minister under this section, it shall be the duty of the local education authority to maintain it; and an authority shall not be under any duty to maintain a school after proposals that the authority shall cease to maintain it have been approved by the Minister under this section.

#### **14 Restrictions on discontinuance of voluntary schools by managers and governors**

- (1) Subject to the provisions of this section, the managers or governors of a voluntary school shall not discontinue the school except after serving on the Minister and on the local education authority by whom the school is maintained not less than two years' notice of their intention to do so :

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Provided that, except by leave of the Minister, no such notice as aforesaid shall be served by the managers or governors of any voluntary school in respect of the establishment or alteration of which expenditure has been incurred by the Minister or by any local education authority or former authority, and, if the Minister grants such leave, he may require the repayment of such portion of the amount of the expenditure as he thinks just.

- (2) No such notice as aforesaid shall be withdrawn except with the consent of the local education authority.
- (3) If, while any such notice as aforesaid is in force with respect to a voluntary school, the managers or governors of the school inform the local education authority that they are unable or unwilling to carry on the school until the expiration of the notice, the authority may conduct the school during the whole or any part of the unexpired period of the notice as if it were a county school, and shall be entitled to the use of the school premises, free of charge, for that purpose.
- (4) While any school is being conducted by a local education authority as a county school under the last foregoing subsection, the authority shall keep the school premises in good repair, and for all purposes relating to the condition of the school premises, the occupation and use thereof, and the making of alterations thereto, any interest in the said premises which is held for the purposes of the school shall be deemed to be vested in the authority :  
 Provided that the managers or governors of the school shall be entitled to the use of the school premises or any part thereof when not required for the purposes of the school to the like extent as if they had continued to carry on the school during the unexpired period of the notice.
- (5) Where any school is discontinued in accordance with the provisions of this section, the duty of the local education authority to maintain the school as a voluntary school shall be extinguished.

## **15 Classification of voluntary schools as controlled schools, aided schools, or special agreement schools**

- (1) Voluntary schools shall be of three categories, that is to say, controlled schools, aided schools, and special agreement schools, and in schools of those several categories the management of the school, the secular instruction and religious education, and the appointment and dismissal of teachers, shall be regulated in accordance with the provisions hereinafter contained relating to those matters in controlled schools aided schools and special agreement schools respectively.
- (2) Upon application being duly made to him with respect to any voluntary school, the Minister may by order direct that the school shall be a controlled school an aided school or a special agreement school, and where he is satisfied that the managers or governors of the school will be able and willing, with the assistance of the maintenance contribution payable by the Minister under this Act, to defray the expenses which would fall to be borne by them under paragraph (a) of the next following subsection, the order shall direct that the school shall be an aided school, or, in the case of a school with respect to which a special agreement has been made under the Third Schedule to this Act, a special agreement school :

Provided that, subject to the provisions of this section, any application for an order directing that a school shall be an aided school or a special agreement school must

be made, in the case of a school which became a voluntary school by virtue of subsection (3) of section nine of this Act not later than six months after the date on which the managers or governors of the school received notice of the approval of the development plan for the area, and in any other case not later than the submission to the Minister of the proposals that the school should be maintained by the local education authority as a voluntary school; and, subject to the transitional provisions of this Act as to the management and maintenance of voluntary schools, a voluntary school with respect to which no order is in force under this section directing that it shall be an aided school or a special agreement school shall be a controlled school.

- (3) The managers or governors of a controlled school shall not be responsible for any of the expenses of maintaining the school, but the following provisions shall have effect with respect to the maintenance of aided schools and special agreement schools:
  - (a) the following expenses shall be payable by the managers or governors of the school, that is to say, the expenses of discharging any liability incurred by them or on their behalf or by or on behalf of any former managers or governors of the school or any trustees thereof for the purposes of establishing or carrying on the school, any expenses incurred in effecting such alterations to the school buildings as may be required by the local education authority for the purpose of securing that the school premises should conform to the prescribed standards, and any expenses incurred in effecting repairs to the school premises not being repairs which are excluded from their responsibility by the following paragraph:
  - (b) the managers or governors of the school shall not be responsible for repairs to the school playground or playing fields or to the interior of any buildings forming part of the school premises or for repairs necessary in consequence of the use of the premises, in pursuance of any direction or requirement of the authority, for purposes other than those of the school.
- (4) If at any time the managers or governors of an aided school or a special agreement school are unable or unwilling to carry out their obligations under paragraph (a) of the last foregoing subsection, it shall be their duty to apply to the Minister for an order revoking the order by virtue of which the school is an aided school or a special agreement school, and upon such an application being made to him the Minister shall revoke the order.
- (5) If at any time the Minister is satisfied that the grant made in respect of a special agreement school in pursuance of the special agreement made with respect to the school under this Act has been repaid to the local education authority by which the school is maintained, the Minister shall, upon application being made to him for that purpose by the managers or governors of the school, by order revoke the order by virtue of which the school is a special agreement school and, if satisfied that the managers or governors of the school will be able and willing, with the assistance of the maintenance contribution payable by the Minister under this Act, to defray the expenses which would fall to be borne by them under paragraph (a) of subsection (3) of this section, shall by order direct that the school shall be an aided school.
- (6) In this section the expression " school buildings", in relation to any school, does not include any buildings required only for affording facilities for enabling the local education authority to carry out their functions with respect to medical inspection or treatment or for affording facilities for providing milk, meals or other refreshment for pupils in attendance at the school.

**16 Transfer of county and voluntary schools to new sites, and substitution of new voluntary schools for old ones**

- (1) Where the Minister is satisfied that it is expedient that any county school or any voluntary school should be transferred to a new site either because it is not reasonably practicable to make to the existing premises of the school the alterations necessary for securing that they should conform to the prescribed standards, or in consequence of any movement of population or of any action taken or proposed to be taken under the enactments relating to housing or to town and country planning, the Minister may by order authorise the transfer of the school to the new site ; and any transfer so authorised shall not be deemed, for the purposes of this Act, to constitute the discontinuance of the school or the establishment of a new school.
- (2) Where in connection with any proposals submitted to the Minister under subsection (2) of section thirteen of this Act it is claimed that any school or schools thereby proposed to be established should be maintained by the local education authority as a voluntary school in substitution for another school at the time being maintained by a local education authority as a voluntary school or for two or more such schools which is or are to be discontinued, then, if the Minister is satisfied that the school or schools proposed to be established will be so maintained, he may, if he approves the proposals with or without modifications, by order direct that the school or schools proposed to be established shall be established in substitution for the school or schools to be discontinued, and where such an order is made, the provisions of this Act relating to the discontinuance of voluntary schools shall not apply with respect to the discontinuance of the school or schools to be discontinued.
- (3) Before making any order under this section, the Minister shall consult any local education authority which will, in his opinion, be affected by the making of the order, and the managers or governors of any voluntary school which in his opinion will be so affected ; and any such order may impose such conditions on any such local education authority or managers or governors and may contain such incidental and consequential provisions as the Minister thinks fit.

*Management of Primary Schools and Government of Secondary Schools*

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

- (1) For every county school and for every voluntary school there shall be an instrument providing for the constitution of the body of managers or governors of the school in accordance with the provisions of this Act, and the instrument providing for the constitution of the body of managers of a primary school is in this Act referred to as an instrument of management, and the instrument providing for the constitution of the body of governors of a secondary school is in this Act referred to as an instrument of government.
- (2) The instrument of management or the instrument of government, as the case may be, shall be made in the case of a county school by an order of the local education authority and in the case of a voluntary school by an order of the Minister.
- (3) Subject to the provisions of this Act and of any trust deed relating to the school:—
  - (a) every county primary school and every voluntary primary school shall be conducted in accordance with rules of management made by an order of the local education authority; and

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

## **18 Managers of primary schools**

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

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

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

Provided that—

- (a) if the school is an aided school or a special agreement school, two-thirds of the managers shall be foundation managers, and, if the school is a controlled school, one-third of the managers shall be foundation managers ;
- (b) where the school serves an area in which there is a minor authority, then of the managers who are not foundation managers not less than one-third nor more than one-half shall be appointed by the minor authority and the remainder shall be appointed by the local education authority; and

- (c) where the school serves an area in which there is no minor authority, all the managers who are not foundation managers shall be appointed by the local education authority.

## **19      Governors of secondary schools**

- (1) The instrument of government for every county secondary school shall provide for the constitution of a body of governors consisting of such number of persons appointed in such manner as the local education authority may determine.
- (2) The instrument of government for every voluntary secondary school shall provide for the constitution of a body of governors of the school consisting of such number of persons as the Minister may after consultation with the local education authority determine :  
 Provided that—
  - (a) where the school is a controlled school, one-third of the governors shall be foundation governors and two-thirds of the governors shall be appointed by the local education authority;
  - (b) where the school is an aided school or a special agreement school, two-thirds of the governors shall be foundation governors and one-third of the governors shall be appointed by the local education authority.

## **20      Grouping of schools under one management**

- (1) A local education authority may make an arrangement for the constitution of a single governing body for any two or more county schools or voluntary schools maintained by them, and any such arrangement may relate exclusively to primary schools, or exclusively to secondary schools or partly to primary schools and partly to secondary schools :  
 Provided that an authority shall not make any such arrangement with respect to a voluntary school except with the consent of the managers or governors thereof.
- (2) The governing body constituted in pursuance of any such arrangement as aforesaid shall, if all the schools to which the arrangement relates are county schools, consist of such number of persons appointed in such manner as the local education authority may determine.
- (3) Where all or any of the schools to which any such arrangement relates are voluntary schools, the governing body constituted in pursuance of the arrangement shall consist of such number of persons appointed in such manner as may be determined by agreement between the local education authority and the managers or governors of those schools, or, in default of such agreement, by the Minister.
- (4) The local education authority, in making any such arrangement as aforesaid which relates to a primary school serving an area in which there is a minor authority, shall make provision for securing that the minor authority is adequately represented upon the governing body constituted in pursuance of the arrangement.
- (5) Every arrangement made under this section may, if it does not relate to any voluntary school, be terminated at any time by the local education authority by which it was made, and any such arrangement which relates to such a school may be terminated by agreement between the local education authority and the governing body constituted in pursuance of the arrangement, or, in default of such agreement, by one year's notice

served by the local education authority on the said governing body or by one year's notice served by the said governing body on the local education authority.

- (6) While an arrangement under this section is in force with respect to any schools, the provisions of the last three foregoing sections as to the constitution of the body of managers or governors shall not apply to the schools, and for the purposes of any enactment the governing body constituted in accordance with the arrangement shall be deemed to be the body of managers or governors of each of those schools, and references to a manager or governor in any enactment shall, in relation to every such school, be construed accordingly.

## **21 Proceedings of managers and governors of county and voluntary schools**

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

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

- (1) The managers or governors of a controlled school shall be entitled to determine the use to which the school premises or any part thereof shall be put on Saturdays, except when required to be used on Saturdays for the purposes of the school or for any purpose connected with education or with the welfare of the young for which the local education authority desire to provide accommodation on the premises or on that part thereof, and the foundation managers or foundation governors shall be entitled to determine the use to which the school premises or any part thereof shall be put on Sundays, but save as aforesaid the local education authority may give such directions as to the occupation and use of the school premises of a controlled school as they think fit.
- (2) If the local education authority desire to provide accommodation for any purpose connected with education or with the welfare of the young and are satisfied that there is no suitable alternative accommodation in their area for that purpose, they may direct the managers or governors of any aided school or special agreement school to provide free of charge accommodation for that purpose on the school premises or any part thereof on any week-day when not required for the purposes of the school, so however, that the managers or governors shall not be directed to provide such accommodation on more than three days in any week.
- (3) Subject to any directions given by a local education authority under the foregoing provisions of this section and to the requirements of any enactment other than this Act or the regulations made thereunder, the occupation and use of the school premises of any voluntary school shall be under the control of the managers or governors thereof.
- (4) At any controlled school or special agreement school the persons employed for the purposes of the care and maintenance of the school premises shall be appointed and

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dismissed by the local education authority, and the local education authority may give directions to the managers or governors of an aided school as to the number and conditions of service of persons employed at the school for such purposes.

- (5) In relation to any school with respect to which the trust deed provides for any person other than the managers or governors of the school being entitled to control the occupation and use of the school premises, this section shall have effect as if for the references to the managers or governors there were substituted references to that person.

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

**23 Secular instruction in county schools and in voluntary schools**

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

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

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

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

- (a) shall make provision for the appointment of the teachers by the managers or governors of the school, for enabling the local education authority to

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determine the number of teachers to be employed, and for enabling the authority, except for reasons for which the managers or governors are expressly empowered by this Act to dismiss teachers without such consent, to prohibit the dismissal of teachers without the consent of the authority and to require the dismissal of any teacher ; and

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

#### *Religious Education in County and Voluntary Schools*

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

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

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

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

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

## **26 Special provisions as to religious education in county schools**

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

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

- (a) that the parents of pupils in attendance at the school desire them to receive religious instruction in the school in accordance with the tenets of a particular religious denomination ; and
- (b) that satisfactory arrangements have been made for the provision of such instruction to those pupils in the school and for securing that the cost of providing such instruction to those pupils in the school will not fall upon the authority;

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

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

- (1) Where the parents of any pupils in attendance at a controlled school request that they may receive religious instruction in accordance with the provisions of the trust deed relating to the school, or where provision for that purpose is not made by such a deed in accordance with the practice observed in the school before it became a controlled school, the foundation managers or foundation governors shall, unless they are satisfied that owing to special circumstances it would be unreasonable so to do, make arrangements for securing that such religious instruction is given to those pupils at the school during not more than two periods in each week.
- (2) Without prejudice to the duty to make such arrangements as aforesaid whatever the number of the teaching staff of the school, where the number of the teaching staff of a controlled school exceeds two the teaching staff shall include persons (hereinafter referred to as "reserved teachers") selected for their fitness and competence to give such religious instruction as is required to be given under such arrangements and specifically appointed to do so :  

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

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

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

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

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

## **29 Provisions as to religious instruction in accordance with agreed syllabus**

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

### **30 Saving as to position of teachers**

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

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

#### *Transitional Provisions as to County and Voluntary Schools*

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

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

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

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

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

- (1) Any school which became a voluntary school by virtue of the provisions of subsection (3) of section nine of this Act shall, during the period until the question whether the school shall be a controlled school an aided school or a special agreement

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school is determined by an order made under this Act with respect to the school or by reason of the expiration of the time limited by this Act for making application for such an order, be deemed to be an aided school so, however, that the provisions of this Act relating to aided schools shall, in relation to any such school as aforesaid, have effect during that period subject to the following modifications, that is to say :—

- (a) the provisions relating to the constitution of a body of managers or governors shall not apply, and the body of managers or governors shall be constituted in like manner as the body of managers was constituted immediately before the date of the commencement of this Part of this Act:
  - (b) the provisions relating to rules of management or articles of government shall not apply, and the school shall be managed and conducted in like manner as it was immediately before that date :
  - (c) the school shall be maintained in like manner as it was immediately before that date, but the local education authority shall not require any alteration to be made to the school premises :
  - (d) the Minister shall not, under the powers conferred by this Act, make to the managers or governors of the school any maintenance contribution in respect of alterations or repairs to the school premises.
- (2) If, during the period during which a school is by virtue of this section deemed to be an aided school, the Minister is satisfied that the managers or governors of the school have failed to discharge any of their duties with respect to the maintenance of the school, he may authorise the local education authority to discharge that duty on behalf of the managers or governors and shall reimburse to the authority any sums which in his opinion have been properly expended by them for that purpose; and the amount of any sums so reimbursed shall be a debt due to the Crown from the managers or governors.

*Primary and Secondary Education of pupils requiring Special Educational Treatment*

### **33 Education of pupils requiring special educational treatment**

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

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

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

- (1) It shall be the duty of every local education authority to ascertain what children in their area require special educational treatment; and for the purpose of fulfilling that duty any officer of a local education authority authorised in that behalf by the authority may by notice in writing served upon the parent of any child who has attained the age of two years require him to submit the child for examination by a medical officer of the authority for advice as to whether the child is suffering from any disability of mind or body and as to the nature and extent of any such disability; and if a parent upon whom such a notice is served fails without reasonable excuse to comply with the requirements thereof, he shall be liable on summary conviction to a fine not exceeding five pounds.
- (2) If the parent of any child who has attained the age of two years requests the local education authority for the area to cause the child to be so medically examined as aforesaid, the authority shall comply with the request unless in their opinion the request is unreasonable.
- (3) Before any child is so medically examined as aforesaid the authority shall cause notice to be given to the parent of the time and place at which the examination will be held, and the parent shall be entitled to be present at the examination if he so desires.
- (4) If, after considering the advice given with respect to any child by a medical officer in consequence of any such medical examination as aforesaid and any reports or information which the local education authority are able to obtain from teachers or other persons with respect to the ability and aptitude of the child, the authority decide that the child requires special educational treatment, they shall give to the parent notice of their decision and shall provide such treatment for the child.
- (5) The advice given with respect to any child by a medical officer in consequence of any such medical examination as aforesaid shall be communicated to the parent of the child and to the local education authority; and the medical officer by whom the examination was made shall, if required by the parent or by the authority so to do, issue to the authority and to the parent a certificate in the prescribed form showing whether the child is suffering from any such disability as aforesaid and, if so, the nature and extent thereof :

Provided that a local education authority shall not require the issue of such a certificate in respect of any child unless the certificate is, in their opinion, necessary for the purpose of securing the attendance of the child at a special school in accordance with the provisions of this Act relating to compulsory attendance at primary and secondary schools.

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

### *Compulsory Attendance at Primary and Secondary Schools*

#### **35 Compulsory school age**

In this Act the expression " compulsory school age" means any age between five years and fifteen years, and accordingly a person shall be deemed to be of compulsory school age if he has attained the age of five years and has not attained the age of fifteen years and a person shall be deemed to be over compulsory school age as soon as he has attained the age of fifteen years:

Provided that, as soon as the Minister is satisfied that it has become practicable to raise to sixteen the upper limit of the compulsory school age, he shall lay before Parliament the draft of an Order in Council directing that the foregoing provisions of this section shall have effect as if for references therein to the age of fifteen years there were substituted references to the age of sixteen years ; and unless either House of Parliament, within the period of forty days beginning with the day on which any such draft as aforesaid is laid before it, resolves that the draft be not presented to His Majesty, His Majesty may by Order in Council direct accordingly. In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

#### **36 Duty of parents to secure the education of their children**

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

#### **37 School attendance orders**

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

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

- (3) If the local education authority are of opinion that the school selected by the parent as the school to be named in a school attendance order is unsuitable to the age, ability

or aptitude of the child with respect to whom the order is to be made, or that the attendance of the child at the school so selected would involve unreasonable expense to the authority, the authority may, after giving to the parent notice of their intention to do so, apply to the Minister for a direction determining what school is to be named in the order.

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

### **38 Additional provisions as to compulsory attendance at special schools**

- (1) While the upper limit of the compulsory school age is, in relation to other children, less than sixteen, a person who is a registered pupil at a special school shall nevertheless be deemed to be of compulsory school age until he attains the age of sixteen years and shall not be deemed to be over compulsory school age until he has attained that age.
- (2) A child who has under arrangements made by a local education authority become a registered pupil at a special school shall not be withdrawn from the school without the consent of that authority ; but if the parent of any such child is aggrieved by a refusal of the authority to comply with an application made by the parent requesting such consent, he may refer the question to the Minister, who shall give such direction thereon as he thinks fit.
- (3) No direction given by the Minister under the last foregoing subsection or under subsection (3) or subsection (4) of the last foregoing section shall be such as to require a pupil to be a registered pupil at a special school unless either the parent consents to his attending such a school or there is in force a certificate issued by a medical officer of the local education authority showing that the child is suffering from some disability

of mind or body of such a nature and extent that, in the opinion of the Minister, it is expedient that the child should attend a special school.

### **39 Duty of parents to secure regular attendance of registered pupils**

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

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

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

### **40 Enforcement of school attendance**

- (1) Subject to the provisions of this section, any person guilty of an offence against section thirty-seven or section thirty-nine of this Act shall be liable on summary conviction, in the case of a first offence against that section to a fine not exceeding one pound, in the case of a second offence against that section to a fine not exceeding five pounds, and in the case of a third or subsequent offence against that section to a fine not exceeding

ten pounds or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.

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

#### **41 General duties of local education authorities with respect to further education**

Subject as hereinafter provided, it shall be the duty of every local education authority to secure the provision for their area of adequate facilities for further education, that is to say:—

- (a) full-time and part-time education for persons over compulsory school age ;  
and
- (b) leisure-time occupation, in such organized cultural training and recreative activities as are suited to their requirements, for any persons over compulsory school age who are able and willing to profit by the facilities provided for that purpose :

Provided that the provisions of this section shall not empower or require local education authorities to secure the provision of facilities for further education otherwise than in accordance with schemes of further education or at county colleges.

#### **42 Schemes of further education**

- (1) Every local education authority shall, at such times and in such form as the Minister may direct, prepare and submit to the Minister schemes of further education for their area, giving particulars of the provision which the authority propose to make for fulfilling such of their duties with respect to further education, other than duties with respect to county colleges, as may be specified in the direction.
- (2) Where a scheme of further education has been submitted to the Minister by a local education authority, the Minister may, after making in the scheme such modifications if any as after consultation with the authority he thinks expedient, approve the scheme, and thereupon it shall be the duty of the local education authority to take such measures as the Minister may from time to time, after consultation with the authority, direct for the purpose of giving effect to the scheme.
- (3) A scheme of further education approved by the Minister in accordance with the provisions of this section may be modified supplemented or replaced by a further scheme prepared submitted and approved in accordance with those provisions, and the Minister may give directions revoking any scheme of further education, or any provision contained in such a scheme, as from such dates as may be specified in the directions, but without prejudice to the preparation submission and approval of further schemes.
- (4) A local education authority shall, when preparing any scheme of further education, have regard to any facilities for further education provided for their area by universities, educational associations, and other bodies, and shall consult any such bodies as aforesaid and the local education authorities for adjacent areas ; and the scheme, as approved by the Minister, may include such provisions as to the co-operation of any such bodies or authorities as may have been agreed between them and the authority by whom the scheme was submitted.

#### **43 County colleges**

- (1) On and after such date as His Majesty may by Order in Council determine, not later than three years after the date of the commencement of this Part of this Act, it shall be the duty of every local education authority to establish and maintain county colleges, that is to say, centres approved by the Minister for providing for young persons who are not in full-time attendance at any school or other educational institution such further education including physical practical and vocational training, as will enable them to develop their various aptitudes and capacities and will prepare them for the responsibilities of citizenship.
- (2) As soon after the date of the commencement of this Part of this Act as the Minister considers it practicable so to do, he shall direct every local education authority to estimate the immediate and prospective needs of their area with respect to county colleges having regard to the provisions of this Act, and to prepare and submit to him within such time and in such form as may be specified in the direction a plan showing the provision which the authority propose to make for such colleges for their area, and the plan shall contain such particulars as to the colleges proposed to be established as may be specified in the direction.

- (3) The Minister shall, after considering the plan submitted by a local education authority and after consultation with them, make an order for the area of the authority specifying the county colleges which it is the duty of the authority to maintain, and the order shall require the authority to make such provision for boarding accommodation at county colleges as the Minister considers to be expedient: the order so made for any area shall continue to regulate the duties of the local education authority in respect of the matters therein mentioned and shall be amended by the Minister, after consultation with the authority, whenever in his opinion the amendment thereof is expedient by reason of any change or proposed change of circumstances.
- (4) The Minister may make regulations as to the maintenance government and conduct of county colleges and as to the further education to be given therein.

#### **44 Duty to attend county colleges in accordance with college attendance notices**

- (1) This section shall come into operation on such date as soon as practicable after the date determined by Order in Council under the last foregoing section as the Minister may by order direct.
- (2) It shall be the duty of the local education authority to serve upon every young person residing in their area who is not exempt from compulsory attendance for further education a notice (hereinafter referred to as a " college attendance notice ") directing him to attend at a county college, and it shall be the duty of every young person upon whom such a notice is served to attend at the county college named in the notice in accordance with the requirements specified therein.
- (3) Subject to the provisions of the next following subsection, the requirements specified in a college attendance notice shall be such as to secure the attendance of the person upon whom it is served at a county college—
  - (a) for one whole day, or two half-days, in each of forty-four weeks in every year while he remains a young person ; or
  - (b) where the authority are satisfied that continuous attendance would be more suitable in the case of that young person, for one continuous period of eight weeks, or two continuous periods of four weeks each, in every such year ;

and in this section the expression " year " means, in relation to any young person, in the case of the first year the period of twelve months beginning with the first day on which he is required by a college attendance notice served on him to attend a county college, and in the case of every subsequent year the period of twelve months beginning immediately after the expiration of the last preceding year:

Provided that in respect of the year in which the young person attains the age of eighteen the requirements specified in the notice shall be reduced to such extent as the local education authority think expedient for securing that the attendances required of him until he attains that age shall be as nearly as may be proportionate to those which would have been required of him during a full period of twelve months.

- (4) If, by reason of the nature of the employment of any young person or of other circumstances affecting him, the local education authority are satisfied that attendance in accordance with the provisions of the last foregoing subsection would not be suitable in his case, a college attendance notice may, with the consent of the young person, require his attendance in accordance with such other arrangements as may be specified in the notice, so, however, that the requirements specified in the notice in accordance with such arrangements as aforesaid shall be such as to secure the

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attendance of the young person for periods amounting in the aggregate to three hundred and thirty hours in each year, or, in the case of the year in which he attains the age of eighteen, to the proportionately reduced number of hours.

- (5) Except where continuous attendance is required, no college attendance notice shall require a young person to attend a county college on a Sunday or on any day or part of a day exclusively set apart for religious observance by the religious body to which he belongs, or during any holiday or half-holiday to which by any enactment regulating his employment or by agreement he is entitled, or, so far as practicable, during any holiday or half-holiday which is allowed in accordance with any custom of his employment, or between the hours of six in the evening and half past eight in the morning:

Provided that the Minister may, on the application of any local education authority, direct that in relation to young persons in their area or in any part thereof employed at night or otherwise employed at abnormal times this subsection shall have effect as if for the reference to the hours of six in the evening and half past eight in the morning there were substituted a reference to such other times as may be specified in the direction.

- (6) The place, days, times, and periods, of attendance required of a young person, and the period for which the notice is to be in force, shall be specified in any college attendance notice served on him ; and the requirements of any such notice in force in the case of a young person may be amended as occasion may require either by the authority by whom it was served on him or by any other local education authority in whose area he may for the time being reside, so, however, that the provisions of every such notice shall be such as to secure that the requirements imposed on the young person during each year while he remains a young person shall comply with the provisions of the last three foregoing subsections.
- (7) In determining what requirements shall be imposed upon a young person by a college attendance notice or by any amendments to such a notice, the local education authority shall have regard, so far as practicable, to any preference which he, and in the case of a young person under the age of sixteen years his parent, may express, to the circumstances of his employment or prospective employment, and to any representations that may be made to the authority by his employer or any person proposing to employ him.
- (8) The following persons shall be exempt from compulsory attendance for further education, that is to say—
- (a) any person who is in full-time attendance at any school or other educational institution (not being a county college);
  - (b) any person who is shown to the satisfaction of the local education authority to be receiving suitable and efficient instruction either full-time or for such times as in the opinion of the authority are equivalent to not less than three hundred and thirty hours instruction in a period of twelve months;
  - (c) any person who having been exempt under either of the last two foregoing paragraphs did not cease to be so exempt until after he had attained the age of seventeen years and eight months;
  - (d) any person who is undergoing a course of training for the mercantile marine or the sea fishing industry approved by the Minister or who, having completed such a course, is engaged in the mercantile marine or in the said industry ;

- (e) any person to whom, by reason of section one hundred and fifteen or section one hundred and sixteen of this Act, the duties of local education authorities do not relate ;
  - (f) any person who attained the age of fifteen years before the date on which this section comes into operation, not being a person who immediately before that date was required to attend a continuation school under the provisions of the Education Act, 1921. If any person is aggrieved by a decision of a local education authority given under paragraph (b) of this subsection, he may refer the question to the Minister, who shall give such direction thereon as he thinks fit.
- (9) If any young person upon whom a college attendance notice has been served fails to comply with any requirement of the notice, he shall be guilty of an offence against this section unless he proves either—
- (a) that he was at the material time exempt from compulsory attendance for further education ; or
  - (b) that he was prevented from complying with the requirement by reason of sickness or any unavoidable cause ; or
  - (c) that the requirement does not comply with the provisions of this section.

#### **45 Administrative provisions for securing attendance at county colleges**

- (1) For the purpose of facilitating the execution by local education authorities of their functions under the last foregoing section, the following provisions shall, on and after the date on which that section comes into operation, have effect, that is to say :—
- (a) every young person who is not exempt from compulsory attendance for further education shall at all times keep the local education authority in whose area he resides informed of his proper address ;
  - (b) any person by whom such a young person as aforesaid is employed otherwise than by way of casual employment shall notify the local education authority for the area in which the young person resides when the young person enters his employment and again when he ceases to be employed by him, and shall also notify the authority of any change of address of the employer, and, if known to him, of the young person, which occurs during the continuance of the employment ;
- and any person who fails to perform any duty imposed on him by the foregoing provisions of this section shall be guilty of an offence against this section.
- (2) The local education authority by whom a college attendance notice is served upon any young person shall serve a copy thereof upon any person who notifies the authority that the young person is employed by him.
- (3) The Minister may by regulations make provision as to the form of college attendance notices, as to consultation and the exchange of information between different local education authorities, as to the issue of certificates of exemption in respect of young persons who are exempt from compulsory attendance for further education, and generally for the purpose of facilitating the administration by local authorities of the provisions of this Part of this Act as to attendance at county colleges.
- (4) The Minister and the Minister of Labour shall issue instructions to local education authorities and to local offices of the Ministry of Labour respectively for ensuring due consultation and exchange of information between such authorities and offices.

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- (5) Any certificate of exemption in the prescribed form purporting to be authenticated in the prescribed manner shall be received in evidence in any legal proceeding, and shall unless the contrary is proved, be sufficient evidence of the fact therein stated.

#### **46 Enforcement of attendance at county colleges**

- (1) Any person guilty of an offence against either of the last two foregoing sections shall be liable on summary conviction, in the case of a first offence against that section to a fine not exceeding one pound, in the case of a second offence against that section to a fine not exceeding five pounds, and in the case of a third or subsequent offence against that section to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.
- (2) It shall be the duty of the local education authority in whose area the young person in question resides to institute proceedings for such offences as aforesaid wherever, in their opinion, the institution of such proceedings is expedient, and no such proceedings shall be instituted except by or on behalf of a local education authority.
- (3) If, in furnishing any information for the purposes of either of the last two foregoing sections, any person makes any statement which he knows to be false in any material particular, or recklessly makes any statement which is false in any material particular, he shall be liable on summary conviction to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.
- (4) Without prejudice to the provisions of any enactment or rule of law relating to the aiding and abetting of offences, if the parent of a young person or any person by whom a young person is employed or the servant or agent of any such person has conducted to or connived at any offence committed by the young person against either of the last two foregoing sections, the person who has conducted to or connived at the offence shall, whether or not any person is proceeded against or convicted in respect of the offence conducted to or connived at, be guilty of the like offence and punishable accordingly.

#### **47 Interim provisions as to further education**

Until the date upon which a scheme of further education is first approved by the Minister for the area of a local education authority under the foregoing provisions of this Part of this Act, the authority shall, unless the Minister otherwise directs, continue to maintain or assist any school or other educational institution which, immediately before the date of the commencement of this Part of this Act was maintained or assisted by them or by the council of any county district within their area, under the powers conferred by section seventy of the Education Act, 1921, not being a school or institution which under this Act is maintained or assisted as a secondary school, and may, in accordance with arrangements approved by the Minister, provide such additional facilities for further education, other than education at county colleges, as appear to the authority to be expedient for meeting the needs of their area.

Supplementary Provisions as to Primary, Secondary and Further Education

### *Ancillary Services*

#### **48 Medical inspection and treatment of pupils**

- (1) It shall be the duty of every local education authority to provide for the medical inspection, at appropriate intervals, of pupils in attendance at any school or county college maintained by them, and every local education authority shall have power to provide for such inspection of senior pupils in attendance at any other educational establishment maintained by them.
- (2) For the purpose of securing the proper medical inspection of the pupils in attendance at any such school, college or other educational establishment, any officer of a local education authority authorised in that behalf by the authority may require the parent of any , pupil in attendance at any such school to submit the pupil for medical inspection in accordance with arrangements made by the authority, and may require any pupil in attendance at a county college or other educational establishment maintained by the authority to submit to such medical inspection; and any person who fails without reasonable excuse to comply with any such requirement shall be liable on summary conviction to a fine not exceeding five pounds.
- (3) It shall be the duty of every local education authority to make such arrangements for securing the provision of free medical treatment for pupils in attendance at any school or county college maintained by them as are necessary for securing that comprehensive facilities for free medical treatment are available to them either under this Act or otherwise, and every local education authority shall have power to make such arrangements as aforesaid with respect to senior pupils in attendance at any other educational establishment maintained by them.
- (4) It shall be the duty of every local education authority to make arrangements for encouraging and assisting pupils to take advantage of such facilities as aforesaid :  
  
Provided that if the parent of any pupil gives to the authority notice that he objects to the pupil availing himself of any medical treatment provided under this section, the pupil shall not be encouraged or assisted so to do.
- (5) A local education authority may give directions to the managers or governors of any voluntary school requiring them to provide such reasonable facilities as may be specified in the directions for the purpose of enabling the authority to carry out their functions under this section so, however, that the managers or governors of a voluntary school shall not be required by any such directions to incur expenditure.

#### **49 Provision of milk and meals**

Regulations made by the Minister shall impose upon local education authorities the duty of providing milk, meals and other refreshment for pupils in attendance at schools and county colleges maintained by them ; and such regulations shall make provision as to the manner in which and the persons by whom the expense of providing such milk, meals or refreshment is to be defrayed, as to the facilities to be afforded (including any buildings or equipment to be provided) and as to the services to be rendered by managers governors and teachers with respect to the provision of such milk, meals or refreshment, and as to such other consequential matters as the Minister considers expedient, so, however, that such regulations shall not impose upon teachers at any school or college duties upon days on which the school or college is not open for

instruction, or duties in respect of meals other than the supervision of pupils, and shall not require the managers or governors of a voluntary school to incur expenditure.

**50 Provision of board and lodging otherwise than at boarding schools or colleges**

- (1) Where the local education authority are satisfied with respect to any child that primary or secondary education suitable to his age ability and aptitude can best be provided by them for him at any particular county school, voluntary school, or special school, or are satisfied with respect to any young person that further education should in his case be provided by requiring his continuous attendance at a county college, but that such education cannot be so provided unless boarding accommodation is provided for him otherwise than at the school or college, the authority may provide such board and lodging for him under such arrangements as they think fit.
- (2) In making any arrangements under this section for any child or young person, a local education authority shall, so far as practicable, give effect to the wishes of the parent of the child or to the wishes of the young person, as the case may be, with respect to the religious denomination of the person with whom he will reside.

**51 Provision of clothing at schools maintained by local education authorities**

Where it appears to a local education authority that a registered pupil at any school maintained by them is unable by reason of the inadequacy of his clothing to take full advantage of the education provided at the school, the authority may provide him with such clothing as, in the opinion of the authority, is necessary for the purpose of ensuring that he is sufficiently clad while he remains a pupil at the school.

**52 Recovery of cost of boarding accommodation and of clothing**

- (1) Where a local education authority have, under the powers conferred by the foregoing provisions of this Act, provided a pupil with board and lodging otherwise than at a boarding school or college, or with clothing, the authority shall require the parent to pay to the authority in respect thereof such sums, if any, as in the opinion of the authority he is able without financial hardship to pay :  
 Provided that—
  - (a) where the board and lodging provided for the pupil were so provided under arrangements made by the local education authority on the ground that in their opinion education suitable to his age ability and aptitude could not otherwise be provided by the authority for him, no sum shall be recoverable in respect thereof under this section ; and
  - (b) where the board and lodging have been so provided for a pupil in attendance at a county college, the authority, if satisfied that the pupil is in a financial position to pay the whole or any part of a sum recoverable from the parent under this section, may recover that sum or that part thereof from the pupil instead of from the parent.
- (2) The sums recoverable under this section shall not exceed the cost to the local education authority of providing the board and lodging, or the cost of the clothing provided, as the case may be.
- (3) Any sums payable by virtue of this section may be recovered summarily as a civil debt

### **53 Provision of facilities for recreation and social and physical training**

- (1) It shall be the duty of every local education authority to secure that the facilities for primary secondary and further education provided for their area include adequate facilities for recreation and social and physical training, and for that purpose a local education authority, with the approval of the Minister, may establish maintain and manage, or assist the establishment, maintenance, and management of camps, holiday classes, playing fields, play centres, and other places (including playgrounds, gymnasiums, and swimming baths not appropriated to any school or college), at which facilities for recreation and for such training as aforesaid are available for persons for whom primary secondary or further education is provided by the authority, and may organise games, expeditions and other activities for such persons, and may defray or contribute towards the expenses thereof.
- (2) A local education authority, in making arrangements for the provision of facilities or the organisation of activities under the powers conferred on them by the last foregoing subsection shall, in particular, have regard to the expediency of co-operating with any voluntary societies or bodies whose objects include the provision of facilities or the organisation of activities of a similar character.
- (3) The Minister may make regulations empowering local education authorities to provide for pupils in attendance at any school or county college maintained by them such articles of clothing suitable for the physical training provided at the school or college as may be prescribed.
- (4) Sections one and two of the Physical Training and Recreation Act, 1937 (which relate to National Advisory Councils and local committees and sub-committees for the promotion of physical training), and so much of section three of that Act as relates to the grants committee, to recommendations of that committee, and to consultation with such Councils as aforesaid, shall cease to have effect.

### **54 Power to ensure cleanliness**

- (1) A local education authority may, by directions in writing issued with respect to all schools maintained by them or with respect to any of such schools named in the directions, authorise a medical officer of the authority to cause examinations of the persons and clothing of pupils in attendance at such schools to be made whenever in his opinion such examinations are necessary in the interests of cleanliness ; and if a medical officer of a local education authority has reasonable cause to suspect that the person or clothing of a pupil in attendance at any county college is infested with vermin or in a foul condition, he may cause an examination thereof to be made.
- (2) Any such examination as aforesaid shall be made by a person authorised by the local education authority to make such examinations, and if the person or clothing of any pupil is found upon such an examination to be infested with vermin or in a foul condition, any officer of the authority may serve upon the parent of the pupil, or in the case of a pupil in attendance at a county college upon the pupil, a notice requiring him to cause the person and clothing of the pupil to be cleansed.
- (3) A notice served under the last foregoing subsection shall inform the person upon whom it is served that unless within the period limited by the notice, not being less than twenty-four hours after the service thereof, the person and clothing of the pupil to whom the notice relates are cleansed to the satisfaction of such person as may be specified in the notice the cleansing thereof will be carried out under arrangements made by the local education authority; and if, upon a report being made to him by

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that person at the expiration of that period, a medical officer of the authority is not satisfied that the person and clothing of the pupil, have been properly cleansed, the medical officer may issue an order directing that the person and clothing of the pupil be cleansed under such arrangements.

- (4) It shall be the duty of the local education authority to make arrangements for securing that any person or clothing required under this section to be cleansed may be cleansed (whether at the request of a parent or pupil or in pursuance of an order issued under this section) at suitable premises by suitable persons and with suitable appliances; and where the council of any county district in the area of the authority are entitled to the use of any premises or appliances for cleansing the person or clothing of persons infested with vermin, the authority may require the council to permit the authority to use those premises or appliances for such purposes upon such terms as may be determined by agreement between the authority and the council or, in default of such agreement, by the Minister of Health.
- (5) Where an order has been issued by a medical officer under this section directing that the person and clothing of a pupil be cleansed under arrangements made by a local education authority, the order shall be sufficient to authorise any officer of the authority to cause the person and clothing of the pupil named in the order to be cleansed in accordance with arrangements made under the last foregoing subsection, and for that purpose to convey him to, and detain him at, any premises provided in accordance with such arrangements.
- (6) If, after the cleansing of the person or clothing of any pupil has been carried out under this section, his person or clothing is again found to be infested with vermin or in a foul condition at any time while he is in attendance at a school maintained by a local education authority or at a county college, and it is proved that the condition of his person or clothing is due to neglect on the part of his parent, or in the case of a pupil in attendance at a county college to his own neglect, the parent or the pupil, as the case may be, shall be liable on summary conviction to a fine not exceeding twenty shillings.
- (7) Where a medical officer of a local education authority suspects that the person or clothing of any pupil in attendance at a school maintained by the authority or at any county college is infested with vermin or in a foul condition, but action for the examination or cleansing thereof cannot immediately be taken, he may, if he considers it necessary so to do either in the interest of the pupil or of other pupils in attendance at the school or college, direct that the pupil be excluded from the school or college until such action has been taken ; and such a direction shall be a defence to any proceedings under this Act in respect of the failure of the pupil to attend school or to comply with the requirements of a college attendance notice, as the case may be, on any day on which he is excluded in pursuance of the direction, unless it is proved that the issue of the direction was necessitated by the wilful default of the pupil or his parent,
- (8) No girl shall be examined or cleansed under the powers conferred by this section except by a duly qualified medical practitioner or by a woman authorised for that purpose by a local education authority.

## **55 Provision of transport and other facilities**

- (1) A local education authority shall make such arrangements for the provision of transport and otherwise as they consider necessary or as the Minister may direct for the purpose of facilitating the attendance of pupils at schools or county colleges or at any course or class provided in pursuance of a scheme of further education in force

for their area, and any transport provided in pursuance of such arrangements shall be provided free of charge.

- (2) A local education authority may pay the reasonable travelling expenses of any pupil in attendance at any school or county college or at any such course or class as aforesaid for whose transport no arrangements are made under this section.

#### **56 Power to provide primary and secondary education otherwise than at school**

If a local education authority are satisfied that by reason of any extraordinary circumstances a child or young person is unable to attend a suitable school for the purpose of receiving primary or secondary education, they shall have power with the approval of the Minister to make special arrangements for him to receive such education otherwise than at school.

#### **57 Duty of local education authorities to report to local authorities under 3 and 4 Geo. 5. c. 28 in certain cases**

- (1) If it appears to the local education authority that any child in their area who has attained the age of two years is suffering from a disability of mind of such a nature or to such an extent as to make him incapable of receiving education at school, it shall be the duty of the authority by notice in writing served upon the parent of the child to require the parent to submit him for examination by a medical officer of the authority; and if a parent upon whom such a notice is served fails without reasonable excuse to comply with the requirements thereof, he shall be liable on summary conviction to a fine not exceeding five pounds.

- (2) Before any child is so medically examined as aforesaid, the authority shall cause notice to be given to the parent of the time and place at which the examination will be held, and the parent shall be entitled to be present at the examination if he so desires.

- (3) If, after considering the advice given with respect to any child by a medical officer in consequence of any such medical examination as aforesaid and any reports or information which the local education authority are able to obtain from teachers or other persons with respect to the ability and aptitude of the child, the authority decide that the child is suffering from a disability of mind of such a nature or to such an extent as to make him incapable of receiving education at school, it shall be the duty of the authority to issue to the local authority for the purposes of the Mental Deficiency Act, 1913, a report that the child has been found incapable of receiving education at school:

Provided that, before issuing such a report with respect to any child, the local education authority shall give to the parent of the child not less than fourteen days' notice in writing of their intention to do so, and if within that period the parent refers to the Minister the question whether such a report should be issued, the report shall not be issued except by direction of the Minister.

- (4) For the purposes of this section, a child shall be deemed to be suffering from a disability of mind of such a nature and extent as to make him incapable of receiving education at school not only if the nature and extent of his disability are such as to make him incapable of receiving education, but also if they are such as to make it inexpedient that he should be educated in association with other children either in his own interests or in theirs.

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- (5) If the local education authority are satisfied that any child in attendance at a school maintained by them or at any special school not so maintained is suffering from a disability of mind of such a nature or to such an extent that he will, in their opinion, require supervision after leaving school, the authority shall before the child ceases to be of compulsory school age issue to the local authority for the purposes of the Mental Deficiency Act, 1913, and to the parent of the child, a report that by reason of a disability of mind the child may require supervision after leaving school.
- (6) Any report with respect to a child issued under this section to a local authority for the purposes of the Mental Deficiency Act, 1913, shall be accompanied by such records and other information relating to the child as may be prescribed; and upon receiving such a report it shall be the duty of that authority to consider whether the person in respect of whom the report was issued ought to be dealt with under that Act.

#### *Employment of Children and Young Persons*

### **58     Adaptation of enactments relating to the employment of children or young persons**

For the purposes 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 compulsory school age shall be deemed to be a child within the meaning of that enactment.

### **59     Power of local education authorities to prohibit or restrict employment of children**

- (1) If it appears to a local education authority that any child who is a registered pupil at a county school, voluntary school, or special school, is being employed in such manner as to be prejudicial to his health or otherwise to render him unfit to obtain the full benefit of the education provided for him, the authority may, by notice in writing served upon the employer, prohibit him from employing the child, or impose such restrictions upon his employment of the child as appear to them to be expedient in the interests of the child.
- (2) A local education authority may, by notice in writing served upon the parent or employer of any child who is a registered pupil at a county school, voluntary school, or special school, require the parent or employer to provide the authority, within such period as may be specified in the notice, with such information as appears to the authority to be necessary for the purpose of enabling them to ascertain whether the child is being employed in such a manner as to render him unfit to obtain the full benefit of the education provided for him.
- (3) Any person who employs a child in contravention of any prohibition or restriction imposed under subsection (1) of this section, or who fails to comply with the requirements of a notice served under subsection (2) of this section, shall be guilty of an offence against this section and liable on summary conviction, in the case of a first offence to a fine not exceeding one pound, in the case of a second offence to a fine not exceeding five pounds, and in the case of a third or subsequent offence to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.

- (4) Subsection (1) and subsection (3) of section twenty-eight of the Children and Young Persons Act 1933 (which relate to powers of entry for the enforcement of the provisions of Part II of that Act with respect to the employment of children) shall apply with respect to the provisions of any notice served under this section as they apply with respect to the provisions of the said Part II.

**60 Effect of college 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 county college required of him during that week by a college 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 county college required of him during that week or on that day by a college 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 otherwise than before or after the specified hour, as the case may be.

*Miscellaneous Provisions*

**61 Prohibition of fees in schools maintained by local education authorities and in county colleges**

- (1) No fees shall be charged in respect of admission to any school maintained by a local education authority, or to any county college, or in respect of the education provided in any such school or college.
- (2) Subject as hereinafter provided, where any pupil in attendance at any such school or college is provided at the school or college with board and lodging at the expense of the local education authority, fees shall be payable in respect of the board and lodging not exceeding such amounts as may be determined in accordance with scales approved by the Minister:

Provided that—

- (a) where the board and lodging provided for the pupil are so provided under arrangements made by the local education authority on the ground that, in their opinion, education suitable to his age ability and aptitude cannot otherwise be provided by the authority for him, the authority shall remit the whole of the fees payable under this subsection ; and
- (b) where the local education authority are satisfied that payment of the full fees payable under this subsection would involve financial hardship to the person liable to pay them, the authority shall remit such part of the fees as they consider ought to be remitted in order to avoid such hardship, or, if in the opinion of the authority such hardship cannot otherwise be avoided, shall remit the whole of the fees.

- (3) Any sums payable under the last foregoing subsection in respect of a pupil shall be payable by his parent, so, however, that where the local education authority are satisfied in the case of any young person in attendance at a county college that his financial circumstances are such that the sums so payable in respect of the board and lodging provided for him ought to be defrayed by him, those sums shall be payable by him instead of by his parent; and any sums so payable shall be recoverable summarily as a civil debt.

**62 Duties of Minister and of local education authorities as to the training of teachers**

- (1) In execution of the duties imposed on him by this Act, the Minister shall, in particular, make such arrangements as he considers expedient for securing that there shall be available sufficient facilities for the training of teachers for service in schools colleges and other establishments maintained by local education authorities, and for that purpose the Minister may give to any local education authority such directions as he thinks necessary requiring them to establish maintain or assist any training college or other institution or to provide or assist the provision of any other facilities specified in the direction.
- (2) Where by any direction given under this section a local education authority are required to perform any such functions as aforesaid, the Minister may give such directions to other local education authorities requiring them to contribute towards the expenses incurred in performing those functions as he thinks just.

**63 Exemption from building byelaws of buildings approved by the Minister**

- (1) Section seventy-one of the Public Health Act, 1936 (which provides for the exemption of certain buildings from building byelaws) shall have effect as if for paragraph (a) thereof there were substituted the following paragraph :—
- “(a) any buildings required for the purposes of any school or other educational establishment erected or to be erected according to plans which have been approved by the Minister of Education.”
- (2) Where plans for any building required for the purposes of any school or other educational establishment are approved by the Minister, he may by order direct that any provision of any local Act or of any byelaw made under such an Act shall not apply in relation to the building or shall apply in relation thereto with such modifications as may be specified in the order.

**64 Exemption of voluntary schools from rates**

No person shall be liable to pay, in respect of the school premises of any voluntary school, any rate the proceeds of which are applicable to public local purposes, whether directly or by reason of any precept or otherwise, being a rate leviable on the basis of an assessment in respect of the yearly value of property.

**65 Endowments for maintenance of voluntary schools**

Where any sums which accrue after the date of the commencement of this Part of this Act in respect of the income of any endowment are required by virtue of the provisions of any trust deed to be applied towards the maintenance of a school which

a local education authority are required to maintain as a voluntary school, the said sums shall not be payable to the local education authority, but shall be applied by the managers or governors of the school towards the discharge of their obligations, if any, with respect to the maintenance of the school, or in such other manner, if any, as may be determined by a scheme for the administration of the endowment made after the date of the commencement of this Part of this Act.

**66 Power of local education authorities to assist governors of aided secondary schools in respect of liabilities incurred before commencement of Part II**

A local education authority shall have power, so far as may be authorised by arrangements approved by the Minister, to make grants to the governors of any aided secondary school for the purpose of helping them to discharge any liability incurred, before the date of the commencement of this Part of this Act, by them or on their behalf or by or on behalf of any former managers or governors of the school or any trustees thereof, for the purposes of establishing or carrying on the school.

**67 Determination of disputes and questions**

- (1) Save as otherwise expressly provided by this Act, any dispute between a local education authority and the managers or governors of any school with respect to the exercise of any power conferred or the performance of any duty imposed by or under this Act, may, notwithstanding any enactment rendering the exercise of the power or the performance of the duty contingent upon the opinion of the authority or of the managers or governors, be referred to the Minister; and any such dispute so referred shall be determined by him.
- (2) Any dispute between two or more local education authorities as to which of them is responsible for the provision of education for any pupil, or whether contributions in respect of the provision of education for any pupil are payable under this Act by one local education authority to another, shall be determined by the Minister.
- (3) Where any trust deed relating to a voluntary school makes provision whereby a bishop or any other ecclesiastical or denominational authority has power to decide whether the religious instruction given in the school which purports to be in accordance with the provisions of the trust deed does or does not accord with those provisions, that question shall be determined in accordance with the provisions of the trust deed.
- (4) If any question arises whether any alterations to the school premises of a county school or a voluntary school would amount to the establishment of a new school, that question shall be determined by the Minister.

**68 Power of Minister to prevent unreasonable exercise of functions**

If the Minister is satisfied, either on complaint by any person or otherwise, that any local education authority or the managers or governors of any county or voluntary school have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under this Act, he may, notwithstanding any enactment rendering the exercise of the power or the performance of the duty contingent upon the opinion of the authority or of the managers or governors, give such directions as to the exercise of the power or the performance of the duty as appear to him to be expedient.

## **69 Powers of Minister as to medical examinations and inspections**

- (1) The Minister may make regulations as to the conduct of medical examinations and medical inspections for the purposes of this Act, and such regulations may, in particular, make provision requiring that any class of such examinations or inspections shall be conducted by duly qualified medical practitioners having such special qualifications or experience as may be prescribed, or shall be conducted by a duly qualified medical practitioner selected with the approval of the Minister.
- (2) Where any question is referred to the Minister under this Part of this Act, then, if in the opinion of the Minister the examination of any pupil by a duly qualified medical practitioner appointed for the purpose by him would assist the determination of the question referred to him, the Minister may by notice in writing served on the parent of that pupil, or if that pupil is in attendance at a county college upon him, require the parent to submit him, or require him to submit himself, as the case may be, for examination by such a practitioner; and if any person on whom such a notice is served fails without reasonable excuse to comply with the requirements thereof, he shall be liable on summary conviction to a fine not exceeding five pounds.

## **PART III**

### **INDEPENDENT SCHOOLS**

## **70 Registration of independent schools**

- (1) The Minister shall appoint one of his officers to be Registrar of Independent Schools ; and it shall be the duty of the Registrar of Independent Schools to keep a register of all independent schools, which shall be open to public inspection at all reasonable times, and, subject as hereinafter provided, to register therein any independent school of which the proprietor makes application for the purpose in the prescribed manner and furnishes the prescribed particulars :  
 Provided that—
  - (a) no independent school shall be registered if, by virtue of an order made under the provisions hereinafter contained, the proprietor is disqualified from being the proprietor of an independent school or the school premises are disqualified from being used as a school, or if the school premises are used or proposed to be used for any purpose for which they are disqualified by virtue of any such order ; and
  - (b) the registration of any school shall be provisional only until the Minister, after the school has been inspected on his behalf under the provisions of Part IV of this Act, gives notice to the proprietor that the registration is final.
- (2) If the Minister is satisfied that he is in possession of sufficient information with respect to any independent school or any class of independent schools, and that registration of that school or the schools comprised in that class is unnecessary, the Minister may by order exempt that school or schools of that class from registration, and any school so exempted shall be deemed to be a registered school.
- (3) If after the expiration of six months from the date of the commencement of this Part of this Act any person—

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- (a) conducts an independent school (whether established before or after the commencement of that Part) which is not a registered school or a provisionally registered school; or
- (b) being the proprietor of an independent school does any act calculated to lead to the belief that the school is a registered school while it is a provisionally registered school ;

he shall be liable on summary conviction to a fine not exceeding twenty pounds or in the case of a second or subsequent conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such imprisonment and such fine.

- (4) The Minister may make regulations prescribing the particulars to be furnished to the Registrar of Independent Schools by the proprietors of such schools, and such regulations may provide for the notification to the Registrar of any changes in the particulars so furnished and as to the circumstances in which the Minister may order the name of any school to be deleted from the register in the event of the Registrar being unable to obtain sufficient particulars thereof.

## 71 Complaints

- (1) If at any time the Minister is satisfied that any registered or provisionally registered school is objectionable upon all or any of the following grounds—
  - (a) that the school premises or any parts thereof are unsuitable for a school ;
  - (b) that the accommodation provided at the school premises is inadequate or unsuitable having regard to the number, ages, and sex of the pupils attending the school ;
  - (c) that efficient and suitable instruction is not being provided at the school having regard to the ages and sex of the pupils attending thereat;
  - (d) that the proprietor of the school or any teacher employed therein is not a proper person to be the proprietor of an independent school or to be a teacher in any school, as the case may be ;

the Minister shall serve upon the proprietor of the school a notice of complaint stating the grounds of complaint together with full particulars of the matters complained of, and, unless any of such matters are stated in the notice to be in the opinion of the Minister irremediable, the notice shall specify the measures necessary in the opinion of the Minister to remedy the matters complained of, and shall specify the time, not being less than six months after the service of the notice, within which such measures are thereby required to be taken.

- (2) If it is alleged by any notice of complaint served under this section that any person employed as a teacher at the school is not a proper person to be a teacher in any school, that person shall be named in the notice and the particulars contained in the notice shall specify the grounds of the allegation, and a copy of the notice shall be served upon him.
- (3) Every notice of complaint served under this section and every copy of such a notice so served shall limit the time, not being less than one month after the service of the notice or copy, within which the complaint may be referred to an Independent Schools Tribunal under the provisions hereinafter contained.

## 72 Determination of complaints

- (1) Any person upon whom a notice of complaint or a copy of such a notice is served under the last foregoing section may, within the time limited by the notice, appeal therefrom by referring the complaint, in such manner as may be provided by rules made under this Part of this Act, to an Independent Schools Tribunal constituted in accordance with the provisions of the Sixth Schedule to this Act.
- (2) Upon a complaint being referred to an Independent Schools Tribunal, the tribunal shall, after affording to all parties concerned an opportunity of being heard, and after considering such evidence as may be tendered by them or on their behalf, have power
  - (a) to order that the complaint be annulled :
  - (b) to order that the school in respect of which the notice of complaint was served be struck off the register:
  - (c) to order that the school be so struck off unless the requirements of the notice, subject to such modifications, if any, as may be specified in the order are complied with to the satisfaction of the Minister before the expiration of such time as may be specified in the order:
  - (d) if satisfied that the premises alleged by the notice of complaint to be unsuitable for use as a school or any part of such premises are in fact unsuitable for such use, by order to disqualify the premises or part from being so used, or, if satisfied that the accommodation provided at the school premises is inadequate or unsuitable having regard to the number, ages and sex of the pupils attending the school, by order to disqualify the premises from being used as a school for pupils exceeding such number or of such age or sex as may be specified in the order:
  - (e) if satisfied that any person alleged by the notice of complaint to be a person who is not proper to be the proprietor of an independent school or to be a teacher in any school is in fact such a person, by order to disqualify that person from being the proprietor of any independent school or from being a teacher in any school, as the case may be.
- (3) Where a notice of complaint has been served under this Act on the proprietor of any school and the complaint is not referred by him to an Independent Schools Tribunal within the time limited in that behalf by the notice, the Minister shall have power to make any order which such a tribunal would have had power to make if the complaint had been so referred:

Provided that, if it was alleged by the notice of complaint that any person employed as a teacher at the school is not a proper person to be a teacher in any school and that person has, within the time limited in that behalf by the copy of the notice served upon him, referred the complaint to an Independent Schools Tribunal, the Minister shall not have power to make an order requiring his dismissal or disqualifying him from being a teacher in any school.

- (4) Where by virtue of an order made by an Independent Schools Tribunal or by the Minister any person is disqualified either from being the proprietor of an independent school or from being a teacher in any school, then, unless the order otherwise directs, that person shall, by virtue of the order, be disqualified both from being the proprietor of an independent school and from being a teacher in any school.

### **73 Enforcement**

- (1) Where an order is made by the Minister or by an Independent Schools Tribunal directing that any school be struck off the register, the Registrar of Independent Schools shall as from the date on which the direction takes effect strike the school off the register.
- (2) If any person uses any premises for purposes for which they are disqualified by virtue of any order made under this Part of this Act, that person shall be liable on summary conviction to a fine not exceeding twenty pounds or in the case of a second or subsequent conviction (whether in respect of the same or other premises) to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding three months or to both such imprisonment and such fine.
- (3) If any person acts as the proprietor of an independent school, or accepts or endeavours to obtain employment as a teacher in any school, while he is disqualified from so acting or from being so employed by virtue of any such order as aforesaid, he shall be liable on summary conviction to a fine not exceeding twenty pounds or in the case of a second or subsequent conviction to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding three months or to both such imprisonment and such fine.
- (4) No proceedings shall be instituted for an offence against this Part of this Act except by or on behalf of the Minister.

### **74 Removal of disqualifications**

- (1) If on the application of any person the Minister is satisfied that any disqualification imposed by an order made under this Part of this Act is, by reason of any change of circumstances, no longer necessary, the Minister may by order remove the disqualification.
- (2) Any person who is aggrieved by the refusal of the Minister to remove a disqualification so imposed may, within such time after the refusal has been communicated to him as may be limited by rules made under this Part of this Act, appeal to an Independent Schools Tribunal.

### **75 Proceedings before Independent Schools Tribunals and matters relating thereto**

- (1) The Lord Chancellor may, with the concurrence of the Lord President of the Council, make rules as to the practice and procedure to be followed with respect to the constitution of Independent Schools Tribunals, as to the manner of making appeals to such tribunals, and as to proceedings before such tribunals and matters incidental to or consequential on such proceedings, and, in particular, such rules may make provision requiring any such tribunal to sit at such places as may be directed in accordance with the rules, and may make provision as to appearance before such tribunals by counsel or solicitor and as to the payment to members of such tribunals, as part of the expenses of the Minister under this Act, of such remuneration and allowances as may, with the consent of the Treasury, be provided for by the rules.
- (2) The provisions of the Arbitration Acts, 1889 to 1934, shall not apply to any proceedings before an Independent Schools Tribunal except so far as any provisions thereof may be applied thereto with or without modifications by rules made under this section.

- (3) Every order of an Independent Schools Tribunal shall be registered by the Registrar of Independent Schools and shall be open to public inspection at all reasonable times.

## PART IV

### GENERAL

#### GENERAL PRINCIPLE TO BE OBSERVED BY MINISTER AND LOCAL EDUCATION AUTHORITIES

#### **76 Pupils to be educated in accordance with the wishes of their parents**

In the exercise and performance of all powers and duties conferred and imposed on them by this Act the Minister and local education authorities shall have regard to the general principle that, so far as is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure, pupils are to be educated in accordance with the wishes of their parents. Miscellaneous Provisions

#### **77 Inspection of educational establishments**

- (1) In this section the expression " educational establishment " means a school, a county college, any establishment which under a scheme of further education made and approved under this Act is used for further education, and any training college or other institution being a training college or institution maintained by a local education authority; and if the persons responsible for the management of any institution which is not an educational establishment within the foregoing definition request the Minister or any local education authority to cause an inspection of that institution to be made under the powers conferred by this section, the institution shall, for the purposes of that inspection, be deemed to be also included within that definition.
- (2) It shall be the duty of the Minister to cause inspections to be made of every educational establishment at such intervals as appear to him to be appropriate, and to cause a special inspection of any such establishment to be made whenever he considers such an inspection to be desirable ; and for the purpose of enabling such inspections to be made on behalf of the Minister, inspectors may be appointed by His Majesty on the recommendation of the Minister, and persons may be authorised by the Minister to assist such inspectors and to act as additional inspectors :

Provided that the Minister shall not be required by virtue of this subsection to cause inspections to be made of any educational establishment during any period during which he is satisfied that suitable arrangements are in force for the inspection of that establishment otherwise than in accordance with this subsection.

- (3) Any local education authority may cause an inspection to be made of any educational establishment maintained by the authority, and such inspections shall be made by officers appointed by the local education authority.
- (4) If any person obstructs any person authorised to make an inspection in pursuance of the provisions of this section in the execution of his duty, he shall be liable on summary conviction to a fine not exceeding twenty pounds, or, in the case of a second or subsequent conviction, to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such imprisonment and such fine.

- (5) Subject as hereinafter provided, the religious instruction given in any school maintained by a local education authority shall not be subject to inspection except by one of His Majesty's Inspectors or by a person ordinarily employed for the purpose of inspecting secular instruction either as an additional inspector appointed by the Minister or as an officer in the whole-time employment of a local education authority: Provided that the religious instruction given in a voluntary school otherwise than in accordance with an agreed syllabus shall not be subject to such inspection as aforesaid, but may be inspected under arrangements made for that purpose by the managers or governors of the school, or, in the case of a controlled school, by the foundation managers or foundation governors thereof so, however, that such inspections shall not be made on more than two days in any year and not less than fourteen days' notice of the dates fixed therefor shall be given to the local education authority.
- (6) No pupil who has been excused from attendance at religious worship or instruction in a voluntary school in accordance with the provisions of this Act shall be required to attend the school on a day fixed for an inspection by arrangements made under the proviso to the last foregoing subsection.

## **78 Provision of certain ancillary services for pupils not in attendance at schools maintained by local education authorities**

- (1) Where under powers conferred by this Act a local education authority make special arrangements for any child or young person to receive primary or secondary education otherwise than at school, the authority may provide for the medical inspection or medical treatment of that pupil as if he were in attendance at a school maintained by the authority.
- (2) A local education authority may, with the consent of the proprietor of any school in their area which is not a school maintained by the authority, and upon such financial and other terms, if any, as may be determined by agreement between the authority and the proprietor of the school, make arrangements for securing—
- (a) the provision of milk, meals and other refreshment for pupils in attendance at the school; and
  - (b) the provision for any registered pupil at the school who is unable by reason of the inadequacy of his clothing to take full advantage of the education provided at the school of such clothing as is necessary for the purpose of ensuring that he is sufficiently clad while he remains a pupil at the school;

and may, with the consent of the proprietor of any school or other educational establishment in their area which is not maintained by the authority, and upon such financial and other terms, if any, as may be determined by agreement between the authority and the proprietor of the school or establishment, make arrangements for securing the medical inspection of, and the provision of medical treatment for, pupils (being junior pupils or senior pupils) in attendance at the school or establishment :

Provided that any arrangements made under this subsection shall be such as to secure, so far as is practicable, that the expense incurred by the authority in connection with the provision under the arrangements of any service or article shall not exceed the expense which would have been incurred by them in the provision thereof if the pupil had been a pupil at a school maintained by them.

## **79 Supplementary provisions as to medical inspection and treatment**

Every local education authority shall furnish to the Minister of Health such particulars as he may from time to time require of the arrangements made by the authority in the exercise of their functions relating to medical inspection and medical treatment; and that Minister may give to any such authority such directions as to the discharge by the authority of those functions as appear to him to be expedient. If arrangements are made for the exercise by the Minister of any functions conferred or imposed by this section on the Minister of Health, then, while such arrangements are in force, this section shall have effect in relation to such functions as if for the references therein to the Minister of Health there were substituted references to the Minister. Any directions given in the exercise of functions under this section may be varied or revoked by the Minister by whom those functions are for the time being exercisable.

## **80 Registration of pupils at schools**

- (1) The proprietor of every school (that is to say in the case of a county school or voluntary school the managers or governors thereof) shall cause to be kept in accordance with regulations made by the Minister a register containing the prescribed particulars with respect to all persons of compulsory school age who are pupils at the school, and such regulations may make provision for enabling such registers to be inspected, for enabling extracts therefrom to be taken for the purposes of this Act by persons duly authorised in that behalf under the regulations, and for requiring the persons by whom any such register is required to be kept to make to the Minister, and to local education authorities, such periodical or other returns as to the contents thereof as may be prescribed.
- (2) If any person contravenes or fails to comply with any requirement imposed on him by regulations made under this section, he shall be liable on summary conviction to a fine not exceeding ten pounds.
- (3) The regulations made under this section shall prescribe the procedure by which a child may become a registered pupil and the procedure by which a child (not being a child with respect to whom a school attendance order is in force) may be withdrawn from any school at which he is a registered pupil, and shall make provision for the deletion from the register of the name of any pupil so withdrawn.

## **81 Power of local education authorities to give assistance by means of scholarships and otherwise**

Regulations shall be made by the Minister empowering local education authorities, for the purpose of enabling pupils to take advantage without hardship to themselves or their parents of any educational facilities available to them—

- (a) to defray such expenses of children attending county schools, voluntary schools, or special schools, as may be necessary to enable them to take part in any school activities;
- (b) to pay the whole or any part of the fees and expenses payable in respect of children attending schools at which fees are payable :
- (c) to grant scholarships, exhibitions, bursaries, and other allowances in respect of pupils over compulsory school age, including pupils undergoing training as teachers :

- (d) to grant allowances in respect of any child in respect of whom any scholarship exhibition bursary or other allowance has been granted by a former authority before the date of the commencement of Part II of this Act.

**82 Powers of local education authorities as to educational research**

A local education authority may, with the approval of the Minister, 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 educational facilities provided for their area.

**83 Powers of local education authorities as to educational conferences**

Subject to any regulations made by the Minister, a local education authority may organise, or participate in the organisation of, conferences 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 for the discussion of such questions, including the expenses of any person authorised by them to attend any such conference.

**84 Power of local education authorities to make grants to universities and university colleges**

A local education authority may with the consent of the Minister provide financial assistance to any university or university college for the purpose of improving the facilities for further education available for their area.

**85 Power of local education authorities to accept gifts for educational purposes**

- (1) Subject to the provisions of this section, a local education authority shall have power, and any such authority or any former authority shall be deemed always to have had power, to accept hold and administer any property upon trust for purposes connected with education.
- (2) A local education authority shall not, on or after the date of the commencement of Part II of this Act, be constituted trustees of any school for providing primary or secondary education other than a nursery school or a special school except after the submission to the Minister of proposals for that purpose ; and where proposals are so submitted to the Minister, they shall be treated for the purposes of this Act as proposals for the maintenance as a county school of a school which at the time being is not such a school, and the provisions of this Act relating to such proposals shall have effect accordingly.
- (3) Any school for providing primary or secondary education which is vested in a local education authority as trustees thereof, not being a nursery school or special school, shall be a county school.

**86 Extension of power to make schemes under the Endowed Schools Acts, and modifications of those Acts and of 4 and 5 Vict. c. 38**

- (1) Where it appears to the Minister that the purposes for which any educational endowment is applicable include the provision of religious education for the pupils in attendance at a voluntary school in accordance with the tenets of a particular religious

denomination, and that it is desirable for the purpose of enabling that denomination to participate more effectively in the administration of the statutory system of public education that a scheme should be made under the Endowed Schools Acts, 1869 to 1908, in relation to that endowment, but that there is no power to make a scheme under those Acts in relation thereto, or that the power to make such a scheme is subject to such conditions that it cannot in practice be exercised, he may by order direct that the provisions of those Acts shall have effect in relation to the endowment subject to such modifications, if any, as appear to him to be necessary for the purpose of securing that a scheme may be made in relation to the endowment thereunder.

- (2) Where it appears to the Minister to be desirable that a scheme made under the Endowed Schools Acts, 1869 to 1908, in relation to any educational endowment should make provision for the sale of any land forming part of the endowment and 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), he may by order direct that the said proviso shall not have effect in relation to the land:

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

- (a) that the person to whom the land would revert in accordance with the said proviso cannot after due enquiry 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, 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 sale of the land.
- (3) A scheme made under the Endowed Schools Acts, 1869 to 1908, in relation to any educational endowment may, where the endowment includes land in respect of which an order has been made under the last foregoing subsection, make provision for the payment out of the proceeds of 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.
- (4) Sections thirty-four, thirty-five and thirty-six of the Endowed Schools Act, 1869 (which relate to the period during which objections or suggestions may be made with respect to draft schemes published under that Act), and section thirty-nine of that Act and section thirteen of the Endowed Schools Act, 1873 (which relate to the period within which petitions may be presented to His Majesty in Council against schemes approved under the said Act of 1869) shall have effect as if for the references therein to two months there were substituted references to one month ; and the Endowed Schools Acts, 1869 to 1908, shall be construed accordingly.
- (5) In this section, the expression " educational endowment " has the meaning assigned to it by section five of the Endowed Schools Act, 1869.

## **87 Exemption of assurances of property for educational purposes from the Mortmain Acts**

- (1) The Mortmain and Charitable Uses Act, 1888, the Mortmain and Charitable Uses Act, 1891, and the Mortmain and Charitable Uses Act Amendment Act, 1892 (which

impose restrictions upon assurances of land and personal estate to corporations and to charitable uses) shall not have effect with respect to any assurance of land or of personal estate to be laid out in the purchase of land if the land or the income thereof is to be used for educational purposes.

- (2) Every assurance of land or of personal estate to be laid out in the purchase of land, including every assurance of land to any local education authority, shall, if the land or the income thereof is to be used for educational purposes, be void unless the assurance or a copy thereof is sent to the Minister within six months after the date upon which the assurance takes effect:

Provided that the Minister may, either before or after the expiration thereof, extend the said period of six months in any particular case, and if the assurance or a copy thereof is sent to the Minister within the extended period, the assurance shall not be void or shall be deemed not to have been avoided, as the case may be.

- (3) The Minister shall cause to be kept a record of every assurance which, or a copy of which, is sent to him in compliance with the provisions of this section.
- (4) In this section, the expression "assurance" has the meaning assigned to it by section ten of the Mortmain and Charitable Uses Act, 1888.
- (5) Nothing in subsection (2) of this section shall affect the validity of any assurance which has taken effect before the date of the commencement of Part II of this Act.
- Administrative Provisions

## **88 Appointment of chief education officers of local education authorities**

The duties of a local education authority with respect to the appointment of officers under the provisions of the Local Government Act, 1933, shall, without prejudice to the generality of those provisions, include the duty of appointing a fit person to be the chief education officer of the authority, but a local education authority shall not make such an appointment except after consultation with the Minister, and for the purposes of such consultation an authority proposing to make such an appointment shall send to the Minister particulars showing the name, previous experience, and qualifications, of the persons from whom they propose to make a selection. If the Minister is of opinion that any person whose name is so submitted to him is not a fit person to be chief education officer of the authority, he may give directions prohibiting his appointment.

## **89 Remuneration of teachers**

- (1) The Minister shall secure that for the purpose of considering the remuneration of teachers there shall be one or more committees approved by him consisting of persons appointed by bodies representing local education authorities and teachers respectively, and it shall be the duty of any such committee to submit to the Minister, whenever they think fit or whenever they may be required by him so to do, such scales of remuneration for teachers as they consider suitable ; and whenever a scale of remuneration so submitted is approved by the Minister, he may by order make such provision as appears to him to be desirable for the purpose of securing that the remuneration paid by local education authorities to teachers is in accordance therewith.
- (2) The Minister shall nominate the person who is to be the chairman of any committee approved by him for the purposes of this section.

## **90 Compulsory purchase of land and other dealings in land by local education authorities**

- (1) A local education authority may be authorised, by means of an order made by the authority and confirmed by the Minister, to purchase compulsorily any land, whether situate within or without the area of the authority, which is required for the purposes of any school or college which is, or is to be, maintained by them, or otherwise for the purposes of their functions under this Act; and with respect to the compulsory purchase of land by local education authorities for any such purpose, the provisions of the Local Government Act, 1933, relating to the compulsory purchase of land by means of compulsory purchase orders shall have effect as if for the references therein to the Minister of Health there were substituted references to the Minister:

Provided that the Minister shall not confirm a compulsory purchase order for the purchase of any land required for the purposes of a voluntary school unless he is satisfied that the arrangements made as to the vesting of the land to be purchased, and as to the appropriation thereof for those purposes, are such as to secure that the expenditure ultimately borne by the local education authority will not include any expenditure which, if the land had been purchased by the managers or governors of the school, would have fallen to be borne by the managers or governors.

- (2) Section one hundred and sixty-three of the Local Government Act, 1933 (which relates to the appropriation, for purposes approved by the Minister of Health, of land belonging to local authorities and not required for the purposes for which it was acquired or has since been appropriated) shall, in relation to any land for the time being vested in a local education authority for the purposes of any of their functions under this Act, and not required for the purposes of that function, have effect as if for the references therein to the Minister of Health there were substituted references to the Minister.
- (3) Sections one hundred and sixty-four and one hundred and sixty-five of the Local Government Act, 1933 (which relate to the sale letting and exchange of land vested in local authorities) shall, in relation to any land vested in a local education authority for the purposes of their functions under this Act, have effect as if for the references in those sections to the Minister of Health there were substituted references to the Minister.

## **91 Accounts of councils of county boroughs and audit thereof**

The council of every county borough shall keep separate accounts of the sums received and expended by them in the exercise of any functions of the council under this Act, and those accounts shall be made up and audited in like manner as the accounts of a county council, and the enactments relating to the audit of accounts by a district auditor, and to the matters incidental to such audit and consequential thereon, shall have effect in relation to the accounts which the council of a county borough are required to keep under this section as they have effect in relation to the accounts of a county council.

## **92 Reports and returns**

Every local education authority shall make to the Minister such reports and returns and give to him such information as he may require for the purpose of the exercise of his functions under this Act.

**93 Power of Minister to direct local inquiries**

The Minister may cause a local inquiry to be held for the purpose of the exercise of any of his functions under this Act; and the provisions of subsections (2) (3) (4) and (5) of section two hundred and ninety of the Local Government Act, 1933, shall have effect with respect to any such inquiry as if the Minister were a department for the purposes of that section.

**94 Certificates of birth and registrars' returns**

- (1) Where the age of any person is required to be proved for the purposes of this Act or of any enactment relating to the employment of children or young persons, the registrar having the custody of the register of births and deaths containing the entry relating to the birth of that person shall, upon being presented by any person with a written requisition in such form and containing such particulars as may be determined by regulations made by the Minister of Health, and upon payment of a fee of sixpence, supply that person with a copy of the entry certified under his hand. Every registrar shall, upon being requested so to do, supply free of charge a form of requisition for the purposes of this subsection.
- (2) Every registrar shall supply to a local education authority such particulars of the entries contained in any register of births and deaths in his custody, and in such form, as, subject to any regulations made by the Minister of Health, the authority may from time to time require ; and in respect of every entry in respect of which particulars are furnished by a registrar to a local education authority in compliance with any such requirement, the authority shall pay to the registrar such fee not exceeding twopence as may be agreed between the authority and the registrar, or, in default of such agreement, as may be determined by the Minister of Health.
- (3) In this section, the expression " register of births and deaths " means a register of births and deaths kept in pursuance of the Births and Deaths Registration Acts, 1836 to 1929, and the expression " registrar" includes a registrar of births and deaths and a superintendent registrar.

**95 Provisions as to evidence**

- (1) Where in any proceedings under this Act the person by whom the proceedings are brought 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 a local education authority, and to be signed by the clerk of that authority or by the chief education officer 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 the managers or governors of any county school or voluntary school, and to be signed by the chairman of the managers or governors or by their clerk ;
  - (c) a certificate giving particulars of the attendance of a child or young person at a school or at a county college, and to be signed by the head teacher of the school or college ; or

- (d) a certificate issued by a medical officer of a local education authority and to be signed by such an officer;

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) or (d) of this subsection shall be evidence of the matters therein stated.

## **96 Provisions consequential on cessation of functions of former authorities**

- (1) If upon the application of a former authority the Minister is satisfied with respect to any property which was immediately before the date of the commencement of Part II of this Act held by that authority for the purposes of functions exercisable by them under the Education Acts, 1921 to 1939, that, although the property was so held, it was held upon trust for purposes of such a nature that the transfer thereof to a local education authority would be inexpedient, the Minister may by order direct that the property shall be deemed not to have been transferred by virtue of section six of this Act to the local education authority for the county in which the area of the former authority is situated.
- (2) Where any question arises as to whether any officers, property, rights, or liabilities, have been transferred by virtue of this Act from a former authority to a local education authority, that question shall be determined by the Minister.
- (3) Where any officers, property, rights, or liabilities, have been transferred by virtue of this Act from a former authority to a local education authority, the local education authority and the former authority may by agreement provide for the making of such adjustments in relation to their respective property, rights, and liabilities, as appear to the authorities to be desirable having regard to the transfer, and any such agreement may, in particular, provide for the making of payments by either party thereto.
- (4) Where it appears to the Minister that having regard to any such transfer it is desirable that any such adjustment as aforesaid (including any payment by either of the authorities concerned) should be made, he may, subject to any agreement made under the last foregoing subsection, by directions make provision for that adjustment.
- (5) Where at the commencement of Part II of this Act any former authority were parties to any proceedings pending with respect to any property, rights, or liabilities, which by virtue of this Act are transferred from the former authority to a local education authority, the proceedings may be carried on thereafter with the substitution of the local education authority for the former authority as parties thereto.

## **97 Modification of 2 and 3 Geo. 6. c. 94**

For the purpose of the application of the Local Government Staffs (War Service) Act, 1939 (which relates to the civil remuneration and superannuation of persons who cease to serve in certain civil capacities in order to undertake war service) in relation to :—

- (a) any person who before the date of the commencement of Part II of this Act has, in order to undertake war service, ceased to serve in the capacity of an officer employed by the council of a county district for the purposes of any functions exercisable by that authority under the Education Acts, 1921 to 1939 ; and
- (b) any person who before the said date has, in order to undertake war service, ceased to serve in any such capacity as is mentioned in paragraphs 15 and 16

of the first column of the Schedule to the said Act of 1939, being a person in relation to whom the appropriate authority was, before the said date, the council of a county district;

the local education authority for the county in which the county district is situated shall instead of the council of the county district be the " appropriate authority."

## **98 Compensation of persons prejudicially affected by this Act**

- (1) If in consequence of the extinguishment or transfer by this Act of any functions exercisable by the council of any county district, or the transfer by this Act of any officers employed by any such council, any person who, immediately before the date of the commencement of Part II of this Act, was an officer employed by that council or by the council of the county in which the county district is situated suffers direct pecuniary loss by reason of the determination of his appointment or the diminution of his emoluments, he shall, unless provision for his compensation for that loss is made by or under any other enactment for the time being in force, be entitled to receive compensation under this subsection from the local education authority for the area in which the county district is situated ; and, for the purposes of any claim for compensation under this subsection, the provisions of subsections (2) and (3) of section one hundred and fifty of the Local Government Act, 1933, shall have effect as if :—
- (a) the extinguishment or transfer had been effected by virtue of an order made by the Minister of Health under Part VI of the said Act of 1933 and coming into operation upon the date of the commencement of Part II of this Act ; and
  - (b) the expression " existing officer," in those subsections, meant any person who, immediately before the said date, was an officer employed by the council of a county or county district in connection with any functions exercisable by that council under any enactment repealed or amended by this Act.
- (2) If, in consequence of any school becoming a special agreement school or a controlled school, or in consequence of the discontinuance within six years after the passing of this Act of any school maintained by a local education authority, any person who was a teacher in the school immediately before it became a special agreement school or a controlled school, or before the school was discontinued, as the case may be, suffers direct pecuniary loss by reason of his dismissal or the diminution of his emoluments, he shall, unless provision for his compensation for that loss is made by or under any other enactment for the time being in force, be entitled to receive compensation from the authority under this section.
- (3) For the purposes of the determination and payment of compensation under this section, the provisions of the Fourth Schedule to the Local Government Act, 1933, shall have effect subject to the following modifications, that is to say:—
- (a) references therein to the Minister shall be construed as references to the Minister of Education, and sub-paragraph (1) of paragraph 1 thereof shall have effect as if after the word " prescribed " there were inserted the words  

“by the Minister of Education”;
  - (b) references therein to a scheme or order shall be construed as references to this Act; and
  - (c) any period during which a person has been engaged in war service within the meaning of the Local Government Staffs (War Service) Act, 1939, shall be reckoned for the purposes of the said Schedule as a period of service in his office, and where any such period is so reckoned, his emoluments during that

period shall, for the purposes of sub-paragraph (2) of paragraph 4 of the said Schedule, be deemed to be such as he would have received if he had not been engaged in war service.

## **99 Powers of Minister in default of local education authorities or managers or governors**

- (1) If the Minister is satisfied, either upon complaint by any person interested or otherwise, that any local education authority, or the managers or governors of any county school or voluntary school, have failed to discharge any duty imposed upon them by or for the purposes of this Act, the Minister may make an order declaring the authority, or the managers or governors, as the case may be, to be in default in respect of that duty, and giving such directions for the purpose of enforcing the execution thereof as appear to the Minister to be expedient; and any such directions shall be enforceable, on an application made on behalf of the Minister, by mandamus.
- (2) Where it appears to the Minister that by reason of the default of any person there is no properly constituted body of managers or governors of any county school or voluntary school, the Minister may make such appointments and give such directions as he thinks desirable for the purpose of securing that there is a properly constituted body of managers or governors thereof, and may give directions rendering valid any acts or proceedings which in his opinion are invalid or otherwise defective by reason of the default.
- (3) Where it appears to the Minister that a local education authority have made default in the discharge of their duties relating to the maintenance of a voluntary school, the Minister may direct that any act done by or on behalf of the managers or governors of the school for the purpose of securing the proper maintenance thereof shall be deemed to have been done by or on behalf of the authority, and may reimburse to the managers or governors any sums which in his opinion they have properly expended for that purpose ; and the amount of any sum so reimbursed shall be a debt due to the Crown from the authority, and, without prejudice to any other method of recovery, the whole or any part of such a sum may be deducted from any sums payable to the authority by the Minister in pursuance of any regulations relating to the payment of grants.  
 Financial Provisions

## **100 Grants in aid of educational services**

- (1) The Minister shall by regulations make provision :—
  - (a) for the payment by him to local education authorities of annual grants in respect of the expenditure incurred by such authorities in the exercise of any of their functions relating to education, other than their functions relating to the medical inspection and treatment of pupils ;
  - (b) for the payment by him to persons other than local education authorities of grants in respect of expenditure incurred or to be incurred for the purposes of educational services provided by them or on their behalf or under their management or for the purposes of educational research ; and
  - (c) for the payment by him, for the purpose of enabling pupils to take advantage without hardship to themselves or their parents of any educational facilities available to them, of the whole or any part of the fees and expenses payable in respect of children attending schools at which fees are payable, and of sums by way of scholarships, exhibitions, bursaries and other allowances in respect

of pupils over compulsory school age, including pupils undergoing training as teachers.

- (2) The Minister of Health shall by regulations make provision for the payment by him to local education authorities of annual grants in aid of the expenditure incurred by such authorities in the exercise of their functions relating to the medical inspection and treatment of pupils. If arrangements are made for the exercise by the Minister of the functions imposed by this subsection upon the Minister of Health, then, while any such arrangements are in force, this subsection shall have effect as if for the reference therein to the Minister of Health there were substituted a reference to the Minister. References in any regulations made under this subsection to either of those Ministers shall, unless the context otherwise requires, be construed as references to the Minister by whom functions are for the time being exercisable under this subsection, and any such regulations may be varied or revoked by that Minister.
- (3) Any regulations made by the Minister or the Minister of Health under this section may make provision whereby the making of payments by him in pursuance thereof is dependent upon 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 thereof to comply with such requirements as may be so determined.
- (4) Where the Minister is satisfied that the persons responsible for the management of any school or other educational institution are, by reason of the provisions of any trust deed or other instrument relating to the management of the school or institution, unable to fulfil any condition or comply with any requirement imposed by regulations made under this section, he may, after consultation with them, by order make such modifications of the said provisions as may be necessary for the purpose of enabling them to fulfil that condition or comply with that requirement; and any such trust deed or other instrument shall, during such period as may be specified in the order, have effect subject to any modifications so made.
- (5) Nothing in this section shall affect any grants in aid of university education payable out of moneys provided by Parliament otherwise than in accordance with the provisions of this Act.

#### **101 Special financial provisions relating to Wales and Monmouthshire**

- (1) Subject to the provisions of this section, the Minister shall pay to the local education authority for every area in Wales and Monmouthshire a special annual grant in respect of any school which is maintained or assisted by the authority, being a school in respect of which grants were payable immediately before the date of the commencement of Part II of this Act under section nine of the Welsh Intermediate Education Act, 1889.
- (2) The grants to be so paid shall be of such amounts as may from time to time be determined by regulations made by the Minister, so, however, that the total sum payable for any financial year under the provisions of this section in respect of the schools situated within the area of any county or county borough shall not exceed the maximum amount which was payable in respect of those schools under the provisions of the said section nine for the year ending with the thirty-first day of March nineteen hundred and twenty-nine.
- (3) The regulations made for the purposes of this section shall make provision whereby the grant payable thereunder in respect of a school for any year shall be withheld, or reduced by such amount as may be determined in accordance with the regulations,

unless the Minister is satisfied, after such inspection and report as may be so determined, that the school complies with such standards of efficiency as may be specified in the regulations.

- (4) As from such date as the Minister may by order appoint—
- (a) no further sums shall become payable out of any county fund or out of the general rate fund of any county borough under the provisions of any scheme made under the Welsh Intermediate Education Act, 1889 ;
  - (b) the provisions of any such scheme, so far as they relate to the payment to the Central Welsh Board of sums calculated by reference to the product of a rate, and section forty-two of the Education Act, 1918, shall cease to have effect; and
  - (c) the council of every county and county borough in Wales and Monmouthshire shall make to the Central Welsh Board an annual payment calculated by reference to a percentage of the product of a rate of one halfpenny in the pound in that county or county borough for the year ending with the thirty-first day of March nineteen hundred and twenty-nine ; and the times at which the said payments are to be made and the percentages by reference to which they are to be calculated shall be such as may be determined by the Central Welsh Board for each year in respect of which they fall to be made, so, however, that the percentage so determined in respect of each year shall be a uniform percentage for all the councils by which the payments are to be made, and the percentage so determined in respect of any year shall not exceed twenty-two and one half per cent.
- (5) Nothing in this section shall prevent the payment of grants to any local education authority in accordance with any other provision of this Act.

**102 Maintenance contributions payable by the Minister in respect of aided schools and special agreement schools**

The Minister shall pay to the managers or governors of every aided school and of every special agreement school maintenance contributions equal to one half of any sums expended by them in carrying out their obligations under paragraph (a) of subsection (3) of section fifteen of this Act in respect of alterations to the school buildings and repairs, to the school premises :

Provided that no maintenance contribution shall be payable under this section in respect of any expenditure incurred by the managers or governors of a special agreement school in the execution of repairs or alterations for the execution of which provision is made by the special agreement relating to the school.

**103 Power of the Minister to make grants in respect of aided schools and special agreement schools transferred to new sites or established in substitution for former schools**

- (1) Where the Minister by an order made under section sixteen of this Act authorises the transfer of any voluntary school to a new site or directs that a voluntary school or schools proposed to be established shall be established in substitution for a school or schools to be discontinued, then, if the school to be transferred or any school to be established in pursuance of the order is to be maintained as an aided school or a special agreement school, the Minister may pay to the managers or governors of the school

in respect of any sums expended by them in the construction of the school a grant not exceeding one-half thereof:

Provided that no grant shall be payable under this section to the managers or governors of a special agreement school in respect of any sums expended by them in the execution of proposals to which the special agreement for the school relates.

- (2) For the purposes of this section, any sum expended for the purpose of providing a site for a school shall be deemed to be expended in the construction of the school.
- (3) Without prejudice to the general discretion of the Minister as to the making of any grant under this section and as to the amount of any such grant, the Minister shall, in determining the amount of any such grant, take into account any sums which may accrue to the managers governors or trustees of the school in respect of the disposal of the site from which the school is to be transferred, or of the sites of the discontinued schools, as the case may be.

**104 Power of the Minister to make grants in respect of aided schools and special agreement schools established for the accommodation of displaced pupils**

- (1) Where the Minister has approved proposals submitted to him under subsection (2) of section thirteen of this Act that any school proposed to be established should be maintained by a local education authority as a voluntary school and has directed that the proposed school shall be an aided school or a special agreement school, then, if the Minister is satisfied that although the proposed school will not be in substitution for one or more discontinued schools, yet the establishment thereof is wholly or partially due to the need of providing education for a substantial number of displaced pupils, he may by order certify as expenses attributable to the provision of education for displaced pupils so much of the amount expended in the construction of the school as is in his opinion so attributable, and may pay to the managers or governors of the school a grant not exceeding one half of the expenses so certified:

Provided that no grant shall be payable under this section to the managers or governors of a special agreement school in respect of any sums expended by them in the execution of proposals to which the special agreement for the school relates.

- (2) For the purposes of this section—
  - (a) the expression " displaced pupils " means, in relation to any such proposed school as aforesaid, pupils for whom education would, in the opinion of the Minister, have been provided in some other aided school or special agreement school if that school had not ceased to be available for them in consequence of its having ceased to be used for providing both primary and secondary education or in consequence of a substantial reduction in the number of pupils for whom education is to be provided in it; and
  - (b) any sum expended for the purpose of providing a site for a school shall be deemed to be expended in the construction of the school.

**105 Power of the Minister to make loans to aided schools and special agreement schools in respect of initial expenditure**

- (1) If upon the application of the managers or governors of any aided school or special agreement school the Minister is satisfied after consultation with persons representing them that their share of any initial expenses required in connection with the school premises will involve capital expenditure which, in his opinion having regard to all

the circumstances of the case, ought properly to be met by borrowing, he may make to the managers or governors of the school for the purpose of helping them to meet that expenditure, a loan of such amount at such rate of interest and otherwise on such terms and conditions as may be specified in an agreement made between him and them with the consent of the Treasury.

(2) For the purposes of this section, the expression " initial expenses " means in relation to any school premises—

- (a) expenses to be incurred in defraying the cost of any alterations required by the development plan approved by the Minister for the area ;
- (b) expenses to be incurred in pursuance of any special agreement;
- (c) expenses to be incurred in the construction of any school which, by virtue of an order made under section sixteen of this Act, is deemed not to be a newly established school or is deemed to be in substitution for any discontinued school or schools ;
- (d) expenses certified by the Minister under the last foregoing section as being attributable to the provision of education for displaced pupils;

and the managers' or governors' share of any such initial expenses shall be taken to be so much thereof as remains to be borne by them after taking into account the amount of any maintenance contribution, grant under a special agreement, or grant under either of the last two foregoing sections, as may be paid or payable in respect of those expenses.

(3) If upon an application being made to him under subsection (2) of section fifteen of this Act for an order directing that a school shall be an aided school or a special agreement school it appears to the Minister that the area served by the school will not be also served by any county school or controlled school, then, unless he is satisfied that the managers or governors of the school will be able to defray the expenses which would fall to be borne by them under paragraph (a) of subsection (3) of that section without the assistance of a loan under this section, the Minister shall consult such persons or bodies of persons as appear to him to be representative of any religious denomination which, in his opinion having regard to the circumstances of the area, is likely to be concerned ; and, unless after such consultation he is satisfied that the holding of a local inquiry is unnecessary, shall cause such inquiry to be held before determining the application.

## **106 Contributions between local education authorities**

(1) Where a local education authority provide in any school maintained by the authority for the primary or secondary education of any child or young person who belongs to the area of some other local education authority, then, if a claim therefor is made within the prescribed period, they shall, subject as hereinafter provided, be entitled to recover from that authority such contributions as may be determined by agreement between the authorities concerned, or in default of such agreement by the Minister, to be equal to the cost of providing for the education :

Provided that if in the case of any child or young person the Minister is satisfied that there was no sufficient reason why the education provided for him should not have been provided by the authority for the area to which he belongs, the Minister may, on the application of that authority, direct that no contribution shall be recoverable in respect thereof under this subsection.

(2) For the purposes of this section, a child or young person shall be deemed to belong to the area in which his guardian resides :

Provided that—

- (a) if the guardian of the child or young person cannot be found or his guardian has no place of residence in England or Wales, the child or young person shall be deemed to belong to the area of the local education authority in whose area he was born ; and
  - (b) where immediately before the date of the commencement of Part II of this Act a former authority had been required under the Education (Institution Children) Act, 1923, to make payments to another former authority in respect of any child and were liable to make such payments, then, so long as the first-mentioned former authority would have remained so liable if that Act had not been repealed, the child shall be deemed to belong to the area of the local education authority responsible for the liabilities of the first-mentioned former authority.
- (3) If it is impracticable to determine under the provisions of the last foregoing subsection to what area a child or young person belongs, either because his place of birth was not in England or Wales or cannot be ascertained or for any other reason, he shall be treated as belonging to such area as may be determined by agreement between the local education authorities concerned, or in default of such agreement, by the Minister.
- (4) In this section the expression " guardian ", in relation to any child or young person, means the person having the legal right to the guardianship of the person of that child or young person :
- Provided that where that person has been deprived of the custody of the child or young person by the order of a court of competent jurisdiction, the guardian of the child or young person shall be deemed to be the person appointed by that court to have the custody of him.
- (5) Nothing in this section shall be construed as preventing the payment by agreement between local education authorities of contributions in respect of education provided by one authority on behalf of another in cases where the authority by whom the education is provided is not entitled to recover contributions under this section.

## **107 Expenses of Ministers**

Any expenses incurred by the Minister or by the Minister of Health in the exercise of their functions under this Act shall be defrayed out of monies provided by Parliament.

## **PART V**

### **SUPPLEMENTAL**

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

- (1) Without prejudice to any powers exercisable under section thirty-seven of the Interpretation Act, 1889, the Minister may exercise, and may authorise or require any local education authority, former authority, or other person or body of persons, to exercise during the period before the date on which Part II of this Act comes into operation any functions, which will, on or after that date, become exercisable by him or them under any provision of this Act, in so far as the exercise of those functions during that period is, in his opinion, necessary or expedient for securing that that Part may

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be brought into operation without delay or for preventing difficulties in the operation of that Part after the date aforesaid.

- (2) The Minister shall, in exercise of the power conferred by the last foregoing subsection, constitute any joint education boards and secure the constitution of any education committees and sub-committees and of any divisional executives which are, in his opinion, essential for the initial operation of the said Part II.
- (3) If the Minister is satisfied that it is necessary to make an order under this subsection by reason of time being required after the commencement of the said Part II for enabling adequate provision to be made for a supply of teachers or of school accommodation sufficient to meet the needs of children between the ages of fourteen and fifteen years, he may by order direct that, while the order remains in force, section thirty-five of this Act shall have effect as if for references therein to fifteen there were substituted references to fourteen and section forty-three of this Act shall have effect as if for the reference therein to the date of the commencement of the said Part II there were substituted a reference to the date of the expiry of the order:

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

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

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

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

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

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

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

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

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

All regulations made under this Act shall be laid before Parliament as soon as may be after they are made, and if either House of Parliament, within the period of forty days beginning with the day on which any such regulations are laid before it, resolves that the regulations be annulled, the regulations shall cease to have effect, but without prejudice to anything previously done thereunder or to the making of any new regulations. In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

## **113 Notices**

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

## **114 Interpretation**

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

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

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

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

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

" Clothing " includes boots and other footwear ;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) For the purposes of this Act:—

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

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

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

- (4) Where before the date of the commencement of Part II of this Act a syllabus of religious instruction had been adopted by a former authority for use in any school which after that date is a county school or a voluntary school or for any class or description of pupils, that syllabus shall be deemed to be the agreed syllabus for that school, or for that class or that description of pupils, as the case may be, until a syllabus in substitution therefor is prepared in accordance with the provisions of the Fifth Schedule to this Act and adopted or deemed to be adopted thereunder, or until the expiration of two years after the said date, whichever first occurs.
- (5) For the purposes of this Act, a person in attendance at a school or county college who attains any age during the term of the school or college shall be deemed not to have attained that age until the end of the term.
- (6) Any person who before the commencement of Part II of this Act had attained an age at which his parent had ceased to be under any obligation imposed under section forty-six of the Education Act, 1921, shall be deemed to be over compulsory school age, and any person who after the said date ceases to be of compulsory school age shall not, in the event of any subsequent change in the upper limit of the compulsory school age, again become a person of compulsory school age.

- (7) Where at any time before the date of the commencement of Part II of this Act the premises of any school which was for the time being a public elementary school within the meaning of the enactments repealed by this Act have ceased by reason of war damage, or by reason of any action taken in contemplation or in consequence of war, to be used for the purposes of a school, then, for the purposes of this Act, the school, unless it has been closed in accordance with those enactments, shall be deemed to have been a public elementary school within the meaning of those enactments immediately before that date and, if it was maintained by a former authority immediately before the premises ceased to be used for the purposes of a school, to have been maintained by such an authority immediately before that date.
- (8) In this Act, unless the context otherwise requires, references to any enactment or any provision of any enactment shall be construed as references to that enactment or provision as amended by any subsequent enactment, including this Act.

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

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

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

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

#### **117 Application to London**

- (1) For the purposes of the application of this Act to the County of London, references in the definition of the expression " minor authority " to a borough shall be construed as references to the City of London and to a metropolitan borough, and references in that definition to the council of a borough shall be construed as references to the Common Council of the City of London and to the council of a metropolitan borough respectively.
- (2) Subsection (4) of section fifty-four of this Act shall, in relation to the County of London, have effect as if for references therein to the council of a county district there

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were substituted references to a sanitary authority for the purposes of the Public Health (London) Act, 1936.

- (3) Before approving any proposals submitted to him under section thirteen of this Act with respect to any school which is or is to be, situated within the area of the City of London or within the area of a metropolitan borough, the Minister shall afford to the Common Council of the City of London or to the council of the borough, as the case may be, an opportunity of making representations to him with respect to the proposals.
- (4) For the purposes of the application of sections eighty-eight, ninety, ninety-three and one hundred and fourteen of this Act in relation to the local education authority for the County of London :—
  - (a) the references in those sections to the Local Government Act, 1933, shall be construed as references to the London Government Act, 1939 ; and
  - (b) the references in those sections to sections one hundred and sixty-three, one hundred and sixty-four, one hundred and sixty-five, two hundred and ninety and three hundred and five of the said Act of 1933 shall be respectively construed as references to sections one hundred and six, one hundred and seven, one hundred and eight, one hundred and eighty-nine and two hundred and six of the said Act of 1939.
- (5) Parts I and III of the First Schedule to this Act shall not apply to the London County Council.

## **118 Application to Isles of Scilly**

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

## **119 Commencement**

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

## **120 Amendment of enactments**

- (1) On and after the date of the commencement of Part II of this Act any enactment passed before that date shall, unless the context otherwise requires, be construed as if:—
  - (a) for references therein to an elementary school or to a public elementary school (whether or not any reference is made therein to the payment of parliamentary grants in respect of the school) there were substituted references to a county school or voluntary school as the context may require;
  - (b) for references therein to a school certified by the Board of Education, in accordance with the provisions of Part V of the Education Act, 1921, as suitable for providing education for blind deaf defective or epileptic children, there were substituted references to a special school;

- (c) for references therein to the managers of a school there were substituted, in relation to a county secondary school or a voluntary secondary school, references to the governors of the school;
  - (d) for references therein to elementary education or to higher education there were substituted references to such education as may be provided by a local education authority in the exercise of their functions under Part II of this Act;
  - (e) for references therein to a local education authority, to a local education authority for elementary education, or to a local education authority for higher education, there were substituted references to a local education authority within the meaning of this Act.
- (2) In relation to any young person punishable under this Act or under section seventy-eight of the Unemployment Insurance Act, 1935, subsection (3) of section fifty-two and section fifty-four of the Children and Young Persons Act, 1933 (which relate to the substitution of other punishments for imprisonment), shall have effect as if references therein to a young person included references to any person who has not attained the age of eighteen years.
- (3) The enactments mentioned in the first column of the Eighth Schedule to this Act shall, except in so far as any of them extend to Scotland, have effect subject to the amendments specified in the second column of that Schedule :
- Provided that Part I of the said Schedule shall come into operation on the date of the commencement of Part II of this Act, and Part II of the said Schedule shall come into operation on the date on which section forty-four of this Act comes into operation.
- (4) Where by virtue of this Act any functions cease to be exercisable by the council of a county district under the Children and Young Persons Acts, 1933 and 1938, the following provisions of this Act, that is to say :—
- (a) subsections (3) and (4) of section six; and
  - (b) section ninety-seven;
- shall have effect as if those functions had been exercisable under the Education Acts, 1921 and 1939; and, in relation to any such functions, the provisions of section ninety-six and of subsection (3) of section ninety-eight of this Act shall have effect as if for the references therein to the Minister of Education there were substituted references to the Secretary of State.
- (5) For the purposes of any byelaws under Part II of the Children and Young Persons Act, 1933, the expression " child " shall have the same meaning as it has for the purposes of the said Part II; and any byelaws made by the council of a county district under the said Part II which are in force immediately before the date of the commencement of Part II of this Act shall, in relation to the area to which they extend, continue in operation on and after that date as if they had been made by the local education authority for the area in which the county district is situated, and may be varied or revoked accordingly.

## 121 Repeal of enactments

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

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any of them extend to Scotland, as from the date of the commencement of Part II of this Act; and the enactments mentioned in the first column of Part II of that Schedule are to the extent mentioned in the third column of that Part hereby repealed, except in so far as they extend to Scotland, as from the date on which section forty-four of this Act comes into operation :

Provided that—

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

## **122 Short title and extent**

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

## FIRST SCHEDULE

### LOCAL ADMINISTRATION

#### PART I

##### JOINT EDUCATION BOARDS

- 1 Where it appears to the Minister that the establishment of a joint board as the local education authority for the areas of two or more councils to whom this Part of this Schedule applies would tend to diminish expense or to, increase efficiency or would otherwise be of public advantage, the Minister may by order constitute a joint board (in this Act referred to as a " joint education board "), consisting of members appointed by those councils, and direct that the board shall be the local education authority for the areas of those councils :  
Provided that the Minister shall not make such an order except after a local inquiry, unless all the councils for the areas of which the board are to be the local education authority have consented to the making of the order.
- 2 A joint education board so constituted shall be a body corporate with perpetual succession and a common seal and power to hold land for the purposes of their functions without licence in mortmain.
- 3 An order constituting a joint education board :—
  - (a) may, without prejudice to the provisions of section two hundred and ninety-three of the Local Government Act, 1933 (which authorises the application of provisions of that Act to joint boards) provide for regulating the appointment and term of office of members of the board, for regulating the meetings and proceedings of the board, and for determining the manner in which the expenses of the board are to be defrayed ;
  - (b) may contain such other provisions (including provision for the transfer of officers, property, and liabilities, and for the adjustment of accounts and apportionment of liabilities) as appear to the Minister to be expedient for enabling the board to exercise their functions;
  - (c) may provide for securing that where in consequence of the establishment of the board as the local education authority for the area of any council any person who was an officer of that council immediately before the date on which the board became the local education authority for the area thereof suffers direct pecuniary loss by reason of the determination of his appointment or the diminution of his emoluments, he shall, unless provision for his compensation for that loss is made by or under any other enactment for the time being in force, be entitled to receive compensation therefor from the board, and for securing that the provisions of subsections (2) and (3) of section one hundred and fifty of the Local Government Act, 1933, and of the Fourth Schedule to that Act shall have effect for the purposes of any claim for such compensation and for the purposes of the determination and payment of the compensation, subject to such modifications and adaptations as appear to the Minister to be necessary; and
  - (d) may, with the consent of the council of any county or county borough for the area for which the board is to be the local education authority, provide for the transfer to the board of any functions exercisable by that council

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under the Children and Young Persons Acts, 1933 and 1938, otherwise than as a local education authority.

- 4 An order constituting a joint education board shall be laid before Parliament as soon as may be after it is made.
- 5 This Part of this Schedule applies to the council of any county, to the council of any county borough, and to the council of any other borough of which the population was not less than half of the population of the county in which the borough is situated, according to the last census before the passing of this Act.

## PART II

### EDUCATION COMMITTEES

- 1 Every local education authority shall, in accordance with arrangements approved by the Minister, establish such education committees as they think it expedient to establish for the efficient discharge of their functions with respect to education.
- 2 Any two or more local education authorities may, with the approval of the Minister, concur in establishing a joint education committee for the consideration of questions of common interest to them.
- 3 Where it appears to the Minister to be expedient that two or more local education authorities should combine for the purpose of exercising some but not all of their functions with respect to education and that those authorities should establish a joint committee for that purpose, the Minister may after consultation with the authorities by order establish a joint education committee of those authorities and provide for the reference to the committee of such questions relating to those functions as in the opinion of the Minister should be so referred; and any such order may provide for authorising the joint education committee to exercise any of those functions on behalf of the authorities concerned, and may include such incidental and consequential provisions, including provisions with respect to the appointment and functions of sub-committees, as the Minister thinks desirable.
- 4 In the following provisions of this Part of this Schedule the expression " education committee" includes a joint education committee.
- 5 Every education committee of a local education authority shall include persons of experience in education and persons acquainted with the educational conditions prevailing in the area for which the committee acts.
- 6 At least a majority of every education committee of a local education authority shall be members of the authority. Provided that in the case of a joint education committee, the provisions of this paragraph shall be deemed to have been complied with if the committee consists, as to more than one half of the members thereof, of persons who are members of any of the authorities for which the committee is established.
- 7 Every local education authority shall consider a report from an education committee of the authority before exercising any of their functions with respect to education : Provided that an authority may dispense with such a report if, in their opinion, the matter is urgent or has been sufficiently considered or reported upon by a divisional executive established under Part III of this Schedule.

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- 8 A local education authority may authorise an education committee of the authority to exercise on their behalf any of their functions with respect to education, except the power to borrow money or to raise a rate.
- 9 The minutes of proceedings of an education committee of the local education authority shall be open to the inspection of any local government elector for the area on payment of a fee not exceeding one shilling, and any such local government elector may make a copy thereof or an extract therefrom.
- 10 Every education committee of a local education authority may, subject to any restrictions imposed by the local education authority or the order of the Minister by which the committee was established :—
- (a) appoint such sub-committees constituted in such manner as the committee may determine ; and
  - (b) authorise any such sub-committees to exercise any of the functions of the committee on their behalf.
- 11 Nothing in this Part of this Schedule shall require the reference to any education committee of a local education authority, or to any sub-committee of such a committee, of any matter which under any enactment for the time being in force is referred to any committee of the authority other than an education committee.

### PART III

#### DELEGATION OF FUNCTIONS OF LOCAL EDUCATION AUTHORITIES TO DIVISIONAL EXECUTIVES

- 1 This Part of this Schedule shall not apply to any local education authority which is the council of a county borough.
- 2 For the purpose of securing that the functions of local education authorities will be exercised with due regard to the circumstances affecting different parts of their areas and with the co-operation of persons having special knowledge of such circumstances, provision shall be made by schemes (hereinafter referred to as " schemes of divisional administration ") for partitioning the areas of authorities into such divisions as may be conducive to efficient and convenient administration and for constituting bodies of persons (hereinafter referred to as " divisional executives ") for the purpose of exercising on behalf of the authorities, in such of the divisions as may be specified in the schemes, such functions relating to primary and secondary education as may be so specified:
- Provided that if the Minister is satisfied with respect to the area of any local education authority that the making of a scheme of divisional administration for that area is unnecessary, he may by order direct that this Part of this Schedule shall not apply to that local education authority.
- 3 As soon as may be after the commencement of Part II of this Act, every local education authority to which this Part of this Schedule applies shall review the circumstances of every part of their area, and shall make such schemes of divisional administration as they consider expedient for the purpose mentioned in the last foregoing paragraph.
- 4 If the council of any borough or urban district has, before the first day of October nineteen hundred and forty-four, lodged with the Minister a claim that the borough or district be excepted from any scheme of divisional administration to be made by a local education authority the Minister may direct that the borough or district

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shall be so excepted, and the Minister shall so direct if the borough or urban district fulfils either of the following conditions, that is to say :—

- (a) that the population thereof on the thirtieth day of June nineteen hundred and thirty-nine, as estimated and certified by the Registrar General, was not less than sixty thousand; or
- (b) that on the thirty-first day of March nineteen hundred and thirty-nine the total number of pupils on the rolls of the public elementary schools in the area thereof was not less than seven thousand;

so however that no such direction shall be given in the case of any borough or urban district which does not fulfil either of the said conditions unless the Minister, after consultation with the local education authority and such other councils as appear to him to be concerned, is satisfied that by reason of special circumstances the borough or urban district ought to be so excepted. Any borough or urban district which has been directed by the Minister to be so excepted as aforesaid is in this Part of this Schedule referred to as an excepted district.

- 5 The council of any borough or urban district which is an excepted district shall as soon as may be after the date on which the borough or urban district became such a district make, after consultation with the local education authority, a scheme of divisional administration for the borough or district which shall provide for the exercise by the council of that borough or district of the functions thereby delegated as the divisional executive for the purposes of the scheme and shall transmit the scheme to the local education authority for submission to the Minister.
- 6 Any scheme of divisional administration shall be submitted by the local education authority to the Minister and shall not have effect until it has been approved by an order made by him.
- 7 A local education authority, before submitting to the Minister any scheme of divisional administration (whether made by them or by a council of a borough or district which is an excepted district) shall consult the council of every county district in their area, and shall after such consultation serve a copy of the scheme upon each of those councils ; and before any scheme of divisional administration is submitted to the Minister, the local education authority or council by whom the scheme was made shall publish such notices with respect thereto as may be prescribed.
- 8 Every scheme of divisional administration shall—
  - (a) provide for the constitution of every body which is to be a divisional executive for the purposes of the scheme, except where the scheme provides for the functions thereby delegated being exercised by the council of a borough or urban district as the divisional executive;
  - (b) define the functions which the several divisional executives specified therein, or in the case of a scheme for an excepted district the divisional executive, are thereby authorised to exercise on behalf of the local education authority ;
  - (c) specify any conditions subject to which any divisional executives are so authorised ;
  - (d) make such provision as may be expedient for empowering such executives to appoint committees and sub-committees and as to the matters to be referred to them ;

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- (e) define the relationship between any such executive, committee, or sub-committee, and the local education authority and committees and sub-committees thereof;
- (f) provide for the determination by the Minister of any disputes between the local education authority and any divisional executive;
- (g) make provision for the submission to the local education authority, by every divisional executive thereby authorised to exercise functions, of estimates of expenditure intended to be incurred by the executive on behalf of the authority and of accounts of expenditure so incurred ; and for requiring such estimates and accounts to be subject to the approval of the authority;
- (h) provide for such other matters as appear to the local education authority or council by whom the scheme is made to be expedient, or as the Minister may require :

Provided that no such scheme shall authorise any divisional executive to borrow money or to raise a rate.

- 9 If on the application of any local education authority, or of the council of any borough or urban district which is an excepted district, the Minister is satisfied, after consultation with the local education authority in cases where the application is made by the council of an excepted district, that it is expedient that any functions under this Act relating to further education should be exercised on behalf of the authority by a divisional executive, the Minister may direct that provision for that purpose may be made by a scheme of divisional administration, and where a direction is so given for the delegation to any such executive of functions relating to further education, this Part of this Schedule shall apply in respect of the delegation to that executive of the functions specified in the direction, in like manner as it applies in respect of the delegation of functions relating to primary and secondary education.
- 10 After considering any objections to a scheme of divisional administration made to him within the period of two months from the date on which the prescribed notices with respect to the scheme were published, and after making in the scheme such modifications, if any, as after consultation with the local education authority he considers expedient, the Minister shall make an order approving the scheme.
- 11 Any power conferred by this Part of this Schedule on a local education authority or council to make and submit to the Minister schemes of divisional administration shall be construed as including power to submit schemes for the variation or revocation of any such scheme previously made by that authority or council; and if at any time the Minister is of opinion that any such scheme ought to be varied or revoked or that a further scheme of divisional administration ought to be made by any such authority or council, he may direct them to make such a scheme and submit it to him.
- 12 If the population of any borough or urban district which is an excepted district is, according to any census taken after the passing of this Act, less than sixty thousand, the Minister shall, if after consultation with the local education authority he is of opinion that the borough or urban district ought no longer to be an excepted district, give such directions as he thinks proper under the powers conferred on him by the last foregoing paragraph.
- 13 The minutes of the proceedings of a divisional executive shall be open to the inspection of any local government elector for the area of the local education

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authority on payment of a fee not exceeding one shilling and any such local government elector may make a copy thereof or an extract therefrom.

## SECOND SCHEDULE

### TRANSFER TO A LOCAL EDUCATION AUTHORITY OF AN INTEREST IN THE PREMISES OF A VOLUNTARY SCHOOL

- 1 A local education authority and the managers or governors of any voluntary school maintained by the authority may, subject to and in accordance with the provisions of this Schedule, make an agreement for the transfer to the authority of any interest in the school premises held by any persons for the purposes of any trust deed relating to the school.
- 2 No such agreement shall take effect unless it has been approved by the Minister.
- 3 The Minister shall not approve any such agreement unless he is satisfied—
  - (a) that due notice of the agreement has been given to any persons other than the managers or governors of the school who, by virtue of any trust deed relating to the school, have an interest therein and to any other persons who appear to the Minister to be concerned ; and
  - (b) that the execution of the agreement will effect the transfer of all interests necessary for the purpose of enabling the authority to maintain the school as a county school.
- 4 Before approving any such agreement, the Minister shall consider any representations made to him by or on behalf of any persons appearing to the Minister to be concerned with the proposed transfer.
- 5 An agreement under this Schedule may provide for the transfer to the authority, subject to such conditions, reservations and restrictions, if any, as may be specified in the agreement, of the whole of the interest in the premises held by any persons for the purposes of any trust deed relating to the school, or of any less interest in the premises, and may include such other provisions, whether relating to the consideration for the said transfer or otherwise, as may be agreed upon between the authority and the managers or governors of the school.
- 6 Where any agreement made under this Schedule has been approved by the Minister, the managers or governors of the school may, whether or not the interest to be transferred to the authority by virtue of the agreement is vested in them, convey that interest to the authority.
- 7 Where any person other than the managers or governors of the school has a right to the occupation or use of the school premises or any part thereof for any particular purpose, no provision of any agreement made under this Schedule shall affect that right unless he has consented thereto.
- 8 In this Schedule, the expression " premises " includes a teacher's dwelling-house.

## THIRD SCHEDULE

### SPECIAL AGREEMENTS IN RESPECT OF CERTAIN VOLUNTARY SCHOOLS

- 1 Where proposals for the establishment of a school or for the alteration of the premises of a school have been submitted to a former authority, within the time limited by subsection (2) of section eight of the Education Act, 1936, with a view to the making of an agreement under that section, but the said proposals have not been carried out before the date of the commencement of Part II of this Act, a local education authority shall have power to make an agreement in accordance with the provisions of this Schedule in respect of those proposals or in respect of any revised proposals submitted to the authority in accordance with those provisions :  
Provided that no such agreement shall have effect unless it is approved by the Minister, and no such agreement shall be made or approved unless the authority and the Minister are satisfied that the performance thereof will facilitate the execution of provisions relating to school accommodation for senior pupils contained or proposed to be contained in the development plan for the area.
- 2 If upon the application of any persons interested in any such proposals the Minister is satisfied that by reason of the passing of this Act or the making of any regulations thereunder, or by reason of movement of population or of any action taken or proposed to be taken under the enactments relating to housing or to town and country planning, or by reason of war damage, it is desirable that the proposals should be revised, the Minister may give directions authorising a local education authority, in lieu of making an agreement in accordance with the provisions of this Schedule with respect to those proposals, to make such an agreement with respect to any revised proposals submitted to the authority before the expiration of such period as may be specified in the directions, being proposals which appear to the authority to serve substantially the same purpose as the proposals originally submitted.
- 3 No agreement shall be made under this Schedule after the expiration of six months or such extended period as the Minister may in any particular case allow from the date upon which the local education order for the area of the local education authority first comes into force.
- 4 Any such agreement shall provide for the making of a grant by the local education authority to persons specified in the agreement in consideration of the execution by those persons of the proposals to which the agreement relates.
- 5 The amount of the grant to be made in pursuance of any such agreement shall not be less than one half or more than three quarters of the cost of executing the proposals to which the agreement relates.
- 6 Where the agreement relates to proposals for the establishment of a school submitted to the local education authority for the County Borough of Liverpool, the authority may, if the agreement so provides, discharge their liabilities under the agreement by providing premises for the school and executing a lease of those premises to such persons as may be specified in the agreement for the purpose of enabling a voluntary school to be conducted thereon. Any such lease shall provide for the reservation of a yearly rent of an amount not less than one nor more than two per cent. of the cost incurred by the authority in providing the premises for the school.
- 7 Any agreement made under this Schedule may provide for the giving of religious instruction in the school in accordance with the provisions of the trust deed relating to the school, or, where provision for that purpose is not made by such a deed, in

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- accordance with the practice observed in the school before it became a voluntary school, and for the employment in the school, for the purpose of giving such religious instruction, of such number of reserved teachers as may be specified in the agreement.
- 8 Any agreement made by a local education authority under this Schedule may be varied by a further agreement between the authority and the managers or governors of the school to which the agreement relates, or in such other manner, if any, as may be specified in the agreement.
- 9 Where a grant has been made in respect of any school in pursuance of an agreement made under this Schedule, the managers or governors of the school may, at any time while the school is a special agreement school, repay the grant to the local education authority by which the school is maintained.
- 10 Where an agreement has been made under this Schedule in relation to any school, then, until the proposals to which the agreement relates have been carried out, the provisions of this Act relating to the respective obligations of the managers or governors of voluntary schools and the local education authority in respect of repairs and alterations to the premises of the school shall not have effect in relation to that school, but the respective obligations of the managers or governors of the school and the local education authority in relation to those matters shall be such as may be determined by agreement between the managers or governors and the authority, or, in default of such agreement, by the Minister.
- 11 Where any local authority have, before the date of the commencement of Part II of this Act, made an agreement under the powers conferred by section eight of the Education Act, 1936, with respect to proposals submitted to the authority within the time limited by subsection (2) of that section, then :—
- (a) if the said proposals have been carried out before that date the agreement shall be deemed to have been made under this Schedule, and the provisions of this Act relating to special agreements shall have effect accordingly ;
  - (b) if the said proposals have not been carried out before that date, the agreement shall cease to have effect, but without prejudice to the making of a further agreement under this Schedule with respect to those proposals or with respect to any revised proposals submitted to the authority in accordance with the provisions of this Schedule.

#### FOURTH SCHEDULE

##### MEETINGS AND PROCEEDINGS OF MANAGERS AND GOVERNORS

- 1 The quorum of the managers or governors shall not be less than three, or one third of the whole number of managers or governors, whichever is the greater.
- 2 The proceedings of the managers or governors shall not be invalidated by any vacancy in their number or by any defect in the election, appointment or qualification of any manager or governor.
- 3 Every question to be determined at a meeting of the managers or governors shall be determined by a majority of the votes of the managers or governors present and voting on the question, and where there is an equal division of votes the chairman of the meeting shall have a second or casting vote.

- 4 The managers or governors shall hold a meeting at least once in every three months.
- 5 A meeting of the managers or governors may be convened by any two of their number.
- 6 The minutes of the proceedings of the managers or governors shall be kept in a book provided for the purpose.

## FIFTH SCHEDULE

### PROCEDURE FOR PREPARING AND BRINGING INTO OPERATION AN AGREED SYLLABUS OF RELIGIOUS INSTRUCTION

- 1 For the purpose of preparing any syllabus of religious instruction to be adopted by a local education authority, the authority shall cause to be convened a conference constituted in accordance with the provisions of this Schedule.
- 2 For the purpose of constituting such a conference as aforesaid, the local education authority shall appoint constituent bodies (hereinafter referred to as "committees") consisting of persons representing respectively—
- (a) such religious denominations as, in the opinion of the authority, ought, having regard to the circumstances of the area, to be represented;
  - (b) except in the case of an area in Wales or Monmouthshire, the Church of England;
  - (c) such associations representing teachers as, in the opinion of the authority, ought, having regard to the circumstances of the area, to be represented ; and
  - (d) the authority:
- Provided that where a committee is appointed consisting of persons representing the Church of England, the committee of persons appointed to represent other religious denominations shall not include persons appointed to represent that Church.
- 3 Before appointing a person to represent any denomination or associations as a member of any such committee, a local education authority shall take all reasonable steps to assure themselves that he is representative thereof, but no proceedings under this Schedule shall be invalidated on the ground that a member of such a committee did not represent the denomination or associations which he was appointed to represent unless it is shown that the local education authority failed to take such steps as aforesaid.
- 4 A person so appointed may resign his membership of any such committee or may be withdrawn therefrom by the local education authority if in the opinion of the authority he ceases to be representative of the religious denomination or associations which he was appointed to represent, or of the authority, as the case may be; and where a vacancy occurs among the persons so appointed the authority shall fill the vacancy in like manner as they made the original appointment.
- 5 The conference shall consist of the committees aforesaid and it shall be the duty of the conference to seek unanimous agreement upon a syllabus of religious instruction to be recommended for adoption by the local education authority.
- 6 Where the local education authority propose to adopt more than one syllabus of religious instruction for use in schools maintained by them, the authority shall inform the conference as to the schools in which, or in the case of a syllabus intended

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- to be used for certain pupils only, the class or description of pupils for which, the syllabus to be prepared by the conference is to be used.
- 7 Any sub-committees appointed by the conference shall include at least one member of each of the committees constituting the conference.
- 8 Upon any question to be decided by the conference or by any sub-committee thereof one vote only shall be given for each of the committees constituting the conference.
- 9 If the conference unanimously recommend any syllabus of religious instruction, the authority may adopt it for use in the schools for which, or for the class or description of pupils for which, it was prepared.
- 10 If the authority report to the Minister that the conference are unable to reach unanimous agreement as aforesaid, or if it appears to the Minister that an authority have failed to adopt any syllabus unanimously recommended to them by the conference, the Minister shall appoint to prepare a syllabus of religious instruction a body of persons having experience in religious instruction which shall, so far as is practicable, be of the like representative character as is required by paragraph 2 of this Schedule in the case of a conference.
- 11 The body of persons so appointed :—
- (a) shall give to the authority, the conference, and every committee constituting the conference, an opportunity of making representations to it, but, save as aforesaid, may conduct the proceedings in such manner as it thinks fit;
  - (b) shall, after considering any such representations made to it, prepare a syllabus of religious instruction ;
  - (c) shall transmit a copy of the said syllabus to the authority and to the Minister, and as from such date as the Minister may direct, the syllabus so prepared shall be deemed to be the agreed syllabus adopted for use in the schools for which, or for the class or description of pupils for which, it was prepared until a further syllabus is prepared for use in those schools, or for pupils of that class or description, in accordance with the provisions of this Schedule.
- 12 Whenever a local education authority are of opinion (whether upon representations made to them or otherwise) that any agreed syllabus for the time being adopted by them ought to be reconsidered, the authority shall cause to be convened for that purpose a conference constituted in accordance with the provisions of this Schedule. If the conference convened for the reconsideration of any syllabus unanimously recommend that the existing syllabus should continue to be the agreed syllabus or that a new syllabus should be adopted in substitution therefor, the authority may give effect to the recommendation of the conference, but if the authority report to the Minister that the conference are unable to reach unanimous agreement, or if it appears to the Minister that the authority have failed to give effect to the unanimous recommendation of the conference, the Minister shall proceed in accordance with the provisions of paragraph 10 of this Schedule, and paragraph 11 thereof shall apply accordingly.

## SIXTH SCHEDULE

### CONSTITUTION OF INDEPENDENT SCHOOLS TRIBUNALS

- 1 For the purpose of enabling Independent Schools Tribunals to be constituted as occasion may require there shall be appointed two panels, that is to say—

- (a) a panel (hereinafter referred to as the " legal panel ") appointed by the Lord Chancellor, of persons who will be available to act when required as chairman of any such tribunal; and
- (b) a panel (hereinafter referred to as the " educational panel") appointed by the Lord President of the Council, of persons who will be available to act when required as members of any such tribunal.
- 2 No person shall be qualified to be appointed to the legal panel unless he possesses such legal qualifications as the Lord Chancellor considers suitable, and no person shall be qualified to be appointed to the educational panel unless he has had such experience in teaching or in the conduct management or administration of schools as the Lord President of the Council considers suitable. An officer of any government department and a person employed by a local education authority otherwise than as a teacher shall be disqualified from being appointed to either of the said panels.
- 3 Any person appointed to be a member of either of the said panels shall hold office as such subject to such conditions as to the period of his membership and otherwise as may be determined by the Lord Chancellor or the Lord President of the Council, as the case may be.
- 4 Where any appeal is required to be determined by an Independent Schools Tribunal the tribunal shall consist of a chairman being a member of the legal panel and two other members being members of the educational panel, and the chairman and other members of the tribunal shall be impartial persons appointed from those panels by the Lord Chancellor and the Lord President of the Council respectively.

## SEVENTH SCHEDULE

### ADJUSTMENT OF VARIATIONS OF RATES CONSEQUENT UPON COMMENCEMENT OF PART II OF THIS ACT

#### PART I

- 1 For the purposes of this Schedule, the following expressions have the meanings hereby assigned to them, that is to say :—
- " Standard year " means the financial year which ended on the thirty-first day of March, nineteen hundred and thirty-nine;
- " Elementary education authority " means a council which in the standard year was a local education authority for the purposes of elementary education;
- " Standard rateborne expenditure " means, in relation to any elementary education authority, the amount by which the expenditure of the authority in connection with elementary education incurred in the standard year recognised for purposes of grant under regulations made by the Board of Education exceeded the amount of the grant payable under those regulations in respect of that expenditure.
- 2 The Minister shall ascertain the amount of the standard rateborne expenditure of each elementary education authority in the county, and the amount in the pound of the rate which would have been necessary to raise that amount.

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- 3 The aggregate of the amounts of the standard rateborne expenditure of elementary education authorities in the county ascertained under the last foregoing paragraph shall be deemed to be the total rate charge of the county for elementary education for the standard year, and the Minister shall ascertain the amount in the pound of the rate which would have been required by precept of the county council to be levied by rating authorities for the purpose of meeting that charge if it had fallen to be borne by that council as part of their expenses for general county purposes.
- 4 The amount in the pound ascertained in respect of any elementary education authority under paragraph 2 of this Schedule is hereinafter referred to as the actual rate poundage of the authority, and the amount in the pound ascertained under paragraph 3 of this Schedule is hereinafter referred to as the notional rate poundage.
- 5 The Minister shall ascertain in the case of every elementary education authority in the county the amount of the difference between the actual rate poundage of the authority and the notional rate poundage, and where the notional rate poundage exceeds the actual rate poundage of an authority the difference is hereinafter referred to as the rate disadvantage of that authority, and where the notional rate poundage is less than the actual rate poundage of an authority the difference is hereinafter referred to as the rate advantage of that authority.

## PART II

- 1 If the rate disadvantage of any elementary education authority in any county is more than sixpence, but not otherwise, the Minister may, after consultation with the county council, make an order for the county under this Part of this Schedule.
- 2 Any such order shall come into operation on the date of the commencement of Part II of this Act and no such order shall remain in force after the expiration of the period of five years from that date.
- 3 The number of years during which (subject to the provisions of the last foregoing paragraph) an order made under this Part of this Schedule shall continue in force shall be the quotient which results from dividing by six the amount of the rate disadvantage of the elementary education authority having the greatest rate disadvantage in the county. In making any calculation for the purposes of this paragraph, fractions shall be disregarded.
- 4 An order made under this Part of this Schedule for any county shall provide that in each year during which the order is in force the precepts issued by the county council in accordance with section nine of the Rating and Valuation Act, 1925, for general county purposes shall, instead of being of the same amount in the case of each rating authority as required by that section, be increased or decreased by such amount in the pound as may be determined by the order, being an amount calculated, in the case of a precept issued to a rating authority which is an elementary education authority by reference to the rate advantage or disadvantage of that authority, and in the case of a precept issued to any other rating authority by reference to the rate advantage or disadvantage of the county council.
- 5 The amount by which the precept issued to a rating authority is to be required by the order to be increased or decreased in any financial year shall be a fraction of the rate advantage or disadvantage by reference to which the amount is to be calculated ; and the denominator of the said fraction shall be the total number of years, increased by one, comprised in the period for which the order has effect, and the numerator thereof shall be :—

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- (a) in the case of the first year for which the order has effect, one less than the denominator, and
- (b) in the case of each subsequent year, one less than the numerator in the case of the previous year.

## EIGHTH SCHEDULE

### AMENDMENT OF ENACTMENTS

#### PART I

#### ENACTMENTS AMENDED FROM DATE OF COMMENCEMENT OF PART II OF THIS ACT

<i>Enactment to be amended.</i>	<i>Amendment.</i>
The Mental Deficiency Act, 1913. Section two	For sub-paragraph (v) of paragraph (b) of subsection (1), there shall be substituted the following paragraph:— " (v) who is a person with respect to whom a report has been issued under the enactments relating to education that he has been found incapable of receiving education at school, or that by reason of a disability of mind he may require supervision after leaving school."
Section thirty-one	The section shall cease to have effect.
The Ministry of Agriculture and Fisheries Act, 1919. Section seven	In subsection (2), for the words " under the Education Act, 1902, stand referred to the education committee," there shall be substituted the words "relate to the functions of local education authorities."
The Children and Young Persons Act, 1933. Section ten	In subsection (1), after the word " years " there shall be inserted the words "or any young person who has not attained the age at which under the enactments relating to education children cease to be of compulsory school age", and for the words from " is totally exempted " to the end of the subsection there shall be substituted the words "or young person is not, by being so taken with him, prevented from receiving efficient full-time education suitable to his age ability and aptitude, be liable on summary conviction to a fine not exceeding twenty shillings"

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*Enactment to be amended.*

*Amendment.*

“or young person”; for subsection (3) there shall be substituted the following subsection :—

" (3) Where in any proceedings for an offence against this section it is proved that the parent or guardian of the child or young person is engaged in any trade or business of such a nature as to require him to travel from place to place, the person against whom the proceedings were brought shall be acquitted if it is proved that the child or young person has attended a school at which he was a registered pupil as regularly as the nature of the trade or business of the parent or guardian permits :

Provided that in the case of a child or young person who has attained the age of six years the person against whom the proceedings were brought shall not be entitled to be acquitted under this subsection unless it is proved that the child or young person has made at least two hundred attendances during the period of twelve months ending with the date on which the proceedings were instituted."

Section eighteen

In subsection (1), for paragraph (a) there shall be substituted the following paragraph :—

" (a) until he has attained an age not less than two years below that at which under the enactments relating to education children cease to be of compulsory school age ; or " ; and in subsection (2), in sub-paragraph (i) of paragraph (a), for the words " under the age of twelve years (notwithstanding anything in paragraph (a) of the last foregoing subsection) " there shall be substituted the words

“before they attain the age at which employment ceases to be prohibited under paragraph (a) of the last foregoing subsection.”

Section twenty-two

After subsection (3) there shall be inserted the following subsection :—

" (3A) A licence granted under this section shall specify the times, if any, during which the child to which the licence relates may be absent from school for the purposes authorised by the licence, and for the purposes of the enactments relating to

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<i>Enactment to be amended.</i>	<i>Amendment.</i>
	education a child who is so absent during any times so specified shall be deemed to be absent with leave granted by a person authorised in that behalf by the managers, governors or proprietor of the school."
Section sixty-one	In subsection (1), in paragraph (c) thereof, after the word " child " there shall be inserted the words "or young person", and after the word " children " there shall be inserted the words "or young persons".
Section ninety-six	In subsection (1), the words " as respects children " and the words from " for elementary education" (where those words first occur) to the end of the subsection shall be omitted; subsection (2) shall be omitted; in subsection (3) for the words from "for elementary education" "shall be defrayed as expenses under the enactments relating to education" "in accordance with", and the words " as expenses of elementary education under the Education Act, 1921 " shall be omitted.
The Local Government Act, 1933. Section ninety-four	After the words " Public Libraries Act, 1892," there shall be inserted the words "or of a sub-committee of any such committee ;" "or sub-committee."
Section one hundred and eighteen	The words " or The Education Act, 1921," shall be omitted.
The Seventh Schedule	The words " The Education Acts, 1921 to 1933," shall be omitted.
The Factories Act, 1937. Section one hundred and fifty-two.	In the definition of " young person " for the words " attained the age of fourteen and " there shall be substituted the words "ceased to be a child but", and the words from " but does not include " to the end of the definition shall be omitted.
The London Government Act, 1939. Section sixty-four	After the words " mental hospitals committee of the county council" there shall be inserted the words "or of a sub-committee of any such committee"; and the words " aided, provided or " shall be omitted.

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

<i>Enactment to be amended.</i>	<i>Amendment.</i>
Section eighty-five	The words " the Education Act, 1921 or " shall be omitted.
The Fifth Schedule	The words " The Education Acts, 1921 to 1937," shall be omitted.

## PART II

### ENACTMENTS AMENDED FROM DATE ON WHICH SECTION FORTY-FOUR OF THIS ACT COMES INTO OPERATION

<i>Enactment to be amended.</i>	<i>Amendment.</i>
The Unemployment' Insurance Act; 1935. Section seventy-eight	<p>For the word " Minister " (wherever that word occurs) there shall be substituted the words</p> <p style="padding-left: 40px;">"Minister of Education"; in subsection (2), for paragraph (a) there shall be substituted the following paragraph :—</p> <p>" (a) in England or Wales he shall be liable on summary conviction, in the case of a first offence to a fine not exceeding one pound, in the case of a second offence to a fine not exceeding five pounds, and in the case of a third or subsequent offence to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment so, however, that no proceedings for such an offence shall be taken except by or on behalf of the Minister of Education " ;</p> <p>for subsection (4) there shall be substituted the following subsection :—</p> <p>" (4) The regulations made by the Minister of Education under this section shall make provision as to the functions to be performed by local education authorities .with respect to persons required under this section to attend at authorised courses, and, in particular, shall direct such authorities to make in any college attendance notice served on any such person such modifications as may be provided by the regulations, and shall make provision as to the circumstances in which and the extent to which attendances in pursuance of requirements under this section may be reckoned as attendances in pursuance of the requirements of college attendance notices."</p>

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<i>Enactment to be amended.</i>	<i>Amendment.</i>
Section eighty-one	In subsection (1), in paragraph (b) thereof, for the words " that age" there shall be substituted the words "the age of eighteen years".
Section eighty-seven	In subsection (1), after the words " this Act," where those words first occur, there shall be inserted the words "other than an offence under section seventy-eight of this Act" "any such offence as aforesaid".
Section one hundred and four.	In subsection (1) after the word "Act," where that word first occurs, there shall be inserted the words "except under section seventy-eight thereof".
Section one hundred and thirteen.	In subsection (1) for the definition of "Authorised course " there shall be substituted the following definition :— " Authorised course means a county college established under the enactments relating to education or a training course provided under section seventy-seven of this Act and includes, in relation to insured contributors who have attained the age of eighteen years, any training course provided by the Assistance Board under the Unemployment Act, 1934."

## NINTH SCHEDULE

### ENACTMENTS REPEALED

#### PART I

#### ENACTMENTS REPEALED FROM DATE OF COMMENCEMENT OF PART II OF THIS ACT

<i>Session and Chapter.</i>	<i>Short Title.</i>	<i>Extent of Repeal.</i>
52 & 53 Vict. c. 40	The Welsh Intermediate Education Act, 1889.	Section nine.
3 & 4 Geo. 5. c. 28	The Mental Deficiency Act, 1913.	Subsection (2) of section two; proviso (iv) of section thirty ; and section thirty-one.

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<i>Session and Chapter.</i>	<i>Short Title.</i>	<i>Extent of Repeal.</i>
9 & 10 Geo. 5. c. 91	The Ministry of Agriculture and Fisheries Act, 1919.	Proviso (i) to subsection (2) of section seven.
10 & 11 Geo. 5. c. 65	The Employment of Women, Young Persons and Children Act, 1920.	In section four, the definition of the expression " child."
11 & 12 Geo. 5. c. 51	The Education Act, 1921.	The whole Act.
13 & 14 Geo. 5. c. 38	The Education (Institution Children) Act, 1923.	The whole Act.
16 & 17 Geo. 5. c. 9	The Economy (Miscellaneous Provisions) Act, 1926.	Section twelve.
19 & 20 Geo. 5. c. 17	The Local Government Act, 1929.	Subsection (1) of section eighty-two.
21 & 22 Geo. 5. c. 6	The Education (Local Authorities) Act, 1931.	The whole Act.
23 & 24 Geo. 5. c. 12	The Children and Young Persons Act, 1933.	In section thirty the words from " A person who is attending" to the words " of that term " ; in subsection (3) of section forty-six the words from " For the purposes of this subsection " to the end of the subsection; in section ninety-six, in subsection (1) thereof, the words " as respects children" and the words from " for elementary education " (where those words first occur) to the end of the subsection, subsection (2) thereof, in subsection (4) thereof the words " as expenses of elementary education under the Education Act, 1921 ", in subsection (5) thereof the words " or urban district", in subsection (6) thereof the words " or urban district ", and in subsection (7) thereof the words " Subject to the provisions of section four of the Education Act, 1921 (which require certain matters to be referred to education committees) " ; in section ninety-seven and in section one hundred and four the words " for

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<i>Session and Chapter.</i>	<i>Short Title.</i>	<i>Extent of Repeal.</i>
		elementary education " ; in section one hundred and six in subsection (2) thereof, paragraph (b).
23 & 24 Geo. 5. c. 29	The Education (Necessity of Schools) Act, 1933-	The whole Act.
23 & 24 Geo. 5. c. 51	The Local Government Act, 1933.	In section ninety-four the words " aided, provided or " ; in section one hundred and eighteen the words " or the Education Act, 1921 " ; and in the Seventh Schedule the words " The Education Acts, 1021 to 1933."
26Geo.5&iEdw.8. c. 41.	The Education Act. 1936.	The whole Act.
1 Edw. 8 & 1 Geo. 6. c 25.	The Education (Deaf Children) Act, 1937.	The whole Act.
1 Edw. 8 & 1 Geo. 6. c. 46.	The Physical Training and Recreation Act, 1937.	Sections one and two ; in section three, in subsection (1) thereof the words from "recommendations" to " with" and the words " after considering a recommendation of the grants committee", and in subsection (3) thereof the words " after consultation with the National Council for England and Wales " and the words " on the recommendation of the grants committee and " ; section six ; and subsection (2) of section eight.
1 Edw. 8 & 1 Geo. 6. c. 67.	The Factories Act, 1937.	In subsection (1) of section one hundred and fifty-two, in the definition of " young person", the words from " but does not include " to the end of the definition.
1 & 2 Geo. 6. c. 40	The Children and Young Persons Act, 1938.	Section three ; in section four, in subsection (1) thereof, the words " or under section forty-five of the Education Act, 1921, as so amended ", and in subsection (2) thereof the

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<i>Session and Chapter.</i>	<i>Short Title.</i>	<i>Extent of Repeal.</i>
1 & 3 Geo. 6. c. 40	The London Government Act, 1939.	words " and section forty-five of the Education Act, 1921 " ; in section six, in subsection (1) thereof, the words "or by virtue of subsection (2) of section three of this Act", and in subsection (2) thereof the words " or under subsection (2) of section three of this Act".  In subsection (1) of section sixty-one the words from " and the provisions " to the end of the subsection ; in section sixty-four the words "aided, provided or " ; in section eighty-five the words " the Education Act, 1921 or " ; and in the Fifth Schedule the words " The Education Acts, 1921 to 1937."
2 & 3 Geo. 6. c. 60	The Senior Public Elementary Schools (Liverpool) Act, 1939.	The whole Act.
2 & 3 Geo. 6. c. 111	The Education (Emergency) Act, 1939.	The whole Act.

## PART II

### ENACTMENTS REPEALED FROM DATE ON WHICH SECTION FORTY-FOUR OF THIS ACT COMES INTO OPERATION

<i>Session and Chapter.</i>	<i>Short Title.</i>	<i>Extent of Repeal.</i>
25 Geo. 5. c. 8	The Unemployment Insurance Act, 1935.	Section seventy-six; in subsection (1) of section seventy-nine the words " and contribute towards the cost of any other authorised courses " ; in section eighty, in subsection (1) thereof, the words " persons who have not attained the age of eighteen years and of " and the words " who have attained that age," and in subsection (2) thereof paragraph (a) ; in section

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

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<i>Session and Chapter.</i>	<i>Short Title.</i>	<i>Extent of Repeal.</i>
1 & 2 Geo. 6. c. 8	The Unemployment Insurance Act, 1938.	eighty-one, paragraph (a) of subsection (1) thereof, and subsection (3) and subsection (4) ; in subsection (1) of section eighty-three the words from " and the powers and duties" to the end of the subsection ; in section one hundred and four, in subsection (2), the words " section seventy-eight or " ; and section one hundred and twelve.  Section one.