



Education Act 1944

1944 CHAPTER 31

PART IV

GENERAL.

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.

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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.

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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

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- (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

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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

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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.