



Education (Scotland) Act 1945

1945 CHAPTER 37

PART II

RIGHTS AND DUTIES OF PARENTS AND FUNCTIONS OF EDUCATION AUTHORITIES IN RELATION TO INDIVIDUAL PUPILS.

Attendance at School.

22 Duty of parents to provide education for their children.

- (1) It shall be the duty of the parent of every child of school age to provide efficient education for him suitable to his age, ability and aptitude either by causing him to attend a public school regularly or by other means.
- (2) Sections two and three of the Act of 1936 (which relate to employment certificates) shall cease to have effect.

23 School age.

- (1) Subject to the provisions of subsections (3) and (4) of this section and of section twenty-four of this Act, the expression " school age " means any age between the age of five years and the age of fifteen years, and accordingly a person shall be deemed to be of 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 school age if he has attained the age of fifteen years.
- (2) The last foregoing subsection shall have effect with the substitution of the word " fourteen " for the word " fifteen " until the first day of April nineteen hundred and forty-six or such subsequent day within one year thereafter as the Secretary of State, having regard to the time required for enabling adequate provision to be made for a supply of teachers or of school accommodation to meet the needs of children between the ages of fourteen and fifteen years, may by order appoint.

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- (3) As soon as the Secretary of State is satisfied that it is practicable to raise the upper limit of the school age to sixteen, he shall make regulations prescribing that subsection (1) of this section shall have effect with the substitution of references to the age of sixteen for references to the age of fifteen.
- (4) Where an education authority have decided under section forty-one of this Act that a child requires special educational treatment, that child shall, unless the said decision is rescinded, be deemed to be of school age until he attains the age of sixteen although the upper limit of school age in relation to other children is less than sixteen.
- (5) Section three of the Act of 1901 shall have effect with the substitution for references to twelve and fourteen respectively—
 - (a) when the upper limit of school age is fifteen, of references to fourteen and fifteen ; and
 - (b) when that limit is sixteen, of references to fourteen and sixteen.
- (6) Section four of the Act of 1936 (which limits the power to grant exemption under the Act of 1901) shall come into operation on the day upon which the upper limit of the school age is raised to fifteen.

24 Dates for commencing and terminating attendance at school.

The Secretary of State may from time to time require an education authority to fix for their area any or all of the following dates :—

- (a) two or more dates for commencing school attendance, and
- (b) two or more dates for terminating school attendance.

The education authority shall intimate to the Secretary of State the dates which they propose to fix, and the Secretary of State may approve the said dates or may, after consultation with the authority and with such other persons as he thinks fit, require the authority to fix other dates. The authority shall fix dates in accordance with the approval or requirement of the Secretary of State, and thereupon a child resident in the area shall for the purpose of attendance at school be deemed to attain any given age on the fixed date next following the day when he actually attains that age.

25 Failure to attend regularly at a public school.

- (1) Where a child of school age who has attended a public school on one or more occasions fails without reasonable excuse to attend regularly at the said school, then, unless the education authority have consented to the withdrawal of the child from the school (which consent shall not be unreasonably withheld), his parent shall be guilty of an offence against this section.
- (2) It shall be the duty of the education authority, if they consider that a parent has committed an offence against this section, to serve a notice on the parent requiring him, within such time as may be specified in the notice (not being less than forty-eight hours or more than seven days from the service thereof) to appear (with or without the child) before the authority, or any committee or sub-committee to whom the function may have been delegated, and explain the reason for the absence of the child from school. If the parent fails to satisfy the authority or such committee or sub-committee that he had a reasonable excuse, the education authority or such committee or sub-committee may instruct that he be prosecuted forthwith under section twenty-eight of

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this Act, or may warn the parent and postpone for a period not exceeding one month a decision as to whether to prosecute.

- (3) A child shall be deemed to attend regularly at a day school if he attends every meeting of the school at which attendance is compulsory. He shall be deemed to attend regularly at a boarding school if he is present at the school throughout the school term except when he is granted leave of absence by the head teacher or by another person duly authorised by him.

26 Attendance orders.

- (1) Where a child of school age has not attended a school under the management of the education authority of the area in which his parent is residing, or has attended such a school and has been withdrawn therefrom with the consent of the authority, then, if the education authority are not satisfied that the parent is providing efficient education for him suitable to his age, ability and aptitude, it shall be the duty of the education authority to serve a notice on the parent requiring him within such time as may be specified in the notice (not being less than seven or more than fourteen days from the service thereof) either—
- (i) to appear (with or without the child) before the authority or any committee or sub-committee to whom the function may have been delegated (in this section referred to as "the authority") and give such information as the authority may require regarding the means, if any, he has adopted for providing education, or,
 - (ii) in the option of the parent, to give such information in writing.
- (2) If a parent on whom a notice has been served in pursuance of the last foregoing subsection fails to satisfy the authority that he is providing efficient education for the child suitable to his age, ability and aptitude or that there is reasonable excuse for his failure to do so, the authority shall, after considering any views expressed by the parent as to the school which he desires his child to attend, by an order in writing (hereinafter referred to as an "attendance order") require the parent to cause the child to attend a school named in the order being a school the managers of which are willing to receive him :

Provided that a school at which the parent will be required to pay fees shall not be named in the order except at the request of the parent:

Provided further that a special school shall not be named in the order unless a certificate issued under subsection (2) of section forty-one of this Act is in force certifying that the child is suffering from such disability as to require special educational treatment.

- (3) The authority shall cause a copy of any attendance order made by them under the last foregoing subsection to be served upon the parent, and it shall thereupon be the duty of the parent, subject to an appeal to the sheriff under the next succeeding subsection, to cause the child to attend regularly at the school named in the order.
- (4) A parent aggrieved by the making of an attendance order may within fourteen days after the date upon which a copy of the order was served upon him under the last foregoing subsection appeal against it to the sheriff, who may confirm, vary or annul the order and whose decision shall be final.
- (5) An authority may at any time while an attendance order is in force with respect to any child serve upon the parent of the , said child a notice of their intention to amend the order by substituting the name of another school for that named in the order. The

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parent may within fourteen days of the service of the said notice intimate in writing to the authority any objections he may have to the proposed amendment. After the expiry of the said period of fourteen days and after considering any objections made by the parent, the authority may amend the attendance order, and the provisos to subsection (2) and subsections (3) and (4) of this section shall apply in the case of the amended attendance order as they apply in the case of an attendance order.

- (6) If at any time while an attendance order is in force with respect to any child the parent of the child makes application to the 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 education suitable to his age, ability and aptitude at a school other than that named in the order or elsewhere 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 the arrangements made for the education of the child at a school other than that named in the order or elsewhere than at school are not satisfactory, as the case may be; and, if a parent is aggrieved by a failure of the authority to reach a decision upon his application within one month after the date thereof or by refusal of the authority to comply with any such request, he may appeal to the sheriff, who shall give such direction as he thinks fit. It shall not be deemed to be a reasonable excuse for failure to cause a child to attend regularly at a school named in an attendance order that an application or an appeal has been made under this subsection.
- (7) An attendance order made with respect to any child shall, subject to any amendment thereof made by the authority or variation made by the sheriff, and unless revoked by the authority or annulled by the sheriff, continue in force so long as the child is of school age and continues to reside in their area :

Provided that if a certificate under subsection (2) of section forty-one certifying that a child is suffering from such disability as to require special educational treatment is withdrawn, any attendance order requiring the attendance of that child at a special school shall be deemed to be annulled.

- (8) Where an attendance order has been made and is in force in respect of any child, and a copy of such order has been served on the parent of the child, the parent shall, if the order is not complied with, be guilty of an offence against this section unless he satisfies the court that he has a reasonable excuse.

27 Reasonable excuses.

- (1) For the purposes of the last two foregoing sections, there shall be deemed to be a reasonable excuse if—
- (a) there is within walking distance of the child's home measured by the nearest available route no school of a kind mentioned in the second proviso to subsection (1) of section eleven of this Act the managers of which are willing to receive the child, and either—
- (i) no arrangements have been made by the education authority under section thirty-three of this Act with regard to the child, or
- (ii) any arrangements so made are such as to require the child to walk more than walking distance in the course of any journey between his home and school; or

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- (b) the child has been prevented by sickness from attending school or receiving education as the case may be ; or
 - (c) there are other circumstances which in the opinion of the education authority or the court afford a reasonable excuse.
- (2) When a parent alleges that his child has been prevented by sickness from attending school or receiving education as the case may be, the parent shall, if required by the education authority, permit a medical officer of the education authority to examine the child, and any parent who fails to do so shall be guilty of an offence against this section.
- (3) In this section the expression " walking distance " means, in the case of a child who has not attained the age of eight years, two miles, and, in the case of any other child, three miles.

28 Legal proceedings.

- (1) Any person guilty of an offence against any of the last three foregoing sections shall be liable, on conviction by a court of summary jurisdiction, in the case of a first conviction to a fine not exceeding one pound, in the case of a second conviction, whether in respect of the same or of another child, to a fine not exceeding five pounds, and, in the case of a third or subsequent conviction, whether in respect of the same or of another child, 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) If the court before which a prosecution is brought for any such offence as aforesaid is satisfied that the child has failed to attend regularly at school, then, whether or not the parent is convicted, the court may direct that the child be brought before a juvenile court by the education authority of the area in which the child resides, and the court shall so direct, if the education authority so request. The juvenile court may, if it is satisfied that it is necessary to do so for the purpose of securing the regular attendance of the child at school, make any order which a juvenile court has power to make under section sixty-six of the Children and Young Persons (Scotland) Act, 1937, in the case of children and young persons in need of care or protection who are brought before that court under that section.
- (3) Proceedings under this section may be taken at the instance either, of the public prosecutor of the court of summary jurisdiction in which the proceedings are to be taken or of another person authorised by the education authority to institute proceedings on their behalf.
- (4) For the purposes of the Children and Young Persons (Scotland) Act, 1937, 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-six 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 seventy-one of the said Act shall have effect as if the words " A constable, or " were omitted therefrom.