



# Education (Scotland) Act 1945

## 1945 CHAPTER 37

### PART II

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

##### *General Principle.*

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

In the exercise and performance of their powers and duties under the Education Acts the Secretary of State and education authorities shall have regard to the general principle that, so far; as is compatible with the provision of suitable instruction and training and the avoidance of unreasonable public expenditure, pupils are to be educated in accordance with the wishes of their parents.

##### *Promotion from Primary to Secondary Education.*

#### **21 Promotion schemes.**

- (1) It shall be the duty of an education authority within such time as may be prescribed to prepare and submit for the approval of the Secretary of State under section fifty-nine of this Act a scheme (hereinafter referred to as a "promotion scheme") relating to the schools under their management and showing the method to be adopted for promoting pupils from primary schools or departments to secondary schools or departments and for enabling an opinion to be formed as to the courses from which each pupil shows reasonable promise of profiting and a decision to be made, after taking into account the wishes of the parent, as to the course to which the pupil is to be admitted,
- (2) An education authority may at any time, and shall if and when so required by the Secretary of State, prepare and submit for his approval a revised scheme or modification of an existing scheme under this section.

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### *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.
- (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.

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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 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

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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 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

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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
  - (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

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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.

#### *Attendance at Junior Colleges.*

### **29 Attendance at junior colleges.**

- (1) It shall be the duty of every education authority to serve on every young person residing in their area who is not exempt from compulsory further education a notice (hereinafter referred to as an " attendance notice ") directing him to attend a junior college named in the notice, and it shall be the duty of every young person upon whom such a notice is served to attend at the junior college in accordance with the requirements specified in the notice. The authority shall serve a copy of the notice and of any amendment thereof upon the parent of the young person.
- (2) Subject to the provisions of the next following subsection, the requirements specified in an attendance notice shall be such as to secure the attendance at a junior college of the person upon whom the notice is served—
  - (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) for one continuous period of eight weeks, or for two continuous periods of four weeks each in every such year, if the authority are satisfied that continuous attendance would be more suitable for the said person ;

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 an attendance notice served on him to attend a junior 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 education authority think expedient for securing that the attendances required of

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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:

Provided also that the Secretary of State may from time to time require an education authority to fix for their area two or more dates for terminating attendance at junior colleges. 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 young person resident in the area shall for the purpose of attendance at a junior college be deemed to attain the age of eighteen on the fixed date next following the day when he actually attains that age.

- (3) If by reason of the nature of the employment of any young person or of other circumstances affecting him the education authority are satisfied that attendance in accordance with the provisions of the last foregoing subsection would not be suitable in his case, an 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 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.
- (4) Except where continuous attendance at a junior college involves residence at the college or at a hostel, no attendance notice shall require a young person to attend a junior college on a Sunday 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 Secretary of State may, on the application of an 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.

- (5) 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 attendance notice served on him; and the requirements of any such notice may be amended as occasion may require either by the authority by whom it was served or by any other 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.
- (6) In determining what requirements shall be imposed upon a young person by an attendance notice or by any amendments to such a notice the 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

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representations that may be made to the authority by his employer any person proposing to employ him.

- (7) If a pupil satisfies the education authority that any religious observance or any part of the instruction at a junior college which the pupil is required to attend is contrary to his religious belief or likely to give offence to his religious feelings) the education authority shall permit the pupil to withdraw from such observance or, instruction and shall, so far as practicable, arrange "for him to be suitably occupied while such Observance or instruction is in progress.
- (8) The following persons shall be exempt from compulsory attendance at a Junior college, that is to say—
- (a) any person who is in full-time attendance at any school or other educational establishment (not being a junior college) approved by "the Secretary of State for the purpose;
  - (b) any person who is shown to the satisfaction of the education authority to be receiving suitable and efficient instruction in some other manner 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 approved by the Secretary of State for the mercantile marine or the sea fishing industry or who, having satisfactorily completed such a course, is engaged in the mercantile marine or in the sea fishing industry ;
  - (e) any person to whom, by reason of section eighty-one or section eighty-two of this Act, the duties of education authorities do not relate ;
  - (f) any person who attained the age of fifteen years before the date when the scheme for the provision of junior colleges came into force.

If any person is aggrieved by a decision of an education authority given under paragraph (b) of this subsection, he may refer the question to the Secretary of State, who shall give such direction thereon as he thinks fit.

- (9) If any young person upon whom an 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 exempt from compulsory attendance for further education ; or
  - (b) that he was prevented from complying with the requirement by reason of sickness or any other unavoidable cause,

or unless the court is satisfied that there was some other reasonable cause for such failure.

### **30 Provisions for securing attendance at junior colleges.**

- (1) For the purpose of facilitating the execution by education authorities of their functions under the last foregoing section, the following provisions shall have effect, that is to say—



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- (a) every young person who is not exempt from compulsory attendance at a junior college shall at all times keep the education authority concerned informed of his proper address ;
- (b) every person whose employment such a young person as aforesaid enters shall, not later than four days thereafter, if the young person has not then left his employment, notify the education authority concerned that the young person has entered his employment;
- (c) where a young person whose entry into employment has been notified in pursuance of the last foregoing paragraph leaves that employment, the employer shall within four days thereafter notify the education authority concerned that the young person has ceased to be employed by him ;
- (d) where such a young person as aforesaid enters the employment of an employer by whom he had previously been employed, the employer shall immediately notify such entry to the education authority concerned unless the previous entry was so notified in. pursuance of paragraph (b) of this subsection ;
- (e) every person by whom such a young person as aforesaid is employed shall notify the education authority concerned of any change of his address, and, if known to him, of any change of the young person's address.

In this subsection the expression " the education authority concerned " means the education authority in whose area the young person resides.

- (2) Any person who fails to comply with any requirement imposed on him by the last foregoing subsection shall be guilty of an offence against this section.
- (3) The education authority by whom an 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.
- (4) The Secretary of State may by regulations make provision as to the form of attendance notices, as to consultation and the exchange of information between education authorities, as to the issue of certificates of exemption in respect of young persons who are exempt from compulsory attendance at a junior college, and generally for the purpose of facilitating the administration by education authorities of the provisions of this Act as to attendance at junior colleges.
- (5) The Secretary of State and the Minister of Labour shall give directions to 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.

### **31 Enforcement of attendance at junior colleges.**

- (1) Any person guilty of an offence against either of the last two foregoing sections shall be liable on conviction by a court of summary jurisdiction 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) 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

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to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

- (3) 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 connived at any offence committed by the young person against either of the last two foregoing sections, the person who has connived at the offence shall, whether or not any person is proceeded against or convicted in respect of the offence connived at, be guilty of the like offence and punishable accordingly.

*Provision to enable Pupils to take advantage of Educational Facilities.*

### **32 Power of education authorities to enable persons to take advantage of educational facilities.**

- (1) For the purpose of enabling persons resident in their area to take advantage, without financial hardship to themselves or their parents, of any educational facilities available to them, an education authority shall have power—
- (a) to defray such expenses of pupils attending any school as may be expedient to enable them to take full part in the activities of the school; and
  - (b) to pay the whole or any part of the fees payable in respect of pupils attending schools at which fees are payable; and
  - (c) to grant scholarships, bursaries and other allowances to persons over school age.
- (2) The powers conferred by the last foregoing subsection shall be exercised in accordance with regulations made by the Secretary of State.
- (3) The said regulations may include a provision requiring the education authority to leave out of account, in assessing the needs of the applicants, the whole or such part of any scholarship, bursary, prize or other award won in open competition as may be prescribed and any award made by the Carnegie Trustees for the Universities of Scotland. The expression " open competition " means a competition with regard to which the education authority are satisfied that there are no restrictions upon entry which unduly limit the field from which candidates may be drawn.

### **33 Education of pupils in exceptional circumstances, 34. Provision of transport and other facilities.**

- (1) Where in the opinion of an education authority—
- (a) any pupil resident in their area is, owing to the remoteness of his home or the conditions under which he is living or other exceptional circumstances, unable to receive the full benefit of primary or secondary education unless special arrangements are made for him, or
  - (b) primary or secondary education suitable to the age, ability and aptitude of any pupil can best be provided for him at any particular school, or
  - (c) compulsory further education should in the case of any pupil be provided by requiring his continuous attendance at a junior college under section twenty-nine of this Act,

the authority shall, after consultation with the parent and, in any case falling under paragraph (c) of this subsection, with the pupil, make such arrangements of either a

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temporary or a permanent character as they think best suited to the purpose of enabling that pupil to attend an appropriate school or college.

- (2) The arrangements made under the last foregoing subsection may include—
- (a) the provision of travelling facilities or the payment of travelling expenses under section thirty-four of this Act; or
  - (b) the accommodation of the pupil at a boarding school, or at a junior college where boarding is provided, or in a hostel, home or other institution ; or
  - (c) other provision of board and lodging, provided that the education authority shall, so far as practicable, give effect to the wishes of the parent with respect to the religious denomination of the person with whom the pupil will reside ; or
  - (d) provision for the travelling, board and lodging of teachers.

### **34 Provision of transport and other facilities.**

An education authority shall make such arrangements as they consider necessary or as the Secretary of State may direct—

- (a) for the conveyance of pupils without charge for the whole or part of the journey between their homes and the schools or other educational establishments which they are attending ;
- (b) for making bicycles or other suitable means of transport available to the pupils attending schools or other educational establishments, or to their parents for the use of the pupils, upon such terms and conditions as may be arranged, or for paying a money allowance in lieu thereof ; .
- (c) for paying the reasonable travelling expenses of pupils attending schools and other educational establishments for whom no provision is made under the foregoing paragraphs.

### **35 Recovery of cost of board and lodging.**

Where an education authority have provided a pupil with board and lodging, whether at a school, junior college or hostel or elsewhere, the authority shall require the parent to pay to them in respect thereof such sums if any not exceeding the cost of such board and lodging 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 any pupil were so provided under arrangements made by the authority for any of the reasons specified in subsection (1) of section thirty-three of this Act, no sum shall be recoverable in respect thereof under this section ; and
- (b) where the board and lodging have been so provided for a young person in voluntary attendance at a junior college or, under section nine of this Act, at another educational establishment, the authority, if satisfied that he is in a financial position to pay the whole or any part of a sum recoverable from his parent under this section, may recover that sum or that part thereof from the young person instead of from the parent.

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*Provision of Milk, Meals, etc..*

**36 Provision of milk and meals at schools and other educational establishments under the management of education authorities.**

- (1) It shall be the duty of an education authority to provide milk and a midday meal, and it shall be lawful for them to provide other meals and refreshments, for pupils in attendance at public schools and junior colleges under their management on days when the schools meet or when the pupils are required, by attendance notices to be present at a junior college, as the case may be, and they may make similar provision for the said pupils on other days, for children who have attained the age of five pending their admission to school, and for pupils in attendance at other educational establishments under their management.
- (2) Where in the opinion of an education authority any pupil attending a public school in their area would otherwise be unable to take full advantage of the education provided, they shall make such arrangements for such period as they deem necessary for the provision to the pupil of milk and mid-day meals on days when the school does not meet.
- (3) The Secretary of State may make regulations as to the manner in which and the persons by whom the expense of providing such milk, meals and other refreshment is to be defrayed, as to the facilities to be afforded (including any buildings or other equipment" to be provided) and as to such other consequential matters as he considers expedient.
- (4) For the purposes of this section, a pupil for whom an education authority have made special arrangements under section eight of this Act may, at the discretion of the education authority, be deemed to be in attendance at a public school under their management.

**37 Provision of ancillary services for pupils not in attendance at public schools.**

An education authority may, with the consent of the managers of any school in their area which is not a public school, and upon such financial and other terms, if any, as may be determined by agreement between the authority and the managers, 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 pupil in attendance at the school who is unable by reason of the inadequacy or unsuitability of his clothing to take full advantage of the education (including physical exercise) provided by the school, of such clothing as is necessary for the purpose of ensuring that he is sufficiently and suitably clad while he remains a pupil at the school:

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

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*Medical Inspection, Supervision and Treatment.*

**38 Medical inspection and treatment of pupils.**

- (1) It shall be the duty of an education authority to provide for the medical inspection, at appropriate intervals, and for the medical supervision of all pupils in attendance at any school or junior college under their management and of all young persons in attendance at any other educational establishment under their management, and an education authority shall have power to provide for such inspection and supervision of other pupils in attendance at any educational establishment under their management who desire such inspection and supervision.
- (2) For the purpose of securing the proper medical inspection of the pupils for whom it is their duty to provide such inspection, an education 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 young person in attendance at such junior college or other educational establishment to submit himself to such medical inspection ; and any person who fails without reasonable excuse to comply with any such requirement shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding five pounds.
- (3) It shall be the duty of an education authority to make such arrangements for securing the provision of free medical treatment for pupils in attendance at any such school and for young persons in attendance at any such junior college or other educational establishment as are necessary for securing that comprehensive facilities, for free medical treatment are available to them either under this Act or otherwise, and an education authority shall have power to make such arrangements as aforesaid with respect to other pupils in attendance at any educational establishment under their management who desire such treatment.
- (4) It shall be the duty of an 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 child or young person gives to the authority notice that he objects to the child or young person availing himself of any medical treatment provided under this section, the child or young person shall not be encouraged or assisted so to do.
- (5) Where under powers conferred by section eight of this Act an education authority make special arrangements for any child or young person to receive primary or secondary education elsewhere than at school, the authority may provide for the medical inspection, supervision and treatment of that pupil as if he were in attendance at a school under their management.
- (6) An education authority may, with the consent of the managers of any school or other educational establishment in their area which is not under their management, and upon such terms, if any, as may be determined by agreement between the authority and the managers, make arrangements for securing the medical inspection and supervision of, and the provision of medical treatment for, pupils in attendance at the school or educational establishment:

Provided that the arrangements shall be such as to secure, so far as is practicable, that the expense incurred by the authority in connection with such inspection, supervision and treatment shall not exceed the expense, which would have been incurred by them

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if the pupil had been a pupil at a school or educational establishment under their management.

### **39 Power to ensure cleanliness.**

- (1) An education authority may, by directions in writing issued with respect to all schools, junior colleges and other educational establishments under their management or with respect to any of such schools, colleges or establishments named in the directions, authorise a medical officer of the authority to cause examinations to be made of the bodies and clothing of all or any of the pupils in attendance at such schools and young persons in attendance at such colleges or establishments whenever in his opinion such examinations are necessary in the interests of cleanliness.
- (2) Any such examination as aforesaid shall be made by the said medical officer or by a person authorised in writing by him to make such examinations (in this section referred to as an "authorised person"), and, if the body or clothing of any pupil or young person is found upon such an examination to be infested with vermin or in a foul condition, the medical officer, the authorised person or any officer of the authority on their behalf may serve upon the parent of such pupil or upon the young person a notice requiring the parent to cause the body and clothing of the pupil to be cleansed or the young person to cause himself and his clothing to be cleansed as the case may be.
- (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 more than twenty-four hours after the service thereof, the body and clothing of the pupil or young person to whom the notice relates are cleansed to the satisfaction of the medical officer or an authorised person as may be specified in the notice, the cleansing thereof will be carried out under arrangements made by the education authority ; and if at the expiration of that period the medical officer or an authorised person is not satisfied that the body and clothing of the pupil or young person have been properly cleansed, the medical officer or an authorised person may issue an order directing that the body and clothing of the pupil or young person be cleansed under such arrangements. The order shall be sufficient to authorise any officer of the authority to cause the body and clothing of the pupil or young person named in the order to be cleansed in accordance with such arrangements, and for that purpose to convey him to the premises where the cleansing is to be carried out and to detain him there until such time as the cleansing has been completed.
- (4) It shall be the duty of the education authority to make arrangements for securing that any cleansing under this section, whether at the request of a parent or young person or in pursuance of an order issued under this section, may be carried out in suitable premises by suitable persons and with suitable appliances.
- (5) If after the cleansing of the body or clothing of any pupil or young person has been carried out under this section his body or clothing is again found to be infested with vermin or in a foul condition at any time while he is in attendance at such school, junior college or other educational establishment, and it is proved that the condition of his body or clothing is due to neglect on the part of his parent, or, in the case of a young person in attendance at a junior college or other educational establishment, to his own neglect, the parent or the young person, as the case may be, 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 to a fine not exceeding five pounds, and in the case of a third or subsequent conviction to a fine not exceeding

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

- (6) Where a medical officer or authorised person has reason to believe that the body or clothing of any pupil or young person in attendance at such school, junior college or other educational establishment 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 in the interests either of the pupil or young person or of other children or young persons in attendance at the school, college or other educational establishment, direct that the pupil or young person be excluded from the school, college or other educational establishment 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 or young person to attend school or to comply with the requirements of an 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 parent or of the young person.
- (7) No female 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 medical officer of an education authority.

#### *Handicapped Children.*

### **40 Duty of education authorities to ascertain what children are suffering from disability.**

- (1) It shall be the duty of an education authority to ascertain what children in their area who have attained the age of five years—
  - (a) require special educational treatment ; or
  - (b) are suffering from a disability of mind of such a nature or to such an extent as to make them incapable of receiving education at school, or as to make it inexpedient that they should be educated in association with other children either in their own interests or in those of the other children.
- (2) If for the purpose of their duty under the last foregoing subsection an authority consider it necessary that a child should be medically examined, they shall by notice in writing served upon the parent of the child require him to submit the child for medical examination by a medical officer of the authority in order to obtain 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 conviction by a court of summary jurisdiction to a fine not exceeding five pounds.
- (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 the parent of any child who has attained the age of two years requests the 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.

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- (5) It shall be the duty of an education authority to disseminate in their area information as to the educational importance to any child suffering from disability of mind or body of the early ascertainment of his disability, and of the opportunity for medical examination available under this section.

#### **41 Children requiring special educational treatment.**

- (1) The education authority shall consider the advice given with respect to any child in consequence of the medical examination under the last foregoing section and any reports or information which they are able to obtain from teachers or other persons with respect to the ability and aptitude of the child, and if the authority decide that the child requires special educational treatment, they shall give to the parent notice of their decision and shall ensure that any education provided for the child is by means of special educational treatment.
- (2) The advice given with respect to any child in consequence of any such medical examination as aforesaid shall be communicated to the parent of the child, and the medical practitioner by whom the examination was made shall, if required by the parent or by the authority so to do, issue to the parent and to the authority 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, and any parent who is aggrieved by the terms of the certificate may refer the case to the Secretary of State :

Provided that an 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 that the child shall receive special educational treatment.

- (3) Any certificate issued under the last foregoing subsection may be withdrawn by the Secretary of State or by a medical officer of the education authority, and upon the withdrawal of such a certificate the decision of the education authority under subsection (1) of this section in regard to the child with respect to whom the certificate was issued shall be deemed to have been rescinded, and the education authority shall cease to provide special educational treatment for the child and shall notify the parent accordingly.
- (4) Where an education authority have decided under subsection (1) of this section that a child requires special educational treatment, and where such treatment is being provided for that child in a special school, by or with the approval of the authority, the child shall not while of school age be withdrawn from that school without the consent of the authority, provided always that if the parent of any child is aggrieved by the failure of the authority to reach a decision upon his application for their consent to such withdrawal within one month after the date of his application or by the refusal of the authority to comply with such application, he may within fourteen days after the expiry of the said period of one month or after such refusal, as the case may be, appeal to the sheriff, who shall give such direction as he thinks fit.

#### **42 Duty of education authorities to report to local authorities under 3 and 4 Geo. 5. c. 38 in certain cases.**

- (1) If, after considering, in accordance with the provisions of subsection (1) of the last foregoing section, advice, reports and information with respect to any child who has attained the age of five years, 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



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receiving education or training in a special school or as to make it inexpedient that he should be educated or trained in association with other children, it shall be the duty of the authority to issue to the local authority for the purposes of the Mental Deficiency Acts and to the General Board of Control for Scotland a report that the child has been found incapable of receiving education or training in a special school:

Provided that before issuing such a report with respect to any child the 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 Secretary of State the question whether such a report should be issued, the report shall not be issued except by direction of the Secretary of State.

- (2) If an education authority are of opinion that any child in attendance at a school in their area, or under their management, or at a special school is suffering from a disability of mind of such a nature or to such an extent that he may require to be dealt with under the Mental Deficiency Acts after leaving school, the authority shall, not earlier than the beginning of such period before the child ceases to be of school age as may be prescribed, issue to the local authority for the purposes of the Mental Deficiency Acts, to the General Board of Control for Scotland and to the parent of the child a report that by reason of a disability of mind the child may require to be dealt with under the Mental Deficiency Acts after leaving school.
- (3) Any report issued under this section to a local authority for the purposes of the Mental Deficiency Acts 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 these Acts.

#### *Restriction of Employment.*

### **43 Power of education authorities to prohibit or restrict employment of children.**

- (1) If it appears to an education authority that the employment of a child on the roll of a school in their area is or is likely 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 shall serve upon the parent and upon any person who is employing him for the time being a notice prohibiting the employment of the child in any employment or imposing such restrictions upon the employment of the child as appear to them to be expedient in the interests of the child :

Provided that if the parent or the employer feels aggrieved by the prohibition or restriction, he may appeal to the Secretary of State, who shall have power to confirm, vary or annul the notice as he thinks fit.

- (2) An education authority may, by notice in writing served upon the parent or employer of any child on the roll of a school in their area, 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 be or to be likely to be prejudicial to his health or to render him unfit to obtain the full benefit of the education provided for him.
- (3) Any person who knowingly employs a child in contravention of any prohibition or restriction imposed under subsection (1) of this section, or who fails to comply

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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 conviction by a court of summary jurisdiction to a fine not exceeding five pounds, or, in the case of a second or subsequent offence, not exceeding twenty pounds.

- (4) Subsections (1) and (3) of section thirty-six of the Children and Young Persons (Scotland) Act, 1937, (which relate to powers of entry for the enforcement of the provisions of Part III 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 III.