



Education (Scotland) Act 1945

1945 CHAPTER 37

PART III

ADMINISTRATION AND STAFFING.

Business Arrangements of Education Authorities.

44 Amendment of law regarding schemes under 19 and 20 Geo. 5. c. 25.

- (1) Subsection (10) of section fourteen of the Act of 1929 (which relates to the revocation and variation of schemes) shall cease to apply to a scheme for the constitution of the education committee or for the administration of the functions of a council relating to education, and the following subsections shall be added at the end of the said section :

“(12) A council being an education authority may, at any time, and shall if so required by the Secretary of State, prepare and submit for his approval under subsection (8) of this section a revised scheme for the constitution of the education committee or for the administration of the functions of the council relating to education. Notwithstanding anything in any scheme approved under the said subsection (8) the preparation under this subsection of the first revised scheme for the constitution of the education committee and of the first revised scheme for the administration of the functions of the council relating to education shall stand referred to the education committee.

- (13) If a council when required by the Secretary of State under the last foregoing subsection to submit for his approval—

- (a) a revised scheme for the constitution of the education committee fail to comply with such requirement within two months after the date thereof, or
- (b) a revised scheme for the administration of the functions of the Council relating to education fail to comply with such requirement within three months after the date thereof,

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the Secretary of State may himself make a revised scheme, but before making such scheme he shall publish in one or more newspapers circulating in the education area a notice stating his intention to make such scheme, and that a copy of a draft of the schemes is open to inspection at a specified place and that representations thereon may be made to him within fourteen days after the publication of the notice, and shall consider, any representations which may be submitted to him within that period, and any scheme so made shall have effect as if it were a scheme submitted by that council and approved by the Secretary of State.

(14) In the last two foregoing subsections any reference to a revised scheme includes a reference to a modification of an existing scheme.”

(2) Paragraph (a) and the first sentence of paragraph (c) of subsection (3) and subsection (6) of section twelve of the Act of 1929, (which relate to reference and delegation to committees), shall cease to apply to the education committee and the following paragraphs shall be inserted after paragraph (a) of subsection (3) of the said section :—

“(aa) Notwithstanding anything in any local Act, every scheme for the administration of the functions of a council relating to education shall, save as hereinafter provided, provide for the delegation to the education committee of all the functions of the council relating to education.

(ab) The following functions shall be excluded from the' delegation to the education committee :—

- (i) the raising of money by rate or loan ;
- (ii) the approval with or without adjustment of the estimates (including supplementary estimates) of capital and revenue expenditure and the authorisation of the expenditure included therein ;
- (iii) the power to incur expenditure on behalf of the council other than expenditure previously authorised in accordance with the estimates approved by the council or otherwise or expenditure necessarily incurred in circumstances of urgency.

(ac) The following functions may be excluded from the delegation to the education committee :—

- (i) the acquisition and disposal of land, provided always that, except in cases of urgency, before acquiring land for, or disposing of land held for, an educational purpose, the council shall give the education committee an opportunity of considering the matter and shall receive and consider a report from the committee as to the suitability of the land for the purpose for which it is proposed to acquire it or as to whether the land is no longer required or likely to be required for an educational purpose, as the case may be ;
- (ii) the appointment, dismissal, remuneration and conditions of service (other than functions) of the director of education and of any deputy or assistant director of education, provided that the council shall have regard to any recommendations made by the education committee with regard to such matters ;

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- (iii) the remuneration and the conditions of service of staff other than teachers, provided that the council shall have regard to any recommendations made by the education committee with regard thereto ;
- (iv) the school medical service, provided that any arrangements made for the administration of the said service shall be such as to ensure close co-operation between the education committee and the teachers and other officers responsible to that committee on the one hand, and any committee charged with the responsibility for the said service and the officers responsible to that committee, on the other;
- (v) any function with regard to which the council satisfy the Secretary of State that, having regard to other functions of the council, it is expedient that that function should not be so delegated : provided that in such a case, and without prejudice to the reference or delegation of the said function to any other committee, the scheme shall provide that the said function shall stand referred to the education committee, and the council or any other committee to whom the function may have been delegated shall not, unless, in their opinion the matter is urgent, be entitled to exercise the said function until they have received and considered the report of the education committee thereon.”

45 Admission of Press to meetings of education committees.

- (1) Representatives of the Press shall be admitted to any meeting of an education committee at which any matter is to be dealt with, a decision on which does not require to be submitted for the approval of the education authority;

Provided that it shall be competent to an education committee to exclude the representatives of the Press temporarily from, any such meeting as often as may be desirable when in the opinion of a majority of the members of the committee present at the meeting, expressed by resolution, in view of the special nature of the business being, or about to be, dealt with, such exclusion is advisable in the public interest.

- (2) In this section " representatives of the Press " means duly accredited representatives of newspapers and duly accredited representatives of news agencies which systematically carry on the business of selling and supplying reports and information to newspapers.

46 Minutes of education committee meetings.

The minutes of proceedings of the education committee of an education authority shall be open to the inspection of any local government elector for the area at all reasonable hours on payment of a fee not exceeding one shilling, and any such local government elector may make a copy thereof or an extract therefrom.

47 Education estimates.

The estimates (including supplementary estimates) of capital and revenue expenditure relating to education shall be in the prescribed form, and approval by the education

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authority of those estimates and authorisation of the expenditure included therein shall be sufficient authority to incur, on purposes falling within the description of any head in the prescribed form, expenditure not exceeding in amount the total under that head in the estimates so approved. Savings under one head may not be used to defray expenditure under another head without the consent of the education authority.

Director of Education.

48 Appointment of director of education.

- (1) The education authority shall employ a director of education, who shall be the chief education officer of the authority, and, on a vacancy occurring in the office, shall appoint a suitable person to fill the vacancy. The director of education shall not, except with the approval of the Secretary of State, hold any other office or appointment under the education authority whether in its capacity as such authority or in its capacity as a county or town council.
- (2) The director of education shall hold office during the pleasure of the education authority, so however that he shall not be removed from office except by a resolution of the authority passed by not less than two-thirds of the members present at a meeting of the authority of which written notice stating -that the removal from office of the director of education is to be considered shall have been given to each member of the authority and to the director at least three weeks before the meeting.
- (3) Every scheme for the administration of the functions of a council relating to education shall set forth the powers to be exercised and the duties to be performed by the director of education.

Teachers.

49 Training of teachers and certificates of competency.

- (1) The Secretary of State may by regulations constitute, alter the constitution of, incorporate and dissolve committees or other bodies for the training of teachers for service in schools and other educational establishments, and may prescribe the duties to be performed by the said committees or other bodies, including the courses of training to be provided, may confer upon them such powers as may seem appropriate and may make such consequential provisions as may appear to him to be expedient.
- (2) The Secretary of State may award certificates of competency to teach, and he may by regulations prescribe the forms of the said certificates, the conditions of award and the conditions under which they may be withdrawn, whether temporarily or permanently.
- (3) Regulations made under this section may empower the said committees or other bodies to provide courses of training for teachers, leaders, wardens and other persons for the purposes of section three of this Act and for other purposes of a similar nature and enable the Secretary of State to issue documents recognising persons who have satisfactorily completed such courses, and persons who have otherwise qualified themselves for recognition, as persons competent to fulfil the duties of teachers, leaders or wardens under the said section.

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- (4) The National Committee, the Provincial Committees and the Committees of Management shall be deemed to be committees constituted under subsection (1) of this section.

50 Salaries of teachers.

- (1) Section fifty-five of the Act of 1872 in so far as it relates to the salaries and emoluments of teachers and paragraph (c) of subsection (1) of section six of the Act of 1918 shall cease to have effect, and it shall be the duty of every education authority to pay to the teachers appointed by them salaries in accordance with such scales as may from time to time be prescribed by regulations made by the Secretary of State :

Provided always that—

- (i) it shall not be lawful for an education authority to pay additional remuneration to any teacher in respect of services already remunerated in accordance with the prescribed scale ; and
 - (ii) it shall be lawful for an education authority to pay such salary as they think fit to any teacher to whose salary no prescribed scale is for the time being applicable ; and
 - (iii) the regulations first made under this section in respect of any category of teacher may require that salaries in accordance with the scales therein prescribed shall be payable with effect from such date not earlier than the first day of April, nineteen hundred and forty-five, as may be prescribed.
- (2) Before making regulations under this section, the Secretary of State shall intimate his intention to make such regulations to any council or other body which include among their objects the making of recommendations with regard to the salaries of teachers, being a council or other body constituted with his approval by agreement between the education authorities and the teachers employed by them, or, failing such agreement, by him, and he shall have regard to any recommendations made by the said council or other body.

51 Married Women teachers.

No woman shall be disqualified for employment as a teacher in any school, junior college or other educational establishment under the management of an education authority or be dismissed from such employment by reason only of marriage.

Amendment of the teachers Superannuation Scheme.

52 Amendment of superannuation scheme.

The articles set forth in the First Schedule .to this Act shall be incorporated at the appropriate places in the Teachers Superannuation Scheme, and any provision of that scheme which is inconsistent with any of those articles is hereby repealed. The said articles shall be deemed to have been included in the scheme by an amending scheme approved by Order in Council under section eight of the Act of 1919, and may be amended by a subsequent scheme approved by Order in Council under the said Act. As soon after the appointed day as may be, the scheme shall be reprinted with the said articles included therein and suitably numbered.

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Inspection of Schools and Educational Establishments.

53 Inspection of educational establishments.

- (1) ; It shall be the duty of the Secretary of State to cause inspection to be made of every-educational establishment being a school or junior college at such intervals as appear to him to be appropriate, and to cause a special inspection of any such school or junior college to be made whenever he considers such an inspection to be desirable, and he may from time to time cause inspection to be made of any other educational establishment, and such inspections shall be made by His Majesty's Inspectors or other persons appointed by the Secretary of State for the purpose.
- (2) It shall be no part of the duty of a person authorised under this section to make an inspection of any educational establishment, to inquire into instruction in religious subjects given therein or to examine any pupil in religious knowledge or in any religious subject or book.
- (3) If any person obstructs any person authorised to make an inspection in pursuance 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 fine and such imprisonment.
- (4) Any provision in a scheme under the Educational Endowments (Scotland) Act, 1882, or the Educational Endowments (Scotland) Acts, 1928 to 1935, regarding the inspection of any educational establishment or the cost of such inspection shall cease to have effect.

54 Inspection of schools on request of managers.

Where the managers of a school other than a public school apply to the Secretary of State for an inspection of the school with a view to ascertaining its general efficiency or the efficiency of the instruction in any specified subject, and undertake to pay towards the expenses of such inspection such sum as the Secretary of State may fix, it shall be lawful for the Secretary of State to cause the school to be inspected either by one or more of His Majesty's Inspectors or by such other persons as the Secretary of State may appoint for the purpose.

Supplementary Provisions as to Grants.

55 Payment of grants to be subject" to conditions.

- (1) The Secretary of State may by regulations make 'provision that any payment which he is required or authorised to make by or under the Education Acts shall be subject to such conditions as may be prescribed in the regulations, and that education authorities and other persons to whom such payments have been made shall comply with such requirements as may be specified in the regulations. The said regulations may include codes relating to the conduct of schools, junior colleges and other educational establishments and the education to be provided therein.
- (2) Where the Secretary of State is satisfied that the persons to whom any grant is payable under the Education Acts are, by reason of the provisions of any trust deed or other instrument, unable to fulfil any condition or comply with any requirement

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imposed 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 the said persons 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.

- (3) Nothing in the Education Acts shall affect any grants in aid of university education payable out of moneys provided by Parliament otherwise than in accordance with the provisions of the Education Acts.

56 Provision for certain payments out of Education (Scotland) Fund for certain purposes.

Notwithstanding anything in section sixteen of the Act of 1908 or subsection (2) of section twenty-one of the Act of 1918, the Secretary of State may by regulations make provision for payment out of the " Education (Scotland) Fund—

- (a) for the purposes of promoting the progressive development of education and educational establishments and of promoting educational research, of such sums as he may think necessary;
- (b) for the purpose of enabling pupils over school age to take advantage without hardship to themselves or their parents of any educational facilities available to them, of sums by way of scholarships, bursaries and other allowances ;
- (c) of grants in respect of any residential institution not under the management of an education authority which is shown to the satisfaction of the Secretary of State to be either—
 - (i) a special school attended largely by pupils whose parents or guardians are resident outside the education area in which the school is situated, or
 - (ii) an orphanage required for the proper education of pupils destitute of efficient guardianship.

Miscellaneous Powers of Secretary of State.

57 Powers of Secretary of State as to medical examination and inspection.

- (1) The Secretary of State may make regulations as to the conduct of medical examinations and medical inspections for the purposes of this Act. Such regulations may, in particular, prescribe the special qualifications or experience to be possessed by the medical practitioners by whom any class of medical examinations may be conducted, by the persons who may assist in the conduct of such examinations, and by the medical practitioners by or under whose directions any class of medical inspections may be conducted.
- (2) Every education authority shall furnish to the Secretary of State 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 examination, inspection, supervision and treatment ; and the Secretary of State 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.
- (3) Where any question is to be decided by the Secretary of State under the Education Acts or under any rule, regulation or order made thereunder, then, if in the opinion of the Secretary of State the medical examination of any pupil would assist the determination

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of the question, the Secretary of State may by notice in writing served on the parent of that pupil, if the pupil is enrolled at a school, or, if that pupil is enrolled at a junior college or other educational establishment, upon him, require the parent to submit him, or require him to submit himself, as the case may be, for such examination ; 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.

58 Local inquiries.

The Secretary of State may cause a local inquiry to be held for the purpose of the exercise of any of his functions under the Education Acts, and the provisions of the Second Schedule to this Act shall have effect with regard to any such inquiry.

59 Approval and carrying out of schemes.

- (1) The Secretary of State may, after considering any representations made to him on the subject and the report of any local inquiry which may have been held under the last foregoing section, approve, either as submitted or with such modifications and amendments as he thinks proper, any scheme or revised scheme or modification of an existing scheme (in this section referred to as " the scheme ") submitted to him under the Education Acts ; and thereupon it shall be the duty of the education authority to carry the scheme into effect as so approved.
- (2) If an education authority inform the Secretary of State that they are aggrieved by his approval with modifications or amendments of the scheme, the Secretary of State shall cause the scheme as so approved to be laid before Parliament as soon as may be thereafter together with the report of any local inquiry which may have been held under the last foregoing section. If either House of Parliament within the period of forty days beginning with the day on which the scheme is laid before it resolves that the approval of the scheme be annulled, the scheme as so approved shall cease to have effect, but without prejudice to anything previously done thereunder or to the submission and approval with or without modifications and amendments of any new scheme, revised scheme or modification of an existing scheme.
- (3) 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.

60 Powers of Secretary of State to enforce duty of authorities and other persons.

If the Secretary of State is satisfied, either on complaint by any person interested or otherwise, that an education authority, the managers of a school or educational establishment, or other persons have failed to discharge any duty imposed on them by or for the purposes of the Education Acts, the Secretary of State may make an order declaring them to be in default in respect of that duty and requiring them before a date stated in the order to discharge that duty. If by the said date the education authority, managers or other persons have not discharged the duty, one or other of the following steps may be taken to secure the discharge thereof—

- (a) the Secretary of State may make such arrangements as he thinks fit for the discharge of the duty, and all expenses incurred by the Secretary of State in so doing shall be recoverable as a debt due by the authority, managers or other persons to the Secretary of State ; or

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- (b) the Court of Session may, on the application of the Lord Advocate, order specific performance of the duty.

Miscellaneous Administrative Provisions.

61 Revocation and variation of orders and directions.

Any rule, regulation or order made or direction given by the Secretary of State or an education authority under the provisions of the Education Acts may be varied or revoked by a further rule, regulation or order made or direction given by the Secretary of State or that authority, as the case may be :

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

62 Regulations to be laid before Parliament.

- (1) The Secretary of State shall, not less than forty days before making regulations under the Education Acts, cause a draft of the regulations to be published and send a copy thereof to every education authority, and shall have regard to any representations made by an education authority or by any person interested before he makes the regulations. The regulations may be made in the same form as in the published draft or in an amended form:

Provided that where the Secretary of State certifies that on account of urgency or any special reason any regulation ought to come into immediate operation, he may make such regulation come into operation immediately as a provisional regulation, but such regulation shall continue in force only until a regulation to the same effect has been made in accordance with the foregoing provisions.

- (2) All regulations made by the Secretary of State under the Education Acts 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.

- (3) A reference in any provision of the Education (Scotland) Acts, 1872 to 1942, to a minute by the Secretary of State shall be construed as a reference to regulations.

63 Certificates of birth.

- (1) Where the age of any person is required to be ascertained or proved for the purposes of the Education Acts or of any enactment relating to the employment of children or young persons, the registrar of births, deaths and marriages having the custody of the

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register of births 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 prescribed and upon payment of a fee of sixpence, supply that person with a copy of the entry certified under his hand,

- (2) Every registrar shall, upon being requested so to do, supply free of charge a form of - requisition for the purposes of this subsection.

64 Notices.

Any notice or other document required or authorised by the Education Acts to be served on or sent to any person may be served or sent—

- (a) by delivering it to him personally ; or
- (b) by leaving it for him at his dwelling-place or place of business with some person resident or employed therein, or, if he has no known dwelling-place or place of business, at any other place in which he may at the time be resident, or, in the case of a master of or seaman or person employed in any ship or vessel, in the hands of a person on board thereof and connected therewith, or in the case of a company, association, or incorporation, at their ordinary place of business in the hands of -a partner, director, secretary or other official thereof, or in the case of a body of trustees in the hand's of one of their number or of their known solicitor ; or
- (c) by sending it in a prepaid registered letter addressed to him at his dwelling-place or last known place of residence, or in the case of a company, association or incorporation at their ordinary place of business, or in the case of a body of trustees at the dwelling-place or last known place of residence of one of their number or at the office of their known solicitor.

65 Actuarial inquiry under 15 and 16 Geo. 5. c. 55.

The Secretary of State shall, as soon as may be after the passing of this Act and thereafter at intervals of seven years, cause an actuarial inquiry to be held for the purpose mentioned in section seven of the Act of 1925 (which section relates to actuarial inquiries with regard to the Education (Scotland) (Superannuation) Acts, 1919 to 1939) ; and that section shall have effect, and shall be deemed always to have had effect, as if the words " and at the expiration of every subsequent period of seven years " were omitted therefrom.