



# Education Act 1944

## 1944 CHAPTER 31 7 and 8 Geo 6

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

### Modifications etc. (not altering text)

- C1** Act to be construed as one with 1993 c. 35 (27.7.1993) by virtue of 1993 c. 35, **s. 305(3)**
- C2** Act explained (1.1.1994) by 1993 c. 35, **s. 156(1)(4)**; S.I. 1993/3106, art. 4, **Sch. 1**
- C3** Act explained (6.5.1992, 30.9.1992, 1.4.1993 and 1.8.1993 for specified purposes) by **Further and Higher Education Act 1992 (c. 13), ss.1(6), 14 and 62(6)**; S.I. 1992/831, art.2, **Schs. 1-3**
- C4** Functions of Secretary of State for Education and Science, in relation to Wales, now exercisable (with exceptions) by Secretary of State for Wales: S.I. 1970/1536, **arts. 2(1)(3)(4), 3(1), 5** and S.I. 1978/274, **art. 2(1)(2)(4)(5)(6)**
- C5** Act amended by **Education Act 1973 (c. 16), ss. 1(2), 2(9)**, **Sex Discrimination Act 1975 (c. 65), ss. 23(1), 28** and **Race Relation Act 1976 (c. 74), s. 18(1)**; excluded by **Education Act 1964 (c. 82), s. 1(3)**
- C6** Act amended by **Local Government Act 1985 (c. 51, SIF 81:1), s. 18(2)**
- C7** Act amended by **Education Reform Act 1988 (c. 40, SIF 41:1), ss. 163(1), 231(7), 234(1), 235(6)**
- C8** Act modified by **Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 236(2)(a)**  
Act modified (1.4.1993) by S.I. 1993/563, **art. 2**  
Act modified (27.7.1993) by 1993 c. 35, **s. 303(3)**
- C9** Act applied (Canterbury and York) (1.8.1991) by **Diocesan Boards of Education Measure 1991 (No. 2, SIF 41:1), s. 7(3)**; Archbishops' Instrument made 26.7.1991
- C10** Definitions applied (22.8.1991) by **School Teacher's Pay and Conditions Act 1991 (c. 49, SIF 41:1), s. 5(1)**; S.I. 1991/1874, **art.2**
- C11** By **Criminal Justice Act 1991 (c. 53, SIF 39:1), S. 10(1), Sch. 12 para.23**; S.I. 1991/2208, art. 2(1), **Sch. 1** (14.10.1991) that in relation to any time before the commencement of s. 70 of that 1991 Act (which came into force on 1.10.1992 by S.I. 1992/333, art. 2(2), **Sch. 2**) references in any enactment amended by that 1991 Act, to youth courts shall be construed as references to juvenile courts.

### Commencement Information

- I1** Act wholly in force at Royal Assent.

*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

**PART I**

**CENTRAL ADMINISTRATION**

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

<sup>F1</sup>(1) .....

[<sup>F2</sup>(2) The Secretary of State for Education and Science shall for all purposes be a corporation sole under the name of Secretary of State for Education and Science.]

(3) ..... <sup>F3</sup>

**Textual Amendments**

- F1** S. 1(1) repealed (1.10.1993) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 4, **Sch. 21 Pt. II**; S.I. 1993/1975, art. 9, **Sch. 1**
- F2** Words and s. 1(2) substituted by S.I. 1964/490, **Sch. Pt. I**
- F3** S. 1(3)(4) repealed by S.I. 1964/490, **Sch. Pt. II**

**Modifications etc. (not altering text)**

- C12** Unreliable marginal note.

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

(1) All property which, immediately before the date declared by His Majesty in Council to be the date on which the first appointment under this Act of a Minister of Education took effect, was held by the Board of Education constituted under the <sup>M1</sup>Board of Education Act 1899 and all functions exercisable by that Board or the President thereof immediately before that date, and all rights and liabilities, whether vested or contingent, to which that Board or the President thereof were entitled or subject immediately before that date, shall, by virtue of this Act, be transferred to the Minister; and, except where the context otherwise requires, references in any enactment or other document to the Board of Education, the President of the Board of Education, the Education Department, or the Department of Science and Art shall be construed as references to the Minister, or, where the case so requires, as references to the Ministry of Education.

(2) ..... <sup>F4</sup>

**Textual Amendments**

- F4** S. 2(2) repealed by Education (Miscellaneous Provisions) Act 1948 (c. 40), **Sch. 2**

**Modifications etc. (not altering text)**

- C13** S. 2(1) amended by S.I. 1964/490, **art. 3(2)**

**Marginal Citations**

- M1** 1899 c. 33.

*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

**3 †Seal and acts of Minister.**

- (1) [<sup>F5</sup>The Secretary of State for Education and Science] shall have an official seal which shall be authenticated by the signature of [<sup>F5</sup>the Secretary of State for Education and Science] or of a secretary to [<sup>F5</sup>the Department of the Secretary of State] or of any person authorised by [<sup>F5</sup>the Secretary of State for the Education and Science] to authenticate the seal.
- (2) The seal of [<sup>F5</sup>the Secretary of State for Education and Science] shall be officially and judicially noticed, and every document purporting to be an instrument made or issued by [<sup>F5</sup>the Secretary of State for Education and Science] and either to be sealed with the seal of [<sup>F5</sup>the Secretary of State for Education and Science] authenticated in the manner provided by this section, or to be signed by a secretary to [<sup>F5</sup>the Department of the Secretary of State] or by any other officer of [<sup>F5</sup>the Department of the Secretary of State] authorised to sign it, shall in any legal proceedings be deemed to be so made or issued without further proof, unless the contrary is shown.
- (3) A certificate signed by [<sup>F5</sup>the Secretary of State for Education and Science] certifying that any instrument purporting to be made or issued by him was so made or issued shall be conclusive evidence of the fact certified.
- (4) ..... <sup>F6</sup>

**Textual Amendments**

**F5** Words substituted by [S.I. 1964/490, Sch. Pt. I](#)

**F6** [S. 3\(4\)](#) repealed except in relation to documents issued before 1.4.1964 by [S.I.1964/490, Sch. Pt. II](#)

**Modifications etc. (not altering text)**

**C14** Unreliable marginal note.

**4** ..... <sup>F7</sup>

**Textual Amendments**

**F7** [S. 4](#) repealed by [Education \(No.2\) Act 1986 \(c. 61, SIF 41:1\)](#), ss. 59, 67(6), [Sch. 6](#)

**5** ..... <sup>F8</sup>

**Textual Amendments**

**F8** [S. 5](#) repealed by [Education \(No.2\) Act 1986 \(c. 61, SIF 41:1\)](#), ss. 60(1), 67(6), [Sch. 6](#)

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## PART II

### THE STATUTORY SYSTEM OF EDUCATION

#### LOCAL ADMINISTRATION

#### 6 Local education authorities.

- (1) <sup>F9</sup> . . . , the local education authority for each county shall be the council of the county, and the local education authority for each county borough shall be the council of the county borough.
- <sup>F10</sup>(2) . . . . .
- (3) All property which immediately before the date of the commencement of this Part of this Act was held by the council of any county district solely or mainly for the purposes of any functions exercisable by them under the Education Acts 1921 to 1939, and all rights and liabilities, whether vested or contingent, to which any such council were entitled or subject immediately before the said date by reason of the exercise of such functions shall, save as may be otherwise directed by the Minister under the powers conferred on him by this Act, be transferred by virtue of this section to the local education authority for the county in which the county district is situated.
- (4) All officers who immediately before the said date were employed by the council of any county district solely or mainly for the purposes of any such functions as aforesaid shall by virtue of this section be transferred to and become officers of the local education authority for the county in which the county district is situated, and shall be employed by that authority upon the terms and conditions upon which they were employed by the council of the county district immediately before that date.

#### Textual Amendments

**F9** Words in s. 6(1) repealed (1.10.1993) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 5, **Sch. 21 Pt. II**, S.I. 1993/1975, art. 9, Sch. 1

**F10** S. 6(2) repealed (1.10.1993) by 1993 c. 35, s. 307(3), **Sch. 21 Pt. II**; S.I. 1993/1975, art. 9, **Sch. 1**

#### Modifications etc. (not altering text)

**C15** S. 6(1) amended by London Government Act 1963 (c. 33), s. 30(1) and Local Government Act 1972 (c. 70), s. 192(1)

### THE THREE STAGES OF THE SYSTEM

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

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

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*Changes to legislation:* There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)

**Modifications etc. (not altering text)**

**C16** S. 7 excluded by [Education Act 1964 \(c. 82\), s. 1\(3\)](#)

**C17** S. 7 restricted (1.4.1993) by [Further and Higher Education Act 1992 \(c. 13\), s. 93\(1\), Sch. 8 Pt. I, para.2; S.I. 1992/831, art. 2, Sch. 3](#)

**PRIMARY AND SECONDARY EDUCATION**

*Provision and Maintenance of Primary and Secondary Schools*

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

(1) It shall be the duty of every local education authority to secure that there shall be available for their area sufficient schools—

(a) for providing [<sup>F11</sup>primary education, that is to say, full-time education suitable to the requirements of junior pupils who have not attained the age of ten years and six months, and full-time education suitable to the requirements of junior pupils who have attained that age and whom it is expedient to educate together with junior pupils who have not attained that age]; and

[<sup>F12</sup>(b) for providing full-time education suitable to the requirements of pupils of compulsory school age, being either senior pupils or junior pupils who have attained the age of ten years and six months and whom it is expedient to educate together with senior pupils of compulsory school age.]

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

[<sup>F13</sup>(1A) A local education authority shall have power to secure the provision for their area of full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of nineteen years, including provision for persons from other areas.]

(2) In [<sup>F14</sup>exercising their functions] under this section, a local education authority shall, in particular, have regard—

(a) to the need for securing that primary and secondary education are provided in separate schools;

(b) .....<sup>F15</sup>

[<sup>F16</sup>(c) to the need for securing that special educational provision is made for pupils who have special educational needs; and]

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

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

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F17(3) .....

#### Textual Amendments

- F11** Words substituted by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\), s. 3\(2\)](#)
- F12** [S. 8\(1\)\(b\)](#) substituted (1.4.1993) by [Further and Higher Education Act 1992 \(c. 13\), s. 10\(1\)](#); S.I. 1992/831, art.2, [Sch. 3](#)
- F13** [S. 8\(1A\)](#) inserted (1.4.1993) by [Further and Higher Education Act 1992 \(c. 13\), s. 10\(2\)](#); S.I. 1992/831, art. 2, [Sch. 3](#)
- F14** Words in [s. 8\(2\)](#) substituted (1.4.1993) by [Further and Higher Education Act 1992 \(c. 13\), s. 10\(3\)](#); S.I. 1992/831, art. 2, [Sch. 3](#)
- F15** [S. 8\(2\)\(b\)](#) repealed by [Education Act 1980 \(c. 20, SIF 41:1\), s. 38\(6\)](#), [Sch. 7](#)
- F16** [S. 8\(2\)\(c\)](#) substituted by [Education Act 1981 \(c. 60, SIF 41:1\), s. 2\(1\)](#)
- F17** [S. 8\(3\)](#) repealed (1.4.1993) by [Further and Higher Education Act 1992 \(c. 13\), s. 93, Sch. 8 Pt. I para. 3, Sch.9](#); S.I. 1992/831, art. 2, [Sch. 3](#)

#### Modifications etc. (not altering text)

- C18** [S. 8](#) restricted by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\), s. 4\(2\)](#)
- C19** [S. 8\(1\)](#) modified (1.4.1994) by [1993 c. 35, s. 12\(6\), 298\(8\), Sch. 2 Pt. III paras. 4, 5\(1\)](#)(with [Sch. 18](#) para. 12); S.I. 1994/507, art. 4(1), [Sch.2](#).
- C20** [S. 8\(1\)\(a\)](#) explained by [Education Act 1980 \(c. 20, SIF 41:1\), s. 24\(2\)](#)

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

- (1) For the purpose of fulfilling their [<sup>F18</sup>functions] under this Act, a local education authority shall have power to establish primary and secondary schools, to maintain such schools whether established by them or otherwise, and . . . <sup>F19</sup> to assist any such school which is not maintained by them.
- (2) Primary and secondary schools maintained by a local education authority, not being nursery schools or special schools, shall, if established by a local education authority or by a former authority, be known as county schools and, if established otherwise than by such an authority, be known as voluntary schools:  
Provided that any school which by virtue of any enactment repealed by this Act was to be deemed to be, or was to be treated as, a school provided by a former authority shall, notwithstanding that it was not in fact established by such an authority as aforesaid, be a county school.
- (3) Subject to the provisions hereinafter contained as to the discontinuance of voluntary schools, every school which immediately before the commencement of this Part of this Act was, within the meaning of the enactments repealed by this Act, a public elementary school provided otherwise than by a former authority shall, if it was then maintained by a former authority, be maintained as a voluntary school by the local education authority for the area in which the school is situated.
- (4) Primary schools which are used mainly for the purpose of providing education for children who have attained the age of two years but have not attained the age of five years shall be known as nursery schools.

F20(5) .....

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- (6) The powers conferred by subsection (1) of this section on local education authorities shall be construed as including power to establish maintain and assist schools outside as well as inside their areas.
- [<sup>F21</sup>(7) The powers conferred by subsection (1) of this section shall not extend to establishing a school to provide—
- (a) part-time education suitable to the requirements of persons of any age over compulsory school age; or
  - (b) full-time education suitable to the requirements of persons who have attained the age of nineteen years]

#### Textual Amendments

- F18** Word in s. 9(1) substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I, para. 4; S.I. 1992/831, art. 2, Sch. 3
- F19** Words repealed by virtue of Education Act 1980 (c. 20, SIF 41:1), s. 38(6), Sch. 7
- F20** S. 9(5) repealed (1.4.1994) by 1993 c. 35, ss. 303(4), 307(1)(3), Sch. 19 para. 6, Sch. 21 Pt. I; S.I. 1994/507, art. 4(1), Sch. 2 Appendix.
- F21** S. 9(7) added (1.8.1993) by Further and Higher Education Act 1992 (c. 13), s. 12(1); S.I. 1992/831, art. 2, Sch. 4

#### Modifications etc. (not altering text)

- C21** S. 9(2) amended (1.9.1994) by 1993 c. 35, ss. 298(5); S.I. 1994/2038, art. 3, Sch.2

## 10 Requirements as to school premises.

- (1) The [<sup>F22</sup>Secretary of State for Education and Science] shall make regulations prescribing the standards to which the premises of schools maintained by local education authorities [<sup>F23</sup>and of grant-maintained schools] are to conform, and such regulations may prescribe different standards for such descriptions of schools as may be specified in the regulations.
- (2) Subject as hereinafter provided, it shall be the duty of a local education authority to secure that the premises of every school maintained by them [<sup>F24</sup>or, in the case of a grant-maintained school, the duty of the governing body of the school to secure that the premises of the school] conform to the standards prescribed for schools of the description to which the school belongs:
- [<sup>F25</sup>Provided that, if the [<sup>F22</sup>Secretary of State for Education and Science] is satisfied with respect to any school—
- (a) that having regard to the nature of the existing site or to any existing buildings thereon or to other special circumstances affecting the school premises it would be unreasonable to require conformity with a requirement of the regulations as to any matter, or
  - (b) where the school is to have an additional or new site that, having regard to shortage of suitable sites it would be unreasonable to require conformity with a requirement of the regulations relating to sites, or
  - (c) where the school is to have additional buildings or is to be transferred to a new site, and existing buildings not theretofore part of the school premises, or temporary buildings, are to be used for that purpose, that [<sup>F26</sup>having regard to the need to control public expenditure in the interests of the national economy]



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it would be unreasonable to require conformity with a requirement of the regulations relating to buildings,

he may give a direction that, notwithstanding that that requirement is not satisfied, the school premises shall, whilst the direction remains in force, be deemed to conform to the prescribed standards as respects matters with which the direction deals if such conditions, if any, as may be specified in the direction as respects those matters are observed.]

**Textual Amendments**

- F22 Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**
- F23 Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 1(2)**
- F24 Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 1(3)**
- F25 S. 10(2) proviso substituted retrospectively by Education (Miscellaneous Provisions) Act 1948 (c. 40), **s. 7(1)(3)**
- F26 Words substituted by Education Act 1968 (c. 17), **s. 3(3)**

**Modifications etc. (not altering text)**

- C22 S. 10 applied (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I.**
- C23 S. 10 applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I.**

11, 12. <sup>F27</sup> .....

**Textual Amendments**

- F27 Ss. 11, 12 repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), **Sch. 7**

13 <sup>F28</sup> .....

**Textual Amendments**

- F28 S. 13 repealed and superseded with saving by Education Act 1980 (c. 20, SIF 41:1), ss. 16(4)(5), 38(6), **Sch. 7**

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

(1) Subject to the provisions of this section, the . . . <sup>F29</sup> governors of a voluntary school shall not discontinue the school except after serving on the [<sup>F30</sup>Secretary of State for Education and Science] and on the local education authority by whom the school is maintained not less than two years' notice of their intention to do so:  
 [<sup>F31</sup>Provided that, except by leave of the [<sup>F30</sup>Secretary of State for Education and Science], no such notice as aforesaid shall be served by the . . . <sup>F29</sup> governors of any voluntary school in respect of the premises of which expenditure has been incurred otherwise than in connection with repairs by the [<sup>F30</sup>Secretary of State for Education and Science] or by any local education authority or former authority.



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If the [<sup>F30</sup>Secretary of State for Education and Science] grants such leave, he may impose such requirements as he thinks just—

- (a) in regard to the repayment of the whole or any part of the amount of the expenditure so incurred by the [<sup>F30</sup>Secretary of State for Education and Science];
  - (b) where the [<sup>F30</sup>Secretary of State for Education and Science] is satisfied that the local education authority will require for any purpose connected with education, any premises which are for the time being used for the purposes of the school in regard to the conveyance of those premises to the authority;
  - (c) in regard to the payment by the local education authority of such part of the value of any premises so conveyed as is just having regard to the extent to which those premises were provided otherwise than at the expense of the authority of a former authority;
  - (d) where any premises for the time being used for the purposes of the school are not to be so conveyed in regard to the payment to the authority by the . . . <sup>F29</sup> governors of the school of such part of the value of those premises as is just having regard to the extent to which they were provided at the expense of the authority or a former authority.]
- (2) No such notice as aforesaid shall be withdrawn except with the consent of the local education authority.
- (3) If, while any such notice as aforesaid is in force with respect to a voluntary school, the . . . <sup>F29</sup> governors of the school inform the local education authority that they are unable or unwilling to carry on the school until the expiration of the notice, the authority may conduct the school during the whole or any part of the unexpired period of the notice as if it were a county school, and shall be entitled to the use of the school premises, free of charge, for that purpose.
- (4) While any school is being conducted by a local education authority as a county school under the last foregoing subsection, the authority shall keep the school premises in good repair, and, for all purposes relating to the condition of the school premises, the occupation and use thereof, and the making of alterations thereto, any interest in the said premises which is held for the purposes of the school shall be deemed to be vested in the authority:  
Provided that the . . . <sup>F29</sup> governors of the school shall be entitled to the use of the school premises or any part thereof when not required for the purposes of the school to the like extent as if they had continued to carry on the school during the unexpired period of the notice.
- (5) Where any school is discontinued in accordance with the provisions of this section, the duty of the local education authority to maintain the school as a voluntary school shall be extinguished.

#### Textual Amendments

**F29** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), [Sch. 1 para. 1](#)

**F30** Words substituted by virtue of [S.I. 1964/490](#), [art. 3\(2\)\(a\)](#)

**F31** [S. 14\(1\)](#) proviso substituted retrospectively by [Education Act 1946 \(c. 50\)](#), s. 14(1), [Sch. 2 Pt. II](#)

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**Modifications etc. (not altering text)**

- C24** S. 14 modified by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 97(5), 98(8), 99(5), 212(5), 231(7), 235(6)
- C25** S. 14 excluded (30.9.1992) by Further and Higher Education Act 1992 (c. 13), s. 59(2)(a); S.I. 1992/831, art.2, Sch. 2
- C26** S. 14 modified (1.4.1994) by 1993 c. 35, s. 115(6) (with s. 155(11)); S. I. 1994/507, art.3(1).
- C27** S. 14 restricted (1.4.1994) by 1993 c. 35, s. 273(2); S.I. 1994/507, art. 4(1), Sch.2.

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

- (1) Voluntary schools shall be of three categories, that is to say, controlled schools, aided schools, and special agreement schools, and in schools of those several categories the management of the school, the secular instruction and religious education, and the appointment and dismissal of teachers, shall be regulated in accordance with the provisions hereinafter contained relating to those matters in controlled schools aided schools and special agreement schools respectively.
- (2) Upon application being duly made to him with respect to any voluntary school, the <sup>F32</sup>Secretary of State for Education and Science] may by order direct that the school shall be a controlled school an aided school or a special agreement school, and where he is satisfied that the . . . <sup>F33</sup> or governors of the school will be able and willing, with the assistance of <sup>F34</sup>grants under section 281 of the Education Act 1993], to defray the expenses which would fall to be borne by them under paragraph (a) of the next following subsection, the order shall direct that the school shall be an aided school, or, in the case of a school with respect to which a special agreement has been made under the Third Schedule to this Act, a special agreement school:  
 Provided that, subject to the provisions of this section, any application <sup>F35</sup>under this section] for an order directing that a school shall be an aided school or a special agreement school must be made, in the case of a school which became a voluntary school by virtue of subsection (3) of section nine of this Act not later than six months after the date on which the . . . <sup>F33</sup> governors of the school received notice of the approval of the development plan for the area, and in any other case not later than the submission to the <sup>F32</sup>Secretary of State for Education and Science] of the proposals that the school should be maintained by the local education authority as a voluntary school; and, subject to the transitional provisions of this Act as to the management and maintenance of voluntary schools, a voluntary school with respect to which no order is in force under this section <sup>F36</sup>or section 54 of the Education (No.2) Act 1986] directing that it shall be an aided school or a special agreement school shall be a controlled school.
- (3) The . . . <sup>F33</sup> governors of a controlled school shall not be responsible for any of the expenses of maintaining the school, but the following provisions shall have effect with respect to the maintenance of aided schools and special agreement schools:
- (a) the following expenses shall be payable by the . . . <sup>F33</sup> governors of the school, that is to say, the expenses of discharging any liability incurred by them or on their behalf or by or on behalf of any former . . . <sup>F33</sup> governors of the school or any trustees thereof <sup>F37</sup>in connection with the provision of premises or equipment for the purposes of the school]; any expenses incurred in effecting such alterations to the school buildings as may be required by the local education authority for the purpose of securing that the school premises should conform to the prescribed standards, and any expenses incurred in effecting

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repairs to the <sup>F37</sup> school buildings] not being repairs which are excluded from their responsibility by the following paragraph:

<sup>F38</sup>(b) the . . . <sup>F33</sup> governors of the school shall not be responsible for repairs to the interior of the school buildings, or for repairs to those buildings necessary in consequence of the use of the school premises, in pursuance of any direction or requirement of the authority, for purposes other than those of the school.]

(4) If at any time the . . . <sup>F33</sup> governors of an aided school or a special agreement school are unable or unwilling to carry out their obligations under paragraph (a) of the last foregoing subsection, it shall be their duty to apply to the <sup>F32</sup>Secretary of State for Education and Science] for an order revoking the order by virtue of which the school is an aided school or a special agreement school, and upon such an application being made to him the <sup>F32</sup>Secretary of State for Education and Science] shall revoke the order.

<sup>F39</sup>(4A) For the purposes of subsection (4) of this section, the governors of an aided school or a special agreement school shall not be regarded as unable to carry out their obligations under subsection (3)(a) of this section if they are able to carry them out with the benefit of assistance under section 282(1) of the Education Act 1993 (power of local education authority to give assistance).]

(5) If at any time the [Secretary of State for Education and Science] is satisfied that the grant made in respect of a special agreement school in pursuance of the special agreement made with respect to the school under this Act has been repaid to the local education authority by which the school is maintained, the [Secretary of State for Education and Science] shall, upon application being made to him for that purpose by the . . . <sup>F33</sup> governors of the school, by order revoke the order by virtue of which the school is a special agreement school and, if satisfied that the . . . <sup>F33</sup> governors of the school will be able and willing, with the assistance of <sup>F34</sup>grants under section 281 of the Education Act 1993], to defray the expenses which would fall to be borne by them under paragraph (a) of subsection (3) of this section, shall by order direct that the school shall be an aided school.

(6) . . . . . <sup>F40</sup>

#### Textual Amendments

- F32** Words substituted by virtue of S.I. 1964, art. 3(2)(a)
- F33** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), **Sch. 1 para. 1**
- F34** Words in s. 15(2) and (5) substituted (1.1.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para.7**; S.I. 1993/3106, art. 4, **Sch. 1**
- F35** Words inserted by [Education \(No.2\) Act 1986 \(c. 61, SIF 41:1\)](#), s. 67(4), **Sch. 4 para. 1(a)**
- F36** Words inserted by [Education \(No.2\) Act 1986 \(c. 61, SIF 41:1\)](#), s. 67(4), **Sch. 4 para. 1(b)**
- F37** Words substituted retrospectively by [Education Act 1946 \(c. 50\)](#), ss. 4(2), 14(1), **Sch. 2 Pt. II**
- F38** S. 15(3)(b) substituted retrospectively by [Education Act 1946 \(c. 50\)](#), ss. 4(2), 14(1), **Sch. 2 Pt. II**
- F39** S. 15(4A) inserted (1.10.1993) by 1993 c. 35, s. 282(2); S.I. 1993/1975, art. 9, **Sch. 1**
- F40** S. 15(6) repealed by [Education Act 1946 \(c. 50\)](#), **Sch. 2 Pt. II**

#### Modifications etc. (not altering text)

- C28** S. 15(4) extended by [Education Act 1946 \(c. 50\)](#), s. 2(5)

*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

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

- (1) Where the [<sup>F41</sup>Secretary of State for Education and Science] is satisfied that it is expedient that <sup>F42</sup>. . . any voluntary school should be transferred to a new site either because it is not reasonably practicable to make to the existing premises of the school the alterations necessary for securing that they should conform to the prescribed standards, or in consequence of any movement of population or of any action taken or proposed to be taken under the enactments relating to housing or to town and country planning, the [<sup>F41</sup>Secretary of State for Education and Science] may by order authorise the transfer of the school to the new site; and a voluntary school shall not be transferred to a new site <sup>F42</sup>. . . .
- (2) Where in connection with any proposals submitted to the [<sup>F41</sup>Secretary of State for Education and Science] under [<sup>F43</sup>section 13 of the Education Act 1980] it is claimed that any school or schools thereby proposed to be established should be maintained by the local education authority as a voluntary school in substitution for another school at the time being maintained by a local education authority as a voluntary school or for two or more such schools which is or are to be discontinued, then, if the [<sup>F41</sup>Secretary of State for Education and Science] is satisfied that the school or schools proposed to be established will be so maintained, he may, if he approves the proposals with or without modifications, by order direct that the school or schools proposed to be established shall be established in substitution for the school or schools to be discontinued, and where such an order is made, the provisions of this Act relating to the discontinuance of voluntary schools shall not apply with respect to the discontinuance of the school or schools to be discontinued.
- (3) Before making any order under this section, the [<sup>F41</sup>Secretary of State for Education and Science] shall consult any local education authority which will, in his opinion, be affected by the making of the order, and the . . . governors of any voluntary school which in his opinion will be so affected; and any such order may impose such conditions on any such local education authority or . . . governors and may contain such incidental and consequential provisions as the [<sup>F41</sup>Secretary of State for Education and Science] thinks fit.

**Textual Amendments**

**F41** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

**F42** Words in s. 16(1) repealed (1.10.1993) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 8, **Sch. 21 Pt.II**, S.I. 1993/1975, art. 9, Sch. 1

**F43** Words substituted by **Education Act 1980 (c. 20, SIF 41:1)**, s. 16(4), **Sch. 3 para. 1**

*Management of Primary Schools and Government of Secondary Schools*

17— <sup>F44</sup> . . . . .  
 21.

**Textual Amendments**

**F44** Ss. 17–21 repealed (with savings for s. 21(1), in S.I. 1987/344, **Sch. 3**, para. 1(4)(d)) by **Education (No.2) Act 1986 (c.61, SIF 41:1)**, s. 67(6), **Sch. 6 Pt. I**

*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

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

- (1) [<sup>F45</sup>The governing body] of a controlled school shall be entitled to determine the use to which the school premises or any part thereof shall be put on Saturdays, except when required to be used on Saturdays for the purposes of the school or for any purpose connected with education or with the welfare of the young for which the local education authority desire to provide accommodation on the premises or on that part thereof, and the <sup>F46</sup> . . . foundation governors shall be entitled to determine the use to which the school premises or any part thereof shall be put on Sundays, but save as aforesaid the local education authority may give such directions as to the occupation and use of the school premises of a controlled school as they think fit.
  - (2) If the local education authority desire to provide accommodation for any purpose connected with education or with the welfare of the young and are satisfied that there is no suitable alternative accommodation in their area for that purpose, they may direct [<sup>F45</sup>the governing body] of any aided school or special agreement school to provide free of charge accommodation for that purpose on the school premises or any part thereof on any week-day when not required for the purposes of the school, so, however, that [<sup>F45</sup>the governing body] shall not be directed to provide such accommodation on more than three days in any week.
  - (3) Subject to any directions given by a local education authority under the foregoing provisions of this section and to the requirements of any enactment other than this Act or the regulations made thereunder, the occupation and use of the school premises of any voluntary school shall be under the control of [<sup>F45</sup>the governing body] thereof [<sup>F47</sup>except to the extent provided by any transfer of control agreement into which they may enter under subsection (3A) of this section.].
- <sup>F48</sup>(3A) Subject to subsection (3B) below the governing body of any voluntary school shall have power to enter into a transfer of control agreement with any body or person if their purpose, or one of their purposes, in doing so is to promote community use of the whole or any part of the school premises; and—
- (a) they may do so notwithstanding that the trust deed for the school would, apart from this subsection, expressly or impliedly preclude them from entering into such an agreement with that body or person or from conferring control on the controlling body in question; but
  - (b) they shall not enter into a transfer of control agreement unless the use to which the premises may be put under the agreement is in all other respects in conformity with any such requirements, prohibitions or restrictions imposed by the trust deed as would obtain if control were being exercised by the governing body.
- (3B) The governing body shall not enter into any transfer of control agreement which makes or includes provision for the use of the whole or any part of the school premises during school hours unless they have first obtained the local education authority's consent to the agreement in so far as it makes such provision.
- (3C) A transfer of control agreement shall be taken to include the following terms, namely—
- (a) that the governing body shall notify the controlling body of—
    - (i) any directions given to the governing body by virtue of subsection (1) or (2) of this section; and

*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

- (ii) any determination made by the foundation governors under subsection (1) of this section;
  - (b) that the controlling body, in exercising control of the use of any premises subject to the agreement—
    - (i) shall do so in accordance with any directions or determinations from time to time notified to that body in pursuance of paragraph (a) of this subsection; and
    - (ii) shall have regard to the desirability of the premises being made available for community use; and
  - (c) that, if reasonable notice is given in writing by the governing body to the controlling body that such of the premises subject to the agreement as may be specified in the notice are reasonably required for use by or in connection with the school at such times as may be so specified, then—
    - (i) the use of the specified premises at those times shall be under the control of the governing body; and
    - (ii) accordingly, those premises may be used at those times by or in connection with the school for such purposes as may be specified in the notice,
 notwithstanding that their use at those times would, apart from this paragraph, be under the control of the controlling body.
- (3D) Where a transfer of control agreement makes express provision for the use of any school premises which are subject to the agreement to be occasionally under the control of the governing body, instead of the controlling body, in such circumstances, at such times or for such purposes as may be provided by or under the agreement, paragraph (c) of subsection (3C) above shall not have effect in relation to that agreement if, at the time of entering into it, the governing body were of the opinion that the express provision would be more favourable to the interests of the school than the term that would otherwise be included by virtue of that paragraph.
- (3E) Where the governing body enter into a transfer of control agreement, they shall so far as reasonably practicable secure that the controlling body exercises control in accordance with any such directions or determinations as are notified to that body in pursuance of subsection (3C)(a) of this section.]
- [<sup>F49</sup>(4) The local education authority may give directions to [<sup>F45</sup>the governing body] of any aided school as to the number and conditions of service of persons employed at the school for the purposes of the care and maintenance of the school premises.]
- [<sup>F50</sup>(5) Where the trust deed for a voluntary school provides for any person other than the governing body to be entitled to control the occupation and use of the school premises to any extent, then, if and to the extent that, disregarding any transfer of control agreement, the use of those premises is or would be under the control of such a person, this section shall have effect in relation to the school with the substitution for references to the governing body of references to that person.]
- [<sup>F51</sup>(6) In this section—
- “community use” means the use of school premises (when not required by or in connection with the school) by members of the local community;
  - “the controlling body” means the body or person (other than the governing body) which has control of the use of the whole or any part of the school premises under the transfer of control agreement in question;

*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

“school hours” means any time during a school session or during a break between sessions on the same day;

“school session”, in relation to any school, means a school session beginning and ending at such times as may from time to time be determined for that school in accordance with section 21 of the Education (No. 2) Act 1986; and

“transfer of control agreement” means an agreement which, subject to subsection (3C) of this section, provides for the use of so much of the school premises as may be specified in the agreement to be under the control, at such times as may be so specified, of such body or person as may be so specified.]

**Textual Amendments**

- F45** Words in s. 22(1)-(3)(4) substituted (1.1.1994) by 1993 c. 35, ss. 238(9), 239, Sch. 13 paras. 4(6), 6(4)(6), 7(4); S.I. 1993/3106, art. 4, **Sch. 1**
- F46** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 6**
- F47** Words in s. 22(3) added (1.1.1994) by 1993 c. 35, s. 238(9), Sch. 13 paras. 4(2), 6(4)(6), 7(4); S.I. 1993/3106, art. 4, **Sch.1**
- F48** S. 22(3A)-(3E) inserted (1.1.1994) by 1993 c. 35, ss. 238, 239, Sch. 13 paras. 4(3), 6(4)(6), 7(4); S. I. 1993/3106, art. 4, **Sch. 1**
- F49** S. 22(4) substituted with savings in S.I. 1987/344, **Sch. 3 para. 1(4)(c)** by Education (No.2) Act 1986 (c. 61, SIF 41:1), s. 67(4), **Sch. 4 para. 2**
- F50** S. 22(5) substituted (1.1.1994) by 1993 c. 35, ss. 238(9), 239, Sch. 13 paras. 4(4), 6(4)(6), 7(4); S.I. 1993/3106, art. 4, **Sch.1**
- F51** S. 22(6) inserted (1.1.1994) by 1993 c. 35, ss. 238(9), 239, Sch.13 paras. 4(5), 6(4)(6), 7(4); S.I. 1993/3106, art. 4, **Sch.1**

**Modifications etc. (not altering text)**

- C29** S. 22 extended (1.1.1994) by 1993 c. 35, ss. 238, 239, Sch. 13 paras. 6(2)(3)(4)(6), 7(4); S.I. 1993/3106, art. 4, **Sch.1**
- C30** S. 22(4) excluded by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 45(2)(a), 48, 231(7), 235(6), Sch. 4 paras. 1(2), 4
- C31** S. 22(6) modified (1.1.1994) by 1993 c. 35, ss. 238(9), 239, **Sch. 13 paras. 6(5)(6)**; S.I. 1993/3106, art. 4, **Sch.1**

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

23 <sup>F52</sup> .....

**Textual Amendments**

- F52** Ss. 23, 24(1) repealed (savings in S.I. 1987/344, **Sch. 3 para. 1(4)(d)**) by Education (No.2) Act 1986 (c. 61, SIF 41:1), s. 67(6), **Sch. 6 Pt. I**

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

(1) ..... <sup>F53</sup>



*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

(2) In every aided school the respective functions of the local education authority and of the . . . <sup>F54</sup> governors of the school with respect to the appointment of teachers, and, subject to the provisions hereinafter contained as to religious education, with respect to the dismissal of teachers, shall be regulated by the . . . <sup>F54</sup> or articles of government for the school:

Provided that the . . . <sup>F54</sup> articles of government for every aided school—

- (a) shall make provision for the appointment of the teachers by the . . . <sup>F54</sup> governors of the school, for enabling the local education authority to determine the number of teachers to be employed, and for enabling the authority, except for reasons for which the . . . <sup>F54</sup> governors are expressly empowered by this Act to dismiss teachers without such consent, to prohibit the dismissal of teachers without the consent of the authority and to require the dismissal of any teacher; and
- (b) may make such provision as may be agreed between the local education authority and the . . . <sup>F54</sup> governors of the school, or in default of such agreement as may be determined by the [<sup>F55</sup>Secretary of State for Education and Science], for enabling the authority to prohibit the appointment, without the consent of the authority, of teachers to be employed for giving secular instruction, and for enabling the authority to give directions as to the educational qualifications of the teachers to be so employed.

(3) . . . . . <sup>F56</sup>

**Textual Amendments**

**F53** Ss. 23, 24(1) repealed (savings in S.I. 1987/344, **Sch. 3 para. 1(4)(d)**) by Education (No.2) Act 1986 (c. 61, SIF 41:1), s. 67(6), **Sch. 6 Pt. I**

**F54** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 8**

**F55** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

**F56** S. 24(3) repealed by Sex Discrimination Act 1975 (c. 65), **s. 83(3)(b)**, Sch. 6

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**Modifications etc. (not altering text)**

**C32** S. 24 modified by S.I. 1989/1135, art. 3(1)(d), **Sch. 4**

*Religious Education in County and Voluntary Schools*

25 <sup>F57</sup> . . . . .

**Textual Amendments**

**F57** S. 25 repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. II**

[<sup>F58</sup>26 **Special provisions as to religious education in county schools.**

(1) In the case of a county school the provision for religious education for pupils at the school which is required by section 2(1)(a) of the Education Reform Act 1988 to be included in the school’s basic curriculum shall be provision for religious education in accordance with an agreed syllabus adopted for the school or for those pupils.

*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

- (2) No such syllabus shall provide for religious education to be given to pupils at such a school by means of any catechism or formulary which is distinctive of any particular religious denomination; but this provision is not to be taken as prohibiting provision in such a syllabus for the study of such catechisms or formularies.
- (3) Subsection (4) below applies where a county secondary school is so situated that arrangements cannot conveniently be made for the withdrawal of pupils from the school in accordance with section 9 of that Act to receive religious education elsewhere.
- (4) If in any such case the local education authority are satisfied—
  - (a) that the parents of pupils in attendance at the school desire them to receive religious education in the school in accordance with the tenets of a particular [F59 religion or] religious denomination; and
  - (b) that satisfactory arrangements have been made for the provision of such education to those pupils in the school, and for securing that the cost of providing such education to those pupils in the school will not fall upon the authority;

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

#### Textual Amendments

**F58** S. 26 substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), **ss. 9, 231(7), 235(6)** Sch. 1 para. 1

**F59** Words in s. 26(4)(a) inserted (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para. 9**; S.I. 1994/507, art. 4(1), **Sch.2**.

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

- (1) Where the parents of any pupils in attendance at a controlled school request that they may receive religious [F60 education] in accordance with the provisions of the trust deed relating to the school, or where provision for that purpose is not made by such a deed in accordance with the practice observed in the school before it became a controlled school, the foundation . . . F61 foundation governors shall, unless they are satisfied that owing to special circumstances it would be unreasonable so to do, make arrangements for securing that such religious [F60 education] is given to those pupils at the school during not more than two periods in each week.
- (2) Without prejudice to the duty to make such arrangements as aforesaid whatever the number of the teaching staff of the school, where the number of the teaching staff of a controlled school exceeds two the teaching staff shall include persons (hereinafter referred to as “reserved teachers”) selected for their fitness and competence to give such religious [F60 education] as is required to be given under such arrangements and specifically appointed to do so:  
Provided that the number of reserved teachers in any controlled school shall not exceed one-fifth of the number of the teaching staff of the school including the head teacher, so, however, that where the number of the teaching staff is not a multiple of five it shall be treated for the purposes of this subsection as if it were the next higher multiple thereof.

*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

- (3) The head teacher of a controlled school shall not, while holding that position, be a reserved teacher . . . <sup>F62</sup>.
- (4) Where the local education authority propose to appoint any person to be a reserved teacher in a controlled school, the authority shall consult the foundation . . . <sup>F61</sup> foundation governors of the school, and, unless the said . . . <sup>F61</sup> governors are satisfied as to that person's fitness and competence to give such religious [<sup>F60</sup>education] as is required in pursuance of such arrangements as aforesaid the authority shall not appoint that person to be a reserved teacher.
- (5) If the . . . <sup>F61</sup> foundation governors of a controlled school are of opinion that any reserved teacher has failed to give such religious [<sup>F60</sup>education] as aforesaid efficiently and suitably, they may require the authority to dismiss him from employment as a reserved teacher in the school.
- <sup>F63</sup>(6) In the case of a controlled school the provision for religious education for pupils at the school which is required by section 2(1)(a) of the Education Reform Act 1988 to be included in the school's basic curriculum shall be provision for religious education-
- (a) in accordance with any arrangements made under subsection (1) of this section; or
  - (b) subject to any such arrangements, in accordance with an agreed syllabus adopted for the school or for those pupils.]

#### Textual Amendments

- F60** Word substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\), ss. 9, 231\(7\), 235\(6\), Sch. 1 para. 2\(1\)](#)
- F61** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\), s. 1\(3\), Sch. 1 para. 9](#)
- F62** Words repealed (savings in [S.I. 1987/344, Sch. 3 para. 1\(4\)\(d\)](#)) by [Education \(No.2\) Act 1986 \(c. 61, SIF 41:1\), s. 67\(6\), Sch. 6 Pt. I](#)
- F63** [S. 27\(6\)](#) substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\) ss.9, 231\(7\), 235\(6\), Sch. 1 para. 2\(2\)](#)

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

- <sup>F64</sup>(1) In the case of an aided or special agreement school the provision for religious education for pupils at the school which is required by section 2(1)(a) of the Education Reform Act 1988 to be included in the school's basic curriculum shall be provision for religious education-
- (a) in accordance with any provision of the trust deed relating to the school or, where provision for that purpose is not made by such a deed, in accordance with the practice observed in the school before it became a voluntary school; or
  - (b) in accordance with any arrangements under this section.
- (1A) Subject to subsection (1C) of this section, the religious education given to pupils at such a school shall be under the control of the governors of the school.
- (1B) Where the parents of pupils in attendance at such a school—
- (a) desire them to receive religious education in accordance with any agreed syllabus adopted by the local education authority; and

*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

- (b) cannot with reasonable convenience cause those pupils to attend any school at which that syllabus is in use;
- then, unless the authority are satisfied that owing to any special circumstances it would be unreasonable to do so, arrangements shall be made for religious education in accordance with that syllabus to be given to those pupils in the school during the times set apart for the giving of religious education in the school in accordance with the provision for that purpose included in the school's basic curriculum by virtue of section 2(1)(a) of that Act.
- (1C) Those arrangements shall be made by the governors of the school, unless the local education authority are satisfied that the governors are unwilling to make the arrangements, in which case they shall be made by the authority.]
- (2) If a teacher appointed to give in an aided school religious [<sup>F65</sup>education], other than [<sup>F65</sup>education] in accordance with an agreed syllabus, fails to give such [<sup>F65</sup>education] efficiently and suitably, he may be dismissed on that ground by the . . . <sup>F66</sup> governors of the school without the consent of the local education authority.
- (3) Where the special agreement made with respect to any special agreement school provides for the employment of reserved teachers, the local education authority shall, when they propose to appoint any person to be such a teacher in the school, consult the . . . <sup>F67</sup> foundation governors of the school, and unless the said . . . <sup>F67</sup> governors are satisfied as to that person's fitness and competence to give such religious [<sup>F65</sup>education] as aforesaid, the authority shall not appoint that person to be such a teacher.
- (4) If the . . . <sup>F67</sup> foundation governors of a special agreement school are of opinion that any such reserved teacher as aforesaid has failed to give, efficiently and suitably, such religious [<sup>F65</sup>education] as he was appointed to give, they may require the authority to dismiss him from employment as a reserved teacher in the school.

#### Textual Amendments

- F64** S. 28(1)(1A)–(1C) substituted for s. 28(1) by Education Reform Act 1988 (c. 40, SIF 41:1), ss.9, 231(7), 235(6), **Sch. 1 para. 3(1)**
- F65** Word substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss.9, 231(7), 235(6), **Sch. 1 para. 3(2)**
- F66** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 9**
- F67** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 9**

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

- (1) The provisions of the Fifth Schedule to this Act shall have effect with respect to the preparation, adoption, and reconsideration, of an agreed syllabus of religious [<sup>F68</sup>education].
- (2) . . . . . <sup>F69</sup>

#### Textual Amendments

- F68** Word substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 9, 231(7), 235(6), **Sch. 1 para. 4(a)**
- F69** S. 29(2)–(4) repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss.9, 231(7), 235(6), 237(2), **Sch. 13 Pt. II**

*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

**Modifications etc. (not altering text)**

C33 S. 29(1) modified by S.I. 1989/46, Sch. 1

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

Subject as hereinafter provided, no person shall be disqualified by reason of his religious opinions, or of his attending or omitting to attend religious worship, from being a teacher in a county school or in any voluntary school, or from being otherwise employed for the purposes of such a school; and no teacher in any such school shall be required to give religious [F70 education] or receive any less emolument or be deprived of, or disqualified for, any promotion or other advantage by reason of the fact that he does or does not give religious [F70 education] or by reason of his religious opinions or of his attending or omitting to attend religious worship:

Provided that, save in so far as they require that a teacher shall not receive any less emolument or be deprived of, or disqualified for, any promotion or other advantage by reason of the fact that he gives religious [F70 education] or by reason of his religious opinions or of his attending religious worship, the provisions of this section shall not apply with respect to a teacher in an aided school or with respect to a reserved teacher in any controlled school or special agreement school.

**Textual Amendments**

F70 Word substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 9, 231(7), 235(6), Sch. 1 para. 4(b)

**Modifications etc. (not altering text)**

C34 S. 30 extended by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 88(5), 231(7), 235(6)

C35 S. 30 continued (1.4.1994) by 1993 c. 35, s. 144(4) (with s. 155(11)); S.I. 1994/507, art.3(1).

*Transitional Provisions as to County and Voluntary Schools*

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

- (1) . . . . . F71
- (2) Save as may be otherwise directed by the [F72 Secretary of State for Education and Science], every county school and voluntary school which immediately before the commencement of this Part of this Act was used for providing primary education shall be managed and conducted as a primary school, every such school which was used for providing secondary education shall be managed and conducted as a secondary school, and every such school which was used for providing primary and secondary education indiscriminately shall be managed and conducted as if it were a primary school.
- (3) If it appears to the [F72 Secretary of State for Education and Science] to be expedient that any county school or voluntary school should be managed and conducted otherwise than in accordance with the provisions of the last foregoing subsection, he may direct that the school be managed and conducted as a primary school or as a secondary school as the case may be:  
Provided that no such direction shall be given except after consultation with the local education authority and, in the case of a voluntary school, with the . . . F73 governors of the school.

*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

- (4) Where it appears to a local education authority that the process of securing that primary and secondary education shall be provided in separate schools can be accelerated by the giving of a direction under this section, it shall be the duty of the authority to apply to the <sup>F72</sup>Secretary of State for Education and Science] for such a direction.

**Textual Amendments**

- F71** Ss. 31(1), 32 repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), Sch. 7  
**F72** Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)  
**F73** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), Sch. 1 para. 1

**32** <sup>F74</sup> .....

**Textual Amendments**

- F74** Ss. 31(1), 32 repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), Sch. 7

**33, 34.** <sup>F75</sup> .....

**Textual Amendments**

- F75** Ss. 33, 34 repealed by Education Act 1981 (c. 60, SIF 41:1), s. 21, Sch. 4 (subject to a saving in S.I. 1983/7, Sch. para. 4)

*Compulsory Attendance at Primary and Secondary Schools*

**35 Compulsory school age.**

In this Act the expression “compulsory school age” means any age between five years and <sup>F76</sup>sixteen] years, and accordingly a person shall be deemed to be of compulsory school age if he has attained the age of five years and has not attained the age of <sup>F76</sup>sixteen] years and a person shall be deemed to be over compulsory school age as soon as he has attained the age of <sup>F76</sup>sixteen] years:

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

*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

**Textual Amendments**

**F76** Word substituted by virtue of [S.I. 1972/444, art. 2](#)

**Modifications etc. (not altering text)**

**C36** [S. 35](#) amended by [Education Act 1962 \(c. 12\), s. 9](#)

**C37** The proviso in s. 35 which is spent is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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

It shall be the duty of the parent of every child of compulsory school age to cause him to receive efficient full-time education suitable to his age, ability, and aptitude [<sup>F77</sup>and to any special educational needs he may have], either by regular attendance at school or otherwise.

**Textual Amendments**

**F77** Words inserted by [Education Act 1981 \(c. 60, SIF 41:1\), s. 17](#)

**Modifications etc. (not altering text)**

**C38** [S. 36](#) excluded by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\), s. 4\(2\)](#)

[S. 36](#) excluded (1.10.1993) by [1993 c. 35, s.203](#); [S.I. 1993/1975, art. 9, Sch. 1](#)

**C39** [S. 36](#) excluded (*prosp.*) by [Children Act 1989 \(c. 41, SIF 20\), ss. 30\(1\), 36\(10\), 108\(2\)\(6\), Sch. 3 Part III para. 13\(1\), Sch. 14 para. 1\(1\)](#)

<sup>F78</sup>**37** .....

**Textual Amendments**

**F78** [S. 37](#) repealed (1.10.1993) by [1993 c. 35, ss. 303\(4\), 307\(1\)\(3\), Sch. 19 para. 11, Sch. 21 Pt.I; S.I. 1993/1975, art. 9, Sch.1](#)

**38** <sup>F79</sup> .....

**Textual Amendments**

**F79** [S. 38](#) repealed by [Education Act 1981 \(c. 60, SIF 41:1\), s. 21, Sch. 4](#)

<sup>F80</sup>**39** .....



*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

**Textual Amendments**

**F80** S. 39 repealed (1.10.1993) by 1993 c. 35, ss. 303(4), 307(1)(3), Sch. 19 para. 11, **Sch. 21 Pt. I**; S.I. 1993/1975, art. 9, **Sch. 1**

**F81** **40** .....

**Textual Amendments**

**F81** S. 40 repealed (1.10.1993) by 1993 c. 35, ss. 303(4), 307(1)(3), Sch. 19 para. 11, **Sch. 21 Pt. I**; S.I. 1993/1975, art. 9, **Sch. 1**

**40A** **F82** .....

**Textual Amendments**

**F82** S. 40A repealed by **Children and Young Persons Act 1969 (c. 54)**, s. 72(4), **Sch. 6**

*Further Education*

**[F83 41 Functions of local education authorities in respect of further education.**

- (1) It shall be the duty of every local education authority to secure the provision for their area of adequate facilities for further education.
- (2) Subsection (1) above does not apply to education to which section 2(1) or 3(1) of the Further and Higher Education Act 1992 applies, but in respect of education to which section 3(1) of that Act applies a local education authority may—
  - (a) secure the provision for their area of such facilities as appear to them to be appropriate for meeting the needs of the population of their area; and
  - (b) do anything which appears to them to be necessary or expedient for the purposes of or in connection with such provision.
- (3) Subject to subsection (4) below and section 14(1) to (4) of the Further and Higher Education Act 1992, in this Act “further education” means—
  - (a) full-time and part-time education suitable to the requirements of persons over compulsory school age (including vocational, social, physical and recreational training); and
  - (b) organized leisure-time occupation provided in connection with the provision of such education.
- (4) In this Act “further education” does not include higher education or secondary education.
- (5) In subsection (3)(b) above “organized leisure time occupation” means leisure-time occupation, in such organized cultural training and recreative activities as are suited to their requirements, for any persons over compulsory school age who are able and willing to profit by facilities provided for that purpose.

*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

- (6) A local education authority may secure the provision of further education for persons from other areas.
- (7) In exercising their functions under this section a local education authority shall have regard to any educational facilities provided by institutions within the higher education sector or the further education sector, and other bodies, which are provided for, or available for use by persons in, their area.
- (8) In exercising their functions under this section a local education authority shall also have regard to the requirements of persons over compulsory school age who have learning difficulties.
- (9) Subject to subsection (10) below, for the purposes of subsection (8) above a person has a “learning difficulty” if—
  - (a) he has a significantly greater difficulty in learning than the majority of persons of his age; or
  - (b) he has a disability which either prevents or hinders him from making use of facilities of a kind generally provided in pursuance of the duty under subsection (1) above for persons of his age.
- (10) A person is not to be taken as having a learning difficulty solely because the language (or form of the language) in which he is, or will be, taught is different from a language (or form of a language) which has at any time been spoken in his home.
- (11) A local education authority may do anything which appears to them to be necessary or expedient for the purposes of or in connection with the exercise of their functions under this section.]

**Textual Amendments**  
**F83** S. 41 substituted (1.4.1993) by virtue of [Further and Higher Education Act 1992 \(c. 13\), s.11](#); [S.I. 1992/831, art.2, Sch. 3](#)

42 F84 .....

**Textual Amendments**  
**F84** S. 42 repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 120(5)(a), 231(7), 235(6), 236(2), 237(2), [Sch. 13 Pt. II](#)

43— F85 .....  
46.

**Textual Amendments**  
**F85** S. 43–46 repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 120(5)(b), 231(7), 235(6), 236(2), [Sch. 13 Pt. II](#)

*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

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

Until the date upon which a scheme of further education is first approved by the Minister for the area of a local education authority under the foregoing provisions of this Part of this Act, the authority shall, unless the Minister otherwise directs, continue to maintain or assist any school or other educational institution which, immediately before the date of the commencement of this Part of this Act was maintained or assisted by them or by the council of any county district within their area, under the powers conferred by section seventy of the <sup>M2</sup>Education Act 1921, not being a school or institution which under this Act is maintained or assisted as a secondary school, and may, in accordance with arrangements approved by the Minister, provide such additional facilities for further education, other than education at county colleges, as appear to the authority to be expedient for meeting the needs of their area.

##### Modifications etc. (not altering text)

**C40** Functions of the Minister now exercisable by the Secretary of State for Education and Science: [S.I. 1964/490, art. 2\(1\)](#)

##### Marginal Citations

**M2** 1921 c. 51.

### SUPPLEMENTARY PROVISIONS AS TO PRIMARY, SECONDARY AND FURTHER EDUCATION

#### *Ancillary Services*

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

(1) ..... <sup>F86</sup>

(4) It shall be the duty of every local education authority [<sup>F87</sup>or, in the case of pupils at a grant-maintained school, the duty of the governing body of the school] to make arrangements for encouraging and assisting pupils to take advantage of [<sup>F88</sup>the provision for medical and dental inspection and treatment made for them in pursuance of [<sup>F89</sup>section 5(1) of the <sup>M3</sup>National Health Service Act 1977 or paragraph 1(a)(i) of Schedule 1 to that Act]]:

Provided that if the parent of any pupil gives to the authority [<sup>F90</sup>or, as the case may be, to the governing body] notice that he objects to the pupil availing himself of any [<sup>F88</sup>of the provision so made], the pupil shall not be encouraged or assisted so to do.

(5) ..... <sup>F86</sup>

##### Textual Amendments

**F86** S. 48(1)–(3), (5) repealed by [National Health Service Reorganisation Act 1973 \(c. 32\), Sch. 5](#)

**F87** Words inserted by [Education Reform Act 1988 \(c. 40, SIF 41:1\), ss. 231\(7\), 235\(6\), 237\(1\), Sch. 12 para. 2\(a\)](#)

**F88** Words substituted by [National Health Service Reorganisation Act 1973 \(c. 32\), Sch. 4 para. 7](#)

**F89** Words substituted by [National Health Service Act 1977 \(c. 49\), Sch. 15 para. 2](#)

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*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

**F90** Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 2(b)**

**Modifications etc. (not altering text)**

**C41** S. 48(4) applied (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I**.

**C42** S. 48(4) applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I**.

**Marginal Citations**

**M3** 1977 c. 49.

**49** <sup>F91</sup> .....

**Textual Amendments**

**F91** S. 49 repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), **Sch. 7**

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

- (1) Where the local education authority are satisfied with respect to any [<sup>F92</sup>pupil] that primary or secondary education suitable to his age ability and aptitude [<sup>F93</sup>and to any special educational needs he may have] can best be provided <sup>F94</sup>. . . for him at any particular county school, voluntary school [<sup>F95</sup>, grant-maintained school], or special school, . . . <sup>F96</sup> but that such education cannot be so provided unless boarding accommodation is provided for him otherwise than at the school . . . <sup>F96</sup> [<sup>F97</sup>and where a local education authority are satisfied, with respect to a pupil [<sup>F98</sup>having special educational needs], that provision for him of board and lodging is necessary for enabling him to receive the required special educational [<sup>F98</sup>provision],] the authority may provide such board and lodging for him under such arrangements as they think fit.
- (2) In making any arrangements under this section for any [<sup>F92</sup>pupil] . . . <sup>F96</sup>, a local education authority shall, so far as practicable, give effect to the wishes of the parent of the [<sup>F92</sup>pupil] . . . <sup>F96</sup>, with respect to the [<sup>F99</sup>religion or]religious denomination of the person with whom he will reside.

**Textual Amendments**

**F92** Words substituted by Education Act 1946 (c. 50), **Sch. 2 Pt. I**

**F93** Words inserted by Education Act 1981 (c. 60, SIF 41:1), s. 21, **Sch. 3 para. 3(a)**

**F94** Words in s. 50(1) repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 12(a), **Sch. 21 Pt. II**; S.I. 1994/507, art. 4(1), **Sch. 2 Appendix**.

**F95** Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), s. 100(2)

**F96** Words repealed by Education Reform Act 1988 (c. 40, SIF 41), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. II**

**F97** Words inserted by Education (Miscellaneous Provisions) Act 1948 (c. 40), **Sch. 1 Pt. I**

**F98** Word(s) substituted by Education Act 1981 (c. 60, SIF 41:1), s. 21, **Sch. 3 para. 3(b)(c)**

**F99** Words in s. 50(2) inserted (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para. 12(b)**; S.I. 1994/507, art. 4(1), **Sch.2**.

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**Modifications etc. (not altering text)**

**C43** S. 50 excluded (1.4.1994) by 1993 c. 35, ss. 12(6), 298, Sch. 2 Pt. III paras. 4, **13(1)(a)** (with Sch. 18 para. 12); S.I. 1994/507, art. 4(1), **Sch.2**.

**51** <sup>F100</sup> .....

**Textual Amendments**

**F100** Ss. 51, 53(3) repealed by Education (Miscellaneous Provisions) Act 1948 (c. 40), **Sch. 2**

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

(1) Where a local education authority have, under the powers conferred by the foregoing provisions of this Act, provided a pupil with board and lodging otherwise than at a boarding school . . . <sup>F101</sup> . . . <sup>F102</sup> the authority shall require the parent to pay to the authority in respect thereof such sums, if any, as in the opinion of the authority he is able without financial hardship to pay:

Provided that—

- (a) where the board and lodging provided for the pupil were so provided under arrangements made by the local education authority on the ground that in their opinion education suitable to his age ability and aptitude [<sup>F103</sup>or special educational needs] could not otherwise be provided <sup>F104</sup> . . . no sum shall be recoverable in respect thereof under this section . . . <sup>F101</sup>
- (b) . . . <sup>F101</sup>

(2) The sums recoverable under this section shall not exceed the cost to the local education authority of providing the board and lodging . . . <sup>F102</sup>

(3) Any sums payable by virtue of this section may be recovered summarily as a civil debt.

**Textual Amendments**

**F101** Words repealed by Education Reform Act 1988 (c. 40, SIF 41), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. II**

**F102** Words repealed by Education (Miscellaneous Provisions) Act 1948 (c. 40), **Sch. 2**

**F103** Words inserted by Education Act 1981 (c. 60, SIF 41:1), s. 21, **Sch. 3 para. 4**

**F104** Words in s. 52(1) repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 13, **Sch. 21 Pt. II**; S.I. 1994/507, art. 4(1), **Sch. 2**Appendix.

**Modifications etc. (not altering text)**

**C44** Unreliable marginal note.

**C45** S. 52 excluded (1.4.1994) by 1993 c. 35, ss. 12(6), 298(8), Sch. 2 Pt. III paras. 4, **13(1)(a)** (with Sch. 18 para. 12); S.I. 1994/507, art. 4(1), **Sch.2**.

**C46** S. 52(1) excluded (1.4.1994) by 1993 c. 35, ss. 12(6), 298(8), **Sch. 2 Pt. I para. 1(2)** (with Sch. 18 para. 12); S.I. 1994/507, art. 4(1), **Sch.2**.

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*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

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

- (1) It shall be the duty of every local education authority to secure that the facilities for primary secondary and further education provided for their area include adequate facilities for recreation and social and physical training, and for that purpose a local education authority . . . <sup>F105</sup> may establish maintain and manage, or assist the establishment, maintenance, and management of camps, holiday classes, playing fields, play centres, and other places (including playgrounds, gymnasiums, and swimming baths not appropriated to any school [<sup>F106</sup>or other educational institution], at which facilities for recreation and for such training as aforesaid are [<sup>F107</sup>available for persons receiving primary secondary or further education], and may organise games, expeditions and other activities for such persons, and may defray or contribute towards the expenses thereof.
- (2) A local education authority, in making arrangements for the provision of facilities or the organisation of activities under the powers conferred on them by the last foregoing subsection shall, in particular, have regard to the expediency of co-operating with any voluntary societies or bodies whose objects include the provision of facilities or the organisation of activities of a similar character.
- (3) . . . . . <sup>F108</sup>
- (4) . . . . . <sup>F109</sup>

#### Textual Amendments

**F105** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 7**

**F106** Words substituted by Educational Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 54**

**F107** Words substituted by Education (Miscellaneous Provisions) Act 1948 (c. 40), **Sch. 1 Pt. I**

**F108** Ss. 51,53(3) repealed by Education (Miscellaneous Provisions) Act 1948 (c. 40), **Sch. 2**

**F109** S. 53(4) repealed by Statute Law Revision Act 1950 (c. 6), **Sch. 1**

### 54 Power to ensure cleanliness.

- (1) A local education authority may, by directions in writing issued with respect to all schools maintained by them [<sup>F110</sup>and grant-maintained schools within their area]or with respect to any of such schools named in the directions, authorise a medical officer of the authority to cause examinations of the persons and clothing of pupils in attendance at such school to be made whenever in his opinion such examinations are necessary in the interests of cleanliness . . . <sup>F111</sup>.
- (2) Any such examination as aforesaid shall be made by a person authorised by the local education authority to make such examinations, and if the person or clothing of any pupil is found upon such an examination to be infested with vermin or in a foul condition, any officer of the authority may serve upon the parent of the pupil . . . <sup>F111</sup> a notice requiring him to cause the person and clothing of the pupil to be cleansed.
- (3) A notice served under the last foregoing subsection shall inform the person upon whom it is served that unless within the period limited by the notice, not being less than twenty-four hours after the service thereof, the person and clothing of the pupil to whom the notice relates are cleansed to the satisfaction of such person as may be specified in the notice the cleansing thereof will be carried out under arrangements made by the local education authority; and if, upon a report being made to him by

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*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

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

- (4) It shall be the duty of the local education authority to make arrangements for securing that any person or clothing required under this section to be cleansed may be cleansed (whether at the request of a parent . . . <sup>F111</sup> or in pursuance of an order issued under this section) at suitable premises by suitable persons and with suitable appliances; and where [<sup>F112</sup>the council of any . . . <sup>F113</sup> district in the area of the authority][<sup>F112</sup>the council of any inner London borough or the Common Council of the City of London] are entitled to the use of any premises or appliances for cleansing the person or clothing of persons infested with vermin, the authority may require the council to permit the authority to use those premises or appliances for such purposes upon such terms as may be determined by agreement between the authority and the council or, in default of such agreement, by the [<sup>F114</sup>Secretary of State for Social Services].
- (5) Where an order has been issued by a medical officer under this section directing that the person and clothing of a pupil be cleansed under arrangements made by a local education authority, the order shall be sufficient to authorise any officer of the authority to cause the person and clothing of the pupil in the order to be cleansed in accordance with arrangements made under the last foregoing subsection, and for that purpose to convey him to, and detain him at, any premises provided in accordance with such arrangements.
- (6) If, after the cleansing of the person or clothing of any pupil has been carried out under this section, his person or clothing is again found to be infested with vermin or in a foul condition at any time while he is in attendance at a school maintained by a local education authority [<sup>F115</sup>or at a grant-maintained school] . . . <sup>F111</sup>, and it is proved that the condition of his person or clothing is due to neglect on the part of his parent . . . <sup>F111</sup>, the parent . . . <sup>F111</sup> shall be liable on summary conviction to a fine not exceeding [<sup>F116</sup>level 1 on the standard scale.]
- (7) Where a medical officer of a local education authority suspects that the person or clothing of any pupil in attendance at a school maintained by the authority [<sup>F117</sup>or at a grant-maintained school within the area of the authority] . . . <sup>F111</sup> is infested with vermin or in a foul condition, but action for the examination or cleansing thereof cannot immediately be taken, he may, if he considers it necessary so to do either in the interest of the pupil or of other pupils in attendance at the school . . . <sup>F111</sup>, direct that the pupil be excluded from the school . . . <sup>F111</sup> until such action has been taken; and such a direction shall be a defence to any proceedings under [<sup>F118</sup>Part IV of the Education Act 1993] in respect of the failure of the pupil to attend school . . . <sup>F111</sup> on any day on which he is excluded in pursuance of the direction, unless it is proved that the issue of the direction was necessitated by the wilful default of the pupil or his parent.
- (8) No girl shall be examined or cleansed under the powers conferred by this section except by a duly qualified medical practitioner or by a woman authorised for that purpose by a local education authority.

#### Textual Amendments

**F110** Words in s. 54(1) inserted (1.10.1993) by 1993 c. 35, ss. 307(1), **Sch. 19 para. 14(a)**; S.I. 1993/1975, art. 9, **Sch. 1**



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- F111** Words repealed by [Education Reform Act 1988 \(c. 40, SIF 41\)](#), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. II**
- F112** Words “the council of any inner London borough” to “London” substituted (in relation to I.L.E.A.) for words “the council of any district” to “authority” by [London Government Act 1963 \(c. 33\)](#), **s. 32(7)**
- F113** Words omitted by virtue of [Local Government Act 1972 \(c. 70\)](#), **s. 179(3)**
- F114** Words substituted by virtue of [S.I. 1968/1699](#), **art. 5(4)(a)**
- F115** Words in [s. 54\(6\)](#) inserted (1.10.1993) by 1993 c. 35, s. 307(1), **Sch. 19 para. 14(b)**; [S.I. 1993/1975](#), **art. 9, Sch. 1**
- F116** Words substituted by virtue of [Criminal Law Act 1977 \(c. 45, SIF 39:1\)](#), **s. 31(5)(6)** and of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 45**
- F117** Words in [s. 54\(7\)](#) inserted (1.10.1993) by 1993 c. 35, s. 307(1), **Sch. 19 para. 14(c)(i)**; [S.I. 1993/1975](#), **art. 9, Sch. 1**
- F118** Words in [s. 54\(7\)](#) substituted (1.10.1993) by 1993 c. 35, s. 307(1), **Sch. 19 para. 14(c)(ii)**; [S.I. 1993/1975](#), **art. 9, Sch. 1**

**Modifications etc. (not altering text)**

- C47** [S. 54](#) applied (1.4.1994) by [S.I. 1994/653](#), **reg. 42(1), Sch. Pt. I**
- C48** [S. 54](#) applied (9.5.1994) by [S.I. 1994/1084](#), **reg. 8(1), Sch. 2 Pt. I**

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

- [<sup>F119</sup>(1) A local education authority shall make such arrangements for the provision of transport and otherwise as they consider necessary or as the Secretary of State may direct for the purpose of facilitating the attendance of persons receiving education—
- (a) at schools,
  - (b) at any institution maintained or assisted by them which provides higher education or further education (or both),
  - (c) at any institution within the further education sector, or
  - (d) at any institution outside the further education sector and higher education sector, where a further education funding council has secured provision for those persons at the institution under section 4(3) or (5) of the Further and Higher Education Act 1992;
- and any transport provided in pursuance of such arrangements shall be provided free of charge.]
- (2) A local education authority [<sup>F120</sup>may pay the whole or any part, as the authority think fit, of the reasonable travelling expenses] of any [<sup>F121</sup>person receiving education] at any school [<sup>F122</sup>or any such institution as is mentioned in subsection (1) above] for whose transport no arrangements are made under this section.
- [<sup>F123</sup>(3) In considering whether or not they are required by subsection (1) above to make arrangements in relation to a particular [<sup>F124</sup>person], the local education authority shall have regard (amongst other things) to the age of the [<sup>F124</sup>person] and the nature of the route, or alternative routes, which he could reasonably be expected to take][<sup>F125</sup>and to any wish of his parent for him to be provided with education at a school or institution in which the religious education provided is that of the religion or denomination to which his parent adheres]
- [<sup>F126</sup>(4) Arrangements made by a local education authority under subsection (1) above shall make provision—

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- (a) for pupils at grant-maintained schools which is no less favourable than the provision made in pursuance of the arrangements for pupils at schools maintained by a local education authority,
- (b) for persons receiving full-time education at any institution within the further education sector which is no less favourable than the provision made in pursuance of the arrangements for pupils of the same age at schools maintained by a local education authority, and
- (c) for persons receiving full-time education at institutions mentioned in subsection (1)(d) above which is no less favourable than the provision made in pursuance of the arrangements—
  - (i) for persons of the same age with learning difficulties (within the meaning of section 41(9) of this Act) at schools maintained by a local education authority, or
  - (ii) where there are no such arrangements, for such persons for whom the authority secures the provision of education at any other institution.]

[<sup>F127</sup>(5) Regulations under section 8(5) of the Education Act 1980 may require publication, within the meaning of that section, by every local education authority of such information as may be required by the regulations with respect to the authority's policy and arrangements for provision under this section for persons attending institutions mentioned in subsection (1)(c) or (d) above who are over compulsory school age and who have not attained the age of nineteen years.]

#### Textual Amendments

- F119** S. 55(1) substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), Sch. 8 Pt. I para. 5(a); S.I. 1992/831, art. 2, Sch. 3
- F120** Words substituted by Education (Miscellaneous Provisions) Act 1948 (c. 40), Sch. 1 Pt. I
- F121** Words in s. 55(2) substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), Sch. 8 para. 5(b); S.I. 1992/831, art. 2, Sch. 3
- F122** Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), Sch. 12 para. 55(3)
- F123** S. 55(3) added by Education (No.2) Act 1986 (c. 61, SIF 41:1), s. 53
- F124** Word in s. 55(3) substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), Sch. 8 Pt. I para. 5(c); S.I. 1992/831, art. 2, Sch. 3
- F125** Words in s. 55(3) added (1.10.1993) by 1993 c. 35, s. 307(1), Sch. 19 para. 15; S.I. 1993/1975, art. 9, Sch. 1
- F126** S. 55 (4) substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), Sch. 8 para. 5(d); S.I. 1992/831, art. 2, Sch. 3
- F127** S. 55(5) added (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s.93(1), Sch. 8 Pt. I para. 5(e); S.I. 1992/831, art. 2, Sch. 3

#### Modifications etc. (not altering text)

- C49** S. 55 amended by Education (Miscellaneous Provisions) Act 1953 (c. 33), s. 12(1)
- C50** S. 55(4) applied (1.4.1994) by S.I. 1994/653, reg. 42(1), Sch. Pt.I.
- C51** S. 55(4) applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), Sch. 2 Pt.I.

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*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

**Textual Amendments**

**F128** S. 56 repealed (1.9.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 16, **Sch. 21 Pt.II**; S.I. 1994/2038, art. 3, **Sch. 2**Appendix.

**57—** <sup>F129</sup> .....

**57B.**

**Textual Amendments**

**F129** Ss. 57–57B repealed by Education (Handicapped Children) Act 1970 (c. 52), **Sch.**

*Employment of Children and Young Persons*

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

For the purposes of any enactment relating to the prohibition or regulation of the employment of children or young persons, any person who is not for the purposes of this Act over compulsory school age shall be deemed to be a child within the meaning of that enactment.

<sup>F130</sup>**59**     **Power of local education authorities to prohibit or restrict employment of children.**

- (1) If it appears to a local education authority that any child who is a registered pupil at a county school, voluntary school, or special school, is being employed in such manner as to be prejudicial to his health or otherwise to render him unfit to obtain the full benefit of the education provided for him, the authority may, by notice in writing served upon the employer, prohibit him from employing the child, or impose such restrictions upon his employment of the child as appear to them to be expedient in the interests of the child.
- (2) A local education authority may, by notice in writing served upon the parent or employer of any child who is a registered pupil at a county school, voluntary school, or special school, require the parent or employer to provide the authority, within such period as may be specified in the notice, with such information as appears to the authority to be necessary for the purpose of enabling them to ascertain whether the child is being employed in such a manner as to render him unfit to obtain the full benefit of the education provided for him.
- (3) Any person who employs a child in contravention of any prohibition or restriction imposed under subsection (1) of this section, or who fails to comply with the requirements of a notice served under subsection (2) of this section, shall be guilty of an offence against this section and liable on summary conviction, in the case of a first offence to a fine not exceeding [<sup>F131</sup>level 1 on the standard scale], in the case of a second offence to a fine not exceeding [<sup>F131</sup>level 1 on the standard scale], and in the case of a third or subsequent offence to a fine not exceeding [<sup>F131</sup>level 1 on the standard scale] or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.

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- (4) Subsection (1) and subsection (3) of section twenty-eight of the <sup>M4</sup>Children and Young Persons Act 1933 (which relate to powers of entry for the enforcement of the provisions of Part II of that Act with respect to the employment of children) shall apply with respect to the provisions of any notice served under this section as they apply with respect to the provisions of the said Part II.]

**Textual Amendments**

- F130** S. 59 repealed (*prosp.*) by Employment of Children Act 1973 (c. 24), s. 3, **Sch. 2**  
**F131** Words substituted by virtue of Criminal Law Act 1977 (c. 45, SIF 39:1), s. 31 and of Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46

**Modifications etc. (not altering text)**

- C52** S. 59 extended (1.9.1994) by S.I. 1994/2103, reg. 2, **Sch. 1 Pt. I para.1.**  
**C53** Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 35 (in relation to liability on first and subsequent convictions) applies

**Marginal Citations**

- M4** 1933 c. 12.

**60, 61.** <sup>F132</sup> .....

**Textual Amendments**

- F132** Ss. 60, 61, 84 repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. II**

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

- (1) In execution of the duties imposed on him by this Act, the [<sup>F133</sup>Secretary of State for Education and Science] shall, in particular, make such arrangement as he considers expedient for securing that there shall be available sufficient facilities for the training of teachers for [<sup>F134</sup>service in schools maintained by local education authorities, grant-maintained schools [<sup>F135</sup>institutions within the further education sector] and institutions which are maintained by such authorities and provide higher education or further education (or both)].

(2) ..... <sup>F136</sup>

**Textual Amendments**

- F133** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**  
**F134** Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 56(2)**  
**F135** Words in S. 62(1) inserted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 para. 7; S.I. 1992/831, art. 2, Sch. 3**  
**F136** S. 62(2) repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237, **Sch. 12 para. 56(3), Sch. 13 Pt. II**

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**Modifications etc. (not altering text)**

- C54 Unreliable marginal note.  
 C55 S. 62(1) applied (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I**.  
 C56 S. 62(1) applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I**.

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

- (1) ..... <sup>F137</sup>
- (2) Where plans for [<sup>F138</sup>or particulars in respect of] any building required for the purposes of any school or other educational establishment are approved by the [<sup>F139</sup>Secretary of State for Education and Science], he may by order direct that any provision of any local Act or of any byelaw made under such an Act shall not apply in relation to the building or shall apply in relation thereto with such modifications as may be specified in the order.

**Textual Amendments**

- F137 S. 63(1) repealed by **Building Act 1984** (c. 55, SIF 15), s. 133(2), **Sch. 7**  
 F138 Words in s. 63(2) inserted (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para.18**; S.I. 1994/507, art. 4(1), **Sch.2**.  
 F139 Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

**Modifications etc. (not altering text)**

- C57 S. 63(2) amended by **Education Act 1980** (c. 20, SIF 41:1), s. 14(4)  
 C58 S. 63(2) amended by **Education Reform Act 1988** (c. 40, SIF 41:1), s. 90(4)  
 C59 S. 63(2) amended by **Education Reform Act 1988** (c. 40, SIF 41:1), **ss. 218(8)**, 231(7), 235(6)  
 S. 63(2) amended (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para.19**; S.I. 1994/507, art. 4(1), **Sch.2**

**64** <sup>F140</sup> .....

**Textual Amendments**

- F140 S. 64 repealed by **Rating and Valuation Act 1961** (c. 45), **Sch. 5 Pt. I**

**65 Endowments for maintenance of voluntary schools.**

Where any sums which accrue after the date of the commencement of this Part of this Act in respect of the income of any endowment are required by virtue of the provisions of any trust deed to be applied towards the maintenance of a school which a local education authority are required to maintain as a voluntary school, the said sums shall not be payable to the local education authority, but shall be applied by the . . .  
<sup>F141</sup> governors of the school towards the discharge of their obligations, if any, with respect to the maintenance of the school, or in such other manner, if any, as may be determined by a scheme for the administration of the endowment made after the date of the commencement of this Part of this Act.

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**Textual Amendments**

**F141** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), [Sch. 1 para. 1](#)

**66** <sup>F142</sup> .....

**Textual Amendments**

**F142** S. 66 repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 38(6), [Sch. 7](#)

**67 Determination of disputes and questions.**

- (1) Save as otherwise expressly provided by this Act, any dispute between a local education authority and the . . . <sup>F143</sup> governors of any school with respect to the exercise of any power conferred or the performance of any duty imposed by or under this Act, may, notwithstanding any enactment rendering the exercise of the power or the performance of the duty contingent upon the opinion of the authority or of the . . . <sup>F143</sup> governors, be referred to the [<sup>F144</sup>Secretary of State for Education and Science]; and any such dispute so referred shall be determined by him.
- (2) Any dispute between two or more local education authorities as to which of them is responsible for the provision of education for any pupil . . . <sup>F145</sup> shall be determined by the [<sup>F144</sup>Secretary of State for Education and Science.]
- (3) Where any trust deed relating to a voluntary [<sup>F146</sup>or grant-maintained] school makes provision whereby a bishop or any other ecclesiastical or denominational authority has power to decide whether the religious [<sup>F147</sup>education] given in the school which purports to be in accordance with the provisions of the trust deed does or does not accord with those provisions, that question shall be determined in accordance with the provisions of the trust deed.
- <sup>F148</sup>(4) If in the case of a county [<sup>F149</sup>voluntary or grant-maintained] school a question arises whether a change in the character of the school or enlargement of the school premises would be a significant change or enlargement, that question shall be determined by the Secretary of State.]

<sup>F150</sup>(4A) .....

**Textual Amendments**

**F143** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), [Sch. 1 para. 1](#)

**F144** Words substituted by virtue of S.I. 1964/490, [art. 3\(2\)\(a\)](#)

**F145** Words repealed by [Education \(No.2\) Act 1986 \(c. 61, SIF 41:1\)](#), s. 67(6) [Sch. 6 Pt. I](#)

**F146** Words inserted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(1), [Sch. 12 para. 4\(2\)](#)

**F147** Word substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 9, 231(7), 235(6), [Sch. 1 para. 4\(c\)](#)

**F148** S. 67(4) substituted by [Education Act 1968 \(c. 17\)](#), [Sch. 1 para. 3](#)

**F149** Words substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 234(1), 235(6), [Sch. 12 para. 4\(3\)](#)



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**F150** S. 67(4A) repealed (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1)(2), Sch. 8 para. 8, **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 3**

**Modifications etc. (not altering text)**

- C60** S. 67(1) extended by Education (No. 2) Act 1968 (c. 37), s. 3(3)  
**C61** S. 67(1) modified by Education (No. 2) Act 1986 (c. 61, SIF 41:1), s. 12(10), **Sch. 2 para. 29(a)**  
**C62** S. 67(1) extended by Education Reform Act 1988 (c. 40, SIF 41:1), **ss. 219(1)**, 231(7), 235(6)  
**C63** S. 67(4) applied (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I.**  
**C64** S. 67(4) applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I.**

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

If the [<sup>F151</sup>Secretary of State for Education and Science] is satisfied, either on complaint by any person or otherwise, that any local education authority or the . . . <sup>F152</sup>governors of any county or voluntary school have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under this Act, he may, notwithstanding any enactment rendering the exercise of the power or the performance of the duty contingent upon the opinion of the authority or of the . . . <sup>F152</sup>governors, give such directions as to the exercise of the power or the performance of the duty as appear to him to be expedient.

[<sup>F153</sup>In this section, references to a local education authority shall be construed as including references to any body of persons authorised, in accordance with the First Schedule to this Act, . . . <sup>F154</sup>, to exercise functions of such an authority.]

**Textual Amendments**

- F151** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**  
**F152** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 1**  
**F153** Words inserted by Education Act 1946 (c. 50), **Sch. 2 Pt. I**  
**F154** Words repealed by Local Government Act 1972 (c. 70), **Sch. 30**

**Modifications etc. (not altering text)**

- C65** Unreliable marginal note.  
**C66** S. 68 extended by Education (No. 2) Act 1968 (c. 37), s. 3(3), Sex Discrimination Act 1975 (c. 65), s. 25(2) and Race Relations Act 1976 (c. 74), s. 19(2)  
**C67** S. 68 modified by Education (No.2) Act 1986 (c.61, SIF 41:1), s. 12(10), **Sch. 2 para. 29(b)**  
**C68** S. 68 restricted by Education Reform Act 1988 (c. 40, SIF 41:1), **ss. 23(2)**, 231(7), 235(6)  
 S. 68 restricted (1.9.1994) by 1993 c. 35, s. 298, **Sch. 18 para. 6(4)**; S.I. 1994/2038, art. 3, **Sch.2.**  
**C69** S. 68 extended by Education Reform Act 1988 (c. 40, SIF 41:1), **ss. 219(2)**, 231(7), 235(6)  
**C70** S. 68 extended (22.8.1991) by School Teacher's Pay and Conditions Act 1991 (c. 49, SIF 41:1), s. 5(5); S.I. 1991/1874, **art. 2**  
**C71** S. 68 extended  
**C72** S. 68 extended (6.5.1992) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 9**; S.I. 1992/831, art. 2, **Sch. 1**  
**C73** s. 68 applied (1.4.1994) by 1993 c. 35, s. 9(4); S.I. 1994/507, **art. 3(1)**.  
**C74** S. 68 applied (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I.**  
**C75** S. 68 applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I.**



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## 69 †Powers of Minister as to medical examinations and inspections.

- (1) .....<sup>F155</sup>
- (2) Where any question is referred to the [<sup>F156</sup>Secretary of State for Education and Science] under this Part of this Act, then, if in the opinion of the [<sup>F156</sup>Secretary of State for Education and Science] the examination of any pupil by a duly qualified medical practitioner appointed for the purpose by him would assist the determination of the question referred to him, the [<sup>F156</sup>Secretary of State for Education and Science] may by notice in writing served on the parent of that pupil . . .<sup>F157</sup> require the parent to submit him . . .<sup>F157</sup> for examination by such a practitioner; and if any person on whom such a notice is served fails without reasonable excuse to comply with the requirements thereof, he shall be liable on summary conviction to a fine not exceeding [<sup>F158</sup>level 1 on the standard scale].

### Textual Amendments

**F155** Ss. 69(1), 78(1), 79 repealed by [National Health Service Reorganisation Act 1973 \(c. 32\)](#), [Sch. 5](#)

**F156** Words substituted by virtue of [S.I. 1964/490](#), [art. 3\(2\)\(a\)](#)

**F157** Words repealed by [Education Reform Act 1988 \(c. 40, SIF 41\)](#), ss. 231(7), 235(6), 237(2), [Sch. 13 Pt. II](#)

**F158** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), ss. 38, 46

### Modifications etc. (not altering text)

**C76** Unreliable marginal note.

## PART III

### INDEPENDENT SCHOOLS

### Modifications etc. (not altering text)

**C77** Functions of Secretary of State for Education and Science under Part III in relation to independent schools in Wales now exercisable by Secretary of State for Wales: [S.I. 1970/1536](#), [arts. 2\(1\), 5\(1\)](#)

## 70 Registration of independent schools.

- (1) The [<sup>F159</sup>Secretary of State for Education and Science] shall appoint one of his officers to be Registrar of Independent Schools; and it shall be the duty of the Registrar of Independent Schools to keep a register of all independent schools, which shall be open to public inspection at all reasonable times, and, subject as hereinafter provided, to register therein any independent school of which the proprietor makes application for the purpose in the prescribed manner and furnishes the prescribed particulars:  
Provided that—
- (a) no independent school shall be registered if, by virtue of an order made under the provisions hereinafter contained, the proprietor is disqualified from being the proprietor of an independent school or the school premises are disqualified from being used as a school, or if the school premises are used or proposed to be used for any purpose for which they are disqualified by virtue of any such order; and

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- (b) the registration of any school shall be provisional only until the [<sup>F159</sup>Secretary of State for Education and Science], after the school has been inspected on his behalf under the provisions of Part IV of this Act, gives notice to the proprietor that the registration is final.
- (2) ..... <sup>F160</sup>
- (3) If after the expiration of six months from the date of the commencement of this Part of this Act any person—
- (a) conducts an independent school (whether established before or after the commencement of that Part) which is not a registered school or a provisionally registered school; or
  - (b) being the proprietor of an independent school does any act calculated to lead to the belief that the school is a registered school while it is a provisionally registered school;
- he shall be liable on summary conviction to a fine not exceeding [<sup>F161</sup>level 4 on the standard scale] or in the case of a second or subsequent conviction to a fine not exceeding [<sup>F161</sup>level 4 on the standard scale] or to imprisonment for a term not exceeding three months or to both such imprisonment and such fine.
- [<sup>F162</sup>(3A) A person shall not be guilty of an offence under subsection (3)(a) above by reason of conducting a school at any time within the period of one month from the date on which it was first conducted (whether by that person or another) if an application for the registration of the school has been duly made within that period.]
- [<sup>F163</sup>(4) The Secretary of State may by regulations make provision for requiring the proprietor of a registered or provisionally registered school to furnish the Registrar from time to time with such particulars relating to the school as may be prescribed and for enabling the Secretary of State to order the deletion from the register of the name of any school in respect of which any requirement imposed by or under the regulations is not complied with.
- [ Regulations made under subsection (4) above may in particular require the proprietor
- <sup>F164</sup>(4A) of a school to furnish the Registrar with such information as is required by the local authority for the purpose of determining whether the school is a children's home (within the meaning of the Children Act 1989).]
- <sup>F165</sup>(5) ..... ]

#### Subordinate Legislation Made

**P1** S. 70: for previous exercises of power see Index to Government Orders

#### Textual Amendments

**F159** Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)

**F160** S. 70(2) repealed by Education Act 1980 (c. 20, SIF 41:1), s. 34(2)

**F161** Words substituted by virtue of Criminal Law Act (c. 45, SIF 39:1) and of Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 39(1), 46, Sch.3

**F162** S. 70(3A) inserted by Education Act 1980 (c. 20, SIF 41:1), s. 34(6)

**F163** S. 70(4)(5) substituted for s. 70(4) by Education Act 1980 (c. 20, SIF 41:1), s. 34(7)

**F164** S. 70(4A) inserted (1.1.1994) by 1993 c. 35, s. 292(2); S.I. 1993/3106, art. 4, Sch. 1

**F165** S. 70(5) repealed (1.1.1996) by 1995/2986, art. 11, Sch. para.1.

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*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

**Modifications etc. (not altering text)**

- C78** S. 70 amended by S.I. 1960/1536, art. 5(2)(3)(4)  
**C79** S. 70(1) amended by Education Act 1980 (c. 20, SIF 41:1), s. 34(3)(4)  
**C80** Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 35 (in relation to liability on first and subsequent convictions) applies

**71 Complaints.**

(1) If at any time the [<sup>F166</sup>Secretary of State for Education and Science] is satisfied that any registered or provisionally registered school is objectionable upon all or any of the following grounds—

- (a) that the school premises or any parts thereof are unsuitable for a school;
- (b) that the accommodation provided at the school premises is inadequate or unsuitable having regard to the number, ages, and sex of the pupils attending the school;
- (c) that efficient and suitable instruction is not being provided at the school having regard to the ages and sex of the pupils attending thereat;
- (d) that the proprietor of the school or any teacher employed therein is not a proper person to be the proprietor of an independent school or to be a teacher [<sup>F167</sup>or other employee] in any school, as the case may be;

[<sup>F168</sup>(e) there has been a failure, in relation to a child provided with accommodation by the school, to comply with the duty imposed by section 87 of the Children Act 1989 (welfare of children accommodated in independent schools);]

the [<sup>F166</sup>Secretary of State] shall serve upon the proprietor of the school a notice of complaint stating the grounds of complaint together with full particulars of the matters complained of, and, unless any of such matters are stated in the notice to be in the opinion of the [<sup>F166</sup>Secretary of State for Education and Science] irremediable, the notice shall specify the measures necessary in the opinion of the [<sup>F166</sup>Secretary of State for Education and Science] to remedy the matters complained of, and shall specify the time, not being less than six months after the service of the notice, within which such measures are thereby required to be taken.

(2) If it is alleged by any notice of complaint served under this section that any person employed as a teacher [<sup>F167</sup>or other employee] at the school is not a proper person to be a teacher [<sup>F167</sup>or other employee] in any school, that person shall be named in the notice and the particulars contained in the notice shall specify the grounds of the allegation, and a copy of the notice shall be served upon him.

(3) Every notice of complaint served under this section and every copy of such a notice so served shall limit the time, not being less than one month after the service of the notice or copy, within which the complaint may be referred to an Independent Schools Tribunal under the provisions hereinafter contained.

[<sup>F169</sup>(4) If at any time the Secretary of State is satisfied that a person whose employment is prohibited or restricted by virtue of regulations under section 218(6) of the Education Reform Act 1988—

- (a) is employed in a registered or provisionally registered school in contravention of those regulations, or
- (b) is the proprietor of such a school,

he may order that the school be struck off the register or, as the case may be, that the Registrar is not to register the school.

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- (5) In this section, and in sections 72 and 73 of this Act, “employee” means a person employed in work which brings him regularly into contact with persons who have not attained the age of nineteen years.]

#### Textual Amendments

- F166** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**  
**F167** Words in s. 71(1)(d) and (2) inserted (1.1.1994) by 1993 c. 35, s. 290(2); S.I. 1993/3106, art. 4, **Sch. 1**  
**F168** S. 71(1)(e) inserted (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(5)(6), Sch. 13 para. 9, **Sch. 14 para. 1(1)**  
**F169** S. 71(4)(5) added (1.1.1994) by 1993 c. 35, s. 290(1); S.I. 1993/3106, art. 4, **Sch. 1**

## 72 Determination of complaints.

- (1) Any person upon whom a notice of complaint or a copy of such a notice is served under the last foregoing section may, within the time limited by the notice, appeal therefrom by referring the complaint, in such manner as may be provided by rules made under this Part of this Act, to an Independent Schools Tribunal constituted in accordance with the provisions of the Sixth Schedule to this Act.
- (2) Upon a complaint being referred to an Independent Schools Tribunal, the tribunal shall, after affording to all parties concerned an opportunity of being heard, and after considering such evidence as may be tendered by them or on their behalf, have power—
- (a) to order that the complaint be annulled:
  - (b) to order that the school in respect of which the notice of complaint was served be struck off the register:
  - (c) to order that the school be so struck off unless the requirements of the notice, subject to such modifications, if any, as may be specified in the order are complied with to the satisfaction of the [<sup>F170</sup>Secretary of State for Education and Science] before the expiration of such time as may be specified in the order:
  - (d) if satisfied that the premises alleged by the notice of complaint to be unsuitable for use as a school or any part of such premises are in fact unsuitable for such use, by order to disqualify the premises or part from being so used, or, if satisfied that the accommodation provided at the school premises is inadequate or unsuitable having regard to the number, ages and sex of the pupils attending the school, by order to disqualify the premises from being used as a school for pupils exceeding such number or of such age or sex as may be specified in the order:
  - (e) if satisfied that any person alleged by the notice of complaint to be a person who is not proper to be the proprietor of an independent school or to be a teacher [<sup>F171</sup>or other employee] in any school is in fact such a person, by order to disqualify that person from being the proprietor of any independent school or from being a teacher [<sup>F171</sup>or other employee] in any school, as the case may be.
- (3) Where a notice of complaint has been served under this Act on the proprietor of any school and the complaint is not referred by him to an Independent School Tribunal within the time limited in that behalf by the notice, the [<sup>F170</sup>Secretary of State for

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Education and Science] shall have power to make any order which such a tribunal would have had power to make if the complaint had been so referred:

Provided that, if it was alleged by the notice of complaint that any person employed as a teacher [F171 or other employee] at the school is not a proper person to be a teacher [F171 or other employee] in any school and that person has, within the time limited in that behalf by the copy of the notice served upon him, referred the complaint to an Independent Schools Tribunal, the [F170 Secretary of State for Education and Science] shall not have power to make an order requiring his dismissal or disqualifying him from being a teacher [F171 or other employee] in any school.

- (4) Where by virtue of an order made by an Independent Schools Tribunal or by the [F170 Secretary of State for Education and Science] any person is disqualified either from being the proprietor of an independent school or from being a teacher [F171 or other employee] in any school, then, unless the order otherwise directs, that person shall, by virtue of the order, be disqualified both from being the proprietor of an independent school and from being a teacher [F171 or other employee] in any school.

#### Textual Amendments

**F170** Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)

**F171** Words in s. 72(2)(e), (3) and (4) inserted (1.1.1994) by 1993 c. 35, s. 290(2); S.I. 1993/3106, art. 4, Sch. 1

### 73 Enforcement.

- (1) Where an order is made by the [F172 Secretary of State for Education and Science] or by an Independent Schools Tribunal directing that any school be struck off the register, the Registrar of Independent Schools shall as from the date on which the direction takes effect strike the school off the register.
- (2) If any person uses any premises for purposes for which they are disqualified by virtue of any order made under this Part of this Act, that person shall be liable on summary conviction to a fine not exceeding [F173 level 4 on the standard scale] or in the case of a second or subsequent conviction (whether in respect of the same or other premises) to a fine not exceeding [F173 level 4 on the standard scale], or to imprisonment for a term not exceeding three months or to both such imprisonment and such fine.
- (3) If any person acts as the proprietor of an independent school, or accepts or endeavours to obtain employment as a teacher [F174 or other employee] in any school, while he is disqualified from so acting or from being so employed by virtue of any such order as aforesaid, he shall be liable on summary conviction to a fine not exceeding [F173 level 4 on the standard scale] or in the case of a second or subsequent conviction to a fine not exceeding [F173 level 4 on the standard scale], or to imprisonment for a term not exceeding three months or to both such imprisonment and such fine.
- (4) No proceedings shall be instituted for an offence against this Part of this Act except by or on behalf of the [F172 Secretary of State for Education and Science.]
- [F175 (5) For the purposes of the foregoing provisions of this Part of this Act, a person who is disqualified by an order made under Part IV of the <sup>M5</sup>Education (Scotland) Act 1945 from being the proprietor of an independent school or from being a teacher in any school shall be deemed to be so disqualified by virtue of an order made under this Part of this Act.]

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#### Textual Amendments

- F172** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**
- F173** Words substituted by virtue of Criminal Law Act (c. 45, SIF 39:1) and of Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 39(1), 46, **Sch.3**
- F174** Words in s. 73(3) inserted (1.1.1994) by 1993 c. 35, s. 290(2), S.I. 1993/3106, art. 4, Sch. 1
- F175** S. 73(5) inserted by Education Act 1946 (c. 50), **Sch. 2 Pt. I**

#### Modifications etc. (not altering text)

- C81** Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 35 (in relation to liability on first and subsequent convictions) applies

#### Marginal Citations

- M5** 1945 c. 37.

### 74 Removal of disqualifications.

- (1) If on the application of any person the [<sup>F176</sup>Secretary of State for Education and Science] is satisfied that any disqualification imposed by an order made under this Part of this Act is, by reason of any change of circumstances, no longer necessary, the [<sup>F176</sup>Secretary of State for Education and Science] may by order remove the disqualification.
- (2) Any person who is aggrieved by the refusal of the [<sup>F176</sup>Secretary of State for Education and Science] to remove a disqualification so imposed may, within such time after the refusal has been communicated to him as may be limited by rules made under this Part of this Act, appeal to an Independent Schools Tribunal.

#### Textual Amendments

- F176** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

#### Modifications etc. (not altering text)

- C82** S. 74 amended by S.I. 1970/1536, **art. 5(1)**

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

- (1) The Lord Chancellor may, with the concurrence of the Lord President of the Council, make rules as to the practice and procedure to be followed with respect to the constitution of Independent Schools Tribunals, as to the manner of making appeals to such tribunals, and as to proceedings before such tribunals and matters incidental to or consequential on such proceedings, and, in particular, such rules may make provision requiring any such tribunal to sit at such places as may be directed in accordance with the rules, and may make provision as to appearance before such tribunals by counsel or solicitor . . . <sup>F177</sup>
- (2) The provisions of the [<sup>F178M6</sup>Arbitration Act 1950], shall not apply to any proceedings before an Independent Schools Tribunal except so far as any provisions thereof may be applied thereto with or without modifications by rules made under this section.



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

#### Textual Amendments

**F177** Words repealed by [Education Act 1976 \(c. 81\), s. 6\(2\)](#)

**F178** Words substituted by virtue of [Interpretation Act 1889 \(c. 63\), s. 38\(1\)](#)

#### Marginal Citations

**M6** [1950 c. 27.](#)

## PART IV

### GENERAL

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

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

In the exercise and performance of all powers and duties conferred and imposed on them by [<sup>F179</sup>the Education Acts 1944 to 1993] the [<sup>F180</sup>Secretary of State for Education and Science][<sup>F181</sup>the funding authorities]and local education authorities shall have regard to the general principle that, so far as is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure, pupils are to be educated in accordance with the wishes of their parents.

#### Textual Amendments

**F179** Words in [s. 76](#) substituted (1.10.1993) by [1993 c. 35, s. 307\(1\), Sch. 19 para. 20\(a\)](#); S.I. 1993/1975, [art. 9, Sch. 1](#)

**F180** Words substituted by virtue of S.I. 1964/490, [art. 3\(2\)\(a\)](#)

**F181** Words in [s. 76](#) inserted (1.4.1994) by [1993 c. 35, s. 307\(1\), Sch. 19 para. 20\(b\)](#); S.I. 1994/507, [art. 4\(1\), Sch.2.](#)

#### Modifications etc. (not altering text)

**C83** [S. 76](#) excluded (*prosp.*) by [Children Act 1989 \(c. 41, SIF 20\), ss. 30\(1\), 36\(10\), 108\(2\)\(6\), Sch. 3 Part III para. 13\(2\)\(b\)\(ii\), Sch. 14 para. 1\(1\)](#)

### MISCELLANEOUS PROVISIONS

#### [<sup>F182</sup>77] Inspection of educational establishments.

- (1) In this section the expression “educational establishment” means <sup>F183</sup>. . . , [<sup>F184</sup>an institution within the PCFC funding sector or an institution which is maintained or assisted by a local education authority and provides higher education or further education (or both)]; and if the persons responsible for the management of any



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institution which is not an educational establishment within the foregoing definition request the [<sup>F185</sup>Secretary of State] or any local education authority to cause an inspection of that institution to be made under the powers conferred by this section, the institution shall, for the purposes of that inspection, be deemed to be also included within that definition.

- (2) It shall be the duty of the [<sup>F185</sup>Secretary of State for Education and Science] to cause inspections to be made of every educational establishment at such intervals as appear to him to be appropriate, and to cause a special inspection of any such establishment to be made whenever he considers such an inspection to be desirable; and for the purpose of enabling such inspections to be made on behalf of the [<sup>F185</sup>Secretary of State for Education and Science], inspectors may be appointed by His Majesty on the recommendation of the [<sup>F185</sup>Secretary of State for Education and Science], and persons may be authorised by the [<sup>F185</sup>Secretary of State for Education and Science] to assist such inspectors and to act as additional inspectors:  
Provided that the [<sup>F185</sup>Secretary of State for Education and Science] shall not be required by virtue of this subsection to cause inspections to be made of any educational establishment during any period during which he is satisfied that suitable arrangements are in force for the inspection of that establishment otherwise than in accordance with this subsection.
- (3) Any local education authority may cause an inspection to be made of any educational establishment maintained by the authority, and such inspections shall be made by officers appointed by the local education authority.
- (4) If any person obstructs any person authorised to make an inspection in pursuance of the provisions of this section in the execution of his duty, he shall be liable on summary conviction to a fine not exceeding [<sup>F186</sup>level 4 on the standard scale], or, in the case of a second or subsequent conviction, to a fine not exceeding [<sup>F186</sup>level 4 on the standard scale] or to imprisonment for a term not exceeding three months or to both such imprisonment and such fine.

<sup>F187</sup>(5) .....

<sup>F188</sup>(6) .....]

#### Textual Amendments

- F182** S. 77 ceased to have effect in relation to any institution other than a school (1.9.1992 for specified purposes and otherwise 1.4.1993) by virtue of [Further and Higher Education Act 1992 \(c. 13\), s. 93\(1\), Sch. 8 para. 10](#); (E.) S.I. 1992/831, [art. 3](#); (W.) S.I. 1992/2377, [art. 3](#)
- F183** Words in s. 77(1) repealed (1.9.1993 in relation to secondary schools and 1.9.1994 in relation to other schools) by [Education \(Schools\) Act 1992 \(c. 38\), s. 21\(7\)\(8\), Sch. 4, para. 1\(a\), Sch. 5](#); S.I. 1993/1491, [art. 3\(2\)](#)
- F184** Words substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\), ss. 231\(7\), 235\(6\), 237\(1\), Sch. 12 para. 57](#)
- F185** Words substituted by virtue of S.I. 1964/490, [art. 3\(2\)\(a\)](#)
- F186** Words substituted by virtue of [Criminal Law Act \(c. 45, SIF 39:1\)](#) and of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), ss. 39\(1\), 46, Sch.3](#)
- F187** S. 77(5) repealed (1.9.1993 in relation to secondary schools and 1.9.1994 in relation to other schools) by [Education \(Schools\) Act 1992 \(c. 38\), s. 21\(8\), Sch. 5](#); S.I. 1993/1491, [art. 3\(2\)](#)
- F188** S. 77(6) repealed (12.6.1993) by [Education \(Schools\) Act 1992 \(c. 38\), s. 21\(8\), Sch. 5](#); S.I. 1993/1491, [art. 3\(1\)](#)

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**Modifications etc. (not altering text)**

**C84** Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 35 (in relation to liability on first and subsequent convictions) applies

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

(1) . . . . . <sup>F189</sup>

(2) A local education authority may, with the consent of the proprietor of any school in their area which is not a school maintained by the authority, and upon such financial and other terms, if any, as may be determined by agreement between the authority and the proprietor of the school, make arrangements for securing—

(a) the provision of milk, meals and other refreshment for pupils in attendance at the school; . . . <sup>F190</sup>

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

**Textual Amendments**

**F189** Ss. 69(1), 78(1), 79 repealed by National Health Service Reorganisation Act 1973 (c. 32), Sch. 5

**F190** Words repealed by Education (Miscellaneous Provisions) Act 1948 (c. 40), Sch. 2 and National Health Service Reorganisation Act 1973 (c. 32), Sch. 5

**Modifications etc. (not altering text)**

**C85** S. 78(2)(a) extended by Education Act 1980 (c. 20, SIF 41:1), s. 22(5)

**79** <sup>F191</sup> . . . . .

**Textual Amendments**

**F191** Ss. 69(1), 78(1), 79 repealed by National Health Service Reorganisation Act 1973 (c. 32), Sch. 5

**80 Registration of pupils at schools.**

(1) The proprietor of every school (that is to say in the case of a county school or voluntary school the . . . <sup>F192</sup> governors thereof [<sup>F193</sup> and in the case of a grant-maintained school the governing body of the school]) shall cause to be kept in accordance with regulations made by the [<sup>F194</sup>Secretary of State for Education and Science] a register containing the prescribed particulars with respect to all persons . . . <sup>F195</sup> who are pupils at the school, and such regulations may make provision for enabling such registers to be inspected, for enabling extracts therefrom to be taken for the purposes of this Act by persons duly authorised in that behalf under the regulations, and for requiring the persons by whom any such register is required to be kept to make to the [<sup>F194</sup>Secretary of State [<sup>F196</sup>to the funding authorities] for Education and Science],

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and to local education authorities, such periodical or other returns as to the contents thereof as may be prescribed.

[<sup>F197</sup>(1A) Without prejudice to the generality of subsection (1) of this section, the prescribed particulars shall include particulars of the name and address of every person known to the proprietor of the school to be a parent of a pupil at the school.]

(2) If any person contravenes or fails to comply with any requirement imposed on him by regulations made under this section, he shall be liable on summary conviction to a fine not exceeding [<sup>F198</sup>level 1 on the standard scale].

(3) . . . . . <sup>F199</sup>

#### Subordinate Legislation Made

**P2** S. 80: s. 80 power exercised by S.I. 1991/1582

**P3** S. 80: power previously exercised by S.I. 1987/1285 and 1988/1185.

#### Textual Amendments

**F192** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 1**

**F193** Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 5**

**F194** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

**F195** Words repealed by Education (Miscellaneous Provisions) Act 1948 (c. 40), **Sch. 2**

**F196** Words in s. 80(1) inserted (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para. 21**; S.I. 1994/507, art. 4(1), **Sch.2**.

**F197** S. 80(1A) inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 58**

**F198** Words substituted by virtue of Criminal Law Act 1977 (c. 45, SIF 39:1), **s. 31** and of Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**

**F199** S. 80(3) repealed by Education (Miscellaneous Provisions) Act 1948 (c. 40), **Sch. 2**

#### Modifications etc. (not altering text)

**C86** S. 80 amended by Education (Miscellaneous Provisions) Act 1948 (c. 40), **s. 4(6)**

**C87** S. 80(1) applied (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I**.

**C88** S. 80(1) applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I**.

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

Regulations shall be made by the [<sup>F200</sup>Secretary of State for Education and Science] empowering local education authorities, for the purpose of enabling [<sup>F201</sup>persons] to take advantage without hardship to themselves or their parents of any educational facilities available to them—

(a) to defray such expenses of children attending county schools, voluntary schools, [<sup>F202</sup>grant-maintained schools], or special schools, as may be necessary to enable them to take part in any school activities:

(b) to pay the whole or any part of the fees and expenses payable in respect of children attending schools at which fees are payable:

<sup>X1</sup>(c) to grant scholarships, exhibitions, bursaries, and other allowances in respect of [<sup>F203</sup>persons] over compulsory school age <sup>F204</sup> . . .

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

**Editorial Information**

- X1** S. 81(c) repealed in relation to courses to which Education Act 1962 (c. 2), ss. 1 and 2(1) apply and in relation to training of teachers by Education Act 1962 (c. 12), s. 4(4)-(6)

**Textual Amendments**

- F200** Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)
- F201** Word in s. 81 substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), Sch. 8 para. 11(a); S.I. 1992/831, art. 2, Sch. 3
- F202** Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), Sch. 12 para. 6
- F203** Word in s. 81(c) substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), Sch. 8, Pt. I para. 11(b)(i); S.I. 1992/831, art.2, Sch. 3
- F204** Words in s. 81(c) omitted (1.4.1993) by virtue of Further and Higher Education Act 1992 (c. 13), s. 93(1), Sch. 8 Pt. I para. 11(b)(ii); S.I. 1992/831, art. 2, Sch. 3

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

A local education authority may, . . . <sup>F205</sup> make such provision for conducting or assisting the conduct of research as appears to the authority to be desirable for the purpose of improving the educational facilities provided for their area.

**Textual Amendments**

- F205** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), Sch. 7

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

..... <sup>F206</sup> A local education authority may organise, or participate in the organisation of, conferences for the discussion of questions relating to education, and may expend such sums as may be reasonable in paying or contributing towards any expenditure incurred in connection with conferences for the discussion of such questions, including the expenses of any person authorised by them to attend any such conference.

**Textual Amendments**

- F206** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), Sch. 7

**84** <sup>F207</sup> .....

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**Textual Amendments**

**F207** Ss. 60, 61, 84 repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), Sch. 13 Pt. II

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

(1) Subject to the provisions of this section, a local education authority shall have power, and any such authority or any former authority shall be deemed always to have had power, to accept hold and administer any property upon trust for purposes connected with education.

[<sup>F208</sup>(2) Any intention on the part of a local education authority that a school <sup>F209</sup>. . . (other than a nursery school or a special school) should be vested in the authority as trustees shall be treated for the purposes of subsection (1) of section 12 of the Education Act 1980 as an intention on the part of the authority to maintain the school as a county school; and accordingly proposals for that purpose shall be published and submitted as required by that section, and the other provisions of that section and of sections 14 and 16 of that Act shall apply as in a case where a local education authority intend to maintain a school as a county school.

(3) Any school <sup>F209</sup>. . . which in accordance with subsection (2) above is vested in a local education authority as trustees shall be a county school.]

**Textual Amendments**

**F208** S. 85(2)(3) substituted by Education Act 1980 (c. 20, SIF 41:1), s. 16(4), Sch. 3 para. 3

**F209** Words in s. 85(2) and (3) repealed (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1)(2), Sch. 8, Pt. I para. 12, Sch.9; S.I. 1992/831, art.2, Sch. 3

**86** <sup>F210</sup> . . . . .

**Textual Amendments**

**F210** S. 86 repealed by Education Act 1973 (c. 16), Sch. 2 Pt. II

**87** <sup>F211</sup> . . . . .

**Textual Amendments**

**F211** S. 87 repealed by Charities Act 1960 (c. 58), Sch. 7 Pt. II

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## ADMINISTRATIVE PROVISIONS

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

The duties of a local education authority with respect to the appointment of officers under the provisions of the [<sup>F212M7</sup>Local Government Act, 1972], shall, without prejudice to the generality of those provisions, include the duty of appointing a fit person to be the chief education officer of the authority, . . . <sup>F213</sup>

#### Textual Amendments

**F212** Words substituted by virtue of [Interpretation Act 1889 \(c. 63\), s. 38\(1\)](#)

**F213** Words repealed by [Local Government Act 1972 \(c. 70\), Sch. 30](#)

#### Modifications etc. (not altering text)

**C89** [S. 88](#) extended by [London Government Act 1963 \(c. 33\), s. 30\(4\)](#)

#### Marginal Citations

**M7** [1972 c. 70.](#)

### 89 <sup>F214</sup> .....

#### Textual Amendments

**F214** [S. 89](#) repealed by [Remuneration of Teachers Act 1965 \(c. 3\), s. 7\(6\)](#)

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

(1) A local education authority may be authorised [<sup>F215</sup>by the [<sup>F216</sup>Secretary of State for Education and Science]] to purchase compulsorily any land, whether situate within or without the area of the authority, which is required for the purposes of any school or [<sup>F217</sup>institution] which is, or is to be, maintained by them [<sup>F218</sup>or which they have the power to assist], or otherwise for the purposes of their functions under this Act; . . . <sup>F219</sup> Provided that the [<sup>F216</sup>Secretary of State for Education and Science] shall not [<sup>F215</sup>authorise] the purchase of any land required for the purposes of a voluntary school unless he is satisfied that the arrangements made as to the vesting of the land to be purchased, and as to the appropriation thereof for those purposes, are such as to secure that the expenditure ultimately borne by the local education authority will not include any expenditure which, if the land had been purchased by the . . . <sup>F220</sup> governors of the school, would have fallen to be borne by the . . . <sup>F220</sup> governors.

[<sup>F221</sup>(1A) The proviso in subsection (1) of this section shall not apply where the local education authority propose that expenditure to be incurred in connection with the purchase should ultimately be borne by them under section 282(1) of the Education Act 1993 (power of local education authority to give assistance).]

(2) .....

<sup>F222</sup>

*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

#### Textual Amendments

- F215** Words substituted by [Acquisition of Land \(Authorisation Procedure\) Act 1946 \(c. 49\)](#), **Sch. 4**
- F216** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**
- F217** Word substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 59**
- F218** Words inserted by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\)](#), **s. 10(1)**
- F219** Words repealed by [Acquisition of Land \(Authorisation Procedure\) Act 1946 \(c. 49\)](#), **Sch. 6**
- F220** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), **Sch. 1 para. 1**
- F221** [S. 90\(1A\)](#) inserted (1.10.1993) by 1993 c. 35, **s. 282(3)**; S.I. 1993/1975, art. 9, **Sch. 1**
- F222** [SS. 90\(2\)\(3\), 97](#) repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 38(6), **Sch. 7**

**91** <sup>F223</sup> .....

#### Textual Amendments

- F223** [S. 91](#) repealed by [Local Government Act 1972 \(c. 70\)](#), **Sch. 30**

### 92 Reports and returns.

Every local education authority shall make to the [<sup>F224</sup>Secretary of State for Education and science] such reports and returns and give to him such information as he may require for the purpose of the exercise of his functions under this Act.

#### Textual Amendments

- F224** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

### 93 Power of Minister to direct local inquiries.

The [<sup>F225</sup>Secretary of State for Education and Science] may cause a local inquiry to be held for the purpose of the exercise of any of his functions under this Act; and the provisions of subsections (2) (3) (4) and (5) of section [<sup>F226</sup>two hundred and fifty of the <sup>M8</sup>Local Government Act 1972] shall have effect with respect to any such inquiry . . .

<sup>F227</sup>

#### Textual Amendments

- F225** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**
- F226** Words substituted by virtue of [Interpretation Act 1889 \(c. 63\)](#), **s. 38(1)**
- F227** Words spent

#### Modifications etc. (not altering text)

- C90** [S. 93](#) applied (1.4.1993) by [Further and Higher Education Act 1992 \(c. 13\)](#), **s. 57(6)**; S.I. 1992/831, art. 2, **Sch. 3**



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*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

### Marginal Citations

M8 1972 c. 70.

## 95 Provisions as to evidence.

- (1) Where in any proceedings under this Act the person by whom the proceedings are brought alleges that any person whose age is material to the proceedings is under, of, or over, any age, and satisfies the court that having used all reasonable diligence to obtain evidence as to the age of that person he has been unable to do so, then, unless the contrary is proved, the court may presume that person to be under, of, or over, the age alleged.
- (2) In any legal proceedings any document purporting to be—
  - (a) a document issued by a local education authority, and to be signed by the clerk of that authority or by the chief education officer of that authority or by any other officer of the authority authorised to sign it;
  - (b) an extract from the minutes of the proceedings of the . . . <sup>F232</sup> governors of any county school or voluntary school, and to be signed by the chairman of the . . . <sup>F232</sup> governors or by their clerk;
  - (c) a certificate giving particulars of the attendance of a child or young person at a school or at a county college, and to be signed by the head teacher of the school or college; or
  - (d) a certificate issued by a medical officer of a local education authority and to be signed by such an officer;

shall be received in evidence and shall, unless the contrary is proved, be deemed to be the document which it purports to be, and to have been signed by the person by whom it purports to have been signed, without proof of his identity, signature, or official capacity, and any such extract or certificate as is mentioned in paragraph (b) (c) or (d) of this subsection shall be evidence of the matters therein stated.

### Textual Amendments

F232 Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), [Sch. 1 para. 1](#)

### Modifications etc. (not altering text)

C92 [S. 95\(1\)](#) excluded by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\)](#), s. 9(2)  
[S. 95\(1\)](#) excluded (1.10.1993) by [1993 c. 35, s. 200\(3\)](#); S.I. 1993/1975, art. 9, [Sch. 1](#)

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

- (1) If upon the application of a former authority the Minister is satisfied with respect to any property which was immediately before the date of the commencement of Part II of this Act held by that authority for the purposes of functions exercisable by them under the Education Acts 1921 to 1939, that, although the property was so held, it was held upon trust for purposes of such a nature that the transfer thereof to a local education authority would be inexpedient, the Minister may by order direct that the property shall be deemed not to have been transferred by virtue of section six of this

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Act to the local education authority for the county in which the area of the former authority is situated.

- (2) Where any question arises as to whether any officers, property, rights, or liabilities, have been transferred by virtue of this Act from a former authority to a local education authority, that question shall be determined by the Minister.
- (3) Where any officers, property, rights, or liabilities, have been transferred by virtue of this Act from a former authority to a local education authority, the local education authority and the former authority may by agreement provide for the making of such adjustments in relation to their respective property, rights, and liabilities, as appear to the authorities to be desirable having regard to the transfer, and any such agreements may, in particular, provide for the making of payments by either party thereto.
- (4) Where it appears to the Minister that having regard to any such transfer it is desirable that any such adjustment as aforesaid (including any payment by either of the authorities concerned) should be made, he may, subject to any agreement made under the last foregoing subsection, by directions make provision for that adjustment.
- (5) Where at the commencement of Part II of this Act any former authority were parties to any proceedings pending with respect to any property, rights, or liabilities, which by virtue of this Act are transferred from the former authority to a local education authority, the proceedings may be carried on thereafter with the substitution of the local education authority for the former authority as parties thereto.

**Modifications etc. (not altering text)**

**C93** Functions of the Minister now exercisable by the Secretary of State for Education and Science: [S.I. 1964/490, art. 2\(1\)](#)

**97** <sup>F233</sup> .....

**Textual Amendments**

**F233** SS. 90(2)(3), 97 repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 38(6), [Sch. 7](#)

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

- (1) If in consequence of the extinguishment or transfer by this Act of any functions exercisable by the council of any county district, or the transfer by this Act of any officers employed by any such council, any person who, immediately before the date of the commencement of Part II of this Act, was an officer employed by that council or by the council of the county in which the county district is situated suffers direct pecuniary loss by reason of the determination of his appointment or the diminution of his emoluments, he shall, unless provision for his compensation for that loss is made by or under any other enactment for the time being in force, be entitled to receive compensation under this subsection from the local education authority for the area in which the county district is situated; and, for the purposes of any claim for compensation under this subsection, the provisions of subsections (2) and (3) of section one hundred and fifty of the <sup>M11</sup>Local Government Act 1933, shall have effect as if:—

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- (a) the extinguishment or transfer had been effected by virtue of an order made by the Minister of Health under Part VI of the said Act of 1933 and coming into operation upon the date of the commencement of Part II of this Act; and
  - (b) the expression “existing officer,” in those subsections, meant any person who, immediately before the said date, was an officer employed by the council of a county or county district in connection with any functions exercisable by that council under any enactment repealed or amended by this Act.
- (2) If, in consequence of any school becoming a special agreement school or a controlled school, or in consequence of the discontinuance within six years after the passing of this Act of any school maintained by a local education authority, any person who was a teacher in the school immediately before it became a special agreement school or a controlled school, or before the school was discontinued, as the case may be, suffers direct pecuniary loss by reason of his dismissal or the diminution of his emoluments, he shall, unless provision for his compensation for that loss is made by or under any other enactment for the time being in force, be entitled to receive compensation from the authority under this section.
- (3) For the purposes of the determination and payment of compensation under this section, the provisions of the Fourth Schedule to the <sup>M12</sup>Local Government Act 1933 shall have effect subject to the following modifications, that is to say:—
- (a) references therein to the Minister shall be construed as references to the Minister of Education, and sub-paragraph (1) of paragraph 1 thereof shall have effect as if after the word “prescribed” there were inserted the words “by the Minister of Education”;
  - (b) references therein to a scheme or order shall be construed as references to this Act; and
  - (c) any period during which a person has been engaged in war service within the meaning of the <sup>M13</sup>Local Government Staffs (War Service) Act 1939, shall be reckoned for the purposes of the said Schedule as a period of service in his office, and where any such period is so reckoned, his emoluments during that period shall, for the purposes of sub-paragraph (2) of paragraph 4 of the said Schedule, be deemed to be such as he would have received if he had not been engaged in war service.

**Modifications etc. (not altering text)**

**C94** Functions of the Minister of Education now exercisable by the Secretary of State for Education and Science: *S.I. 1964/490, art. 2(1)*

**Marginal Citations**

**M11** 1933 c. 51.

**M12** 1933 c. 51.

**M13** 1939 c. 94.

**99 Powers of Minister in default of local education authorities or . . . <sup>F234</sup>governors.**

- (1) If the [<sup>F235</sup>Secretary of State for Education and Science] is satisfied, either upon complaint by any person interested or otherwise, that any local education authority, or the . . . <sup>F234</sup>governors of any county school or voluntary school, have failed to discharge any duty imposed upon them by or for the purposes of this Act, the [<sup>F235</sup>Secretary of State for Education and Science] may make an order declaring the authority, or

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the . . . <sup>F234</sup> governors, as the case may be, to be in default in respect of that duty, and giving such directions for the purpose of enforcing the execution thereof as appear to the [<sup>F235</sup>Secretary of State for Education and Science] to be expedient; and any such directions shall be enforceable, on an application made on behalf of the [<sup>F235</sup>Secretary of State for Education and Science], by mandamus.

- (2) Where it appears to the [<sup>F235</sup>Secretary of State for Education and Science] that by reason of the default of any person there is no properly constituted body of . . . <sup>F234</sup> governors of any county school or voluntary school, the [<sup>F235</sup>Secretary of State for Education and Science] may make such appointments and give such directions as he thinks desirable for the purpose of securing that there is a properly constituted body of . . . <sup>F234</sup> governors thereof, and may give directions rendering valid any acts or proceedings which in his opinion are invalid or otherwise defective by reason of the default.
- (3) Where it appears to the [<sup>F235</sup>Secretary of State for Education and Science] that a local education authority have made default in the discharge of their duties relating to the maintenance of a voluntary school, the [<sup>F235</sup>Secretary of State for Education and Science] may direct that any act done by or on behalf of the . . . <sup>F234</sup> governors of the school for the purpose of securing the proper maintenance thereof shall be deemed to have been done by or on behalf of the authority, and may reimburse to the . . . <sup>F234</sup> governors any sums which in his opinion they have properly expended for that purpose; and the amount of any sum so reimbursed shall be a debt due to the Crown from the authority, and, without prejudice to any other method of recovery, the whole or any part of such a sum may be deducted from any sums payable to the authority by the [<sup>F235</sup>Secretary of State for Education and Science] in pursuance of any regulations relating to the payment of grants.

#### Textual Amendments

**F234** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), [Sch. 1 para. 1](#)

**F235** Words substituted by virtue of [S.I. 1964/490](#), [art. 3\(2\)\(a\)](#)

#### Modifications etc. (not altering text)

**C95** S. 99 extended by [Local Government Act 1958 \(c. 55\)](#), Sch. 8 paras. 16(1), [35](#), [Education \(No. 2\) Act 1968 \(c. 37\)](#), [s. 3\(3\)](#), [Sex Discrimination Act 1975 \(c. 65\)](#), [s. 25\(2\)](#) and [Race Relations Act 1976 \(c. 74\)](#), [s. 19\(2\)](#)

**C96** S. 99 restricted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), [ss. 23\(2\)](#), 231(7), 235(6) S. 99 restricted (1.9.1994) by 1993 c. 35, s. 298, [Sch. 18 para. 6\(4\)](#); S.I. 1994/2038, art. 3, [Sch. 2](#).

**C97** S. 99(1)(2) modified by [Education \(No.2\) Act 1986 \(c. 61, SIF 41\)](#), s. 12(10), [Sch. 2 para. 29\(c\)](#)

**C98** S. 99(1)(2) extended by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), [ss. 219\(3\)](#), 231(7), 235(6)

**C99** S. 99(1) extended (22.8.1991) by [School Teacher's Pay and Conditions Act 1991 \(c. 49, SIF 41:1\)](#), [s. 5\(5\)](#); S.I. 1991/1874, [art. 2](#)

**C100** S. 99(1) applied (1.4.1994) by 1993 c. 35, [s. 9\(4\)](#); S.I. 1994/507, [art. 3\(1\)](#).

**C101** S. 99(1)(2) applied (1.4.1994) by 1994/653, reg. 42(1), Sch. Pt.I.

**C102** S. 99(1)(2) applied (9.5.1994) by 1994/1084, reg. 8(1), Sch. 2 Pt.I.

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## FINANCIAL PROVISIONS

### 100 Grants in aid of educational services.

- (1) The [<sup>F236</sup>Secretary of State for Education and Science] shall by regulations make provision:—
- (a) for the payment by him to local education authorities of annual grants in respect of the expenditure incurred by such authorities;
- [<sup>F237</sup>(i) . . . . . <sup>F238</sup>
- (iii) in the removal of works constructed for the purposes of air-raid precautions or of temporary works constructed for defence purposes by or on behalf of the Secretary of State, the Admiralty or the Minister of Home Security in pursuance of Regulation fifty or fifty-one of the Defence (General) Regulations, 1939, or by agreement, and in the reinstatement of premises so far as it is rendered necessary by any such removal;]
- (b) for the payment by him to persons other than local education authorities of grants in respect of expenditure incurred or to be incurred [<sup>F239</sup>by them for the purposes of, or in connection with, the provision (or proposed provision) of educational services] or for the purposes of educational research; and
- (c) for the payment by him, for the purpose of enabling pupils to take advantage without hardship to themselves or their parents of any educational facilities available to them, of the whole or any part of the fees and expenses payable in respect of children attending schools at which fees are payable, . . . <sup>F240</sup>
- (2) . . . . . <sup>F241</sup>
- (3) Any regulations made by the [<sup>F236</sup>Secretary of State for Education and Science] . . . <sup>F242</sup> under this section may make provision whereby the making of payments by him in pursuance thereof is dependent upon the fulfilment of such conditions as may be determined by or in accordance with the regulations, and may also make provision for requiring local education authorities and other persons to whom payments have been made in pursuance thereof to comply with such requirements as may be so determined.
- (4) . . . . . <sup>F243</sup>
- (5) Nothing in this section shall affect any grants in aid of university education payable out of moneys provided by Parliament otherwise than in accordance with the provisions of this Act.

#### Subordinate Legislation Made

**P4** S. 100(1) and (3): s. 100(1) (with s. 100(3) and 111A) power exercised by S.I.1991/1975

**P5** S. 100(1)(b) and (3): s. 100(1)(b) (with s. 100(3)) power exercised by S.I. 1991/1831

For previous exercises of power see Index to Government Orders

#### Textual Amendments

**F236** Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)

**F237** Words substituted by Local Government Act 1958 (c. 55), Sch. 8 paras. 16(2), 35

**F238** S. 100(1)(a)(i)(ii) repealed by Education Act 1980 (c.20, SIF 41:1), s. 38(6), Sch. 7

**F239** Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 213(3), 231(7), 235(6)

**F240** Words repealed by Education Act 1962 (c. 12), s. 13, Sch. 2

**F241** Ss. 100(2), 101 repealed by Local Government Act 1958 (c. 55), s. 67, Sch. 9 Pt. II

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- F242** Words repealed by [Local Government Act 1958 \(c. 55\), s. 67, Sch. 9 Pt. II](#)
- F243** [S. 100\(4\)](#) repealed by [Education Act 1973 \(c. 16\), Sch. 2 Pt. II](#)

**101** <sup>F244</sup> .....

**Textual Amendments**

- F244** [Ss. 100\(2\), 101](#) repealed by [Local Government Act 1958 \(c. 55\), s. 67, Sch. 9 Pt. II](#)

<sup>F245</sup>**102** .....

**Textual Amendments**

- F245** [Ss. 102, 103](#) repealed (1.1.1994) by [1993 c. 35, s. 307\(1\)\(3\), Sch. 19 para. 22, Sch. 21 Pt.II; S.I. 1993/3106, art. 4, Sch. 1](#)

<sup>F246</sup>**103** .  
.....

**Textual Amendments**

- F246** [Ss. 102, 103](#) repealed (1.1.1994) by [1993 c. 35, s. 307\(1\)\(3\), Sch. 19 para. 22, Sch. 21 Pt.II; S.I. 1993/3106, art. 4, Sch.1](#)

**104** <sup>F247</sup> .....

**Textual Amendments**

- F247** [S. 104](#) repealed by [Education Act 1967 \(c. 3\), s. 1\(5\)\(b\)](#)

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

- (1) If upon the application of the . . . <sup>F248</sup> governors of any aided school or special agreement school the [<sup>F249</sup>Secretary of State for Education and Science] is satisfied after consultation with persons representing them that their share of any initial expenses required in connection with the school premises will involve capital expenditure which, in his opinion having regard to all the circumstances of the case, ought properly to be met by borrowing, he may make to the . . . <sup>F248</sup> governors of the school for the purpose of helping them to meet that expenditure, a loan of such amount at such rate of interest and otherwise on such terms and conditions as may be specified in an agreement made between him and them with the consent of the Treasury.



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

(a) expenses to be incurred in defraying the cost of any alterations required by the development plan approved by the [<sup>F249</sup>Secretary of State for Education and Science] for the area;

(b) expenses to be incurred in pursuance of any special agreement;

[<sup>F250</sup>(c) (i) expenses to be incurred in providing a site or school buildings on a significant enlargement of the school premises [<sup>F251</sup>or on a transfer of the school to a new site], being expenses in respect of which [<sup>F252</sup>grants under section 281 of the Education Act 1993] may be paid;

(ii) expenses to be incurred in providing school buildings on a site to which the school is to be transferred under the authority of an order under section 16(1) of this Act;

(iii) expenses to be incurred in providing a site or school buildings for a new school [<sup>F253</sup>which by virtue of an order under section 16(2) of this Act is deemed to be in substitution for a discontinued school or schools]];

[<sup>F254</sup>(d) . . . . .

and the . . . [<sup>F248</sup>governors’ share of any such initial expenses shall be taken to be so much thereof as remains to be borne by them after taking into account the amount of any [<sup>F255</sup>. . . grant under a special agreement, or grant under [<sup>F256</sup>section 281 of the Education Act 1993], as may be paid or payable in respect of those expenses.

(3) If upon an application being made to him under subsection (2) of section fifteen of this Act for an order directing that a school shall be an aided school or a special agreement school it appears to the [<sup>F249</sup>Secretary of State for Education and Science] that the area served by the school will not be also served by any county school or controlled school, then, unless he is satisfied that the . . . [<sup>F248</sup>governors of the school will be able to defray the expenses which would fall to be borne by them under paragraph (a) of subsection (3) of that section without the assistance of a loan under this section, the [<sup>F249</sup>Secretary of State for Education and Science] shall consult such persons or bodies of persons as appear to him to be representative of any [<sup>F257</sup>religion or] religious denomination which, in his opinion having regard to the circumstances of the area, is likely to be concerned; and, unless after such consultation he is satisfied that the holding of a local inquiry is unnecessary, shall cause such inquiry to be held before determining the application.

#### Textual Amendments

**F248** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), [Sch. 1 para. 1](#)

**F249** Words substituted by virtue of [S.I. 1964/490](#), [art. 3\(2\)\(a\)](#)

**F250** [S. 105\(2\)\(c\)](#) substituted by [Education Act 1968 \(c. 17\)](#), [Sch. 1 para. 4\(2\)](#)

**F251** Words in [s. 105\(2\)\(c\)\(i\)](#) inserted(1.10.1993) by [1993 c. 35](#), s. 307(1), [Sch. 19 para. 23\(a\)\(i\)](#); [S.I. 1993/1975](#), art. 9, [Sch. 1](#)

**F252** Words in [s. 105\(2\)\(c\)\(i\)](#) substituted (1.10.1993) by [1993 c. 35](#), s. 307(1), [Sch. 19 para. 23\(a\)\(i\)](#); [S.I. 1993/1975](#), art. 9, [Sch. 1](#)

**F253** Words in [s. 105\(2\)\(c\)\(iii\)](#) substituted (1.1.1994) by [1993 c. 35](#), s. 307(1), [Sch. 19 para. 23\(a\)\(ii\)](#); [S.I. 1993/3106](#), art. 4, [Sch. 1](#)

**F254** [S. 105\(2\)\(d\)](#) repealed (1.1.1994) by [1993 c. 35](#), s. 307(1)(3), [Sch. 19 para. 23\(a\)\(iii\)](#), [Sch. 21 Pt.II](#); [S.I. 1993/3106](#), art. 4, [Sch. 1](#)



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- F255** Words in s. 105(2) repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 23(a)(iv), **Sch. 21 Pt. II**; S.I. 1993/3106, art. 4, **Sch. 1**
- F256** Words in s. 105(2) substituted (1.1.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para. 23(a)(iv)**; S.I. 1993/3106, art. 4, **Sch. 1**
- F257** Words in s. 105(3) inserted (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para. 23(b)**; S.I. 1994/507, art. 4(1), **Sch.2**.

**Modifications etc. (not altering text)**

- C103** Unreliable marginal note.
- C104** S. 105 amended by Education (Miscellaneous Provisions) Act 1953 (c. 33), s. 8(3), Education Act 1959 (c. 60), s. 1(4) and Education Act 1967 (c. 3), s. 1(4)

**106** <sup>F258</sup> .....

**Textual Amendments**

- F258** Ss. 106, 108—110, 114(4) and Sch. 7 repealed by Statute Law (Repeals) Act 1975 (c. 10), **Sch. Pt. IV**

**107** <sup>F259</sup> .....

**Textual Amendments**

- F259** S. 107 repealed by Statute Law (Repeals) Act 1978 (c. 45), **Sch. 1 Pt. V**

**PART V**

**SUPPLEMENTAL**

**108—** <sup>F260</sup> .....  
**110.**

**Textual Amendments**

- F260** Ss. 106, 108—110, 114(4) and Sch. 7 repealed by Statute Law (Repeals) Act 1975 (c. 10), **Sch. Pt. IV**

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

Any order made or directions given by the [<sup>F261</sup>Secretary of State for Education and Science], the [<sup>F262</sup>Secretary of State for Social Services], or a local education authority under the provisions of this Act may be varied or revoked by a further order or further directions made or given by the [<sup>F261</sup>Secretary of State for Education and Science], the [<sup>F262</sup>Secretary of State for Social Services], or that authority, as the case may be:

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

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varied or revoked except upon the like application, with the like consent, after the like consultation, or subject to the like conditions, as the case may be.

#### Textual Amendments

**F261** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

**F262** Words substituted by virtue of S.I. 1968/1699, **art. 5(4)(a)**

#### Modifications etc. (not altering text)

**C105** S. 111 extended (6.5.1992) by Further and Higher Education Act 1992 (c. 13), **s. 89(5)**; S.I. 1992/831, **art.2, Sch. 1**

S. 111 extended (1.10.1993) by 1993 c. 35, **s. 260(8)**; S.I. 1993/1975, **art. 9, Sch.1**

**C106** S. 111 applied (27.7.1993) by 1993 c. 35, **s. 301(7)**

### [<sup>F263</sup> 111A] Regulations: different provision for Wales.

- (1) Regulations under this Act may make in relation to Wales provision different from that made in relation to England.
- (2) Subsection (1) above is without prejudice to any express or implied power to make different provision for different cases or circumstances.]

#### Subordinate Legislation Made

**P6** S. 111A: s. 100(1) (with ss. 100(3) and 111A) power exercised by S.I.1991/1975

For previous exercises of power see Index to Government Orders

#### Textual Amendments

**F263** S. 111A inserted by Education Reform Act 1988 (c. 40, SIF 41:1), **ss. 229(1), 231(7), 235(6)**

### 112 Regulations to be laid before Parliament.

All regulations made under this Act shall be laid before Parliament as soon as may be after they are made, and if either House of Parliament, within the period of forty days beginning with the day on which any such regulations are laid before it, resolves that the regulations be annulled, the regulations shall cease to have effect, but without prejudice to anything previously done thereunder or to the making of any new regulations.

In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

### 113 Notices.

Any [<sup>F264</sup> order, notice or other document] required or authorised by this Act to be served upon any person may be served by delivering it to that person, or by leaving it at his usual or last known place of residence, or by sending it in a pre-paid letter addressed to him at that place.

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### Textual Amendments

**F264** Words substituted by [Education Act 1946 \(c. 50\), Sch. 2 Pt. I](#)

## 114 Interpretation.

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

“Agreed syllabus” means, subject to the provisions of subsection (4) of this section, an agreed syllabus of religious [<sup>F265</sup>education] prepared in accordance with the provisions of the Fifth Schedule to this Act and adopted or deemed to be adopted thereunder;

[<sup>F266</sup> “alterations”, in relation to any school premises, includes improvements, extensions and additions, but does not include any significant enlargement of the school premises;]

“Assist”, in relation to any school . . . <sup>F267</sup> or institution, has the meaning assigned to it by [<sup>F268</sup>subsections (2) and (2A)] of this section;

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

“Clothing” includes boots and other footwear;

“Compulsory school age” has <sup>F269</sup> . . . , the meaning assigned to it by section thirty-five of this Act;

“County” means [<sup>F270</sup>a county within the meaning of the <sup>M14</sup>Local Government Act 1972];

[<sup>F271</sup> “enlargement”, in relation to any school premises, includes any modification of the existing premises which has the effect of increasing the number of pupils for whom accommodation can be provided, and “enlarge” shall be construed accordingly;]

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

[<sup>F272</sup> “foundation governors” means, in relation to any voluntary school, governors appointed] otherwise than by a local education authority or a minor authority for the purpose of securing, so far as is practicable, that the character of the school as a voluntary school is preserved and developed, and, in particular, that the school is conducted in accordance with the provisions of any trust deed relating thereto; and, unless the context otherwise requires, references in this Act to . . . <sup>F273</sup> “governors” shall, in relation to any function thereby conferred or imposed exclusively on . . . <sup>F273</sup> foundation governors, be construed as references to such . . . <sup>F273</sup> governors;

“Further education” has the meaning assigned to it by section forty-one of this Act [<sup>F274</sup>as read with section 14 of the Further and Higher Education Act 1992];

[<sup>F275</sup> “Higher education” has the meaning assigned to it by section 120(1) of the Education Reform Act 1988;]

“Independent school” means any school at which full-time education is provided for five or more pupils of compulsory school age (whether or not such education is also provided for pupils under or over that age), not being a school maintained by a local education authority [<sup>F276</sup>a grant-maintained school] or [<sup>F277</sup>a special school not maintained by a local education authority];

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

“Local education authority” means, in relation to any area for which a joint education board is constituted as the local education authority under the provisions of Part I of the First Schedule to this Act, the board so constituted, and, save as aforesaid, means, [<sup>F278</sup>in relation to a non-metropolitan county, the council of the county, and in relation to a metropolitan district, the council of the district];

F279

“Local government elector” has the meaning assigned to it by [<sup>F280</sup>section 270(1) of the <sup>M15</sup>Local Government Act 1972]; and in relation to the area of any joint education board constituted under Part I of the First Schedule to this Act a local government elector for the area of any council by whom members are appointed to the board shall be deemed to be a local government elector for the area of the authority;

“Maintain” in relation to any school . . . [<sup>F281</sup> has the meaning assigned to it by subsection (2) of this section;

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

F282

“Medical officer” means, in relation to any local education authority, a duly qualified medical practitioner employed or engaged, whether regularly or for the purposes of any particular case, by that authority [<sup>F283</sup>or whose services are made available to that authority by the Secretary of State];

F282

[<sup>F284</sup> “Minor authority” means, in relation to a school maintained by a local education authority,—

- (a) where the area which appears to the local education authority to be served by the school is a parish or community, the parish or community council or, in the case of a parish which has no council, the parish meeting;
- (b) where the said area is a community having no community council or is an area in England which is not within a parish and is not situated in a metropolitan county, the council of the district for the area concerned;
- (c) where the said area comprises two or more of the following, a parish, a community or an area in England which is not within a parish and is not situated in a metropolitan county—
  - (i) the parish or community council or councils, if any;
  - (ii) in the case of a parish which has no council, the parish meeting;
  - (iii) in the case of an area which is a community having no community council or which is in England and is not within a parish, the council of the district concerned;

acting jointly];

[<sup>F285</sup> . . . ]

[<sup>F286F287</sup> . . . ]

[<sup>F288</sup> . . . ]

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

*Status: Point in time view as at 01/01/1996.*

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“Prescribed”, means prescribed by regulations made by the [<sup>F289</sup>Secretary of State for Education and Science];

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

[<sup>F290</sup> “Primary school” means, subject to regulations under section 1 of the Education Act 1964, a school for providing primary education, whether or not it also provides [<sup>F290</sup> part-time education suitable to the requirements of junior pupils or] further education]

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

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

[ “Pupil” has the meaning assigned to it by section 14(6) of the Further and Higher Education Act 1992]

“Registered pupil” means, in relation to any school, a [<sup>F291</sup>person registered as a pupil]in the register kept in accordance with the requirements of this Act . . .<sup>F292</sup>

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

[ “School” has the meaning assigned to it by section 14(5) of the Further and Higher Education Act 1992]

“Secondary education” has the meaning assigned to it by section [<sup>F293</sup>14 of the Further and Higher Education Act 1992];

[<sup>F294</sup> “Secondary school” means, subject to regulations under section 1 of the Education Act 1964, a school for providing secondary education, whether or not it also provides <sup>F294</sup> . . . further education]

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

[<sup>F295</sup>[<sup>F296</sup> “Sex education” includes education about—

(a) Acquired Immune Deficiency Syndrome and Human Immunodeficiency Virus, and

(b) any other sexually transmitted disease]

“Significant”, in relation to a change in the character of a school or an enlargement of school premises, implies that there is a substantial change in the function or size of the school];

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

[<sup>F297</sup> “Special educational needs” and “Special educational provision” have the meanings given to them by section [<sup>F298</sup>156 of the Education Act 1993];]

“Trust deed”, in relation to any voluntary school, includes any instrument (not being an . . . <sup>F299</sup> instrument of government, . . . <sup>F299</sup> or articles of government, made under this Act) regulating the maintenance management or conduct of the school or the constitution of the body of . . . <sup>F299</sup> governors thereof;

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

(1A) <sup>F300</sup> .....

(1B) <sup>F300</sup> .....

(1C) <sup>F300</sup> .....

[<sup>F301</sup>(1D) In this Act, unless the context otherwise requires, ‘parent’, in relation to a child or young person, includes any person-

- (a) who is not a parent of his but who has parental responsibility for him, or
- (b) who has care of him,

except for the purposes of the enactments mentioned in subsection (1E) of this section, where it only includes such a person if he is an individual.

(1E) The enactments are—

- (a) sections 5(4), 15(2) and (6), 31 and 65(1) of, and paragraph 7(6) of Schedule 2 to, the Education (No. 2) Act 1986; and

[<sup>F302</sup>(b) sections 25 to 27, 29, 37, 60, 63 and 65 of the Education Act 1993, paragraph 9 of Schedule 6 to that Act and Schedule 7 to that Act]

(1F) For the purposes of subsection (1D) of this section—

- (a) “parental responsibility” has the same meaning as in the Children Act 1989; and
- (b) in determining whether an individual has care of a child or young person any absence of the child or young person at a hospital or boarding school and any other temporary absence shall be disregarded.]

(2) [<sup>F303</sup>Subject to subsection (2A) of this section] for the purposes of this Act:—

- (a) the duty of a local education authority to maintain a school . . . <sup>F304</sup> shall include the duty of defraying all the expenses of maintaining the school . . . <sup>F304</sup> except, in the case of an aided school or a special agreement school, any expenses that by virtue of any provision of this Act or of any special agreement made thereunder are payable by the . . . <sup>F305</sup> governors of the school, and the expression “maintain” shall be construed accordingly; and
- (b) where a local education authority make to the proprietor of any school which is not maintained by the authority, or to the persons responsible for the maintenance of any [<sup>F306</sup>institution other than a school], any grant in respect of the school . . . <sup>F307</sup> or institution or any payment in consideration of the provision of educational facilities thereat, the school . . . <sup>F307</sup> or institution shall be deemed to be assisted by the authority.

[<sup>F308</sup>(2A) Neither a university nor any institution [<sup>F309</sup>within the further education sector or] within the [<sup>F310</sup>higher education sector other than a university] shall be deemed under subsection (2)(b) of this section to be assisted by a local education authority by virtue of the making by that authority to the persons responsible for the maintenance of that university or institution of any such grant or payment as is there mentioned.]

(3) .....

(4) .....

(5) .....

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- (6) ..... F314
- (7) Where at any time before the date of the commencement of Part II of this Act the premises of any school which was for the time being a public elementary school within the meaning of the enactments repealed by this Act have ceased by reason of war damage, or by reason of any action taken in contemplation or in consequence of war, to be used for the purposes of a school, then, for the purposes of this Act, the school, unless it has been closed in accordance with those enactments, shall be deemed to have been a public elementary school within the meaning of those enactments immediately before that date and, if it was maintained by a former authority immediately before the premises ceased to be used for the purposes of a school, to have been maintained by such an authority immediately before that date.
- (8) In this Act, unless the context otherwise requires, references to any enactment or any provision of any enactment shall be construed as references to that enactment or provision as amended by any subsequent enactment, including this Act.

#### Textual Amendments

- F265** Word substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 1, 231(7), 235(6), **Sch. 1 para. 6**
- F266** Definition substituted by [Education Act 1968 \(c. 17\)](#), **Sch. 1 para. 5(a)**
- F267** Word repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 234(4), 235(7), 237(2), **Sch. 13 Pt. II**
- F268** Words substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. **231(7)**, 234(4)(b), 235(6)
- F269** Words repealed by [Education \(School-leaving Dates\) Act 1976 \(c. 5\)](#), **Sch.**
- F270** Words substituted by virtue of [Interpretation Act 1889 \(c. 63\)](#), s. **38(1)** and [Local Government Act 1972 \(c. 70\)](#), s. **179(2)**
- F271** Definition inserted by [Education Act 1968 \(c. 17\)](#), **Sch. 1 para. 5(b)**
- F272** Words substituted by [Education Act 1980 \(c.20, SIF 41:1\)](#), s. 1(3), **Sch. 1 para. 13(a)**
- F273** Words repealed by [Education Act 1980 \(c.20, SIF 41:1\)](#), s. 1(3), **Sch. 1 para. 13(a)**
- F274** Words in the definition of "further education" in s. 114(1) added (6.5.1992) by [Further and Higher Education Act 1992 \(c. 13\)](#), s. 93(1), **Sch. 8 para. 13(2)(a)**; S.I. 1992/831, art. 2, **Sch. 1**
- F275** Definition inserted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. **120(9)(a)(i)**, 231(7), 235(6)
- F276** Words inserted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 7(2)**
- F277** Words substituted by virtue of [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. **34(1)**
- F278** Words substituted by S.I. 1977/293, **art. 4(1)**
- F279** Definition repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 38(6), **Sch. 7**
- F280** Words substituted by virtue of [Interpretation Act 1889 \(c. 63\)](#), s. **38(1)**
- F281** Words repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. II**
- F282** Definitions repealed by [National Health Service Reorganisation Act 1973 \(c. 32\)](#), **Sch. 5**
- F283** Words inserted by [National Health Service Reorganisation Act 1973 \(c. 32\)](#), **Sch. 4 para. 8**
- F284** Definition substituted by [Local Government Act 1972 \(c. 70\)](#), s. **192(4)**
- F285** Definition repealed (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(6)(7), Sch. 14 paras. 1(1), 27(4), **Sch. 15**; S.I. 1991/828, **art. 3(2)**
- F286** Definitions inserted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. **120(9)(a)(ii)**, 231(7), 235(6), 236(2)
- F287** Definition of "part-time senior education" in s. 114(1) repealed (1.4.1993) by [Further and Higher Education Act 1992 \(c. 13\)](#), s. 93(1), Sch. 8 para. 13(2)(b), **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 3**
- F288** Definition of "post-school age education" in s. 114(1) repealed (1.4.1993) by [Further and Higher Education Act 1992 \(c. 13\)](#), s. 93(1)(2), Sch. 8 para. 13(2)(b), **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 3**



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- F289** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**
- F290** Words in the definition of "primary school" in s. 114(1) inserted (1.4.1994) by 1993 c. 35, s. **304(2)**; S.I. 1994/507, art. 4(1), **Sch. 2**.
- F291** Words in the definition of "registered pupil" substituted (1.10.1993) by 1993 c. 35, s. 307(1), **Sch. 19 para. 24(a)(ii)**; S.I. 1993/1975, art. 9, **Sch. 1**
- F292** Words repealed by Education (Miscellaneous Provisions) Act 1948 (c. 40), **Sch. 2**
- F293** Words in the definition of "secondary school" in s. 114(1)(f) substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), S. 93(1), **Sch. 8 para. 13(2)(f)**; S.I. 1992/831, art. 2, **Sch. 3**
- F294** Words in the definition of "secondary school" repealed (1.10.1993) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 24(a)(iii), **Sch. 21 Pt. II**; S.I. 1993/1975, art. 9, **Sch. 1**
- F295** Definition inserted by Education Act 1968 (c. 17), **Sch. 1 para. 5(c)**
- F296** Definition in s. 114(1) inserted (1.9.1994) by 1993 c. 35, s. **241(2)**; S.I. 1994/2038, art. 3, **Sch. 2**.
- F297** Definition substituted by Education Act 1981 (c. 60, SIF 41:1), **Sch. 3 para. 6**
- F298** Words in the definition of "special educational needs" and "special educational provision" substituted (1.1.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para. 24(a)(iv)**; S.I. 1993/3106, art. 4, **Sch. 1**
- F299** Words repealed by Education Act 1980 (c. 20, SIF 41:1), **Sch. 1 para. 13(b)**
- F300** S. 114(1A)(1B) and (1C) repealed (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1)(2), Sch. 8 para. 13(3), **Sch. 9**, S.I. 1992/831, art. 2, Sch. 3
- F301** S. 114(1D)(1E)(1F) inserted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(5)(6), Sch. 13 para. 10, **Sch. 14 para. 1(1)**; S.I. 1991/828, **art. 3(2)**
- F302** S. 114(1E)(b) substituted (1.1.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para. 24(b)**; S.I. 1993/3106, art. 4, **Sch. 1**
- F303** Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), **ss. 231(7), 234(2)(a), 235(6)**
- F304** Words repealed by Education Reform Act 1988 (c. 40, SIF 41), **ss. 231(7), 235(6), 237(2), Sch. 13 Pt. II**
- F305** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 1**
- F306** Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), **ss. 231(7), 234(3)(a), 235(6)**
- F307** Word repealed by Education Reform Act 1988 (c. 40, SIF 41:1), **ss. 231(7), 234(3)(b), 235(6), 237(2), Sch. 13 Pt. II**
- F308** S. 114(2A) inserted by Education Reform Act 1988 (c. 40, SIF 41:1), **s. 234(2)(b)** (with **ss. 231(7), 235(7)**) (which s. 234(2)(b) was repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 57(b), **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 3**)
- F309** Words in s. 114(2A) inserted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 para. 13(4)(b)**; S.I. 1992/831, art. 2, **Sch. 3**
- F310** Words in s. 114(2A) substituted (1.4.1993) by virtue of Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 para. 13(4)(a)**; S.I. 1992/831, art. 2, **Sch. 3**
- F311** S. 114(3) repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), **Sch. 7**
- F312** **Ss. 106, 108—110, 114(4) and Sch. 7** repealed by Statute Law (Repeals) Act 1975 (c. 10), **Sch. Pt. IV**
- F313** S. 114(5) repealed by Education Act 1946 (c. 50), **s. 8(4)**
- F314** S. 114(6) repealed by Education (School-leaving Dates) Act 1976 (c. 5), **Sch.**

#### Modifications etc. (not altering text)

- C107** Definitions of "local education authority", "minor authority" amended by London Government Act 1963 (c. 33), **ss. 30(1), 31(10)**
- C108** S. 114(2)(a) explained by Rating and Valuation Act 1961 (c. 45), **s. 12(6)**

#### Marginal Citations

- M14** 1972 c. 70.
- M15** 1972 c. 70.

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

No power or duty conferred or imposed by this Act on the [<sup>F315</sup>Secretary of State for Education and Science], on local education authorities, or on parents, shall be construed as relating to any person who is employed by or under the Crown in any service or capacity with respect to which the [<sup>F315</sup>Secretary of State for Education and Science] certifies that, by reason of the arrangements made for the education of children and young persons employed therein, the exercise and performance of those powers and duties with respect to such children and young persons is unnecessary.

### Textual Amendments

**F315** Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)

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

No power or duty conferred or imposed by this Act [<sup>F316</sup>or by or under the Education Act 1993] on the [<sup>F317</sup>Secretary of State for Education and Science], on local education authorities, or on parents, shall be construed as relating . . . <sup>F318</sup> to any person who is detained in pursuance of an order made by any court [<sup>F319</sup>or of an order of recall made by the Prison Commissioners, but a local education authority shall have power to make arrangements for a person who is detained in pursuance of an order made by a court, or of such an order of recall, to receive the benefit of educational facilities provided by the authority. Where a child or young person is being educated as a boarder at a school, the fact that he is required to be at the school by virtue of an order made by a court under the [<sup>F320M16</sup>Children and Young Persons Act 1969] or by virtue of anything done under such an order, or by virtue of a requirement of a probation order or by virtue of anything done under such a requirement, shall not render him a person detained in pursuance of an order made by a court within the meaning of those words in this section.]

### Textual Amendments

**F316** Words in s. 116 inserted (1.10.1993) by 1993 c. 35, s. 307(1), **Sch. 19 para. 25**; S.I. 1993/1975, art. 9, **Sch. 1**

**F317** Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)

**F318** Words repealed by Education (Handicapped Children) Act 1970 (c. 52), **Sch.**

**F319** Words inserted by Education (Miscellaneous Provisions) Act 1948 (c. 40), **Sch. 1 Pt. I**

**F320** Words inserted by virtue of Interpretation Act 1889 (c. 63), s. 38(1)

### Marginal Citations

**M16** 1969 c. 54.

## 117 <sup>F321</sup> .....

### Textual Amendments

**F321** S. 117 repealed by London Government Act 1963 (c. 33), **Sch. 18 Pt. II**

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*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

**118 Application to Isles of Scilly.**

The Minister shall by order provide for the application of this Act to the Isles of Scilly as if those isles were [<sup>F322</sup>a separate non-metropolitan county], and any such order may provide for the application of this Act to those isles subject to such modifications as may be specified in the order.

**Textual Amendments**

**F322** Words substituted by [S.I. 1977/293, art. 4\(1\)](#)

**119** <sup>F323</sup> .....

**Textual Amendments**

**F323** [S. 119, Sch. 9](#) repealed by [Education Act 1973 \(c. 16\), Sch. 2 Pt. I](#)

**120 Amendment of enactments.**

- (1) On and after the date of the commencement of Part II of this Act any enactment passed before that date shall, unless the context otherwise requires, be construed as if:—
  - (a) for references therein to an elementary school or to a public elementary school (whether or not any reference is made therein to the payment of parliamentary grants in respect of the school) there were substituted references to a county school or voluntary school as the context may require;
  - (b) for references therein to a school certified by the Board of Education, in accordance with the provisions of Part V of the <sup>M17</sup>Education Act 1921, as suitable for providing education for blind deaf defective or epileptic children, there were substituted references to a special school;
  - (c) for references therein to the managers of a school there were substituted, in relation to a county . . . <sup>F324</sup> school or a voluntary . . . <sup>F324</sup> school, references to the governors of the school;
  - (d) for references therein to elementary education or to higher education there were substituted references to such education as may be provided by a local education authority in the exercise of their functions under Part II of this Act;
  - (e) for references therein to a local education authority, to a local education authority for elementary education, or to a local education authority for higher education, there were substituted references to a local education authority within the meaning of this Act.
- (2) ..... <sup>F325</sup>
- (3) The enactments mentioned in the first column of the Eighth Schedule to this Act shall, except in so far as any them extend to Scotland, have effect subject to the amendments specified in the second column of that Schedule :  
Provided that Part I of the said Schedule shall come into operation on the date of the commencement of Part II of this Act, and Part II of the said Schedule shall come into operation on the date on which section forty-four of this Act comes into operation.

*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

- (4) Where by virtue of this Act any functions cease to be exercisable by the council of a county district under the <sup>M18</sup>Children and Young Persons Acts, 1933 <sup>M19</sup> and 1938, the following provisions of this Act, that is to say:—
- (a) subsections (3) and (4) of section six; and
  - (b) section ninety-seven;
- shall have effect as if those functions had been exercisable under the Education Acts, 1921 and 1939; and, in relation to any such functions, the provisions of section ninety-six and of subsection (3) of section ninety-eight of this Act shall have effect as if for the references therein to the Minister of Education there were substituted references to the Secretary of State.
- (5) For the purposes of any byelaws under Part II of the <sup>M20</sup>Children and Young Persons Act 1933, the expression “child” shall have the same meaning as it has for the purposes of the said Part II; and any byelaws made by the council of a county district under the said Part II which are in force immediately before the date of the commencement of Part II of this Act shall, in relation to the area to which they extend, continue in operation on and after that date as if they had been made by the local education authority for the area in which the county district is situated, and may be varied or revoked accordingly.

#### Textual Amendments

**F324** Word repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), [Sch. 1 para. 14](#)

**F325** [S. 120\(2\)](#) repealed by [Statute Law \(Repeals\) Act 1978 \(c. 45\)](#), [Sch. 1 Pt. V](#)

#### Modifications etc. (not altering text)

**C109** The text of ss. 120(3), 121, and Sch. 8 Pt. 1 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M17** 1921 c. 51.

**M18** 1933 c. 12.

**M19** 1938 c. 40.

**M20** 1933 c. 12.

## 121 Repeal of enactments.

Section eighty-three of the <sup>M21</sup>Elementary Education Act, 1870, the Board of Education Act, 1899, and sections one and two of the Education act, 1921, are hereby repealed as from the date declared by His Majesty in Council to be the date on which the first appointment under this Act of a Minister of Education took effect ; the enactments mentioned in the first column of Part I of the Ninth Schedule to this Act are, to the extent mentioned in the third column of that Part, hereby repealed, except in so far as any of them extend to Scotland, as from the date of the commencement of Part II of this Act ; and the enactments mentioned in the first column of Part II of that Schedule are to the extent mentioned in the third column of that Part hereby repealed, except in so far as they extend to Scotland, as from the date on which section forty-four of this Act comes into operation :

Provided that—

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*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

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

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**Modifications etc. (not altering text)**

**C110** The text of ss. 120(3), 121, and Sch. 8 Pt. I is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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**Marginal Citations**

**M21** 33 & 34 Vict. c. 75.

**122 Short title and extent.**

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

*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

# SCHEDULES

## FIRST SCHEDULE

### LOCAL ADMINISTRATION

#### PART III. . . . . F339

.....

**Textual Amendments**  
**F339** Sch. 1 Pt. II para. 2, Pt. III repealed by Local Government Act 1972 (c. 70), **Sch. 30**

## SECOND SCHEDULE

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

1 A local education authority and the . . . <sup>F340</sup> governors of any voluntary school maintained by the authority may, subject to and in accordance with the provisions of this Schedule, make an agreement for the transfer to the authority of any interest in the school premises held by any persons for the purposes of any trust deed relating to the school.

.....

**Textual Amendments**  
**F340** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 1**

2 No such agreement shall take effect unless it has been approved by the [<sup>F341</sup>Secretary of State for Education and Science .]

.....

**Textual Amendments**  
**F341** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

3 The [<sup>F342</sup>Secretary of State for Education and Science] shall not approve any such agreement unless he is satisfied—  
(a) that due notice of the agreement has been given to any persons other than the . . . <sup>F343</sup> governors of the school who, by virtue of any trust deed relating

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to the school, have an interest therein and to any other persons who appear to the [<sup>F342</sup>Secretary of State for Education and Science] to be concerned; and

- (b) that the execution of the agreement will effect the transfer of all interests necessary for the purpose of enabling the authority to maintain the school as a county school.

#### Textual Amendments

**F342** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

**F343** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 1**

- 4 Before approving any such agreement, the [<sup>F344</sup>Secretary of State for Education and Science] shall consider any representations made to him by or on behalf of any persons appearing to the [<sup>F344</sup>Secretary of State for Education and Science] to be concerned with the proposed transfer.

#### Textual Amendments

**F344** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

- 5 An agreement under this Schedule may provide for the transfer to the authority, subject to such conditions, reservations and restrictions, if any, as may be specified in the agreement, of the whole of the interest in the premises held by any persons for the purposes of any trust deed relating to the school, or of any less interest in the premises, and may include such other provisions, whether relating to the consideration for the said transfer or otherwise, as may be agreed upon between the authority and the . . . <sup>F345</sup> governors of the school.

#### Textual Amendments

**F345** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 1**

- 6 Where any agreement made under this Schedule has been approved by the [<sup>F346</sup>Secretary of State for Education and Science], the . . . <sup>F347</sup> governors of the school may, whether or not the interest to be transferred to the authority by virtue of the agreement is vested in them, convey that interest to the authority.

#### Textual Amendments

**F346** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

**F347** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 1**



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- 7 Where any person other than the . . . <sup>F348</sup> governors of the school has a right to the occupation or use of the school premises or any part thereof for any particular purpose, no provision of any agreement made under this Schedule shall affect that right unless he has consented thereto.

**Textual Amendments**

**F348** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), Sch. 1 para. 1

- 8 In this Schedule, the expression “premises” includes a teacher’s dwelling-house.

### THIRD SCHEDULE

#### SPECIAL AGREEMENTS IN RESPECT OF CERTAIN VOLUNTARY SCHOOLS

- 1 Where proposals for the establishment of a school or for the alteration of the premises of a school have been submitted to a former authority, within the time limited by subsection (2) of section eight of the <sup>M25</sup>Education Act 1936, with a view to the making of an agreement under that section, but the said proposals have not been carried out before the date of the commencement of Part II of this Act, a local education authority shall have power to make an agreement in accordance with the provisions of this Schedule in respect of those proposals or in respect of any revised proposals submitted to the authority in accordance with those provisions:  
 Provided that no such agreement shall have effect unless it is approved by the [<sup>F349</sup>Secretary of State for Education and Science], and no such agreement shall be made or approved unless the authority and the [<sup>F349</sup>Secretary of State] are satisfied that the performance thereof will facilitate the execution of provisions relating to school accommodation for senior pupils contained or proposed to be contained in the development plan for the area.

**Textual Amendments**

**F349** Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)

**Marginal Citations**

**M25** 1936 c. 41.

- 2 If upon the application of any persons interested in any such proposals the [<sup>F350</sup>Secretary of State for Education and Science] is satisfied that by reason of the passing of this Act or the making of any regulations thereunder, or by reason of movement of population or of any action taken or proposed to be taken under the enactments relating to housing or to town and country planning, or by reason of war damage, it is desirable that the proposals should be revised, the [<sup>F350</sup>Secretary of State for Education and Science] may give directions authorising a local education authority, in lieu of making an agreement in accordance with the provisions of this

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Schedule with respect to those proposals, to make such an agreement with respect to any revised proposals submitted to the authority before the expiration of such period as may be specified in the directions, being proposals which appear to the authority to serve substantially the same purpose as the proposals originally submitted.

**Textual Amendments**

**F350** Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)

F351

3

**Textual Amendments**

**F351** Sch. 3 para. 3 repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), Sch. 7

4 Any such agreement shall provide for the making of a grant by the local education authority to persons specified in the agreement in consideration of the execution by those persons of the proposals to which the agreement relates.

5 The amount of the grant to be made in pursuance of any such agreement shall not be less than one-half or more than three-quarters of the cost of executing the proposals to which the agreement relates:

[<sup>F352</sup>Provided that, where the proposals include proposals for establishing a playing field or any buildings of a kind which it is, under [<sup>F353</sup>section 13(6) of the Education Act 1980], the duty of the local education authority to provide,—

- (a) if the proposals as respects the playing field or buildings are to be executed by the persons specified in the agreement, the amount of the grant so far as attributable to the cost thereof, shall be equal to the whole of that cost; and
- (b) if the proposals as respects the playing field or buildings are to be executed by the local education authority, the cost thereof shall be borne by them and excluded in computing the amount of the grant.]

**Textual Amendments**

**F352** Words inserted by Education (Miscellaneous Provisions) Act 1948 (c. 40), Sch. 1 Pt. I

**F353** Words substituted by Education Act 1980 (c. 20, SIF 41:1), s. 16(4), Sch. 3 para. 5

6 Where the agreement relates to proposals for the establishment of a school submitted to the local education authority for the County Borough of Liverpool, the authority may, if the agreement so provides, discharge their liabilities under the agreement by providing premises for the school and executing a lease of those premises to such persons as may be specified in the agreement for the purpose of enabling a voluntary school to be conducted thereon.

*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

Any such lease shall provide for the reservation of a yearly rent of an amount not less than one nor more than two per cent. of the cost incurred by the authority in providing the premises for the school.

- 7 Any agreement made under this Schedule may provide for the giving of religious instruction in the school in accordance with the provisions of the trust deed relating to the school, or, where provision for that purpose is not made by such a deed, in accordance with the practice observed in the school before it became a voluntary school, and for the employment in the school, for the purpose of giving such religious instruction, of such number of reserved teachers as may be specified in the agreement.
- 8 Any agreement made by a local education authority under this Schedule may be varied by a further agreement between the authority and the . . . <sup>F354</sup> governors of the school to which the agreement relates, or in such other manner, if any, as may be specified in the agreement.

**Textual Amendments**

**F354** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), [Sch. 1 para. 1](#)

- 9 Where a grant has been made in respect of any school in pursuance of an agreement made under this Schedule, the . . . <sup>F355</sup> governors of the school may, at any time while the school is a special agreement school, repay the grant to the local education authority by which the school is maintained.

**Textual Amendments**

**F355** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), [Sch. 1 para. 1](#)

- 10 Where an agreement has been made under this Schedule in relation to any school, then, until the proposals to which the agreement relates have been carried out, the provisions of this Act relating to the respective obligations of the . . . <sup>F356</sup> governors of voluntary schools and the local education authority in respect of repairs and alterations to the premises of the school shall not have effect in relation to that school, but the respective obligations of the . . . <sup>F356</sup> governors of the school and the local education authority in relation to those matters shall be such as may be determined by agreement between the managers or governors and the authority, or, in default of such agreement, by the [<sup>F357</sup>Secretary of State for Education and Science].

**Textual Amendments**

**F356** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), [Sch. 1 para. 1](#)

**F357** Words substituted by virtue of [S.I. 1964/490](#), [art. 3\(2\)\(a\)](#)

*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

- 11 Where any local authority have, before the date of the commencement of Part II of this Act, made an agreement under the powers conferred by section eight of the <sup>M26</sup>Education Act 1936, with respect to proposals submitted to the authority within the time limited by subsection (2) of that section, then:—
- (a) if the said proposals have been carried out before that date the agreement shall be deemed to have been made under this Schedule, and the provisions of this Act relating to special agreements shall have effect accordingly;
  - (b) if the said proposals have not been carried out before that date, the agreement shall cease to have effect, but without prejudice to the making of a further agreement under this Schedule with respect to those proposals or with respect to any revised proposals submitted to the authority in accordance with the provisions of this Schedule.

**Marginal Citations**

M26 1936 c. 41.

FOURTH SCHEDULE

F358  
. . .

**Textual Amendments**

F358 Sch. 4 repealed by Education Act 1980 (c. 20, SIF 41:1), s. 4(6), 38(6), Sch. 7

FIFTH SCHEDULE

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

**Modifications etc. (not altering text)**

C114 Sch. 5 modified by S.I. 1989/46, art. 3 (1), Sch. 1

- 1 For the purpose of preparing any syllabus of religious [<sup>F359</sup>education] to be adopted by a local education authority, the authority shall cause to be convened a conference constituted in accordance with the provisions of this Schedule.

**Textual Amendments**

F359 Word substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 9, 231(7), 235(6), Sch. 1 para. 7(1)

*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

- 2 For the purpose of constituting such a conference as aforesaid, the local education authority shall appoint constituent bodies (hereinafter referred to as “committees”) consisting of persons representing respectively—

- [<sup>F360</sup>(a) such Christian [<sup>F361</sup>denominations and other religions and denominations of such religions] as, in the opinion of the authority, will appropriately reflect the principal religious traditions in the area;]
- (b) except in the case of an area in Wales or Monmouthshire, the Church of England;
- (c) such associations representing teachers as, in the opinion of the authority, ought, having regard to the circumstances of the area, to be represented; and
- (d) the authority:

Provided that where a committee is appointed consisting of persons representing the Church of England, the committee of persons appointed [<sup>F362</sup>under sub-paragraph (a) above] shall not include persons appointed to represent that Church.

#### Textual Amendments

**F360** Sch. 5 para. 2(a) substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 9, 231(7), 235(6), **Sch. 1 para. 7(2)**

**F361** Words in Sch. 5 para. 2(a) substituted (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para. 27(a)**; S.I. 1994/507, art. 4(1), **Sch.2**.

**F362** Words in the proviso to para. 2 of Sch. 5 substituted (1.4.1994) by 1993 c. 35, ss. 307(1), 308(3), **Sch. 19 para. 27(b)**; S.I. 1994/507, art. 4(1), **Sch.2**.

#### Modifications etc. (not altering text)

**C115** Sch. 5 para. 2 modified (1.4.1994) by 1993 c. 35, s. 15(4)(a); S.I. 1994/507, **art.3(1)**.

- 3 Before appointing a person to represent any [<sup>F363</sup>religion] denomination or associations as a member of any such committee, a local education authority shall take all reasonable steps to assure themselves that he is representative thereof, but no proceedings under this Schedule shall be invalidated on the ground that a member of such a committee did not represent the [religion]denomination or associations which he was appointed to represent unless it is shown that the local education authority failed to take such steps as aforesaid.

#### Textual Amendments

**F363** Word in Sch. 5 para. 3 inserted (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para. 27(c)**; S.I. 1994/507, art. 4(1), **Sch.2**.

- 4 A person so appointed may resign his membership of any such committee or may be withdrawn therefrom by the local education authority if in the opinion of the authority he ceases to be representative of the [<sup>F364</sup>religion] denomination or associations which he was appointed to represent, or of the authority, as the case may be; and where a [<sup>F365</sup>person resigns or is withdrawn from the committee the authority shall appoint

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someone in his place in the same manner as that in which they made the original appointment].

**Textual Amendments**

**F364** Word in [Sch. 5 para. 4](#) substituted (1.4.1994) by [1993 c. 35, s. 307\(1\)](#), [Sch. 19 para. 27\(d\)\(i\)](#); [S.I. 1994/507, art. 4\(1\)](#), [Sch.2](#).

**F365** Words in [Sch. 5 para. 4](#) substituted (1.4.1994) by [1993 c. 35, s. 307\(1\)](#), [Sch. 19 para. 27\(d\)\(ii\)](#); [S.I. 1994/507, art. 4\(1\)](#), [Sch.2](#).

- 5 The conference shall consist of the committees aforesaid and it shall be the duty of the conference to seek unanimous agreement upon a syllabus of religious [<sup>F366</sup>education] to be recommended for adoption by the local education authority.

**Textual Amendments**

**F366** Word substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), [ss. 9, 231\(7\), 235\(6\)](#), [Sch. 1 para. 7\(1\)](#)

- 6 Where the local education authority propose to adopt more than one syllabus of religious [<sup>F367</sup>education] for use in schools maintained by them, the authority shall inform the conference as to the schools in which, or in the case of a syllabus intended to be used for certain pupils only, the class or description of pupils for which, the syllabus to be prepared by the conference is to be used.

**Textual Amendments**

**F367** Word substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), [ss. 9, 231\(7\), 235\(6\)](#), [Sch. 1 para. 7\(1\)](#)

- 7 Any sub-committees appointed by the conference shall include at least one member of each of the committees constituting the conference.

- 8 Upon any question to be decided by the conference or by any sub-committee thereof one vote only shall be given for each of the committees constituting the conference.

- 9 If the conference unanimously recommend any syllabus of religious [<sup>F368</sup>education], the authority may adopt it for use in the schools for which, or for the class or description of pupils for which, it was prepared.

**Textual Amendments**

**F368** Word substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), [ss. 9, 231\(7\), 235\(6\)](#), [Sch. 1 para. 7\(1\)](#)

*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

- 10 If the authority report to the [<sup>F369</sup>Secretary of State] that the conference are unable to reach unanimous agreement as aforesaid, or if it appears to the [<sup>F369</sup>Secretary of State] that an authority have failed to adopt any syllabus unanimously recommended to them by the conference, the [<sup>F369</sup>Secretary of State] shall appoint to prepare a syllabus of religious [<sup>F370</sup>education] a body of persons having experience in religious [<sup>F370</sup>education] which shall, so far as is practicable, be of the like representative character as is required by paragraph 2 of this Schedule in the case of a conference.

**Textual Amendments**

**F369** Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)

**F370** Word substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 9, 231(7), 235(6), Sch. 1 para. 7(1)

- 11 The body of persons so appointed:—
- (a) shall give to the authority, the conference, and every committee constituting the conference, an opportunity of making representations to it, but, save as aforesaid, may conduct the proceedings in such manner as it thinks fit;
  - (b) shall, after considering any such representations made to it, prepare a syllabus of religious [<sup>F371</sup>education];
  - (c) shall transmit a copy of the said syllabus to the authority and to the [<sup>F372</sup>Secretary of State],
- and as from such date as the [<sup>F372</sup>Secretary of State] may direct, the syllabus so prepared shall be deemed to be the agreed syllabus adopted for use in the schools for which, or for the class or description of pupils for which, it was prepared until a further syllabus is prepared for use in those schools, or for pupils of that class or description, in accordance with the provisions of this Schedule.

**Textual Amendments**

**F371** Word substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 9, 231(7), 235(6), Sch. 1 para. 7(1)

**F372** Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)

*[<sup>F373</sup> Reconsideration of agreed syllabus]*

**Textual Amendments**

**F373** Sch. 5 paras. 12 and 13 substituted for Sch. 5 para. 12 by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 9, 231(7), 235(6), Sch. 1 para. 7(3)

- [<sup>F374</sup>12(1) A local education authority shall cause a conference to be convened at any time required by sub-paragraph (2) or (3) of this paragraph for the purpose of reconsidering any agreed syllabus for the time being adopted by them which was adopted before the appointed day.
- (2) Where they adopted the syllabus before 29th September 1988, they shall convene a conference within the period of one year beginning with the appointed day.



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- (3) Where they adopted the syllabus on or after 29th September 1988, they shall convene a conference—
  - (a) within the period of five years beginning with the date on which they adopted it, or
  - (b) within the period of one year beginning with the appointed day, whichever is the later.
- (4) A local education authority shall from time to time cause further conferences to be convened for the purpose of reconsidering any agreed syllabus for the time being adopted by them (whether adopted before, on or after the appointed day); and no such conference shall be convened later than the expiry of the period of five years beginning with the date on or after the appointed day on which—
  - (a) the authority adopted the syllabus, or
  - (b) the authority gave effect to a recommendation under paragraph 13 of this Schedule that the syllabus should continue to be the agreed syllabus.
- (5) In this paragraph—
  - (a) “appointed day” means the day appointed for the commencement of section 256 of the Education Act 1993, and
  - (b) references to the date on which a local education authority adopt a syllabus include a reference to the date which the Secretary of State directs is to be the date from which a syllabus prepared under paragraph 11 of this Schedule is to be deemed to be the agreed syllabus.]

#### Textual Amendments

**F374** Sch. 5 para. 12 substituted (1.4.1994) by 1993 c. 35, s. 256(1); S.I. 1994/507, art. 4(1), Sch.2.

- 13 (1) The following provisions of this paragraph apply where a local education authority cause such a conference to be convened for the purpose of reconsidering any agreed syllabus, whether under paragraph 12 of this Schedule or under section 11(8) of the Education Reform Act 1988 (obligation of authority to cause such a conference to be convened if required to do so by representative groups on standing advisory council for religious education).
- (2) If the conference unanimously recommend that the existing syllabus should continue to be the agreed syllabus [<sup>F375</sup>and it appears to the local education authority that the syllabus reflects the fact that the religious traditions in Great Britain are in the main Christian while taking account of the teaching and practices of the other principal religions represented in Great Britain], the authority may give effect to the recommendation.
- (3) If—
  - (a) the conference unanimously recommend a new syllabus to be adopted in substitution for the existing syllabus; and
  - (b) it appears to the authority that the new syllabus complies with section 8(3) of that Act (new agreed syllabus to reflect mainly Christian religious traditions);the authority may give effect to the recommendation.

*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

- (4) If <sup>F376</sup> . . . —
- (a) the authority report to the Secretary of State that the conference are unable to reach unanimous agreement
  - [<sup>F377</sup>(aa) the conference unanimously recommend that the existing syllabus should continue to be the agreed syllabus but the local education authority consider that sub-paragraph (2) of this paragraph prevents them from giving effect to the recommendation]
- ; or
- (b) it appears to the Secretary of State that the authority have failed to exercise their power under sub-paragraph (2) or (3) above to give effect to the unanimous recommendation of the conference;
- the Secretary of State shall proceed in accordance with the provisions of paragraph 10 of this Schedule, and paragraph 11 of this Schedule shall apply accordingly.

#### Textual Amendments

**F375** Words in Sch. 5 para. 13(2) inserted (1.4.1994) by 1993 c. 35, s. 256(2)(a); S.I. 1994/507, art. 4(1), Sch.2.

**F376** Word in Sch. 5 para. 13(4) repealed (1.4.1994) by 1993 c. 35, s. 256(2)(b)(i), 307(3), Sch. 21 Pt. II; S.I. 1994/507, art. 4(1), Sch. 2 Appendix.

**F377** Sch. 5 para. 4(aa) inserted (1.4.1994) by 1993 c. 35, s. 256(2)(b)(ii); S.I. 1994/507, art. 4(1), Sch.2.

## SIXTH SCHEDULE

### CONSTITUTION OF INDEPENDENT SCHOOLS TRIBUNALS

- 1 For the purpose of enabling Independent Schools Tribunals to be constituted as occasion may require there shall be appointed two panels, that is to say—
- (a) a panel (hereinafter referred to as the “legal panel”) appointed by the Lord Chancellor, of persons who will be available to act when required as chairman of any such tribunal; and
  - (b) a panel (hereinafter referred to as the “educational panel”) appointed by the Lord President of the Council, of persons who will be available to act when required as members of any such tribunal.
- 2 No person shall be qualified to be appointed to the legal panel unless he possesses such legal qualifications as the Lord Chancellor considers suitable, and no person shall be qualified to be appointed to the educational panel unless he has had such experience in teaching or in the conduct management or administration of schools as the Lord President of the Council considers suitable. An officer of any government department and a person employed by a local education authority otherwise than as a teacher shall be disqualified from being appointed to either of the said panels.
- 3 [<sup>F378</sup>Subject, in the case of a member of the legal panel, to paragraph 3A below,]Any person appointed to be a member of either of the said panels shall hold office as such subject to such conditions as to the period of his membership and otherwise as may

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*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

be determined by the Lord Chancellor or the Lord President of the Council, as the case may be.

**Textual Amendments**

**F378** Words in **Sch. 6 para. 3** inserted (31.3.1995) by 1993 c. 8, s. 26(10), **Sch. 6 para.51** (with **Sch. 7 paras. 2(2), 3(2)**); S.I. 1995/631, **art.2**.

[<sup>F379</sup>3A No appointment of a person to be a member of the legal panel shall be such as to extend beyond the day on which he attains the age of seventy years; but this paragraph is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of seventy-five years).]

**Textual Amendments**

**F379** **Sch. 6 para. 3A** inserted (31.3.1995) by 1993 c. 8, s. 26(10), **Sch. 6 para. 51** (with **Sch. 7 paras. 2(2), 3(2)**); S.I. 1995/631, **art.2**.

4 Where any appeal is required to be determined by an Independent Schools Tribunal the tribunal shall consist of a chairman being a member of the legal panel and two other members being members of the educational panel, and the chairman and other members of the tribunal shall be impartial persons appointed from those panels by the Lord Chancellor and the Lord President of the Council respectively.

SEVENTH  
SCHEDULE. ....  
F380

**Textual Amendments**

**F380** **Ss. 106, 108—110, 114(4)** and **Sch. 7** repealed by **Statute Law (Repeals) Act 1975 (c. 10)**, **Sch. Pt. IV**

*Status: Point in time view as at 01/01/1996.**Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

## EIGHTH SCHEDULE

Section 120.

## AMENDMENT OF ENACTMENTS.

## PART I

ENACTMENTS AMENDED FROM DATE OF  
COMMENCEMENT OF PART II OF THIS ACT.**Modifications etc. (not altering text)**

**C116** The text of ss. 120(3), 121, and Sch. 8 Pt. I is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

<b>Enactment to be amended.</b>	<b>Amendment.</b>
The Mental Deficiency Act, 1913	
...	...
F381	F381
...	...
F381	F381
The Ministry of Agriculture and Fisheries Act, 1919	
...	...
F381	F381
The Children and Young Persons Act, 1933.	
F382	...
...	...
F381	F381
...	...
F381	F381
...	...
F381	F381
Section ninety-six	In subsection (1), the words “as respects children” and the words from “for elementary education” (where those words first occur) to the end of the subsection shall be omitted ; subsection (2) shall be omitted ; in subsection (3) for the words from “for elementary education” to the end of the subsection there shall be substituted the words “shall be defrayed as expenses under the enactments relating to education” ; in

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*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996). (See end of Document for details)*

subsection (4), for the word “under” (where that word secondly occurs) there shall be substituted the words “in accordance with”, and the words “as expenses of elementary education under the Education Act, 1921” shall be omitted.

#### Textual Amendments

**F381** Sch. 8 Pt. I entries, except those relating to ss. 10 and 96 of the Children and Young Persons Act 1933 repealed by virtue of [Mental Health Act 1959 \(c. 72\)](#), s. 149(2), [Sch. 8 Pt. I](#), [London Government Act 1963 \(c. 33\)](#), s. 93(1), [Sch. 18 Pt. II](#), [Children and Young Persons Act 1963 \(c. 37\)](#), s. 64(3), [Sch. 5](#), [Children Act 1972 \(c. 44\)](#), s. 2(2), [Sch.](#) and [Statute Law \(Repeals\) Act 1978 \(c. 45\)](#), s. 1, [Sch. 1 Pt. V](#)

**F382** Entry in Sch. 8, relating to s. 10 of the Children and Young Persons Act 1933, repealed (1.10.1993) by 1993 c. 35, ss. 303(4), 307(1)(3), [Sch. 19](#), para. 28, [Sch. 21 Pt. I](#); S.I. 1993/1975, [art. 9](#). Sch. 1

## PART II

ENACTMENTS AMENDED FROM DATE ON WHICH SECTION FORTY-FOUR OF THIS ACT COMES INTO OPERATION . . . <sup>F383</sup>

#### Textual Amendments

**F383** Sch. 8 Pt. II repealed by [Statute Law \(Repeals\) Act 1978 \(c. 45\)](#), [Sch. 1 Pt. V](#)

## <sup>F384F384</sup>NINTH SCHEDULE

#### Textual Amendments

**F384** S. 119, [Sch. 9](#) repealed by [Education Act 1973 \(c. 16\)](#), [Sch. 2 Pt. I](#)

F384

**Status:**

Point in time view as at 01/01/1996.

**Changes to legislation:**

There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996).