



Education Act 1946

1946 CHAPTER 50 9 and 10 Geo 6

An Act to amend and supplement the law relating to education, and to amend the law relating to the execution of the Public Libraries Acts 1892 to 1919. [22nd May 1946]

Modifications etc. (not altering text)

- C1** 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) and S.I. 1978/274, **art. 2(1)(2)(4)(5)(6)**
- C2** Act amended by London Government Act 1963 (c. 33), **s. 30(1)**; Sex Discrimination Act 1975 (c. 65), **ss. 23(1)**, 28 and Race Relations Act 1976 (c. 74), **s. 18(1)**
- C3** Act amended by Local Government Act 1985 (c. 51, SIF 81:1), **s. 18(2)**
- C4** Act amended and modified by Education Reform Act 1988 (c. 40, SIF 41:1), **ss. 163(1)**, 231(7), 235(6), 236(2)(a)
- C5** Act applied (provinces of Canterbury and York except Channel Islands and Isle of Man) (1.8.1991) by Diocesan Boards of Education Measure 1991 (No. 2, SIF 41:1), **s. 7(3)**; Archbishops' Instrument made 26.7.1991

Commencement Information

- I1** Act wholly in force at Royal Assent

[^{F1}1] **Enlargement of controlled schools.**

- (1) If upon the application of a local education authority and the managers or governors of a controlled school maintained by the authority the Secretary of State is satisfied—
 - (a) that there should be a significant enlargement of the school premises; and
 - (b) either—
 - (i) that the enlargement is wholly or mainly required for the purpose of providing accommodation for pupils for whom accommodation would have been provided in some other voluntary school if that other school had not been discontinued or had not otherwise ceased to be available for the purpose; or
 - (ii) that the enlargement is desirable for the better provision of primary or secondary education at the premises to be enlarged or for securing

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Changes to legislation: There are currently no known outstanding effects for the Education Act 1946 (repealed 1.11.1996). (See end of Document for details)

that there is available for the area of the authority a sufficiency of suitable primary or secondary schools or for both those reasons; then, if proposals for carrying out the enlargement are thereafter approved under [F²section 13 of the Education Act 1980] . . . F³, the Secretary of State may by order direct that the expense of giving effect to those proposals shall be paid by the local education authority.]

Textual Amendments

- F1** S. 1 substituted by virtue of Education Act 1968 (c. 17), s. 5(1), **Sch. 3**
F2 Words substituted by Education Act 1980 (c. 20, SIF 41:1), s. 16(4), **Sch. 3 para. 6**
F3 Words repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. II**

2 Division of a single school into two or more schools.

- (1) Where a county school, an aided school or a controlled school is organized in two or more separate departments, and proposals are submitted to the [F⁴Secretary of State for Education and Science]—
- (a) in the case of a county school by the local education authority; and
 - (b) in the case of an aided school or a controlled school, by the . . . F⁵governors of the school after consultation with the local education authority;
- that the school should be divided into two or more separate schools, the [F⁴Secretary of State for Education and Science] may by order direct—
- (i) if the school is a county school, that the school shall be divided into two or more separate county schools; and
 - (ii) if the school is an aided school or a controlled school, that the school shall be divided into two or more separate voluntary schools;
- and when any such order comes into operation it shall become the duty of the local education authority to maintain each of the separate schools constituted by the order as a county school or as a voluntary school, as the case may be.
- (2) The constitution of a separate school in pursuance of any such order shall not, for the purposes of [F⁶section 12 or 13 of the Education Act 1980], be deemed to amount to the establishment of a new school.
- (3) Where any such order is made upon proposals submitted by the . . . F⁷governors of a controlled school, the order shall direct that each of the schools constituted in pursuance of the order shall be a controlled school.
- (4) Where any such order is made upon proposals submitted by the . . . F⁷governors of an aided school, the order shall direct that each of the schools constituted in pursuance of the order shall be an aided school:
 Provided that if the . . . F⁷governors of the original school have requested the [F⁴Secretary of State for Education and Science] to direct that all or any of the schools constituted in pursuance of the order shall be controlled schools; the order shall direct accordingly.
- (5) Subsection (4) of section fifteen of the principal Act (which relates to the circumstances in which an order directing that a school is to be an aided school is to be revoked) shall have effect as if the references therein to an order by virtue of which

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a school is an aided school included references to a direction that a school shall be an aided school under this section.

- (6) Where an order is made under this section upon proposals submitted by the . . .^{F7} governors of a voluntary school which is being conducted in accordance with the transitional provisions contained in section thirty-two of the principal Act, the provisions of that section shall continue to have effect with respect to each of the schools constituted in pursuance of the order until the question whether that school shall be a controlled school, an aided school or a special agreement school is determined by an order made under subsection (2) of section fifteen of the principal Act.
- (7) Any order made under this section shall come into operation upon such date as may be specified in the order and may contain such incidental, consequential and supplemental provisions as appear to the [^{F4}Secretary of State for Education and Science] to be expedient, and, without prejudice to the generality of the preceding provisions of this subsection, may in particular provide for defining the premises of each of the separate schools to be constituted in pursuance of the order.
- (8) No order shall be made under this section for the division of any school with respect to which a special agreement is in force.

Textual Amendments

- F4** Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)
- F5** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), Sch. 1 para. 15
- F6** Words substituted by Education Act 1980 (c. 20, SIF 41:1), s. 16(4), Sch. 3 para. 7
- F7** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), Sch. 1 para. 15

3 Maintenance of voluntary schools.

- (1) In relation to the maintenance of voluntary schools, the duties of local education authorities and of the . . .^{F8} governors of such schools shall be performed in accordance with the provisions of the First Schedule to this Act.
- (2) This section and the said First Schedule shall be deemed to have come into operation on the first day of April, nineteen hundred and forty-five.

Textual Amendments

- F8** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), Sch. 1 para. 16

4 Letting or hiring of school premises other than school buildings and definition of “school buildings”.

- (1) Any sum received after the passing of this Act by the . . .^{F9} governors or trustees of a voluntary school, so far as it is paid in respect of the letting or hiring of any part of the school premises other than school buildings, shall be paid over to the local education authority.

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- (2) In this Act the expression “school buildings”, in relation to any school, means any building or part of a building forming part of the school premises, except that it does not include any building or part of a building required only—
- (a) as a caretaker’s dwelling;
 - (b) for use in connection with playing fields;
 - (c) for affording facilities for enabling the ^{F10}Secretary of State to carry out the functions conferred on him by ^{F11}paragraph (a) of section 5(1) of the ^{M1}National Health Service Act 1977 and Schedule 1 to that Act]; or
 - (d) for affording facilities for providing milk, meals or other refreshment for pupils in attendance at the school;

and in the principal Act the said expression shall be deemed always to have had the meaning assigned to it by this section.

Textual Amendments

F9 Word repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), [Sch. 1 para. 17](#)

F10 Words substituted by [National Health Service Reorganisation Act 1973 \(c. 32\)](#), [Sch. 4 para. 9](#)

F11 Words substituted by [National Health Service Act 1977 \(c. 49\)](#), [Sch. 15 para. 3](#)

Marginal Citations

M1 [1977 c. 49](#).

5 ^{F12}

Textual Amendments

F12 repealed by [Statute Law \(Repeals\) Act 1975 \(c.10\)](#). Sch.1 Pt.IV

6 Power of local education authorities to execute work for the purposes of controlled schools.

Where a local education authority are liable to pay the expense of carrying out any building work, repair work or work of a similar character which is required for the purposes of a controlled school, that work shall, if the local authority so determine, be carried out by persons employed by the authority; and it shall be the duty of the . . . ^{F13} governors of the school and of any trustees thereof to provide the authority and any such persons with all such facilities as they may reasonably require for the purpose of securing that any such work is properly executed.

Textual Amendments

F13 Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), [Sch. 1 para. 15](#)

7 ^{F14}

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Textual Amendments

F14 S. 7 repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. II**

- 8**
- (1) **F15**
 - (3) **F16**
 - (4) **F17**

Textual Amendments

F15 S. 8(1), (2) repealed by Education Act 1962 (c. 12), **Sch. 2**
F16 S. 8(3) repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. II**
F17 S. 8(4) repealed by Statute Law (Repeals) Act 1978 (c.45), **Sch. 1 Pt. V**

- 9** **F18**

Textual Amendments

F18 S. 9 repealed by Education (Miscellaneous Provisions) Act 1948 (c. 40), **Sch. 2**

- 10** **F19**

Textual Amendments

F19 S. 10 repealed by Local Government Act 1972 (c. 70), **Sch. 30**

- 11** **F20**

Textual Amendments

F20 S. 11 repealed by Local Government Act 1948 (c. 26), **Sch. 2 Pt. V**

- 12** **F21**

Textual Amendments

F21 Ss. 12, 13(2) repealed by Local Government Act 1972 (c. 70), **Sch. 30**

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13 Additional provisions relating to local administration.

(1) In any legal proceedings any document purporting to be a document issued by a divisional executive and to be signed by a person authorised by the executive to sign it 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 be signed by the person by whom it purports to have been signed without proof of his identity, signature or official capacity.

(2) F22

Textual Amendments

F22 Ss. 12, 13(2) repealed by [Local Government Act 1972 \(c. 70\)](#), [Sch. 30](#)

14 Miscellaneous amendments of enactments.

(1) The provisions of the principal Act specified in the first column of the Second Schedule to this Act shall have effect to the amendments specified in the second column of that Schedule, and the said amendments, so far as they are contained in Part II of the said Schedule, shall be deemed to have had effect since the commencement of Part II of the principal Act.

(2) F23

(3) F24

Textual Amendments

F23 S. 14(2) repealed by [Local Government Act 1972 \(c. 70\)](#), [Sch. 30](#)

F24 S. 14(3) repealed by [Public Libraries and Museums Act 1964 \(c. 75\)](#), [Sch. 3](#)

Modifications etc. (not altering text)

C6 The text of s. 14(1) 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.

15 F25

Textual Amendments

F25 S. 15 repealed by [Statute Law \(Repeals\) Act 1978 \(c.45\)](#),Sch.1 pt.V

16 Interpretation, etc.

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

“department” means such part, if any, of a school as is organised under a separate head teacher;

[^{F26}“the principal Act” means the Education Act 1944;] . . . ^{F27}

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“site”, in relation to any school, does not include playing fields, but, save as aforesaid, includes any site which is to form part of the school premises.

(2) This Act shall be construed as one with the principal Act.

Textual Amendments

F26 Definition inserted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 60**

F27 Definitions repealed by [Local Government Act 1972 \(c. 70\)](#), **Sch. 30**

17 Short title, citation and extent.

(1) This Act may be cited as the Education Act 1946.

(2) This Act and the Education Act 1944, may be cited together as the Education Acts 1944 and 1946.

(3) This Act shall not extend to Scotland or to Northern Ireland.

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SCHEDULES

FIRST SCHEDULE

MAINTENANCE OF VOLUNTARY SCHOOLS

Modifications etc. (not altering text)

- C7** Sch. 1 excluded by [Education Act 1968 \(c. 17\), s. 3\(4\)](#)
- C8** Sch. 1 applied (1.10.1993) by [1980 c. 20, s. 13\(8\)](#) (as inserted by [1993 c. 35, s. 230\(5\)](#), S.I. 1993/1975, art. 9, Sch.1)

- 1 The duty of a local education authority to maintain a voluntary school under the principal Act shall include the duty of providing any site which is to be provided for the school in addition to, or instead of, the whole or any part of the existing site of the school, and shall, in the case of a controlled school, include the duty of providing any buildings which are to form part of the school premises:
 Provided that nothing in this paragraph shall require a local education authority:—
- (a) to perform any duties which, under ^{F28}section 13 of the Education Act 1980] (which includes provisions relating to the establishment of new schools and to the procedure by which a school which is not a voluntary school may become such a school) are required to be performed by any persons other than the authority; or
 - (b) to execute any proposals which are required to be executed under a special agreement made under the Third Schedule to the principal Act.

Textual Amendments

- F28** Words substituted by [Education Act 1980 \(c. 20, SIF 41:1\), s. 16\(4\), Sch. 3 para. 8](#)

- 2 Where under subsection (1) of section sixteen of the principal Act the ^{F29}Secretary of State for Education and Science] has made an order authorising the transfer to a new site of an aided school or a special agreement school, the duties of the managers or governors of the school shall include the duty of defraying, with the assistance of any grant which may be made in accordance with section one hundred and three of the principal Act, the expenses of providing any school buildings to be provided on the new site, and accordingly—
- (a) the ^{F29}Secretary of State for Education and Science] shall not direct that a school shall be an aided school or a special agreement school unless he is satisfied that the managers or governors of the school will be able and willing to defray any such expenses;

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- (b) the duty of the local education authority to maintain an aided school or a special agreement school shall not include the duty of defraying any such expenses; and
- (c) if at any time the managers or governors of an aided school or a special agreement school are unable or unwilling to carry out their obligations under this paragraph, it shall be their duty to apply to the [^{F29}Secretary of State for Education and Science] for an order revoking the order or direction 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 [^{F29}Secretary of State for Education and Science] shall revoke the order or direction.

Textual Amendments

F29 Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)

- 3 If when a local education authority provide a site for an aided school or a special agreement school in accordance with paragraph 1 of this Schedule, any work is required to be done to the site for the purpose of clearing it or making it suitable for building purposes, the authority and the managers or governors of the school may by agreement provide for the making of such payments, or of such other adjustments of their respective rights and liabilities, as will secure that the cost of that work is borne by the local education authority.
- 4 If when a local education authority provide a site for an aided school or a special agreement school in accordance with paragraph 1 of this Schedule there are, on the site so provided, any buildings which are of value for the purposes of the school, the authority and the managers or governors of the school may by agreement provide for the making of such payments, or of such other adjustments of their respective rights and liabilities, as appear to be desirable having regard to the duties of the managers or governors with respect to the school buildings.
- 5 Where it appears to the [^{F30}Secretary of State for Education and Science] that provision for any payment or other adjustment ought to have been made under either of the last two preceding paragraphs, but that such provision has not been made, he may by directions provide for the making of such payment or other adjustment as he thinks proper in the circumstances.

Textual Amendments

F30 Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)

- 6 Where a local education authority provide a site for a school in accordance with the preceding provisions of this Schedule, it shall be the duty of the authority to convey their interest in the site and in any buildings on the site which are to form part of

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the school premises to the trustees of the school to be held on trust for the purposes of the school.

If any doubt or dispute arises as to the persons to whom a local education authority are required to make a conveyance under this paragraph, the conveyance shall be made to such persons as the [^{F31}Secretary of State for Education and Science] thinks proper.

Textual Amendments

F31 Words substituted by virtue of [S.I. 1964/490, art. 3\(2\)\(a\)](#)

Modifications etc. (not altering text)

C9 [Sch. 1 paras. 6-9](#) continued (with modifications) (1.4.1994) by [1993 c. 35, s. 47\(2\)](#); [S.I. 1994/507, art.3\(1\)](#) (with [arts. 3, 4, Sch. 3](#))

- 7 Where an interest in any premises which are to be used for the purposes of a controlled school is conveyed in accordance with the last preceding paragraph to any persons who possess, or are or may become entitled to, any sum representing proceeds of the sale of other premises which have been used for the purposes of the school, those persons or their successors shall pay to the local education authority so much of that sum as the [^{F32}Secretary of State for Education and Science] may determine to be just having regard to the value of the interest so conveyed; and any sum so paid shall be deemed for the purposes of section fourteen of the ^{M2}Schools Sites Act 1841 (which relates to the sale or exchange of land held on trust for the purposes of a school) to be a sum applied in the purchase of a site for the school.

In this paragraph the expression “sale” includes the creation or disposition of any kind of interest.

Textual Amendments

F32 Words substituted by virtue of [S.I. 1964/490, art. 3\(2\)\(a\)](#)

Modifications etc. (not altering text)

C10 [Sch. 1 para. 7](#) restricted by [Reverter of Sites Act 1987 \(c. 15, SIF 98:1\), s. 8\(1\)](#)

C11 [Sch. 1 paras. 6-9](#) continued (with modifications) (1.4.1994) by [1993 c. 35, s. 47\(1\)](#); [S.I. 1994/507, art.3\(1\)](#) (with [arts. 3,4, Sch. 3](#))

Marginal Citations

M2 [1841 c. 38.](#)

- 8 Where in accordance with paragraph 6 of this Schedule a local education authority convey premises to be held on trust for the purposes of any voluntary school, and any person thereafter acquires the premises or any part thereof from the trustees, whether compulsorily or otherwise, the [^{F33}Secretary of State for Education and Science] may require the trustees or their successors to pay to the authority so much of the compensation or purchase money paid in respect of the acquisition as he thinks just having regard to—

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- (a) the value of the premises conveyed by the authority in accordance with the said paragraph 6; and
- (b) any sums which have been received by the authority in respect of the premises under the preceding provisions of this Schedule.

In this paragraph the expression “premises” includes any interest in premises.

Textual Amendments

F33 Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

Modifications etc. (not altering text)

- C12** Sch. 1 para. 8 restricted by Education Reform Act 1988 (c. 40, SIF 41:1), **ss. 200(2)(e)**, 231(7), 235(6)
- C13** Sch. 1 paras. 6-9 continued (with modifications) (1.4.1994) by 1993 c. 35, **s. 47(2)**; S.I. 1994/507, **art.3(1)** (with arts. 3,4, Sch. 3)
- C14** Sch. 1 para. 8 modified (1.4.1994) by 1993 c. 35, **s. 131(4)**; S.I. 1994/507, **art.3(1)** (with arts. 3, 4, Sch. 3)

VALID FROM 01/04/1993

F349 Paragraph 8 of this Schedule shall not apply in the case of an institution which is or has at any time been within the further education sector.]

Textual Amendments

F34 Sch. 1 para. 9 added (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 para.14**; S.I. 1992/831, art. 2, **Sch.3**

Modifications etc. (not altering text)

- C15** Sch. 1 paras. 6-9 continued (with modifications) (1.4.1994) by 1993 c. 35, **s. 47(2)**; S.I. 1994/507, **art.3(1)** (with arts. 3,4, Sch. 3)

SECOND SCHEDULE

Section 14

MISCELLANEOUS AMENDMENTS OF PRINCIPAL ACT

F35 PART I

Textual Amendments

F35 Entries repealed by Local Government Act 1972 (c. 70), **Sch. 30** and Statute Law (Repeals) Act 1978 (c. 45), **Sch. 1 Pt. V**

Modifications etc. (not altering text)

- C16** The text of Sch. 2 Pt.1 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.

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Section fifty	For the word “child,” wherever that word occurs, there shall be substituted the word “pupil”.
Section sixty-eight	At the end of the section there shall be inserted the following words: “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, or in accordance with section thirteen of the Education Act, 1946, to exercise functions of such an authority”.
Section seventy-three	After subsection (4), there shall be inserted the following subsection:— “(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 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.”
. . . F35	
Section one hundred and thirteen	For the word “notice” there shall be substituted the words “order, notice or other document.”
. . . F35	

PART II

Modifications etc. (not altering text)

C17 The text of Sch. 2 Pt.II 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.

. . .
F36

Section fourteen

For the proviso to subsection (1), there shall be substituted—

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“Provided that, except by leave of the Minister, no such notice as aforesaid shall be served by the managers or governors of any voluntary school in respect of the premises of which expenditure has been incurred otherwise than in connection with repairs by the Minister or by any local education authority or former authority. If the Minister 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 Minister;
- (b) where the Minister 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 or 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 managers or 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.”

Section fifteen

In subsection (3), in paragraph (a) thereof, for the words “for the purposes of establishing or carrying on the school” there

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shall be substituted the words “in connection with the provision of premises or equipment for the purposes of the school”, and for the words “school premises” where those words secondly occur, there shall be substituted the words “school buildings”.

In subsection (3) for paragraph (b) thereof there shall be substituted the following paragraph—

“(b) the managers or 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.”

Subsection (6) shall be omitted.

Section thirty-four

At the end of subsection (4) there shall be inserted the words “unless the parent makes suitable arrangements for the provision of such treatment for the child otherwise than by the authority”.

In subsection (6), for the words “cease to provide” there shall be substituted the words “if they are providing”; and after the word “issued”, where that word secondly occurs, there shall be inserted the words “shall cease to provide such treatment for the child”.

Section one hundred and two

After the word “alterations”, where that word first occurs, there shall be inserted the words “and repairs”; and the words “and repairs to the school premises” shall be omitted.

Section one hundred and six

. . .
F36

Textual Amendments

F36 Entries repealed by [Education Act 1968 \(c. 17\)](#), [sch. 2](#), [Local Government Act 1972 \(c. 70\)](#), [Sch. 30](#), [Statute Law \(Repeals\) Act 1975 \(c. 10\)](#), [Sch. Pt. IV](#) and [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 38(6), [Sch. 7](#)

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