



# Education Act 1968

## 1968 CHAPTER 17

An Act to amend the law as to the effect of and procedure for making changes in the character, size or situation of county schools or voluntary schools to enable special age limits to be adopted for existing as well as for new schools, and to make certain other amendments as to the approval or provision of school premises; and for purposes connected therewith. [10th April 1968]

### Modifications etc. (not altering text)

- C1 Act amended by [Sex Discrimination Act 1975 \(c. 65\)](#), [ss. 23\(1\)](#), 28 and [Race Relations Act 1976 \(c. 74\)](#), [s. 18\(1\)](#)
- C2 Act amended by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), [s. 18\(2\)](#)
- C3 Act amended by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), [ss. 163\(1\)](#), 231(7), 235(6)
- C4 Act modified by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), [ss. 236\(2\)\(b\)](#), 231(7), 235(6)
- C5 Act applied (1.8.1991) by [Diocesan Boards of Education Measure 1991 No. 2](#), [s. 7\(3\)](#); [Archbishops' Instrument dated 26.7.1991](#)

### Commencement Information

- II Act wholly in force at Royal Assent

## 1 Changes in character, size or situation of schools.

- (1) For purposes of the <sup>M1</sup>Education Acts 1944 to 1967 and any other enactment relating to the duties of a local education authority, references in whatever terms to discontinuing a school (and, in particular, those in section 13 of the Education Act 1944 [<sup>F1</sup>or section 12 of the Education Act 1980] to a local authority ceasing to maintain a county school or a voluntary school), or to establishing a new school, shall not be read as applying by reason of any change which is made to an existing school—
  - (a) by education beginning or ceasing to be provided for pupils above or below a particular age; or
  - (b) by education beginning or ceasing to be provided for girls as well as boys, or for boys as well as girls; or

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(c) by any enlargement or alteration of the school premises or transfer of the school to a new site;

and the school existing before an event mentioned in paragraph (a), (b) or (c) above shall be regarded as continuing despite that event and as being the same school before and after that event (unless it is to be regarded for other reasons as discontinued).

(2) ..... F2

(3) In the enactments mentioned in Schedule I to this Act there shall be made the amendments provided for by that Schedule, being amendments arising out of or related to the provisions in subsections (1) and (2) above ; and the enactments mentioned in Schedule 2 to this Act are hereby repealed to the extent specified in column 3 of that Schedule.

(4) Subsection (1) above shall be deemed to have had effect since the beginning of April 1945 in so far as the effect is—

- (a) that a school is to be or have been regarded as being the same school before and after any such event as is there mentioned; or
- (b) that anything may be or have been lawfully done without proposals being approved under section 13 of the <sup>M2</sup>Education Act 1944.

(5) Subject to subsection (4) above, this section shall not apply in relation to things proposed to be done before the end of the summer term 1968, nor in relation to proposals approved before then under section 13 of the <sup>M3</sup>Education Act 1944 or to anything done or to be done in pursuance of any such proposals; and for this purpose “summer term” means, in the case of any school, the term ending last before the month of September.

<b>Textual Amendments</b>	
<b>F1</b>	Words inserted by <a href="#">Education Act 1980 (c. 20, SIF 41:1)</a> , s. 16(4), <b>Sch. 3 para. 15</b>
<b>F2</b>	Ss. 1(2), 3(1)(2) repealed by <a href="#">Education Act 1980 (c.20, SIF 41:1)</a> , s. 38(6), <b>Sch. 7</b>
<b>Modifications etc. (not altering text)</b>	
<b>C6</b>	The text of s. 1(3) 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.
<b>Marginal Citations</b>	
<b>M1</b>	<a href="#">1944 c. 31.</a>
<b>M2</b>	<a href="#">1944 c. 31.</a>
<b>M3</b>	<a href="#">1944 c. 31</a>

**2 Schools with special age limits.**

Section 1 of the <sup>M4</sup> Education Act 1964 (which enables new county or voluntary schools to be established to provide both primary and secondary education) shall apply where it is proposed that an existing school maintained or to be maintained by a local education authority should provide both primary and secondary education, and accordingly in subsection (1) of that section—

- (a) for the words from “Where a local education authority intend to establish a new county school” to “for that purpose” there shall be substituted the words

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“Where proposals with respect to a school maintained or to be maintained by a local education authority are submitted” ; and

- (b) for the word “established” in paragraph (b) there shall be substituted the words “a school”.

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

**C7** The text of s. 2 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.

**Marginal Citations**

**M4** 1964 c. 82.

**3 Approval or provision of school premises (miscellaneous amendments).**

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

(3) In the proviso to section 10(2) of the Education Act 1944, as set out in section 7(1) of the Education (Miscellaneous Provisions) Act 1948 (which proviso enables the Secretary of State in certain circumstances to permit school premises not to conform to the prescribed standards) for the words “having regard to shortage of labour or materials” in paragraph (c) there shall be substituted the words “having regard to the need to control public expenditure in the interests of the national economy”

(4) If upon representations made to him by a local education authority the Secretary of State is satisfied—

- (a) that the . . . <sup>F4</sup> governors of a voluntary school propose to make a significant enlargement of the school premises or alterations to those premises, and that it is desirable for them to do so for the better provision of primary or secondary education at the premises, or for securing that there is available for the area of the authority a sufficiency of suitable primary or secondary schools, or for both those reasons; and
- (b) that, having regard to the need to control public expenditure in the interests of the national economy, it is not reasonably practicable to effect the enlargement or alterations by providing permanent accommodation;

then, subject to proposals for any significant enlargement being approved under [<sup>F5</sup>section 13 of the Education Act 1980], the Secretary of State may authorise the authority to provide, or assist in providing, temporary accommodation in accordance with arrangements approved by him; and Schedule 1 to the <sup>M5</sup>Education Act 1946 (which relates to the duties of the local education authority and the . . . <sup>F4</sup> governors with regard to the provision of sites and buildings for voluntary schools) shall not apply in relation to temporary accommodation provided by virtue of this subsection.

**Textual Amendments**

**F3** Ss. 1(2), 3(1)(2) repealed by Education Act 1980 (c.20, SIF 41:1), s. 38(6), **Sch. 7**

**F4** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 24**

**F5** Words substituted by Education Act 1980 (c. 20, SIF 41:1), s. 16(4), **Sch. 3 para. 16**

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

- C8** The text of s. 3(3) 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.

#### Marginal Citations

- M5** 1946 c. 50.

## 4 Expenses.

There shall be paid out of moneys provided by Parliament any increase attributable to this Act in the sums so payable under the Education Acts 1944 to 1967.

## 5 Text of certain provisions as amended by this Act.

- (1) In accordance with the provisions of this Act (apart from the transitional provisions in section 1(5)), the following sections, namely,—

.....<sup>F6</sup>  
section 1 of the <sup>M6</sup>Education Act 1946; and

section 7 of the <sup>M7</sup>Education (Miscellaneous Provisions) Act 1948;

are to have effect as set out in Schedule 3 to this Act with the amendments made by this Act, by the Secretary of State for Education and Science Order 1964 and by the provisions listed in subsection (2) below, but without prejudice to the operation of any enactment affecting the operation of those sections and not so listed.

- (2) The provisions above referred to, . . . <sup>F6</sup>as regards provisions by which section 1 of the <sup>M8</sup>Education Act 1946 is amended, are—

The <sup>M9</sup>Education (Miscellaneous Provisions) Act 1953, section 3; and

The <sup>M10</sup>Education Act 1967, section 2.

#### Textual Amendments

- F6** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 38(6), [Sch. 7](#)

#### Marginal Citations

**M6** 1946 c. 50.

**M7** 1948 c. 40.

**M8** 1946 c. 50.

**M9** 1953 c. 33.

**M10** 1967 c. 3.

## 6 Short title, citation, construction and extent.

- (1) This Act may be cited as the Education Act 1968 and this Act and the Education Acts 1944 to 1967 may be cited together as the Education Acts 1944 to 1968.
- (2) This Act shall be construed as one with the Education Acts 1944 to 1967.
- (3) This Act does not extend to Scotland or to Northern Ireland.

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## SCHEDULES 1

Section 1.

### ADDITIONAL AMENDMENTS AS TO CHANGES IN CHARACTER, SIZE, OR SITUATION OF SCHOOLS

- 1 In section 16(1) of the <sup>M11</sup> Education Act 1944 there shall be omitted the words “and any transfer so authorised shall not be deemed, for the purposes of this Act, to constitute the discontinuance of the school or the establishment of a new school”; and in their place there shall be inserted the words “and a voluntary school shall not be transferred to a new site without the authority of an order under this subsection”.

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

- C9** The text of Sch. 1 paras. 1, 2, 3, 4, 5, 6, 8 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.

#### Marginal Citations

- M11** 1944 c. 31.

- 2 In section 17 of the Education Act 1944 there shall be added as a new subsection (6)

“(6) Where proposals for a significant change in the character of a voluntary school are approved under section 13 of this Act, then, without prejudice to the power to vary orders conferred by section 111, the Secretary of State may by order make such variations of the articles of government (if the school is a secondary school), or such modifications authorised by subsection (4) of this section in the provisions of a trust deed as appear to him to be required in consequence of the proposed change in the character of the school ; and so much of subsection (5) of this section as relates to the making of representations with respect to orders under this section shall not apply to an order made in pursuance only of the power conferred by this subsection.”

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

- C10** The text of Sch. 1 paras. 1, 2, 3, 4, 5, 6, 8 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.

- 3 For section 67(4) of the Education Act 1944 there shall be substituted —

“(4) If in the case of a county or voluntary 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.”

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

**C11** The text of Sch. 1 paras. 1, 2, 3, 4, 5, 6, 8 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.

- 4 (1) Section 102 (payment of maintenance contributions by the Secretary of State) of the Education Act 1944 shall be amended —
- (a) by inserting immediately before the proviso the words “and may pay the managers or governors of any aided school or special agreement school maintenance contributions not exceeding four-fifths of any sums expended by them on the provision of a site or of school buildings in pursuance of proposals approved under section 13 of this Act for a significant enlargement of the school premises”; and
  - (b) by adding at the end of the proviso “nor shall a maintenance contribution be payable under this section in respect of any expenditure incurred by the managers or governors of a special agreement school in pursuance of proposals for a significant enlargement of the school premises, being proposals to which the special agreement for the school relates”.
- (2) In section 105(2) of the <sup>M12</sup> Education Act 1944 (which lists in paragraphs (a) to (d) the initial expenses qualifying, in the case of an aided or special agreement school, for loans under the section) for paragraph (c) there shall be substituted—
- “(c) (i) expenses to be incurred in providing a site or school buildings on a significant enlargement of the school premises, being expenses in respect of which a maintenance contribution 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 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”.

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

**C12** The text of Sch. 1 paras. 1, 2, 3, 4, 5, 6, 8 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.

**Marginal Citations**

**M12** 1944 c. 31.

- 5 In section 11 4(1) of the Education Act 1944 the existing definition of “alterations” shall be omitted and, at the places required by the alphabetical order in section 114(1), there shall be inserted the following definitions.—

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- (a) “alterations” in relation to any school premises, includes improvements, extensions and additions, but does not include any significant enlargement of the school premises;
- (b) “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 ;
- (c) “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.

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

**C13** The text of Sch. 1 paras. 1, 2, 3, 4, 5, 6, 8 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.

- 6 In section 1(1) of the <sup>M13</sup> Education Act 1946 (of which the text, as amended, is set out in Schedule 3 to this Act) for paragraph (a) there shall be substituted—
- “(a) that there should be a significant enlargement of the school premises; and”.

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

**C14** The text of Sch. 1 paras. 1, 2, 3, 4, 5, 6, 8 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.

**Marginal Citations**

**M13** 1946 c. 50.

F7 .....

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**Textual Amendments**

**F7** Sch. 1 para. 7, Sch. 3 Part A repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), Sch. 7

- 8 In section 31(5) of the <sup>M14</sup> London Government Act 1963 (which provides that in Greater London schools maintained by a local education authority before April 1965 shall not cease to be so maintained except as there mentioned) for the words “except in accordance with section 13 or 14 of the said Act of 1944” there shall be substituted the words “except in accordance with the Education Acts 1944 to 1968”.

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

**C15** The text of Sch. 1 paras. 1, 2, 3, 4, 5, 6, 8 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.

**Marginal Citations**

**M14** 1963 c. 33.

SCHEDULE 2

Section 1.

REPEALS

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

**C16** The text of Sch. 2 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.

Chapter	Short title	Extent of repeal
9 & 10 Geo. 6. c. 50.	The Education Act 1946.	Section 1(2).  In Part II of Schedule 2, the entry relating to section 114 of the Education Act 1944.
1 & 2 Eliz. 2. c. 33.	The Education (Miscellaneous Provisions) Act 1953.	In section 2(a), the words “(otherwise than by way of enlargement of an existing school)”.  Section 8(3)(b), together with the word “and” at the end of section 8(3)(a).
1967 c. 3.	The Education Act 1967.	Section 1(2)(b), together with the word “or” at the end of section 1(2)(a).

SCHEDULE 3

Section 5.

ENACTMENTS REPRINTED WITH AMENDMENTS

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

**C17** The text of Sch. 3 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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*M15 A : Education Act 1944 s. 13*

**Marginal Citations**

**M15** 1944 c. 31.

F8

13

**Textual Amendments**

**F8** Sch. 1 para. 7, Sch. 3 Part A repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), Sch. 7

*M16 B: Education Act 1946 s. 1*

**Marginal Citations**

**M16** 1946 c. 50.

- 1 (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 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 section 13 of the <sup>M17</sup> Education Act 1944 (hereinafter referred to as “the principal Act”), 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.

**Marginal Citations**

**M17** 1944 c. 31.

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*M18 C: Education (Miscellaneous Provisions) Act 1948 s. 7*

**Marginal Citations**

**M18** 1948 c. 40.

- 7 (1) For the proviso to subsection (2) of section ten of the principal Act (which empowers the Secretary of State to give such a direction as is therein mentioned where he is satisfied that it would be unreasonable in the case of any particular school to require conformity in any particular respect with the requirements of the regulations as to the prescribed standards as to the premises of schools), the following proviso shall be substituted, that is to say—

“Provided that, if the Secretary of State 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 having regard to the need to control public expenditure in the interests of the national economy 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.”

- (2) Where it is proposed to establish a new school to be maintained by a local education authority, if the Secretary of State is satisfied, on the submission to him of the specifications and plans of the school premises, either—
- (a) with respect to the site of the school, as to the matters mentioned in paragraph (b) set out in the preceding subsection, or
  - (b) with respect to buildings where the school is to be established in premises comprising existing buildings or temporary buildings, as to the matters mentioned in paragraph
  - (c) set out in the preceding subsection,

or if the Secretary of State is satisfied, on the submission to him of the specifications and plans of the school premises where the premises are to comprise the existing site or buildings of another school, as to the matters mentioned in paragraph (a) set out in the preceding subsection, he may

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(notwithstanding the provisions of section thirteen of the principal Act as to conformity to the prescribed standards) approve the specifications and plans, and may undertake to give a direction as to the school under the proviso to subsection (2) of section ten of the principal Act on the school's being established.

- (2A) Notwithstanding the provisions of section 13 of the principal Act as to conformity to the prescribed standards, the Secretary of State may approve specifications and plans submitted to him under that section in connection with proposals for a significant enlargement of school premises in any case where he could under subsection (2) of this section do so if they were specifications and plans of the school premises of a new school proposed to be established.
- (3) This section, except subsection (2A), shall be deemed to have had effect since the commencement of Part 11 of the principal Act.

**Status:**

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**Changes to legislation:**

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