



# Education Act 1944 (repealed 1.11.1996)

1944 CHAPTER 31 7 and 8 Geo 6

## PART II **E+W**

### THE STATUTORY SYSTEM OF EDUCATION

#### LOCAL ADMINISTRATION **E+W**

#### 6 Local education authorities. **E+W**

(1) <sup>F1</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>F2</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.

*Status: Point in time view as at 01/04/1994.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996), Part II.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

#### Textual Amendments

- F1** Words in s. 6(1) repealed (1.10.1993) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 5, **Sch. 21 Pt.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
- F2** S. 6(2) repealed (1.10.1993) by 1993 c. 35, s. 307(3), **Sch. 21 Pt.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)

- C1** 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 E+W

### 7 **Stages and purposes of statutory system of education.** E+W

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.

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

- C2** S. 7 excluded by **Education Act 1964 (c. 82), s. 1(3)**
- C3** 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 E+W

### *Provision and Maintenance of Primary and Secondary Schools*

### 8 **Duty of local education authorities to secure provision of primary and secondary schools.** E+W

- (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>F3</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>F4</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

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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>F5</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>F6</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>F7</sup>

[<sup>F8</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 accommodation, 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.

<sup>F9</sup>(3) . . . . .

**Textual Amendments**

- F3** Words substituted by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\), s. 3\(2\)](#)
- F4** [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](#)
- F5** [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](#)
- F6** 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](#)
- F7** [S. 8\(2\)\(b\)](#) repealed by [Education Act 1980 \(c. 20, SIF 41:1\), s. 38\(6\)](#), [Sch. 7](#)
- F8** [S. 8\(2\)\(c\)](#) substituted by [Education Act 1981 \(c. 60, SIF 41:1\), s. 2\(1\)](#)
- F9** [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)**

- C4** [S. 8](#) restricted by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\), s. 4\(2\)](#)
- C5** [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](#).
- C6** [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. E+W**

(1) For the purpose of fulfilling their [<sup>F10</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>F11</sup> to assist any such school which is not maintained by them.

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- (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.
- <sup>F12</sup>(5) . . . . .
- (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>F13</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

- F10** 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**
- F11** Words repealed by virtue of Education Act 1980 (c. 20, SIF 41:1), s. 38(6), **Sch. 7**
- F12** 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. 2A** appendix.
- F13** 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)

- C7** 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. **E+W**

- (1) The [<sup>F14</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>F15</sup>and of grant-maintained schools] are to conform, and such

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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>F16</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>F17</sup>Provided that, if the [<sup>F14</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>F18</sup>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.]

#### Textual Amendments

**F14** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

**F15** Words inserted by [Education Reform Act 1988](#) (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 1(2)**

**F16** Words inserted by [Education Reform Act 1988](#) (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 1(3)**

**F17** [S. 10\(2\)](#) proviso substituted retrospectively by [Education \(Miscellaneous Provisions\) Act 1948](#) (c. 40), **s. 7(1)(3)**

**F18** Words substituted by [Education Act 1968](#) (c. 17), **s. 3(3)**

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

**C8** [S. 10](#) applied (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I.**

**C9** [S. 10](#) applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I.**

11, 12. <sup>F19</sup> ..... **E+W**

#### Textual Amendments

**F19** [Ss. 11, 12](#) repealed by [Education Act 1980](#) (c. 20, SIF 41:1), s. 38(6), **Sch. 7**

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F20

E+W

#### Textual Amendments

**F20** 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.

E+W

- (1) Subject to the provisions of this section, the . . . <sup>F21</sup> governors of a voluntary school shall not discontinue the school except after serving on the [<sup>F22</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>F23</sup>Provided that, except by leave of the [<sup>F22</sup>Secretary of State for Education and Science], no such notice as aforesaid shall be served by the . . . <sup>F21</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>F22</sup>Secretary of State for Education and Science] or by any local education authority or former authority.
- If the [<sup>F22</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>F22</sup>Secretary of State for Education and Science];
  - (b) where the [<sup>F22</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>F21</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>F21</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

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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>F21</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

**F21** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 1**

**F22** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

**F23** S. 14(1) proviso substituted retrospectively by Education Act 1946 (c. 50), s. 14(1), **Sch. 2 Pt. II**

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

**C10** 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)**

**C11** 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**

**C12** S. 14 modified (1.4.1994) by 1993 c. 35, **s. 115(6)** (with s. 155(11)); S. I. 1994/507, **art.3(1)**.

**C13** 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. **E+W**

- (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>F24</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>F25</sup> or governors of the school will be able and willing, with the assistance of [<sup>F26</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>F27</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>F25</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>F24</sup>Secretary of State for Education and Science] of the proposals

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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>F28</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>F25</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>F25</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>F25</sup> governors of the school or any trustees thereof [<sup>F29</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 repairs to the [<sup>F29</sup>school buildings] not being repairs which are excluded from their responsibility by the following paragraph:
- [<sup>F30</sup>(b) the . . . <sup>F25</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>F25</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>F24</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>F24</sup>Secretary of State for Education and Science] shall revoke the order.
- [<sup>F31</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>F25</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>F25</sup> governors of the school will be able and willing, with the assistance of [<sup>F26</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>F32</sup>



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#### Textual Amendments

- F24** Words substituted by virtue of S.I. 1964, art. 3(2)(a)
- F25** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), [Sch. 1 para. 1](#)
- F26** 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](#)
- F27** Words inserted by [Education \(No.2\) Act 1986 \(c. 61, SIF 41:1\)](#), s. 67(4), [Sch. 4 para. 1\(a\)](#)
- F28** Words inserted by [Education \(No.2\) Act 1986 \(c. 61, SIF 41:1\)](#), s. 67(4), [Sch. 4 para. 1\(b\)](#)
- F29** Words substituted retrospectively by [Education Act 1946 \(c. 50\)](#), ss. 4(2), 14(1), [Sch. 2 Pt. II](#)
- F30** [S. 15\(3\)\(b\)](#) substituted retrospectively by [Education Act 1946 \(c. 50\)](#), ss. 4(2), 14(1), [Sch. 2 Pt. II](#)
- F31** [S. 15\(4A\)](#) inserted (1.10.1993) by [1993 c. 35, s. 282\(2\)](#); S.I. 1993/1975, art. 9, [Sch. 1](#)
- F32** [S. 15\(6\)](#) repealed by [Education Act 1946 \(c. 50\)](#), [Sch. 2 Pt. II](#)

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

- C14** [S. 15\(4\)](#) extended by [Education Act 1946 \(c. 50\)](#), [s. 2\(5\)](#)

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

- (1) Where the [<sup>F33</sup>Secretary of State for Education and Science] is satisfied that it is expedient that <sup>F34</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>F33</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>F34</sup> . . .
- (2) Where in connection with any proposals submitted to the [<sup>F33</sup>Secretary of State for Education and Science] under [<sup>F35</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>F33</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>F33</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>F33</sup>Secretary of State for Education and Science] thinks fit.

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#### Textual Amendments

- F33** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**
- F34** 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
- F35** 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>F36</sup> ..... **E+W**  
 21.

#### Textual Amendments

- F36** 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**

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

- (1) [<sup>F37</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>F38</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>F37</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>F37</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>F37</sup>the governing body] thereof [<sup>F39</sup>except to the extent provided by any transfer of control agreement into which they may enter under subsection (3A) of this section.].
- [<sup>F40</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—

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- (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
    - (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

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accordance with any such directions or determinations as are notified to that body in pursuance of subsection (3C)(a) of this section.]

[<sup>F41</sup>(4) The local education authority may give directions to [<sup>F37</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>F42</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>F43</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;

“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

**F37** 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**

**F38** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 6**

**F39** 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**

**F40** 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**

**F41** 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**

**F42** 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**

**F43** 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)

**C15** 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**

**C16** 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

*Status: Point in time view as at 01/04/1994.*

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

**C17** 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>F44</sup> ..... **E+W**

**Textual Amendments**

**F44** 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.** **E+W**

(1) ..... <sup>F45</sup>

(2) In every aided school the respective functions of the local education authority and of the . . . <sup>F46</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>F46</sup> or articles of government for the school:

Provided that the . . . <sup>F46</sup> articles of government for every aided school—

(a) shall make provision for the appointment of the teachers by the . . . <sup>F46</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>F46</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>F46</sup> governors of the school, or in default of such agreement as may be determined by the [<sup>F47</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>F48</sup>

**Textual Amendments**

**F45** 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**

**F46** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 8**

**F47** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

**F48** S. 24(3) repealed by Sex Discrimination Act 1975 (c. 65), s. **83(3)(b)**, Sch. 6

Status: Point in time view as at 01/04/1994.

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

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

C18 S. 24 modified by S.I. 1989/1135, art. 3(1)(d), Sch. 4

*Religious Education in County and Voluntary Schools*

25 <sup>F49</sup> ..... **E+W**

**Textual Amendments**

F49 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>F50</sup>26 **Special provisions as to religious education in county schools.** **E+W**

- (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.
- (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 [<sup>F51</sup>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**

F50 S. 26 substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 9, 231(7), 235(6) Sch. 1 para. 1

F51 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.

*Status: Point in time view as at 01/04/1994.*

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

## 27 Special provisions as to religious education in controlled schools. **E+W**

- (1) Where the parents of any pupils in attendance at a controlled school request that they may receive religious [<sup>F52</sup>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 . . . <sup>F53</sup> 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 [<sup>F52</sup>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 [<sup>F52</sup>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.
- (3) The head teacher of a controlled school shall not, while holding that position, be a reserved teacher . . . <sup>F54</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>F53</sup> foundation governors of the school, and, unless the said . . . <sup>F53</sup> governors are satisfied as to that person’s fitness and competence to give such religious [<sup>F52</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>F53</sup> foundation governors of a controlled school are of opinion that any reserved teacher has failed to give such religious [<sup>F52</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>F55</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

**F52** Word substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 9, 231(7), 235(6), **Sch. 1 para. 2(1)**

**F53** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 9**

**F54** 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**

*Status: Point in time view as at 01/04/1994.*

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

**F55** 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. **E+W**

[<sup>F56</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
- (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>F57</sup>education], other than [<sup>F57</sup>education] in accordance with an agreed syllabus, fails to give such [<sup>F57</sup>education] efficiently and suitably, he may be dismissed on that ground by the . . . <sup>F58</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>F59</sup>foundation governors of the school, and unless the said . . . <sup>F59</sup>governors are satisfied as to that person's fitness and competence to give such religious [<sup>F57</sup>education] as aforesaid, the authority shall not appoint that person to be such a teacher.

(4) If the . . . <sup>F59</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>F57</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.



*Status: Point in time view as at 01/04/1994.*

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

#### Textual Amendments

- F56** 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)**
- F57** Word substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss.9, 231(7), 235(6), **Sch. 1 para. 3(2)**
- F58** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 9**
- F59** 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. **E+W**

- (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>F60</sup>education].
- (2) ..... <sup>F61</sup>

#### Textual Amendments

- F60** Word substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 9, 231(7), 235(6), **Sch. 1 para. 4(a)**
- F61** 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**

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

- C19** S. 29(1) modified by S.I. 1989/46, **Sch. 1**

### 30 Saving as to position of teachers. **E+W**

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 [<sup>F62</sup>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 [<sup>F62</sup>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 [<sup>F62</sup>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

- F62** Word substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 9, 231(7), 235(6), **Sch. 1 para. 4(b)**

*Status: Point in time view as at 01/04/1994.*

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

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

**C20** S. 30 extended by Education Reform Act 1988 (c. 40, SIF 41:1), ss. **88(5)**, 231(7), 235(6)

**C21** 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.** **E+W**

- (1) ..... <sup>F63</sup>
- (2) Save as may be otherwise directed by the [<sup>F64</sup>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 [<sup>F64</sup>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 . . . <sup>F65</sup> governors of the school.
- (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>F64</sup>Secretary of State for Education and Science] for such a direction.

**Textual Amendments**

**F63** Ss. 31(1), 32 repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), **Sch. 7**

**F64** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

**F65** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 1**

**32** <sup>F66</sup> ..... **E+W**

**Textual Amendments**

**F66** Ss. 31(1), 32 repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), **Sch. 7**

**33, 34.** <sup>F67</sup> ..... **E+W**

*Status: Point in time view as at 01/04/1994.*

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

#### Textual Amendments

- F67** 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.** **E+W**

In this Act the expression “compulsory school age” means any age between five years and [<sup>F68</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>F68</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>F68</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.

#### Textual Amendments

- F68** Word substituted by virtue of S.I. 1972/444, **art. 2**

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

- C22** S. 35 amended by Education Act 1962 (c. 12), s. 9
- C23** 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.** **E+W**

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>F69</sup>and to any special educational needs he may have], either by regular attendance at school or otherwise.

#### Textual Amendments

- F69** Words inserted by Education Act 1981 (c. 60, SIF 41:1), s. 17

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

- C24** 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**

*Status: Point in time view as at 01/04/1994.*

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

**C25** 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>F70</sup>**37** ..... **E+W**

**Textual Amendments**

**F70** 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>F71</sup> ..... **E+W**

**Textual Amendments**

**F71** S. 38 repealed by Education Act 1981 (c. 60, SIF 41:1), s. 21, **Sch. 4**

<sup>F72</sup>**39** ..... **E+W**

**Textual Amendments**

**F72** 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**

<sup>F73</sup>**40** ..... **E+W**

**Textual Amendments**

**F73** 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** <sup>F74</sup> ..... **E+W**

**Textual Amendments**

**F74** S. 40A repealed by Children and Young Persons Act 1969 (c. 54), s. 72(4), **Sch. 6**

*Status: Point in time view as at 01/04/1994.*

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

### *Further Education*

#### **[<sup>F75</sup>41 Functions of local education authorities in respect of further education. E+W**

- (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.
- (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.

*Status: Point in time view as at 01/04/1994.*

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

- (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**

**F75** 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** <sup>F76</sup> ..... **E+W**

**Textual Amendments**

**F76** 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—** <sup>F77</sup> ..... **E+W**  
**46.**

**Textual Amendments**

**F77** 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](#)

**47** **Interim provisions as to further education.** **E+W**

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>M1</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)**

**C26** Functions of the Minister now exercisable by the Secretary of State for Education and Science: [S.I. 1964/490, art. 2\(1\)](#)

**Marginal Citations**

**M1** 1921 c. 51.

*Status:* Point in time view as at 01/04/1994.

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

**E+W**

SUPPLEMENTARY PROVISIONS AS TO PRIMARY, SECONDARY AND FURTHER EDUCATION

*Ancillary Services*

**48 Medical inspection and treatment of pupils. E+W**

(1) ..... <sup>F78</sup>

(4) It shall be the duty of every local education authority [<sup>F79</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>F80</sup>the provision for medical and dental inspection and treatment made for them in pursuance of [<sup>F81</sup>section 5(1) of the <sup>M2</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>F82</sup>or, as the case may be, to the governing body] notice that he objects to the pupil availing himself of any [<sup>F80</sup>of the provision so made], the pupil shall not be encouraged or assisted so to do.

(5) ..... <sup>F78</sup>

**Textual Amendments**

- F78** S. 48(1)–(3), (5) repealed by National Health Service Reorganisation Act 1973 (c. 32), **Sch. 5**
- F79** Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 2(a)**
- F80** Words substituted by National Health Service Reorganisation Act 1973 (c. 32), **Sch. 4 para. 7**
- F81** Words substituted by National Health Service Act 1977 (c. 49), **Sch. 15 para. 2**
- F82** 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)**

- C27** S. 48(4) applied (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I.**
- C28** S. 48(4) applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I.**

**Marginal Citations**

- M2** 1977 c. 49.

**49** ..... <sup>F83</sup> **E+W**

**Textual Amendments**

- F83** S. 49 repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), **Sch. 7**

*Status: Point in time view as at 01/04/1994.*

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

## 50 **Provision of board and lodging otherwise than at boarding schools or colleges.** **E+W**

- (1) Where the local education authority are satisfied with respect to any [<sup>F84</sup>pupil] that primary or secondary education suitable to his age ability and aptitude [<sup>F85</sup>and to any special educational needs he may have] can best be provided <sup>F86</sup> . . . for him at any particular county school, voluntary school [<sup>F87</sup>, grant-maintained school], or special school, . . . <sup>F88</sup> but that such education cannot be so provided unless boarding accommodation is provided for him otherwise than at the school . . . <sup>F88</sup>, [<sup>F89</sup>and where a local education authority are satisfied, with respect to a pupil [<sup>F90</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>F90</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>F84</sup>pupil] . . . <sup>F88</sup>, a local education authority shall, so far as practicable, give effect to the wishes of the parent of the [<sup>F84</sup>pupil] . . . <sup>F88</sup>, with respect to the [<sup>F91</sup>religion or]religious denomination of the person with whom he will reside.

### Textual Amendments

- F84** Words substituted by [Education Act 1946 \(c. 50\), Sch. 2 Pt. I](#)
- F85** Words inserted by [Education Act 1981 \(c. 60, SIF 41:1\), s. 21, Sch. 3 para. 3\(a\)](#)
- F86** 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.
- F87** Words inserted by [Education Reform Act 1988 \(c. 40, SIF 41:1\), s. 100\(2\)](#)
- F88** Words repealed by [Education Reform Act 1988 \(c. 40, SIF 41\), ss. 231\(7\), 235\(6\), 237\(2\), Sch. 13 Pt. II](#)
- F89** Words inserted by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\), Sch. 1 Pt. I](#)
- F90** Word(s) substituted by [Education Act 1981 \(c. 60, SIF 41:1\), s. 21, Sch. 3 para. 3\(b\)\(c\)](#)
- F91** 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](#).

### Modifications etc. (not altering text)

- C29** 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>F92</sup> . . . . . **E+W**

### Textual Amendments

- F92** 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.** **E+W**

- (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>F93</sup> . . . <sup>F94</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:



*Status: Point in time view as at 01/04/1994.*

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

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>F95</sup>or special educational needs] could not otherwise be provided <sup>F96</sup> . . . no sum shall be recoverable in respect thereof under this section . . . <sup>F93</sup>
  - (b) . . . . . <sup>F93</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>F94</sup>
- (3) Any sums payable by virtue of this section may be recovered summarily as a civil debt.

**Textual Amendments**

- F93** Words repealed by [Education Reform Act 1988](#) (c. 40, SIF 41), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. II**
- F94** Words repealed by [Education \(Miscellaneous Provisions\) Act 1948](#) (c. 40), **Sch. 2**
- F95** Words inserted by [Education Act 1981](#) (c. 60, SIF 41:1), s. 21, **Sch. 3 para. 4**
- F96** 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)**

- C30** Unreliable marginal note.
- C31** 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**.
- C32** 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**.

**53 Provision of facilities for recreation and social and physical training. E+W**

- (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>F97</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>F98</sup>or other educational institution], at which facilities for recreation and for such training as aforesaid are [<sup>F99</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>F100</sup>
- (4) . . . . . <sup>F101</sup>

*Status: Point in time view as at 01/04/1994.*

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

### Textual Amendments

- F97** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), **Sch. 7**
- F98** Words substituted by [Educational Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 54**
- F99** Words substituted by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\)](#), **Sch. 1 Pt. I**
- F100** Ss. 51,53(3) repealed by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\)](#), **Sch. 2**
- F101** S. 53(4) repealed by [Statute Law Revision Act 1950 \(c. 6\)](#), **Sch. 1**

## 54 Power to ensure cleanliness. **E+W**

- (1) A local education authority may, by directions in writing issued with respect to all schools maintained by them <sup>F102</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>F103</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>F103</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 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>F103</sup> or in pursuance of an order issued under this section) at suitable premises by suitable persons and with suitable appliances; and where [<sup>F104</sup>the council of any . . . <sup>F105</sup>district in the area of the authority][<sup>F104</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>F106</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

*Status: Point in time view as at 01/04/1994.*

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

- 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>F107</sup>or at a grant-maintained school] . . . <sup>F103</sup>, and it is proved that the condition of his person or clothing is due to neglect on the part of his parent . . . <sup>F103</sup>, the parent . . . <sup>F103</sup> shall be liable on summary conviction to a fine not exceeding [<sup>F108</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>F109</sup>or at a grant-maintained school within the area of the authority] . . . <sup>F103</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>F103</sup>, direct that the pupil be excluded from the school . . . <sup>F103</sup> until such action has been taken; and such a direction shall be a defence to any proceedings under [<sup>F110</sup>Part IV of the Education Act 1993] in respect of the failure of the pupil to attend school . . . <sup>F103</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

- F102** 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**
- F103** Words repealed by **Education Reform Act 1988** (c. 40, SIF 41), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. II**
- F104** 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)**
- F105** Words omitted by virtue of **Local Government Act 1972** (c. 70), **s. 179(3)**
- F106** Words substituted by virtue of S.I. 1968/1699, **art. 5(4)(a)**
- F107** 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**
- F108** 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**
- F109** 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**
- F110** 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)

- C33** S. 54 applied (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I**
- C34** S. 54 applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I**

*Status: Point in time view as at 01/04/1994.*

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

## 55 Provision of transport and other facilities. E+W

- [<sup>F111</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>F112</sup>may pay the whole or any part, as the authority think fit, of the reasonable travelling expenses] of any [<sup>F113</sup>person receiving education] at any school [<sup>F114</sup>or any such institution as is mentioned in subsection (1) above] for whose transport no arrangements are made under this section.
- [<sup>F115</sup>(3) In considering whether or not they are required by subsection (1) above to make arrangements in relation to a particular [<sup>F116</sup>person], the local education authority shall have regard (amongst other things) to the age of the [<sup>F116</sup>person] and the nature of the route, or alternative routes, which he could reasonably be expected to take][<sup>F117</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>F118</sup>(4) Arrangements made by a local education authority under subsection (1) above shall make provision—
- (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>F119</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.]

*Status: Point in time view as at 01/04/1994.*

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

#### Textual Amendments

- F111** 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
- F112** Words substituted by Education (Miscellaneous Provisions) Act 1948 (c. 40), Sch. 1 Pt. I
- F113** 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
- F114** Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), Sch. 12 para. 55(3)
- F115** S. 55(3) added by Education (No.2) Act 1986 (c. 61, SIF 41:1), s. 53
- F116** 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
- F117** 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
- F118** 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
- F119** 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)

- C35** S. 55 amended by Education (Miscellaneous Provisions) Act 1953 (c. 33), s. 12(1)
- C36** S. 55(4) applied (1.4.1994) by S.I. 1994/653, reg. 42(1), Sch. Pt.I.
- C37** S. 55(4) applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), Sch. 2 Pt.I.

### [<sup>F120</sup>56]. Power to provide primary and secondary education otherwise than at school. **E**

(1) **+W**

If a local education authority are satisfied that by reason of any extraordinary circumstances a child or young person is unable to attend a suitable school for the purpose of receiving primary or secondary education [<sup>F121</sup>they shall have power with the approval of the [<sup>F122</sup>Secretary of State for Education and Science] to make special arrangements for him to receive education otherwise than at school, being primary or secondary education, as the case may require, or if the authority are satisfied that it is impracticable for him to receive full-time education and the [<sup>F122</sup>Secretary of State for Education and Science] approves, education similar in other respects but less than full-time.]

[<sup>F120</sup>(2) In this section “secondary education” includes any full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of nineteen years and, for the purposes of the Education Acts 1944 to 1992—

- (a) any such education, or education similar in other respects but less than full-time, provided in pursuance of this section is to be treated as secondary education; and
- (b) any person for whom education is provided in pursuance of this section is to be treated as a pupil.]

#### Textual Amendments

- F120** S. 56 renumbered as s. 56(1) and at the end subsection (2) added by Further and Higher Education Act 1992 (c. 13), s. 93(1), Sch. 8, Pt. I para. 6; S.I. 1992/831, art. 2, Sch. 3
- F121** Words substituted by Education (Miscellaneous Provisions) Act 1948 (c. 40), Sch. 1 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), Part II. (See end of Document for details)*

**F122** Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)

**57—** <sup>F123</sup> ..... **E+W**  
**57B.**

**Textual Amendments**

**F123** 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.** **E+W**

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>F124</sup>**59** **Power of local education authorities to prohibit or restrict employment of children.** **E+W**

- (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>F125</sup>level 1 on the standard scale], in the case of a second offence to a fine not exceeding [<sup>F125</sup>level 1 on the standard scale], and in the case of a third or subsequent offence to a fine not exceeding [<sup>F125</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.
- (4) Subsection (1) and subsection (3) of section twenty-eight of the <sup>M3</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

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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**

- F124** S. 59 repealed (*prosp.*) by Employment of Children Act 1973 (c. 24), s. 3, **Sch. 2**
- F125** 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)**

- C38** S. 59 extended (1.9.1994) by S.I. 1994/2103, reg. 2, **Sch. 1 Pt. I para.1.**
- C39** Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 35** (in relation to liability on first and subsequent convictions) applies

**Marginal Citations**

- M3** 1933 c. 12.

**60, 61.** <sup>F126</sup> ..... **E+W**

**Textual Amendments**

- F126** 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.** **E+W**

(1) In execution of the duties imposed on him by this Act, the [<sup>F127</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>F128</sup>service in schools maintained by local education authorities, grant-maintained schools [<sup>F129</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>F130</sup>

**Textual Amendments**

- F127** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**
- F128** Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 56(2)**
- F129** 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**
- F130** 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**

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

- C40** Unreliable marginal note.
- C41** S. 62(1) applied (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I.**

*Status: Point in time view as at 01/04/1994.*

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

**C42** 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. E+W**

(1) ..... <sup>F131</sup>

(2) Where plans for [<sup>F132</sup>or particulars in respect of] any building required for the purposes of any school or other educational establishment are approved by the [<sup>F133</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**

**F131** S. 63(1) repealed by [Building Act 1984 \(c. 55, SIF 15\)](#), s. 133(2), **Sch. 7**

**F132** 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**.

**F133** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

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

**C43** S. 63(2) amended by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 14(4)

**C44** S. 63(2) amended by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), s. 90(4)

**C45** 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>F134</sup> ..... E+W

**Textual Amendments**

**F134** S. 64 repealed by [Rating and Valuation Act 1961 \(c. 45\)](#), **Sch. 5 Pt. I**

**65 Endowments for maintenance of voluntary schools. E+W**

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>F135</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.

**Textual Amendments**

**F135** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), **Sch. 1 para. 1**



*Status: Point in time view as at 01/04/1994.*

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

66 F136 ..... **E+W**

**Textual Amendments**

**F136** S. 66 repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), Sch. 7

67 **Determination of disputes and questions.** **E+W**

(1) Save as otherwise expressly provided by this Act, any dispute between a local education authority and the . . . <sup>F137</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>F137</sup> governors, be referred to the [<sup>F138</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>F139</sup> shall be determined by the [<sup>F138</sup>Secretary of State for Education and Science.]

(3) Where any trust deed relating to a voluntary [<sup>F140</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>F141</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>F142</sup>(4) If in the case of a county [<sup>F143</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>F144</sup>(4A) .....

**Textual Amendments**

**F137** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), Sch. 1 para. 1

**F138** Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)

**F139** Words repealed by Education (No.2) Act 1986 (c. 61, SIF 41:1), s. 67(6) Sch. 6 Pt. I

**F140** Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), Sch. 12 para. 4(2)

**F141** Word substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 9, 231(7), 235(6), Sch. 1 para. 4(c)

**F142** S. 67(4) substituted by Education Act 1968 (c. 17), Sch. 1 para. 3

**F143** Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 234(1), 235(6), Sch. 12 para. 4(3)

**F144** 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)**

**C46** S. 67(1) extended by Education (No. 2) Act 1968 (c. 37), s. 3(3)

**C47** S. 67(1) modified by Education (No. 2) Act 1986 (c. 61, SIF 41:1), s. 12(10), Sch. 2 para. 29(a)

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- C48** S. 67(1) extended by Education Reform Act 1988 (c. 40, SIF 41:1), **ss. 219(1)**, 231(7), 235(6)  
**C49** S. 67(4) applied (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I.**  
**C50** 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. E+W**

If the [<sup>F145</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>F146</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>F146</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>F147</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>F148</sup>, to exercise functions of such an authority.]

**Textual Amendments**

- F145** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**  
**F146** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 1**  
**F147** Words inserted by Education Act 1946 (c. 50), **Sch. 2 Pt. I**  
**F148** Words repealed by Local Government Act 1972 (c. 70), **Sch. 30**

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

- C51** Unreliable marginal note.  
**C52** 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)**  
**C53** S. 68 modified by Education (No.2) Act 1986 (c.61, SIF 41:1), s. 12(10), **Sch. 2 para. 29(b)**  
**C54** 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.**  
**C55** S. 68 extended by Education Reform Act 1988 (c. 40, SIF 41:1), **ss. 219(2)**, 231(7), 235(6)  
**C56** 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**  
**C57** S. 68 extended  
**C58** 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**  
**C59** s. 68 applied (1.4.1994) by 1993 c. 35, **s. 9(4)**; S.I. 1994/507, **art. 3(1)**.  
**C60** S. 68 applied (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I.**  
**C61** S. 68 applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I.**

**69 †Powers of Minister as to medical examinations and inspections. E+W**

- (1) . . . . . <sup>F149</sup>
- (2) Where any question is referred to the [<sup>F150</sup>Secretary of State for Education and Science] under this Part of this Act, then, if in the opinion of the [<sup>F150</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>F150</sup>Secretary of State for Education and Science] may by

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notice in writing served on the parent of that pupil . . . <sup>F151</sup> require the parent to submit him . . . <sup>F151</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>F152</sup>level 1 on the standard scale].

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#### Textual Amendments

**F149** Ss. 69(1), 78(1), 79 repealed by National Health Service Reorganisation Act 1973 (c. 32), **Sch. 5**

**F150** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

**F151** Words repealed by Education Reform Act 1988 (c. 40, SIF 41), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. II**

**F152** Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46**

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

**C62** Unreliable marginal note.

**Status:**

Point in time view as at 01/04/1994.

**Changes to legislation:**

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