



# Education Act 1944

## 1944 CHAPTER 31

### PART II

#### THE STATUTORY SYSTEM OF EDUCATION.

#### PRIMARY AND SECONDARY EDUCATION.

#### *Compulsory Attendance at Primary and Secondary Schools.*

#### **35 Compulsory school age.**

In this Act the expression " compulsory school age " means any age between five years and fifteen 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 fifteen years and a person shall be deemed to be over compulsory school age as soon as he has attained the age of fifteen 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 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.

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

It shall be the duty of the parent of every child of compulsory school age to cause him to receive efficient full-time education suitable to his age, ability, and aptitude, either by regular attendance at school or otherwise.

**37 School attendance orders.**

(1) If it appears to a local education authority that the parent of any child of compulsory school age in their area is failing to perform the duty imposed on him by the last foregoing section, it shall be the duty of the authority to serve upon the parent a notice requiring him, within such time as may be specified in the notice not being less than fourteen days from the service thereof, to satisfy the authority that the child is receiving efficient full-time education suitable to his age, ability, and aptitude either by regular attendance at school or otherwise.

(2) If, after such a notice has been served upon a parent by a local education authority, the parent fails to satisfy the authority in accordance with the requirements of the notice that the child to whom the notice relates is receiving efficient full-time education suitable to his age, ability, and aptitude, then, if in the opinion of the authority it is expedient that he should attend school, the authority shall serve upon the parent an order in the prescribed form (hereinafter referred to as a " school attendance order ") requiring him to cause the child to become a registered pupil at a school named in the order :

Provided that before serving such an order upon a parent the authority shall, where practicable, afford him an opportunity of selecting the school to be named in the order, and if a school is selected by him, that school shall, unless the Minister otherwise directs, be the school named in the order.

(3) If the local education authority are of opinion that the school selected by the parent as the school to be named in a school attendance order is unsuitable to the age, ability or aptitude of the child with respect to whom the order is to be made, or that the attendance of the child at the school so selected would involve unreasonable expense to the authority, the authority may, after giving to the parent notice of their intention to do so, apply to the Minister for a direction determining what school is to be named in the order.

(4) If at any time while a school attendance order is in force with respect to any child the parent of the child makes application to the local education authority by whom the order was made requesting that another school be substituted for that named in the order, or requesting that the order be revoked on the ground that arrangements have been made for the child to receive efficient full-time education suitable to his age, ability, and aptitude otherwise than at school, the authority shall amend or revoke the order in compliance with the request unless they are of opinion that the proposed change of school is unreasonable or inexpedient in the interests of the child, or that no satisfactory arrangements have been made for the education of the child otherwise than at school, as the case may be; and if a parent is aggrieved by a refusal of the authority to comply with any such request, he may refer the question to the Minister, who shall give such direction thereon as he thinks fit.

(5) If any person upon whom a school attendance order is served fails to comply with the requirements of the order, he shall be guilty of an offence against this section unless he proves that he is causing the child to receive efficient full-time education suitable to his age, ability, and aptitude otherwise than at school.

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- (6) If in proceedings against any person for a failure to comply with a school attendance order that person is acquitted, the court may direct that the school attendance order shall cease to be in force, but without prejudice to the duty of the local education authority to take further action under this section if at any time the authority are of opinion that having regard to any change of circumstances it is expedient so to do.
- (7) Save as provided by the last foregoing subsection, a school attendance order made with respect to any child shall, subject to any amendment thereof which may be made by the local education authority, continue in force so long as he is of compulsory school age unless revoked by that authority.

### **38 Additional provisions as to compulsory attendance at special schools.**

- (1) While the upper limit of the compulsory school age is, in relation to other children, less than sixteen, a person who is a registered pupil at a special school shall nevertheless be deemed to be of compulsory school age until he attains the age of sixteen years and shall not be deemed to be over compulsory school age until he has attained that age.
- (2) A child who has under arrangements made by a local education authority become a registered pupil at a special school shall not be withdrawn from the school without the consent of that authority ; but if the parent of any such child is aggrieved by a refusal of the authority to comply with an application made by the parent requesting such consent, he may refer the question to the Minister, who shall give such direction thereon as he thinks fit.
- (3) No direction given by the Minister under the last foregoing subsection or under subsection (3) or subsection (4) of the last foregoing section shall be such as to require a pupil to be a registered pupil at a special school unless either the parent consents to his attending such a school or there is in force a certificate issued by a medical officer of the local education authority showing that the child is suffering from some disability of mind or body of such a nature and extent that, in the opinion of the Minister, it is expedient that the child should attend a special school.

### **39 Duty of parents to secure regular attendance of registered pupils.**

- (1) If any child of compulsory school age who is a registered pupil at a school fails to attend regularly thereat, the parent of the child shall be guilty of an offence against this section.
- (2) In any proceedings for an offence against this section in respect of a child who is not a boarder at the school at which he is a registered pupil, the child shall not be deemed to have failed to attend regularly at the school by reason of his absence therefrom with leave or—
  - (a) at any time when he was prevented from attending by reason of sickness or any unavoidable cause ;
  - (b) on any day exclusively set apart for religious observance by the religious body to which his parent belongs ;
  - (c) if the parent proves that the school at which the child is a registered pupil is not within walking distance of the child's home, and that no suitable arrangements have been made by the local education authority either for his transport to and from the school or for boarding accommodation for him at or near the school or for enabling him to become a registered pupil at a school nearer to his home.

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- (3) Where in any proceedings for an offence against this section it is proved that the child has no fixed abode, paragraph (c) of the last foregoing subsection shall not apply, but if the parent proves that he is engaged in any trade or business of such a nature as to require him to travel from place to place and that the child has attended at a school at which he was a registered pupil as regularly as the nature of the trade or business of the parent permits, the parent shall be acquitted :

Provided that, in the case of a child who has attained the age of six years, the parent shall not be entitled to be acquitted under this subsection unless he proves that the child has made at least two hundred attendances during the period of twelve months ending with the date on which the proceedings were instituted.

- (4) In any proceedings for an offence against this section in respect of a child who is a boarder at the school at which he is a registered pupil, the child shall be deemed to have failed to attend regularly at the school if he is absent therefrom without leave during any part of the school term at a time when he was not prevented from being present by reason of sickness or any unavoidable cause.
- (5) In this section the expression " leave " in relation to any school means leave granted by any person authorised in that behalf by the managers, governors or proprietor of the school, and the expression " walking distance " means, in relation to a child who has not attained the age of eight years two miles, and in the case of any other child three miles, measured by the nearest available route.

#### **40 Enforcement of school attendance.**

- (1) Subject to the provisions of this section, any person guilty of an offence against section thirty-seven or section thirty-nine of this Act shall be liable on summary conviction, in the case of a first offence against that section to a fine not exceeding one pound, in the case of a second offence against that section to a fine not exceeding five pounds, and in the case of a third or subsequent offence against that section to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.
- (2) It shall be the duty of the local education authority to institute proceedings for such offences as aforesaid wherever, in their opinion, the institution of such proceedings is necessary for the purpose of enforcing the duty imposed upon a parent by this Act to cause his child to receive efficient full-time education suitable to his age, ability, and aptitude, and no such proceedings shall be instituted except by or on behalf of a local education authority.
- (3) Where the court before which a prosecution is brought for an offence against the last foregoing section is satisfied that the child in respect of whom the offence is alleged to have been committed has failed to attend regularly at the school at which he is a registered pupil, then, whether or not the parent is convicted, the court may direct that the child be brought before a juvenile court by the authority by whom or on whose behalf the proceedings were instituted, and the juvenile court may, if it is satisfied that it is necessary so to do for the purpose of securing the regular attendance of the child at school, make any order which such a court has power to make under section sixty-two of the Children and Young Persons Act, 1933, in the case of children and young persons in need of care or protection who are brought before it under that section.
- (4) Where proceedings have been instituted for an offence against the last foregoing section alleged to have been committed in respect of any child and it appears to the

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officer by whom the proceedings were instituted on behalf of the local education authority that there is reasonable cause to believe that the punishment of the parent would not be sufficient for the purpose of securing the regular attendance of the child at school, it shall be his duty to apply to the court for a direction under the last foregoing subsection; and where application is so made, such a direction shall be given unless the court is satisfied that no such direction is necessary for the purpose aforesaid.

- (5) For the purposes of the Children and Young Persons Act, 1933, any child with respect to whom a direction has been given under this section that he be brought before a juvenile court shall be deemed to be a child about to be brought, or brought, before such a court under section sixty-two of that Act and any order made by a juvenile court under this section shall be deemed to be an order made under that section, and all the provisions of that Act shall have effect accordingly, but subject to the modification that in relation to any such child subsection (1) of section sixty-seven of the said Act shall have effect as if the words "A constable, or " were omitted therefrom.