



Education Act 1944 (repealed 1.11.1996)

1944 CHAPTER 31 7 and 8 Geo 6

PART II

THE STATUTORY SYSTEM OF EDUCATION

PRIMARY AND SECONDARY EDUCATION

Provision and Maintenance of Primary and Secondary Schools

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

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

- (a) for providing [^{F1}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
- (b) for providing secondary education, that is to say, full-time education suitable to the requirements of senior pupils, . . . ^{F2}[^{F3}and full-time education suitable to the requirements of junior pupils who have attained the age of ten years and six months and whom it is expedient to educate together with senior pupils];

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

(2) In fulfilling their duties under this section, a local education authority shall, in particular, have regard—

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- (a) to the need for securing that primary and secondary education are provided in separate schools;
- (b)^{F4}
- [^{F5}(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.

[^{F6}(3) In fulfilling their duty under subsection (1)(b) above a local education authority shall have regard to any facilities for full-time education-

- (a) provided for senior pupils by any educational institution maintained or assisted by the authority in exercise of their functions under section 41 of this Act; or
- (b) otherwise secured for such pupils by the authority in exercise of those functions.]

Textual Amendments

- F1** Words substituted by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\), s. 3\(2\)](#)
- F2** Words repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 120(6)(a), 231(7), 235(6), 236(2), [Sch. 13 Pt. II](#)
- F3** Words inserted by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\), s. 3\(3\)](#)
- F4** [S. 8\(2\)\(b\)](#) repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 38(6), [Sch. 7](#)
- F5** [S. 8\(2\)\(c\)](#) substituted by [Education Act 1981 \(c. 60, SIF 41:1\)](#), [s. 2\(1\)](#)
- F6** [S. 8\(3\)](#) added by [Education Reform Act 1988\(c. 40, SIF 41:1\)](#), ss. 120(6)(b), 231(7), 235(6), 236(2)

Modifications etc. (not altering text)

- C1** [S. 8](#) restricted by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\), s. 4\(2\)](#)
- C2** [S. 8\(1\)\(a\)](#) explained by [Education Act 1980 \(c. 20, SIF 41:1\)](#), [s. 24\(2\)](#)

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

- (1) For the purpose of fulfilling their duties 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 . . .^{F7} to assist any such school which is not maintained by them.
- (2) Primary and secondary schools maintained by a local education authority, not being nursery schools or special schools, shall, if established by a local education authority or by a former authority, be known as county schools and, if established otherwise than by such an authority, be known as voluntary schools:
 Provided that any school which by virtue of any enactment repealed by this Act was to be deemed to be, or was to be treated as, a school provided by a former authority shall, notwithstanding that it was not in fact established by such an authority as aforesaid, be a county school.
- (3) Subject to the provisions hereinafter contained as to the discontinuance of voluntary schools, every school which immediately before the commencement of this Part of

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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.
- [^{F8}(5) Schools which are specially organised to make special educational provision for pupils with special educational needs and which are for the time being approved by the Secretary of State as special schools shall be known as special schools.]
- (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.

Textual Amendments

- F7** Words repealed by virtue of [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 38(6), [Sch. 7](#)
- F8** [S. 9\(5\)](#) substituted by [Education Act 1981 \(c. 60, SIF 41:1\)](#), s. 11(1)

10 Requirements as to school premises.

- (1) The [^{F9}Secretary of State for Education and Science] shall make regulations prescribing the standards to which the premises of schools maintained by local education authorities [^{F10}and of grant-maintained schools] are to conform, and such regulations may prescribe different standards for such descriptions of schools as may be specified in the regulations.
- (2) Subject as hereinafter provided, it shall be the duty of a local education authority to secure that the premises of every school maintained by them [^{F11}or, in the case of a grant-maintained school, the duty of the governing body of the school] conform to the standards prescribed for schools of the description to which the school belongs:
[^{F12}Provided that, if the [^{F9}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 [^{F13}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

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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

- F9 Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**
- F10 Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 1(2)**
- F11 Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 1(3)**
- F12 S. 10(2) proviso substituted retrospectively by Education (Miscellaneous Provisions) Act 1948 (c. 40), **s. 7(1)(3)**
- F13 Words substituted by Education Act 1968 (c. 17), **s. 3(3)**

Modifications etc. (not altering text)

- C3 S. 10 applied (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I.**
- C4 S. 10 applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I.**

11, 12. ^{F14}.....

Textual Amendments

- F14 Ss. 11, 12 repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), **Sch. 7**

13 ^{F15}.....

Textual Amendments

- F15 S. 13 repealed and superseded with saving by Education Act 1980 (c. 20, SIF 41:1), ss. 16(4)(5), 38(6), **Sch. 7**

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

(1) Subject to the provisions of this section, the . . . ^{F16} governors of a voluntary school shall not discontinue the school except after serving on the [^{F17}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: [^{F18}Provided that, except by leave of the [^{F17}Secretary of State for Education and Science], no such notice as aforesaid shall be served by the . . . ^{F16} governors of any voluntary school in respect of the premises of which expenditure has been incurred otherwise than in connection with repairs by the [^{F17}Secretary of State for Education and Science] or by any local education authority or former authority.

If the [^{F17}Secretary of State for Education and Science] grants such leave, he may impose such requirements as he thinks just—

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- (a) in regard to the repayment of the whole or any part of the amount of the expenditure so incurred by the [^{F17}Secretary of State for Education and Science];
 - (b) where the [^{F17}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 . . . ^{F16} 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 . . . ^{F16} governors of the school inform the local education authority that they are unable or unwilling to carry on the school until the expiration of the notice, the authority may conduct the school during the whole or any part of the unexpired period of the notice as if it were a county school, and shall be entitled to the use of the school premises, free of charge, for that purpose.
- (4) While any school is being conducted by a local education authority as a county school under the last foregoing subsection, the authority shall keep the school premises in good repair, and, for all purposes relating to the condition of the school premises, the occupation and use thereof, and the making of alterations thereto, any interest in the said premises which is held for the purposes of the school shall be deemed to be vested in the authority:
Provided that the . . . ^{F16} 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

F16 Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), [Sch. 1 para. 1](#)

F17 Words substituted by virtue of [S.I. 1964/490, art. 3\(2\)\(a\)](#)

F18 [S. 14\(1\)](#) proviso substituted retrospectively by [Education Act 1946 \(c. 50\)](#), s. 14(1), [Sch. 2 Pt. II](#)

Modifications etc. (not altering text)

C5 [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\(6\)](#)

C6 [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](#)

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- C7 S. 14 modified (1.4.1994) by 1993 c. 35, s. 115(6) (with s. 155(11)); S. I. 1994/507, art.3(1).
 C8 S. 14 restricted (1.4.1994) by 1993 c. 35, s. 273(2); S.I. 1994/507, art. 4(1), Sch.2.

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

(1) Voluntary schools shall be of three categories, that is to say, controlled schools, aided schools, and special agreement schools, and in schools of those several categories the management of the school, the secular instruction and religious education, and the appointment and dismissal of teachers, shall be regulated in accordance with the provisions hereinafter contained relating to those matters in controlled schools aided schools and special agreement schools respectively.

(2) Upon application being duly made to him with respect to any voluntary school, the [F¹⁹Secretary 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 . . . F²⁰ or governors of the school will be able and willing, with the assistance of the maintenance contribution payable by the [F¹⁹Secretary of State for Education and Science] under this Act, 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 [F²¹under 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 . . . F²⁰ 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 [F¹⁹Secretary of State for Education and Science] of the proposals that the school should be maintained by the local education authority as a voluntary school; and, subject to the transitional provisions of this Act as to the management and maintenance of voluntary schools, a voluntary school with respect to which no order is in force under this section [F²²or 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 . . . F²⁰ 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 . . . F²⁰ 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 . . . F²⁰ governors of the school or any trustees thereof [F²³in 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 [F²³school buildings] not being repairs which are excluded from their responsibility by the following paragraph:

[F²⁴(b) the . . . F²⁰ 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

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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 . . . ^{F20} 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 [^{F19}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 [^{F19}Secretary of State for Education and Science] shall revoke the order.
- (5) If at any time the [^{F19}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 [^{F19}Secretary of State for Education and Science] shall, upon application being made to him for that purpose by the . . . ^{F20} 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 . . . ^{F20} governors of the school will be able and willing, with the assistance of the maintenance contribution payable by the [^{F19}Secretary of State for Education and Science] under this Act, 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) ^{F25}

Textual Amendments

- F19** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**
F20 Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), **Sch. 1 para. 1**
F21 Words inserted by [Education \(No.2\) Act 1986 \(c. 61, SIF 41:1\)](#), s. 67(4), **Sch. 4 para. 1(a)**
F22 Words inserted by [Education \(No.2\) Act 1986 \(c. 61, SIF 41:1\)](#), s. 67(4), **Sch. 4 para. 1(b)**
F23 Words substituted retrospectively by [Education Act 1946 \(c. 50\)](#), ss. 4(2), 14(1), **Sch. 2 Pt. II**
F24 [S. 15\(3\)\(b\)](#) substituted retrospectively by [Education Act 1946 \(c. 50\)](#), ss. 4(2), 14(1), **Sch. 2 Pt. II**
F25 [S. 15\(6\)](#) repealed by [Education Act 1946 \(c. 50\)](#), **Sch. 2 Pt. II**

Modifications etc. (not altering text)

- C9** [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.

- (1) Where the [^{F26}Secretary of State for Education and Science] is satisfied that it is expedient that any county school or 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 [^{F26}Secretary of State for Education and Science] may by order authorise the transfer of the school to the new site; [^{F27} and a voluntary school shall not be transferred to a new site without the authority of an order under this subsection].

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- (2) Where in connection with any proposals submitted to the [F26Secretary of State for Education and Science] under [F28section 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 [F26Secretary 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 [F26Secretary 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 . . . F29 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 . . . F29 governors and may contain such incidental and consequential provisions as the [F26Secretary of State for Education and Science] thinks fit.

Textual Amendments

F26 Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)

F27 Words substituted by Education Act 1968 (c. 17), Sch. 1 para. 1

F28 Words substituted by Education Act 1980 (c. 20, SIF 41:1), s. 16(4), Sch. 3 para. 1

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

Management of Primary Schools and Government of Secondary Schools

17— F30
21.

Textual Amendments

F30 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.

- (1) The . . . F31 governors 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 . . . F31 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

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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 the . . . ^{F31} governors 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 the . . . ^{F31} governors 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 the . . . ^{F31} governors thereof.
- [^{F32}(4) The local education authority may give directions to the governors 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.]
- (5) In relation to any school with respect to which the trust deed provides for any person other than the . . . ^{F31} governors of the school being entitled to control the occupation and use of the school premises, this section shall have effect as if for the references to the . . . ^{F31} governors there were substituted references to that person.

Textual Amendments

- F31** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 6**
- F32** 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**

Modifications etc. (not altering text)

- C10** 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**

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

23 ^{F33}

Textual Amendments

- F33** Ss. 23, 24(1) repealed (savings in S.I. 1987/344, **Sch. 3 para. 1(4)(d)**) by Education (No.2) Act 1986 (c. 61, SIF 41:1), s. 67(6), **Sch. 6 Pt. I**

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

(1) ^{F34}

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(2) In every aided school the respective functions of the local education authority and of the . . . ^{F35} 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 . . . ^{F35} or articles of government for the school:

Provided that the . . . ^{F35} articles of government for every aided school—

- (a) shall make provision for the appointment of the teachers by the . . . ^{F35} 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 . . . ^{F35} 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 . . . ^{F35} governors of the school, or in default of such agreement as may be determined by the [^{F36}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) ^{F37}

Textual Amendments

F34 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**

F35 Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 8**

F36 Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

F37 S. 24(3) repealed by Sex Discrimination Act 1975 (c. 65), **s. 83(3)(b)**, Sch. 6

Modifications etc. (not altering text)

C11 S. 24 modified by S.I. 1989/1135, art. 3(1)(d), **Sch. 4**

Religious Education in County and Voluntary Schools

25 ^{F38}

Textual Amendments

F38 S. 25 repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. II**

[^{F39}26 **Special provisions as to religious education in county schools.**

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

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- (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 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

F39 S. 26 substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), **ss. 9, 231(7), 235(6)** Sch. 1 para. 1

27 Special provisions as to religious education in controlled schools.

- (1) Where the parents of any pupils in attendance at a controlled school request that they may receive religious [^{F40}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 . . . ^{F41} 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 [^{F40}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 [^{F40}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 . . . ^{F42}.

Status: Point in time view as at 01/02/1991.

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

- (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 . . . ^{F41} foundation governors of the school, and, unless the said . . . ^{F41} governors are satisfied as to that person's fitness and competence to give such religious [^{F40}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 . . . ^{F41} foundation governors of a controlled school are of opinion that any reserved teacher has failed to give such religious [^{F40}education] as aforesaid efficiently and suitably, they may require the authority to dismiss him from employment as a reserved teacher in the school.
- [^{F43}(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

- F40** Word substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 9, 231(7), 235(6), **Sch. 1 para. 2(1)**
- F41** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), **Sch. 1 para. 9**
- F42** 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**
- F43** [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.

- [^{F44}(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;

Status: Point in time view as at 01/02/1991.

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

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 [^{F45}education], other than [^{F45}education] in accordance with an agreed syllabus, fails to give such [^{F45}education] efficiently and suitably, he may be dismissed on that ground by the . . . ^{F46}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 . . . ^{F47}foundation governors of the school, and unless the said . . . ^{F47}governors are satisfied as to that person's fitness and competence to give such religious [^{F45}education] as aforesaid, the authority shall not appoint that person to be such a teacher.
- (4) If the . . . ^{F47}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 [^{F45}education] as he was appointed to give, they may require the authority to dismiss him from employment as a reserved teacher in the school.

Textual Amendments

- F44** 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)**
- F45** Word substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss.9, 231(7), 235(6), **Sch. 1 para. 3(2)**
- F46** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 9**
- F47** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 9**

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

- (1) The provisions of the Fifth Schedule to this Act shall have effect with respect to the preparation, adoption, and reconsideration, of an agreed syllabus of religious [^{F48}education].
- (2) ^{F49}

Textual Amendments

- F48** Word substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 9, 231(7), 235(6), **Sch. 1 para. 4(a)**
- F49** S. 29(2)–(4) repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss.9, 231(7), 235(6), 237(2), **Sch. 13 Pt. II**

Status: Point in time view as at 01/02/1991.

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

Modifications etc. (not altering text)

C12 S. 29(1) modified by S.I. 1989/46, **Sch. 1**

30 Saving as to position of teachers.

Subject as hereinafter provided, no person shall be disqualified by reason of his religious opinions, or of his attending or omitting to attend religious worship, from being a teacher in a county school or in any voluntary school, or from being otherwise employed for the purposes of such a school; and no teacher in any such school shall be required to give religious [F50 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 [F50 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 [F50 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

F50 Word substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 9, 231(7), 235(6), **Sch. 1 para. 4(b)**

Modifications etc. (not altering text)

C13 S. 30 extended by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. **88(5)**, 231(7), 235(6)

C14 S. 30 continued (1.4.1994) by 1993 c. 35, s. **144(4)** (with s. 155(11)); S.I. 1994/507, **art.3(1)**.

Transitional Provisions as to County and Voluntary Schools

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

- (1) F51
- (2) Save as may be otherwise directed by the [F52 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 [F52 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 . . . F53 governors of the school.

Status: Point in time view as at 01/02/1991.

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

- (4) Where it appears to a local education authority that the process of securing that primary and secondary education shall be provided in separate schools can be accelerated by the giving of a direction under this section, it shall be the duty of the authority to apply to the ^{F52}Secretary of State for Education and Science] for such a direction.

Textual Amendments

- F51** Ss. 31(1), 32 repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), Sch. 7
F52 Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)
F53 Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), Sch. 1 para. 1

32 ^{F54}

Textual Amendments

- F54** Ss. 31(1), 32 repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), Sch. 7

33, 34. ^{F55}

Textual Amendments

- F55** Ss. 33, 34 repealed by Education Act 1981 (c. 60, SIF 41:1), s. 21, Sch. 4 (subject to a saving in S.I. 1983/7, Sch. para. 4)

Compulsory Attendance at Primary and Secondary Schools

35 Compulsory school age.

In this Act the expression “compulsory school age” means any age between five years and ^{F56}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 ^{F56}sixteen] years and a person shall be deemed to be over compulsory school age as soon as he has attained the age of ^{F56}sixteen] years:

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

Status: Point in time view as at 01/02/1991.

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

Textual Amendments

F56 Word substituted by virtue of [S.I. 1972/444, art. 2](#)

Modifications etc. (not altering text)

C15 [S. 35](#) amended by [Education Act 1962 \(c. 12\), s. 9](#)

C16 The proviso in s. 35 which is spent is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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

It shall be the duty of the parent of every child of compulsory school age to cause him to receive efficient full-time education suitable to his age, ability, and aptitude [^{F57}and to any special educational needs he may have], either by regular attendance at school or otherwise.

Textual Amendments

F57 Words inserted by [Education Act 1981 \(c. 60, SIF 41:1\), s. 17](#)

Modifications etc. (not altering text)

C17 [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](#)

C18 [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\(1\)](#)

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 [^{F58}and to any special educational needs he may have] 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 [^{F58}and to any special educational needs he may have], 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 . . . ^{F59}.

(3) ^{F60}

(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

Status: Point in time view as at 01/02/1991.

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

the order was made . . . ^{F59} 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 [^{F58}and to any special educational needs he may have] otherwise than at school, the authority shall . . . ^{F61} revoke the order in compliance with the request unless they are of opinion . . . ^{F61} that no satisfactory arrangements have been made for the education of the child otherwise than at school . . . ^{F61}; 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 [^{F62}Secretary of State for Education and Science], 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 [^{F58}and to any special educational needs he may have] otherwise than at school.
- (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.

Textual Amendments

- F58** Words inserted by [Education Act 1981 \(c. 60, SIF 41:1\), s. 21, Sch. 3 para. 2](#)
- F59** Words 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](#))
- F60** [S. 37\(3\)](#) 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](#))
- F61** Words repealed by [Education Act 1981 \(c. 60, SIF 41:1\), s. 21, Sch. 4](#)
- F62** Words substituted by virtue of [S.I. 1964/490, art. 3\(2\)\(a\)](#)

Modifications etc. (not altering text)

- C19** [S. 37](#) amended by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\), s. 9](#)
- C20** [S. 37](#) amended by [Education Act 1980 \(c. 20, SIF 41:1\), s. 10\(1\)\(5\)](#)
- C21** [S. 37](#) modified by [Education Act 1980 \(c. 20, SIF 41:1\), s. 10\(5\)–\(7\)](#)
- C22** [S. 37](#) modified by [Education Act 1981 \(c. 60, SIF 41:1\), ss. 15, 16](#)
- C23** [S. 37](#) excluded (*prosp.*) by [Children Act 1989 \(c.41, SIF 20\), ss. 30\(1\), 36\(10\), 108\(2\)\(6\), Sch. 3 Part III para. 13\(2\)\(b\)\(i\), Sch. 14 para. 1\(1\)](#)
- C24** [S. 37\(4\)](#) amended by [Education Act 1980 \(c. 20, SIF 41:1\), s. 11\(3\)](#)

38

^{F63}

Textual Amendments

- F63** [S. 38](#) repealed by [Education Act 1981 \(c. 60, SIF 41:1\), s. 21, Sch. 4](#)

Status: Point in time view as at 01/02/1991.

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

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.
- (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 . . . ^{F64} 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.

Textual Amendments

F64 Word repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), [Sch. 1 para. 10](#)

Modifications etc. (not altering text)

C25 S. 39 amended by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\)](#), s. 9

C26 S. 39 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\(1\)](#)

Status: Point in time view as at 01/02/1991.

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

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 [^{F65}£200], in the case of a second offence against that section to a fine not exceeding [^{F65}£200], and in the case of a third or subsequent offence against that section to a fine not exceeding [^{F65}£200] or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.

[^{F66}(2) Proceedings for such offences as aforesaid shall not be instituted except by a local education authority; and before instituting such proceedings the authority shall consider whether it would be appropriate, instead of or as well as instituting the proceedings, to bring the child in question before a juvenile court under section 1 of the ^{M1}Children and Young Persons Act 1969.

(3) The court by which a person is convicted of an offence against section 37 of this Act or before which a person is charged with an offence against section 39 of this Act may if it thinks fit direct the authority who instituted the proceedings to bring the child to whom the proceedings relate before a juvenile court under the said section 1; and it shall be the duty of the authority to comply with the direction.

(4) Where a child in respect of whom a school attendance order is in force is brought before a juvenile court by a local education authority under the said section 1 and the court finds that the condition set out in subsection (2)(e) of that section is not satisfied with respect to him, the court may direct that the order shall cease to be in force.]

Textual Amendments

F65 Words substituted by [Criminal Law Act 1977 \(c. 45\), s. 31\(1\), Sch. 6](#)

F66 [S. 40\(2\)-\(4\)](#) substituted for [s. 40\(2\)-\(5\)](#) by [Children and Young Persons Act 1969 \(c. 54\), Sch. 5 para. 13](#)

Marginal Citations

M1 [1969 c. 54.](#)

40A ^{F67}

Textual Amendments

F67 [S. 40A](#) repealed by [Children and Young Persons Act 1969 \(c. 54\), s. 72\(4\), Sch. 6](#)

Further Education

[^{F68}41 Functions of local education authorities with respect to further education.

(1) It shall be the duty of every local education authority to secure the provision for their area of adequate facilities for further education.

(2) Subject to the following provisions of this section, in this Act “further education” means—

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- (a) full-time and part-time education for 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.
- (3) In this Act “further education” does not include higher education.
- (4) Full-time education suitable to the requirements of senior pupils over compulsory school age shall not be regarded for the purposes of this Act as further education if it is or is to be provided by an institution which does not provide part-time senior education or post-school age education to a significant extent.
- (5) In this Act—
- (a) “part-time senior education” means part-time education for senior pupils over compulsory school age; and
 - (b) “post-school age education” means full-time or part-time education for persons of or over nineteen years of age.
- (6) The duty of a local education authority under subsection (1) above extends, in the case of further education of a vocational kind, to the provision of facilities for continuing education for persons already in employment or already engaged in a vocation as well as to the provision of facilities for education with a view to entry into any employment or vocation.
- (7) In subsection (2)(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.
- (8) A local education authority shall have power to secure the provision of further education for persons living outside their area.
- (9) In fulfilling their duty under subsection (1) above a local education authority shall have regard to any educational facilities provided by universities, institutions within the PCFC funding sector and other bodies which are provided for, or available for use by persons living in, their area.
- (10) In fulfilling that duty a local education authority shall also have regard to the requirements of persons over compulsory school age who have learning difficulties.
- (11) Subject to subsection (12) below, for the purposes of subsection (10) 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 by the local education authority concerned in pursuance of their duty under subsection (1) above for persons of his age.
- (12) 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 01/02/1991.

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

(13) A local education authority shall have power to 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

F68 S. 41 substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), **ss. 120(2)**, 231(7), 235(6), 236(2)

Modifications etc. (not altering text)

C27 S. 41 restricted by [National Service Act 1948 \(c. 64\)](#), **s. 28** and explained retrospectively by [Industrial Training Act 1964 \(c. 16\)](#), **s. 16**

42 F69

Textual Amendments

F69 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— F70

46.

Textual Amendments

F70 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.

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 ^{M2}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)

C28 Functions of the Minister now exercisable by the Secretary of State for Education and Science: [S.I. 1964/490](#), **art. 2(1)**

Status: Point in time view as at 01/02/1991.

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

Marginal Citations

M2 [1921 c. 51.](#)

Status:

Point in time view as at 01/02/1991.

Changes to legislation:

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