



# Education Act 1944 (repealed 1.11.1996)

1944 CHAPTER 31 7 and 8 Geo 6

## PART IV

### GENERAL

#### GENERAL PRINCIPLE TO BE OBSERVED BY MINISTER AND LOCAL EDUCATION AUTHORITIES

#### 76 Pupils to be educated in accordance with the wishes of their parents.

In the exercise and performance of all powers and duties conferred and imposed on them by [<sup>F1</sup>the Education Acts 1944 to 1993] the [<sup>F2</sup>Secretary of State for Education and Science] and local education authorities shall have regard to the general principle that, so far as is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure, pupils are to be educated in accordance with the wishes of their parents.

#### Textual Amendments

**F1** Words in s. 76 substituted (1.10.1993) by 1993 c. 35, ss. 307(1), **Sch. 19 para. 20(a)**; S.I. 1993/1975, art. 9, **Sch.1**

**F2** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

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

**C1** S. 76 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)(ii), **Sch. 14 para. 1(1)**

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Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996), Part IV.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

MISCELLANEOUS PROVISIONS

[F3]77 Inspection of educational establishments.

- (1) In this section the expression “educational establishment” means <sup>F4</sup> . . . , [<sup>F5</sup>an institution within the PCFC funding sector or an institution which is maintained or assisted by a local education authority and provides higher education or further education (or both)]; and if the persons responsible for the management of any institution which is not an educational establishment within the foregoing definition request the [<sup>F6</sup>Secretary of State] or any local education authority to cause an inspection of that institution to be made under the powers conferred by this section, the institution shall, for the purposes of that inspection, be deemed to be also included within that definition.
- (2) It shall be the duty of the [<sup>F6</sup>Secretary of State for Education and Science] to cause inspections to be made of every educational establishment at such intervals as appear to him to be appropriate, and to cause a special inspection of any such establishment to be made whenever he considers such an inspection to be desirable; and for the purpose of enabling such inspections to be made on behalf of the [<sup>F6</sup>Secretary of State for Education and Science], inspectors may be appointed by His Majesty on the recommendation of the [<sup>F6</sup>Secretary of State for Education and Science], and persons may be authorised by the [<sup>F6</sup>Secretary of State for Education and Science] to assist such inspectors and to act as additional inspectors:  
Provided that the [<sup>F6</sup>Secretary of State for Education and Science] shall not be required by virtue of this subsection to cause inspections to be made of any educational establishment during any period during which he is satisfied that suitable arrangements are in force for the inspection of that establishment otherwise than in accordance with this subsection.
- (3) Any local education authority may cause an inspection to be made of any educational establishment maintained by the authority, and such inspections shall be made by officers appointed by the local education authority.
- (4) If any person obstructs any person authorised to make an inspection in pursuance of the provisions of this section in the execution of his duty, he shall be liable on summary conviction to a fine not exceeding [<sup>F7</sup>level 4 on the standard scale], or, in the case of a second or subsequent conviction, to a fine not exceeding [<sup>F7</sup>level 4 on the standard scale] or to imprisonment for a term not exceeding three months or to both such imprisonment and such fine.

<sup>F8</sup>(5) . . . . .

<sup>F9</sup>(6) . . . . .]

Textual Amendments

- F3** S. 77 ceased to have effect in relation to any institution other than a school (1.9.1992 for specified purposes and otherwise 1.4.1993) by virtue of Further and Higher Education Act 1992 (c. 13), s. 93(1), Sch. 8 para. 10; (E.) S.I. 1992/831, art. 3; (W.) S.I. 1992/2377, art. 3
- F4** Words in s. 77(1) repealed (1.9.1993 in relation to secondary schools and 1.9.1994 in relation to other schools) by Education (Schools) Act 1992 (c. 38), s. 21(7)(8), Sch. 4, para. 1(a), Sch. 5; S.I. 1993/1491, art. 3(2)
- F5** Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), Sch. 12 para. 57
- F6** Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)

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- F7** Words substituted by virtue of [Criminal Law Act \(c. 45, SIF 39:1\)](#) and of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), ss. 39(1), 46, [Sch.3](#)
- F8** [S. 77\(5\)](#) repealed (1.9.1993 in relation to secondary schools and 1.9.1994 in relation to other schools) by [Education \(Schools\) Act 1992 \(c. 38\)](#), s. 21(8), [Sch. 5](#); S.I. 1993/1491, [art. 3\(2\)](#)
- F9** [S. 77\(6\)](#) repealed (12.6.1993) by [Education \(Schools\) Act 1992 \(c. 38\)](#), s. 21(8), [Sch. 5](#); S.I. 1993/1491, [art. 3\(1\)](#)

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

- C2** [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 35](#) (in relation to liability on first and subsequent convictions) applies

**78 Provision of certain ancillary services for pupils not in attendance at schools maintained by local education authorities.**

- (1) . . . . . <sup>F10</sup>
- (2) A local education authority may, with the consent of the proprietor of any school in their area which is not a school maintained by the authority, and upon such financial and other terms, if any, as may be determined by agreement between the authority and the proprietor of the school, make arrangements for securing—
  - (a) the provision of milk, meals and other refreshment for pupils in attendance at the school; . . . <sup>F11</sup>

Provided that any arrangements made under this subsection shall be such as to secure, so far as is practicable, that the expense incurred by the authority in connection with the provision under the arrangements of any service or article shall not exceed the expense which would have been incurred by them in the provision thereof if the pupil had been a pupil at a school maintained by them.

**Textual Amendments**

- F10** [Ss. 69\(1\), 78\(1\), 79](#) repealed by [National Health Service Reorganisation Act 1973 \(c. 32\)](#), [Sch. 5](#)
- F11** Words repealed by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\)](#), [Sch. 2](#) and [National Health Service Reorganisation Act 1973 \(c. 32\)](#), [Sch. 5](#)

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

- C3** [S. 78\(2\)\(a\)](#) extended by [Education Act 1980 \(c. 20, SIF 41:1\)](#), [s. 22\(5\)](#)

**79** <sup>F12</sup> . . . . .

**Textual Amendments**

- F12** [Ss. 69\(1\), 78\(1\), 79](#) repealed by [National Health Service Reorganisation Act 1973 \(c. 32\)](#), [Sch. 5](#)

**80 Registration of pupils at schools.**

- (1) The proprietor of every school (that is to say in the case of a county school or voluntary school the . . . <sup>F13</sup> governors thereof [<sup>F14</sup> and in the case of a grant-maintained school the governing body of the school]) shall cause to be kept in accordance with regulations

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made by the [<sup>F15</sup>Secretary of State for Education and Science] a register containing the prescribed particulars with respect to all persons . . . <sup>F16</sup> who are pupils at the school, and such regulations may make provision for enabling such registers to be inspected, for enabling extracts therefrom to be taken for the purposes of this Act by persons duly authorised in that behalf under the regulations, and for requiring the persons by whom any such register is required to be kept to make to the [<sup>F15</sup>Secretary of State for Education and Science], and to local education authorities, such periodical or other returns as to the contents thereof as may be prescribed.

[<sup>F17</sup>(1A) Without prejudice to the generality of subsection (1) of this section, the prescribed particulars shall include particulars of the name and address of every person known to the proprietor of the school to be a parent of a pupil at the school.]

(2) If any person contravenes or fails to comply with any requirement imposed on him by regulations made under this section, he shall be liable on summary conviction to a fine not exceeding [<sup>F18</sup>level 1 on the standard scale].

(3) . . . . . <sup>F19</sup>

#### Subordinate Legislation Made

P1 S. 80: s. 80 power exercised by S.I. 1991/1582

P2 S. 80: power previously exercised by S.I. 1987/1285 and 1988/1185.

#### Textual Amendments

F13 Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 1**

F14 Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 5**

F15 Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

F16 Words repealed by Education (Miscellaneous Provisions) Act 1948 (c. 40), **Sch. 2**

F17 S. 80(1A) inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 58**

F18 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**

F19 S. 80(3) repealed by Education (Miscellaneous Provisions) Act 1948 (c. 40), **Sch. 2**

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

C4 S. 80 amended by Education (Miscellaneous Provisions) Act 1948 (c. 40), **s. 4(6)**

## 81 Power of local education authorities to give assistance by means of scholarships and otherwise.

Regulations shall be made by the [<sup>F20</sup>Secretary of State for Education and Science] empowering local education authorities, for the purpose of enabling [<sup>F21</sup>persons] to take advantage without hardship to themselves or their parents of any educational facilities available to them—

- (a) to defray such expenses of children attending county schools, voluntary schools, [<sup>F22</sup>grant-maintained schools], or special schools, as may be necessary to enable them to take part in any school activities:
- (b) to pay the whole or any part of the fees and expenses payable in respect of children attending schools at which fees are payable:

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- <sup>X1</sup>(c) to grant scholarships, exhibitions, bursaries, and other allowances in respect of [<sup>F23</sup>persons] over compulsory school age <sup>F24</sup> . . .
- (d) to grant allowances in respect of any child in respect of whom any scholarship exhibition bursary or other allowance has been granted by a former authority before the date of the commencement of Part II of this Act.

**Editorial Information**

**X1** S. 81(c) repealed in relation to courses to which Education Act 1962 (c. 2), ss. 1 and 2(1) apply and in relation to training of teachers by Education Act 1962 (c. 12), s. 4(4)-(6)

**Textual Amendments**

- F20** Words substituted by virtue of S.I. 1964/490, art. 3(2)(a)
- F21** Word in s. 81 substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), Sch. 8 para. 11(a); S.I. 1992/831, art. 2, Sch. 3
- F22** Words inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), Sch. 12 para. 6
- F23** Word in s. 81(c) substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), Sch. 8, Pt. I para. 11(b)(i); S.I. 1992/831, art.2, Sch. 3
- F24** Words in s. 81(c) omitted (1.4.1993) by virtue of Further and Higher Education Act 1992 (c. 13), s. 93(1), Sch. 8 Pt. I para. 11(b)(ii); S.I. 1992/831, art. 2, Sch. 3

**82 Powers of local education authorities as to educational research.**

A local education authority may, . . . <sup>F25</sup> make such provision for conducting or assisting the conduct of research as appears to the authority to be desirable for the purpose of improving the educational facilities provided for their area.

**Textual Amendments**

**F25** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), Sch. 7

**83 Powers of local education authorities as to educational conferences.**

..... <sup>F26</sup> A local education authority may organise, or participate in the organisation of, conferences for the discussion of questions relating to education, and may expend such sums as may be reasonable in paying or contributing towards any expenditure incurred in connection with conferences for the discussion of such questions, including the expenses of any person authorised by them to attend any such conference.

**Textual Amendments**

**F26** Words repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), Sch. 7

**84** <sup>F27</sup> .....

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**Textual Amendments**

**F27** 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

**85 Power of local education authorities to accept gifts for educational purposes.**

(1) Subject to the provisions of this section, a local education authority shall have power, and any such authority or any former authority shall be deemed always to have had power, to accept hold and administer any property upon trust for purposes connected with education.

[<sup>F28</sup>(2) Any intention on the part of a local education authority that a school <sup>F29</sup> . . . (other than a nursery school or a special school) should be vested in the authority as trustees shall be treated for the purposes of subsection (1) of section 12 of the Education Act 1980 as an intention on the part of the authority to maintain the school as a county school; and accordingly proposals for that purpose shall be published and submitted as required by that section, and the other provisions of that section and of sections 14 and 16 of that Act shall apply as in a case where a local education authority intend to maintain a school as a county school.

(3) Any school <sup>F29</sup> . . . which in accordance with subsection (2) above is vested in a local education authority as trustees shall be a county school.]

**Textual Amendments**

**F28** S. 85(2)(3) substituted by Education Act 1980 (c. 20, SIF 41:1), s. 16(4), Sch. 3 para. 3

**F29** Words in s. 85(2) and (3) repealed (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1)(2), Sch. 8, Pt. I para. 12, Sch.9; S.I. 1992/831, art.2, Sch. 3

**86** <sup>F30</sup> .....

**Textual Amendments**

**F30** S. 86 repealed by Education Act 1973 (c. 16), Sch. 2 Pt. II

**87** <sup>F31</sup> .....

**Textual Amendments**

**F31** S. 87 repealed by Charities Act 1960 (c. 58), Sch. 7 Pt. II

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## ADMINISTRATIVE PROVISIONS

### 88 Appointment of chief education officers of local education authorities.

The duties of a local education authority with respect to the appointment of officers under the provisions of the [<sup>F32M1</sup>Local Government Act, 1972], shall, without prejudice to the generality of those provisions, include the duty of appointing a fit person to be the chief education officer of the authority, . . . <sup>F33</sup>

#### Textual Amendments

- F32** Words substituted by virtue of [Interpretation Act 1889 \(c. 63\), s. 38\(1\)](#)  
**F33** Words repealed by [Local Government Act 1972 \(c. 70\), Sch. 30](#)

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

- C5** [S. 88](#) extended by [London Government Act 1963 \(c. 33\), s. 30\(4\)](#)

#### Marginal Citations

- M1** [1972 c. 70.](#)

### 89 <sup>F34</sup> .....

#### Textual Amendments

- F34** [S. 89](#) repealed by [Remuneration of Teachers Act 1965 \(c. 3\), s. 7\(6\)](#)

### 90 Compulsory purchase of land and other dealings in land by local education authorities.

- (1) A local education authority may be authorised [<sup>F35</sup>by the [<sup>F36</sup>Secretary of State for Education and Science]] to purchase compulsorily any land, whether situate within or without the area of the authority, which is required for the purposes of any school or [<sup>F37</sup>institution] which is, or is to be, maintained by them [<sup>F38</sup>or which they have the power to assist], or otherwise for the purposes of their functions under this Act; . . . <sup>F39</sup>  
Provided that the [<sup>F36</sup>Secretary of State for Education and Science] shall not [<sup>F35</sup>authorise] the purchase of any land required for the purposes of a voluntary school unless he is satisfied that the arrangements made as to the vesting of the land to be purchased, and as to the appropriation thereof for those purposes, are such as to secure that the expenditure ultimately borne by the local education authority will not include any expenditure which, if the land had been purchased by the . . . <sup>F40</sup> governors of the school, would have fallen to be borne by the . . . <sup>F40</sup> governors.

[<sup>F41</sup>(1A) The proviso in subsection (1) of this section shall not apply where the local education authority propose that expenditure to be incurred in connection with the purchase should ultimately be borne by them under section 282(1) of the Education Act 1993 (power of local education authority to give assistance).]

- (2) .....

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#### Textual Amendments

- F35** Words substituted by [Acquisition of Land \(Authorisation Procedure\) Act 1946 \(c. 49\)](#), [Sch. 4](#)
- F36** Words substituted by virtue of [S.I. 1964/490](#), [art. 3\(2\)\(a\)](#)
- F37** Word substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(1), [Sch. 12 para. 59](#)
- F38** Words inserted by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\)](#), [s. 10\(1\)](#)
- F39** Words repealed by [Acquisition of Land \(Authorisation Procedure\) Act 1946 \(c. 49\)](#), [Sch. 6](#)
- F40** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), [Sch. 1 para. 1](#)
- F41** [S. 90\(1A\)](#) inserted (1.10.1993) by 1993 c. 35, [s. 282\(3\)](#); [S.I. 1993/1975](#), art. 9, [Sch. 1](#)
- F42** [SS. 90\(2\)\(3\), 97](#) repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 38(6), [Sch. 7](#)

**91** <sup>F43</sup> .....

#### Textual Amendments

- F43** [S. 91](#) repealed by [Local Government Act 1972 \(c. 70\)](#), [Sch. 30](#)

#### 92 Reports and returns.

Every local education authority shall make to the [<sup>F44</sup>Secretary of State for Education and science] such reports and returns and give to him such information as he may require for the purpose of the exercise of his functions under this Act.

#### Textual Amendments

- F44** Words substituted by virtue of [S.I. 1964/490](#), [art. 3\(2\)\(a\)](#)

#### 93 Power of Minister to direct local inquiries.

The [<sup>F45</sup>Secretary of State for Education and Science] may cause a local inquiry to be held for the purpose of the exercise of any of his functions under this Act; and the provisions of subsections (2) (3) (4) and (5) of section [<sup>F46</sup>two hundred and fifty of the <sup>M2</sup>Local Government Act 1972] shall have effect with respect to any such inquiry . . . <sup>F47</sup>

#### Textual Amendments

- F45** Words substituted by virtue of [S.I. 1964/490](#), [art. 3\(2\)\(a\)](#)
- F46** Words substituted by virtue of [Interpretation Act 1889 \(c. 63\)](#), [s. 38\(1\)](#)
- F47** Words spent

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

- C6** [S. 93](#) applied (1.4.1993) by [Further and Higher Education Act 1992 \(c. 13\)](#), [s. 57\(6\)](#); [S.I. 1992/831](#), art. 2, [Sch. 3](#)

#### Marginal Citations

- M2** [1972 c. 70](#).



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## 94 Certificates of birth and registrars' returns.

- (1) Where the age of any person is required to be proved for the purposes of this Act or of any enactment relating to the employment of children or young persons, the registrar having the custody of the register of births and deaths containing the entry relating to the birth of that person shall, upon being presented by any person with a written requisition in such form and containing such particulars as may be determined by regulations made by the <sup>F48</sup>Secretary of State for Social Services], and upon payment of a fee of [£2.00], supply that person with a copy of the entry certified under his hand.

Every registrar shall, upon being requested so to do, supply free of charge a form of requisition for the purposes of this subsection.

- (2) Every registrar shall supply to a local education authority such particulars of the entries contained in any register of births and deaths in his custody, and in such form, as, subject to any regulations made by the <sup>F48</sup>Secretary of State for Social Services], the authority may from time to time require; . . . <sup>F49</sup>
- (3) In this section, the expression “register of births and deaths” means a register of births and deaths kept in pursuance of the <sup>F50M3M4</sup>Births and Deaths Registration Act 1953 and the Registration Service Act 1953], and the expression “registrar” includes a registrar of births and deaths and a superintendent registrar.

### Textual Amendments

**F48** Words substituted by virtue of [S.I. 1968/1699](#), [art. 5\(4\)](#)

**F49** Words repealed by [S.I. 1968/1242](#), [Sch. 2](#)

**F50** Words substituted by virtue of [Interpretation Act 1889 \(c. 63\)](#), [s. 38\(1\)](#)

### Modifications etc. (not altering text)

**C7** Power to amend s. 94 conferred by [Public Expenditure and Receipts Act 1968 \(c. 14\)](#), [s. 5\(1\)](#), [Sch. 3 para. 1\(a\)](#)

### Marginal Citations

**M3** [1953 c. 20](#).

**M4** [1953 c. 37](#).

## 95 Provisions as to evidence.

- (1) Where in any proceedings under this Act the person by whom the proceedings are brought alleges that any person whose age is material to the proceedings is under, of, or over, any age, and satisfies the court that having used all reasonable diligence to obtain evidence as to the age of that person he has been unable to do so, then, unless the contrary is proved, the court may presume that person to be under, of, or over, the age alleged.
- (2) In any legal proceedings any document purporting to be—
- (a) a document issued by a local education authority, and to be signed by the clerk of that authority or by the chief education officer of that authority or by any other officer of the authority authorised to sign it;
  - (b) an extract from the minutes of the proceedings of the . . . <sup>F51</sup>governors of any county school or voluntary school, and to be signed by the chairman of the . . . <sup>F51</sup>governors or by their clerk;

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- (c) a certificate giving particulars of the attendance of a child or young person at a school or at a county college, and to be signed by the head teacher of the school or college; or
- (d) a certificate issued by a medical officer of a local education authority and to be signed by such an officer;

shall be received in evidence and shall, unless the contrary is proved, be deemed to be the document which it purports to be, and to have been signed by the person by whom it purports to have been signed, without proof of his identity, signature, or official capacity, and any such extract or certificate as is mentioned in paragraph (b) (c) or (d) of this subsection shall be evidence of the matters therein stated.

#### Textual Amendments

**F51** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), [Sch. 1 para. 1](#)

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

**C8** [S. 95\(1\)](#) excluded by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\)](#), s. 9(2)  
[S. 95\(1\)](#) excluded (1.10.1993) by [1993 c. 35, s. 200\(3\)](#); S.I. 1993/1975, art. 9, [Sch. 1](#)

## 96 Provisions consequential on cessation of functions of former authorities.

- (1) If upon the application of a former authority the Minister is satisfied with respect to any property which was immediately before the date of the commencement of Part II of this Act held by that authority for the purposes of functions exercisable by them under the Education Acts 1921 to 1939, that, although the property was so held, it was held upon trust for purposes of such a nature that the transfer thereof to a local education authority would be inexpedient, the Minister may by order direct that the property shall be deemed not to have been transferred by virtue of section six of this Act to the local education authority for the county in which the area of the former authority is situated.
- (2) Where any question arises as to whether any officers, property, rights, or liabilities, have been transferred by virtue of this Act from a former authority to a local education authority, that question shall be determined by the Minister.
- (3) Where any officers, property, rights, or liabilities, have been transferred by virtue of this Act from a former authority to a local education authority, the local education authority and the former authority may by agreement provide for the making of such adjustments in relation to their respective property, rights, and liabilities, as appear to the authorities to be desirable having regard to the transfer, and any such agreements may, in particular, provide for the making of payments by either party thereto.
- (4) Where it appears to the Minister that having regard to any such transfer it is desirable that any such adjustment as aforesaid (including any payment by either of the authorities concerned) should be made, he may, subject to any agreement made under the last foregoing subsection, by directions make provision for that adjustment.
- (5) Where at the commencement of Part II of this Act any former authority were parties to any proceedings pending with respect to any property, rights, or liabilities, which by virtue of this Act are transferred from the former authority to a local education authority, the proceedings may be carried on thereafter with the substitution of the local education authority for the former authority as parties thereto.

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

**C9** Functions of the Minister now exercisable by the Secretary of State for Education and Science: [S.I. 1964/490](#), [art. 2\(1\)](#)

**97** <sup>F52</sup> .....

**Textual Amendments**

**F52** SS. 90(2)(3), 97 repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 38(6), [Sch. 7](#)

**98 Compensation of persons prejudicially affected by this Act.**

- (1) If in consequence of the extinguishment or transfer by this Act of any functions exercisable by the council of any county district, or the transfer by this Act of any officers employed by any such council, any person who, immediately before the date of the commencement of Part II of this Act, was an officer employed by that council or by the council of the county in which the county district is situated suffers direct pecuniary loss by reason of the determination of his appointment or the diminution of his emoluments, he shall, unless provision for his compensation for that loss is made by or under any other enactment for the time being in force, be entitled to receive compensation under this subsection from the local education authority for the area in which the county district is situated; and, for the purposes of any claim for compensation under this subsection, the provisions of subsections (2) and (3) of section one hundred and fifty of the <sup>M5</sup>Local Government Act 1933, shall have effect as if:—
  - (a) the extinguishment or transfer had been effected by virtue of an order made by the Minister of Health under Part VI of the said Act of 1933 and coming into operation upon the date of the commencement of Part II of this Act; and
  - (b) the expression “existing officer,” in those subsections, meant any person who, immediately before the said date, was an officer employed by the council of a county or county district in connection with any functions exercisable by that council under any enactment repealed or amended by this Act.
- (2) If, in consequence of any school becoming a special agreement school or a controlled school, or in consequence of the discontinuance within six years after the passing of this Act of any school maintained by a local education authority, any person who was a teacher in the school immediately before it became a special agreement school or a controlled school, or before the school was discontinued, as the case may be, suffers direct pecuniary loss by reason of his dismissal or the diminution of his emoluments, he shall, unless provision for his compensation for that loss is made by or under any other enactment for the time being in force, be entitled to receive compensation from the authority under this section.
- (3) For the purposes of the determination and payment of compensation under this section, the provisions of the Fourth Schedule to the <sup>M6</sup>Local Government Act 1933 shall have effect subject to the following modifications, that is to say:—
  - (a) references therein to the Minister shall be construed as references to the Minister of Education, and sub-paragraph (1) of paragraph 1 thereof shall have

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effect as if after the word “prescribed” there were inserted the words “by the Minister of Education”;

- (b) references therein to a scheme or order shall be construed as references to this Act; and
- (c) any period during which a person has been engaged in war service within the meaning of the <sup>M7</sup>Local Government Staffs (War Service) Act 1939, shall be reckoned for the purposes of the said Schedule as a period of service in his office, and where any such period is so reckoned, his emoluments during that period shall, for the purposes of sub-paragraph (2) of paragraph 4 of the said Schedule, be deemed to be such as he would have received if he had not been engaged in war service.

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

**C10** Functions of the Minister of Education now exercisable by the Secretary of State for Education and Science: S.I. 1964/490, **art. 2(1)**

#### Marginal Citations

**M5** 1933 c. 51.

**M6** 1933 c. 51.

**M7** 1939 c. 94.

## 99 Powers of Minister in default of local education authorities or . . . <sup>F53</sup> governors.

- (1) If the [<sup>F54</sup>Secretary of State for Education and Science] is satisfied, either upon complaint by any person interested or otherwise, that any local education authority, or the . . . <sup>F53</sup> governors of any county school or voluntary school, have failed to discharge any duty imposed upon them by or for the purposes of this Act, the [<sup>F54</sup>Secretary of State for Education and Science] may make an order declaring the authority, or the . . . <sup>F53</sup> governors, as the case may be, to be in default in respect of that duty, and giving such directions for the purpose of enforcing the execution thereof as appear to the [<sup>F54</sup>Secretary of State for Education and Science] to be expedient; and any such directions shall be enforceable, on an application made on behalf of the [<sup>F54</sup>Secretary of State for Education and Science], by mandamus.
- (2) Where it appears to the [<sup>F54</sup>Secretary of State for Education and Science] that by reason of the default of any person there is no properly constituted body of . . . <sup>F53</sup> governors of any county school or voluntary school, the [<sup>F54</sup>Secretary of State for Education and Science] may make such appointments and give such directions as he thinks desirable for the purpose of securing that there is a properly constituted body of . . . <sup>F53</sup> governors thereof, and may give directions rendering valid any acts or proceedings which in his opinion are invalid or otherwise defective by reason of the default.
- (3) Where it appears to the [<sup>F54</sup>Secretary of State for Education and Science] that a local education authority have made default in the discharge of their duties relating to the maintenance of a voluntary school, the [<sup>F54</sup>Secretary of State for Education and Science] may direct that any act done by or on behalf of the . . . <sup>F53</sup> governors of the school for the purpose of securing the proper maintenance thereof shall be deemed to have been done by or on behalf of the authority, and may reimburse to the . . . <sup>F53</sup> governors any sums which in his opinion they have properly expended for that purpose; and the amount of any sum so reimbursed shall be a debt due to the Crown from the authority, and, without prejudice to any other method of recovery, the whole

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or any part of such a sum may be deducted from any sums payable to the authority by the [<sup>F54</sup>Secretary of State for Education and Science] in pursuance of any regulations relating to the payment of grants.

#### Textual Amendments

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

**F54** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

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

**C11** S. 99 extended by Local Government Act 1958 (c. 55), Sch. 8 paras. 16(1), **35**, 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)**

**C12** S. 99 restricted by Education Reform Act 1988 (c. 40, SIF 41:1), **ss. 23(2)**, 231(7), 235(6)  
S. 99 restricted (1.9.1994) by 1993 c. 35, s. 298, **Sch. 18 para. 6(4)**; S.I. 1994/2038, art. 3, **Sch.2**.

**C13** S. 99(1)(2) modified by Education (No.2) Act 1986 (c. 61, SIF 41), s. 12(10), **Sch. 2 para. 29(c)**

**C14** S. 99(1)(2) extended by Education Reform Act 1988 (c. 40, SIF 41:1), **ss. 219(3)**, 231(7), 235(6)

**C15** S. 99(1) 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**

**C16** S. 99(1) applied (1.4.1994) by 1993 c. 35, **s. 9(4)**; S.I. 1994/507, **art.3(1)**.

**C17** S. 99(1)(2) applied (1.4.1994) by 1994/653, reg. 42(1), Sch. Pt.I.

**C18** S. 99(1)(2) applied (9.5.1994) by 1994/1084, reg. 8(1), Sch. 2 Pt.I.

## FINANCIAL PROVISIONS

### 100 Grants in aid of educational services.

(1) The [<sup>F55</sup>Secretary of State for Education and Science] shall by regulations make provision:—

(a) for the payment by him to local education authorities of annual grants in respect of the expenditure incurred by such authorities;

[<sup>F56</sup>(i) ..... <sup>F57</sup>

(iii) in the removal of works constructed for the purposes of air-raid precautions or of temporary works constructed for defence purposes by or on behalf of the Secretary of State, the Admiralty or the Minister of Home Security in pursuance of Regulation fifty or fifty-one of the Defence (General) Regulations, 1939, or by agreement, and in the reinstatement of premises so far as it is rendered necessary by any such removal;]

(b) for the payment by him to persons other than local education authorities of grants in respect of expenditure incurred or to be incurred [<sup>F58</sup>by them for the purposes of, or in connection with, the provision (or proposed provision) of educational services] or for the purposes of educational research; and

(c) for the payment by him, for the purpose of enabling pupils to take advantage without hardship to themselves or their parents of any educational facilities available to them, of the whole or any part of the fees and expenses payable in respect of children attending schools at which fees are payable, . . . <sup>F59</sup>

(2) ..... <sup>F60</sup>

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- (3) Any regulations made by the [<sup>F55</sup>Secretary of State for Education and Science] . . . <sup>F61</sup> under this section may make provision whereby the making of payments by him in pursuance thereof is dependent upon the fulfilment of such conditions as may be determined by or in accordance with the regulations, and may also make provision for requiring local education authorities and other persons to whom payments have been made in pursuance thereof to comply with such requirements as may be so determined.
- (4) . . . . . <sup>F62</sup>
- (5) Nothing in this section shall affect any grants in aid of university education payable out of moneys provided by Parliament otherwise than in accordance with the provisions of this Act.

#### Subordinate Legislation Made

**P3** S. 100(1) and (3): s. 100(1) (with s. 100(3) and 111A) power exercised by S.I.1991/1975

**P4** S. 100(1)(b) and (3): s. 100(1)(b) (with s. 100(3)) power exercised by S.I. 1991/1831

For previous exercises of power see Index to Government Orders

#### Textual Amendments

**F55** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**

**F56** Words substituted by **Local Government Act 1958 (c. 55), Sch. 8 paras. 16(2), 35**

**F57** S. 100(1)(a)(i)(ii) repealed by **Education Act 1980 (c.20, SIF 41:1), s. 38(6), Sch. 7**

**F58** Words substituted by **Education Reform Act 1988 (c. 40, SIF 41:1), ss. 213(3), 231(7), 235(6)**

**F59** Words repealed by **Education Act 1962 (c. 12), s. 13, Sch. 2**

**F60** Ss. 100(2), 101 repealed by **Local Government Act 1958 (c. 55), s. 67, Sch. 9 Pt. II**

**F61** Words repealed by **Local Government Act 1958 (c. 55), s. 67, Sch. 9 Pt. II**

**F62** S. 100(4) repealed by **Education Act 1973 (c. 16), Sch. 2 Pt. II**

**101** <sup>F63</sup> . . . . .

#### Textual Amendments

**F63** Ss. 100(2), 101 repealed by **Local Government Act 1958 (c. 55), s. 67, Sch. 9 Pt. II**

### **102 †Maintenance contributions payable by the Minister in respect of aided schools and special agreement schools.**

The [<sup>F64</sup>Secretary of State for Education and Science] shall pay to the . . . <sup>F65</sup> governors of every aided school and of every special agreement school maintenance contributions equal to [<sup>F66</sup>85 per cent.] of any sums expended by them in carrying out their obligations under paragraph (a) of subsection (3) of section fifteen of this Act in respect of alterations [<sup>F67</sup>and repairs] to the school buildings . . . <sup>F68</sup> [<sup>F69</sup>and may pay the . . . <sup>F65</sup> governors of any aided school or special agreement school maintenance contributions not exceeding [<sup>F66</sup>85 per cent.] of any sums expended by them on the provision of a site or of school buildings in pursuance of proposals approved under [<sup>F70</sup>section 13 of the Education Act 1980] for a significant enlargement of the school premises:]

Provided that no maintenance contribution shall be payable under this section in respect of any expenditure incurred by the . . . <sup>F65</sup> governors of a special agreement school in

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the execution of repairs or alterations for the execution of which provision is made by the special agreement relating to the school, [F69 nor shall a maintenance contribution be payable under this section in respect of any expenditure incurred by the . . . F65 governors of a special agreement school in pursuance of proposals for a significant enlargement of the school premises, being proposals to which the special agreement for the school relates.]

#### Textual Amendments

- 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**  
**F66** Words substituted by [Education Act 1975 \(c. 2\)](#), s. 3  
**F67** Words inserted retrospectively by [Education Act 1946 \(c. 50\)](#), s. 14(1), **Sch. 2 Pt. II**  
**F68** Words repealed retrospectively by [Education Act 1946 \(c. 50\)](#), s. 14(1), **Sch. 2 Pt. II**  
**F69** Words inserted by [Education Act 1968 \(c. 17\)](#), **Sch. 1 para. 4(1)**  
**F70** Words substituted by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 16(4), **Sch. 3 para. 4**

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

- C19** Unreliable marginal note.

### 103 Power of the Minister to make grants in respect of aided schools and special agreement schools transferred to new sites or established in substitution for former schools.

- (1) Where the [F71 Secretary of State for Education and Science] by an order made under section sixteen of this Act authorises the transfer of any voluntary school to a new site . . . F72, then, if the school to be transferred . . . F72 in pursuance of the order is to be maintained as an aided school or a special agreement school, the [F71 Secretary of State for Education and Science] may pay to the . . . F73 governors of the school in respect of any sums expended by them in the construction of the school a grant not exceeding [F74 85 per cent.] thereof:

Provided that no grant shall be payable under this section to the . . . F73 governors of a special agreement school in respect of any sums expended by them in the execution of proposals to which the special agreement for the school relates.

- (2) . . . . . F75
- (3) Without prejudice to the general discretion of the [F71 Secretary of State for Education and Science] as to the making of any grant under this section and as to the amount of any such grant, the [F71 Secretary of State for Education and Science] shall, in determining the amount of any such grant, take into account any sums which may accrue to the . . . F73 governors or trustees of the school in respect of the disposal of the site from which the school is to be transferred, . . . F72

#### Textual Amendments

- F71** Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**  
**F72** Words repealed by [Education Act 1967 \(c. 3\)](#), s. 1(5)(a)  
**F73** Words repealed by [Education Act 1980 \(c. 20\)](#), s. 1(3), **Sch. 1 para. 12**  
**F74** Words substituted by [Education Act 1975 \(c. 2\)](#), s. 3  
**F75** S. 103(2) repealed by [Education \(Miscellaneous Provisions\) Act 1953 \(c. 33\)](#), **Sch. 2**

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

**C20** S. 103(1) amended retrospectively by Education (Miscellaneous Provisions) Act 1953 (c. 33), s. 8(1)

**C21** S. 103(3) extended by Education Act 1967 (c. 3), s. 1(3)

**104** <sup>F76</sup> .....

#### Textual Amendments

**F76** S. 104 repealed by Education Act 1967 (c. 3), s. 1(5)(b)

#### **105 †Power of the Minister to make loans to aided schools and special agreement schools in respect of initial expenditure.**

(1) If upon the application of the . . . <sup>F77</sup> governors of any aided school or special agreement school the [<sup>F78</sup>Secretary of State for Education and Science] is satisfied after consultation with persons representing them that their share of any initial expenses required in connection with the school premises will involve capital expenditure which, in his opinion having regard to all the circumstances of the case, ought properly to be met by borrowing, he may make to the . . . <sup>F77</sup> governors of the school for the purpose of helping them to meet that expenditure, a loan of such amount at such rate of interest and otherwise on such terms and conditions as may be specified in an agreement made between him and them with the consent of the Treasury.

(2) For the purposes of this section, the expression “initial expenses” means in relation to any school premises—

(a) expenses to be incurred in defraying the cost of any alterations required by the development plan approved by the [<sup>F78</sup>Secretary of State for Education and Science] for the area;

(b) expenses to be incurred in pursuance of any special agreement;

<sup>F79</sup>(c) (i) expenses to be incurred in providing a site or school buildings on a significant enlargement of the school premises [<sup>F80</sup>or on a transfer of the school to a new site], being expenses in respect of which [<sup>F81</sup>grants under section 281 of the Education Act 1993] may be paid;

(ii) expenses to be incurred in providing school buildings on a site to which the school is to be transferred under the authority of an order under section 16(1) of this Act;

(iii) expenses to be incurred in providing a site or school buildings for a new school which by virtue of an order under section 16(2) of this Act is deemed to be in substitution for a discontinued school or schools];

(d) expenses certified by the [<sup>F78</sup>Secretary of State for Education and Science] under the last foregoing section as being attributable to the provision of education for displaced pupils;

and the . . . <sup>F77</sup> governors’ share of any such initial expenses shall be taken to be so much thereof as remains to be borne by them after taking into account the amount of any maintenance contribution, grant under a special agreement, or grant under either of the last two foregoing sections, as may be paid or payable in respect of those expenses.

(3) If upon an application being made to him under subsection (2) of section fifteen of this Act for an order directing that a school shall be an aided school or a special agreement



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school it appears to the [<sup>F78</sup>Secretary of State for Education and Science] that the area served by the school will not be also served by any county school or controlled school, then, unless he is satisfied that the . . . <sup>F77</sup> governors of the school will be able to defray the expenses which would fall to be borne by them under paragraph (a) of subsection (3) of that section without the assistance of a loan under this section, the [<sup>F78</sup>Secretary of State for Education and Science] shall consult such persons or bodies of persons as appear to him to be representative of any religious denomination which, in his opinion having regard to the circumstances of the area, is likely to be concerned; and, unless after such consultation he is satisfied that the holding of a local inquiry is unnecessary, shall cause such inquiry to be held before determining the application.

**Textual Amendments**

- F77** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), **Sch. 1 para. 1**
- F78** Words substituted by virtue of [S.I. 1964/490](#), **art. 3(2)(a)**
- F79** [S. 105\(2\)\(c\)](#) substituted by [Education Act 1968 \(c. 17\)](#), **Sch. 1 para. 4(2)**
- F80** Words in [s. 105\(2\)\(c\)\(i\)](#) inserted(1.10.1993) by [1993 c. 35, s. 307\(1\)](#), **Sch. 19 para. 23(a)(i)**; [S.I. 1993/1975, art. 9](#), **Sch. 1**
- F81** Words in [s. 105\(2\)\(c\)\(i\)](#) substituted (1.10.1993) by [1993 c. 35, s. 307\(1\)](#), **Sch. 19 para. 23(a)(i)**; [S.I. 1993/1975, art. 9](#), **Sch. 1**

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

- C22** Unreliable marginal note.
- C23** [S. 105](#) amended by [Education \(Miscellaneous Provisions\) Act 1953 \(c. 33\)](#), **s. 8(3)**, [Education Act 1959 \(c. 60\)](#), **s. 1(4)** and [Education Act 1967 \(c. 3\)](#), **s. 1(4)**

**106** <sup>F82</sup> .....

**Textual Amendments**

- F82** [Ss. 106, 108—110, 114\(4\)](#) and [Sch. 7](#) repealed by [Statute Law \(Repeals\) Act 1975 \(c. 10\)](#), **Sch. Pt. IV**

**107** <sup>F83</sup> .....

**Textual Amendments**

- F83** [S. 107](#) repealed by [Statute Law \(Repeals\) Act 1978 \(c. 45\)](#), **Sch. 1 Pt. V**

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**Changes to legislation:**

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