



# Education Act 1944 (repealed 1.11.1996)

1944 CHAPTER 31 7 and 8 Geo 6

## PART IV

### GENERAL

#### 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>F1</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>F2</sup>

#### Textual Amendments

**F1** Words substituted by virtue of Interpretation Act 1889 (c. 63), s. 38(1)

**F2** Words repealed by Local Government Act 1972 (c. 70), Sch. 30

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

**C1** S. 88 extended by London Government Act 1963 (c. 33), s. 30(4)

#### Marginal Citations

**M1** 1972 c. 70.

#### 89 <sup>F3</sup> .....

#### Textual Amendments

**F3** S. 89 repealed by Remuneration of Teachers Act 1965 (c. 3), s. 7(6)

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

(1) A local education authority may be authorised <sup>F4</sup>by the <sup>F5</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>F6</sup>institution] which is, or is to be, maintained by them <sup>F7</sup>or which they have the power to assist], or otherwise for the purposes of their functions under this Act; . . . <sup>F8</sup> Provided that the <sup>F5</sup>Secretary of State for Education and Science] shall not <sup>F4</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>F9</sup> governors of the school, would have fallen to be borne by the . . . <sup>F9</sup> governors.

(2) . . . . . <sup>F10</sup>

**Textual Amendments**  
**F4** Words substituted by [Acquisition of Land \(Authorisation Procedure\) Act 1946 \(c. 49\), Sch. 4](#)  
**F5** Words substituted by virtue of [S.I. 1964/490, art. 3\(2\)\(a\)](#)  
**F6** Word substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\), ss. 231\(7\), 235\(6\), 237\(1\), Sch. 12 para. 59](#)  
**F7** Words inserted by [Education \(Miscellaneous Provisions\) Act 1948 \(c. 40\), s. 10\(1\)](#)  
**F8** Words repealed by [Acquisition of Land \(Authorisation Procedure\) Act 1946 \(c. 49\), Sch. 6](#)  
**F9** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\), s. 1\(3\), Sch. 1 para. 1](#)  
**F10** SS. 90(2)(3), 97 repealed by [Education Act 1980 \(c. 20, SIF 41:1\), s. 38\(6\), Sch. 7](#)

**91** <sup>F11</sup> . . . . .

**Textual Amendments**  
**F11** [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>F12</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**  
**F12** Words substituted by virtue of [S.I. 1964/490, art. 3\(2\)\(a\)](#)

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

The <sup>F13</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

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provisions of subsections (2) (3) (4) and (5) of section [F14two hundred and fifty of the M2Local Government Act 1972] shall have effect with respect to any such inquiry . . . F15

#### Textual Amendments

- F13 Words substituted by virtue of S.I. 1964/490, **art. 3(2)(a)**  
 F14 Words substituted by virtue of Interpretation Act 1889 (c. 63), **s. 38(1)**  
 F15 Words spent

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

- C2 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.

## 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 [F16Secretary of State for Social Services], and upon payment of a fee of [F17£1.50], 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 [F16Secretary of State for Social Services], the authority may from time to time require; . . . F18
- (3) In this section, the expression “register of births and deaths” means a register of births and deaths kept in pursuance of the [F19M3M4Births 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

- F16 Words substituted by virtue of S.I. 1968/1699, **art. 5(4)**  
 F17 “£1.50” substituted for “£1.00” by virtue of S.I. 1990/2515, **art. 2, Sch.**  
 F18 Words repealed by S.I. 1968/1242, **Sch. 2**  
 F19 Words substituted by virtue of Interpretation Act 1889 (c. 63), **s. 38(1)**

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

- C3 Power to amend s. 94 conferred by Public Expenditure and Receipts Act 1968 (c. 14), **s. 5(1), Sch. 3 para. 1(a)**

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### Marginal Citations

**M3** 1953 c. 20.

**M4** 1953 c. 37.

VALID FROM 01/10/1993

### 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>F20</sup> governors of any county school or voluntary school, and to be signed by the chairman of the . . . <sup>F20</sup> governors or by their clerk;
  - (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

**F20** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), [Sch. 1 para. 1](#)

### Modifications etc. (not altering text)

**C4** [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

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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.

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

**C5** Functions of the Minister now exercisable by the Secretary of State for Education and Science: [S.I. 1964/490](#), [art. 2\(1\)](#)

**97** <sup>F21</sup> .....

**Textual Amendments**

**F21** 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

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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 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)

- C6** 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>F22</sup> governors.

- (1) If the [<sup>F23</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>F22</sup> governors of any county school or voluntary school, have failed to discharge

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any duty imposed upon them by or for the purposes of this Act, the [F23Secretary of State for Education and Science] may make an order declaring the authority, or the . . . F22 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 [F23Secretary of State for Education and Science] to be expedient; and any such directions shall be enforceable, on an application made on behalf of the [F23Secretary of State for Education and Science], by mandamus.

- (2) Where it appears to the [F23Secretary of State for Education and Science] that by reason of the default of any person there is no properly constituted body of . . . F22 governors of any county school or voluntary school, the [F23Secretary 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 . . . F22 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 [F23Secretary 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 [F23Secretary of State for Education and Science] may direct that any act done by or on behalf of the . . . F22 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 . . . F22 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 or any part of such a sum may be deducted from any sums payable to the authority by the [F23Secretary of State for Education and Science] in pursuance of any regulations relating to the payment of grants.

#### Textual Amendments

**F22** Words repealed by [Education Act 1980 \(c. 20, SIF 41:1\)](#), s. 1(3), [Sch. 1 para. 1](#)

**F23** Words substituted by virtue of [S.I. 1964/490](#), [art. 3\(2\)\(a\)](#)

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

**C7** 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\(2\)](#)

**C8** S. 99 restricted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), [ss. 23\(2\)](#), 231(7), 235(6)

**C9** S. 99(1)(2) modified by [Education \(No.2\) Act 1986 \(c. 61, SIF 41\)](#), s. 12(10), [Sch. 2 para. 29\(c\)](#)

**C10** S. 99(1)(2) extended by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), [ss. 219\(3\)](#), 231(7), 235(6)

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