

CHAPTER 72.

An Act to consolidate the enactments relating to education in Scotland. [6th November 1946.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.

PROVISION OF EDUCATION BY EDUCATION AUTHORITIES.

1. *Primary, Secondary and Further Education.*

Provision of educational facilities by education authorities.

1.—(1) It shall be the duty of every education authority to secure that adequate and efficient provisi is made throughout their area of all forms of primary, s ondary and further education (including the teaching of Ga c in Gaelic-speaking areas).

(2) "Primary education" means progressive elementary education in such subjects as may be prescribed in the code, regard being had to the age, ability and aptitude of the pupils concerned, and such education shall be given in primary schools or departments. Primary education includes training by appropriate methods in schools and classes (hereinafter referred to as "nursery schools" and "nursery classes") for pupils between the age of two years and such later age as may be permitted by the code.

(3) "Secondary education" means progressive courses of instruction of such length and in such subjects as may be approved in terms of the code as appropriate to the age, ability and aptitude of pupils who have been promoted from primary schools and departments and to the period for which

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they may be expected to remain at school. Such courses shall be given in secondary schools or departments.

(4) " Primary education " and " secondary education " include education by special methods (hereinafter referred to as " special educational treatment ") appropriate to the special requirements of pupils who suffer from disability of mind or body. Special educational treatment shall be given in special schools approved by the Secretary of State for the purpose, or by other means so approved.

(5) " Further education " includes—

(*a*) compulsory part-time and in exceptional cases full-time courses of instruction approved in terms of the code given in colleges (hereinafter referred to as " junior colleges ") to young persons not exempt from attendance under subsection (8) of section thirty-nine of this Act and designed to enable them to develop their various aptitudes and capacities and to prepare them for the responsibilities of citizenship;

(*b*) voluntary part-time and full-time courses of instruction for persons over school age; and

(*c*) voluntary leisure-time occupation, in such organised cultural training and recreative activities as are suited to their requirements, for persons over school age.

(6) The provision of primary education in nursery schools and nursery classes shall be deemed to be adequate if such provision is made at centres where sufficient children whose parents desire such education for them can be enrolled to form a school or class of a reasonable size.

(7) The provision of secondary education shall be deemed to be adequate if a reasonable variety of courses is provided, from which the parent of a pupil may select a course from which, in the opinion of the education authority, the pupil shows reasonable promise of profiting.

Free education.

2. Primary, secondary and compulsory further education provided in public schools and junior colleges under the management of an education authority shall be without payment of fees:

Provided that if the authority think it expedient they may charge fees in some or all of the classes in a limited number of primary and secondary schools, so, however, that the power to do so may be exercised only where it can be exercised without prejudice to the adequate provision of free primary and secondary education in public schools in which no fees are charged, or in other schools the managers of

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which agree, in respect of such payment by the education authority as may be agreed, to admit and educate pupils free of charge on the nomination of the education authority.

Facilities for recreation and social and physical training.

3.—(1) It shall be the duty of an education authority to secure that the facilities for primary, secondary and further education provided for their area include adequate facilities for recreation and social and physical training. For that purpose an education authority, with the approval of the Secretary of State, may establish, maintain and manage, or assist the establishment, maintenance and management of, camps, holiday classes, playing fields, play centres and other places (including playgrounds, gymnasiums and swimming baths not appropriated to any school or educational establishment) at which facilities for recreation and for such training as aforesaid are available for persons for whom primary, secondary or further education is provided by the authority. They may also organise games, expeditions and other activities for such persons, and may defray or contribute towards the expenses thereof.

(2) An education authority, in making arrangements for the provision of facilities or the organisation of activities under the powers conferred on them by the last foregoing subsection, shall, in particular, have regard to the expediency of co-operating with any voluntary societies or bodies whose objects include the provision of facilities or the organisation of activities of a similar character.

Education of pupils requiring special educational treatment.

4.—(1) The arrangements made by an education authority for the special educational treatment of pupils of any category within the meaning of section fifty-three of this Act shall be such as to ensure, as far as practicable, that the education is given in an appropriate special school or by other appropriate means.

(2) The code may prescribe the requirements to be complied with as a condition of approval as a special school, and as to the withdrawal of approval from any special school which fails to comply with requirements so prescribed.

Technical education of blind persons.

5. It shall be the duty of an education authority to make or otherwise secure adequate and suitable provision for the technical education of blind persons ordinarily resident in their area who are capable of receiving and being benefited by such education.

Child guidance service.

6. It shall be lawful for an education authority to provide a child guidance service in child guidance clinics or elsewhere. The function of the service shall be to study handicapped, backward and difficult children, to give advice to

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parents and teachers as to appropriate methods of education and training and in suitable cases to provide special educational treatment for such children in child guidance clinics.

Provision of educational facilities to be in accordance with schemes.

7.—(1) The functions of an education authority under the foregoing sections of this Act shall be exercised in accordance with schemes prepared as hereinafter provided and approved by the Secretary of State under section sixty-five of this Act.

(2) It shall be the duty of an education authority within such time as may be prescribed to prepare and submit for the approval of the Secretary of State a scheme or schemes for the exercise of their powers and duties under the foregoing sections of this Act.

(3) An education authority may at any time, and shall if and when so required by the Secretary of State, prepare and submit for his approval a revised scheme or modification of an existing scheme under this section.

(4) In considering and determining for the purposes of any scheme for the provision of primary and secondary education what amount of public school accommodation or additional public school accommodation is required for their area, an education authority shall have regard to and take into account every school, whether public or not, and whether situated in the area or not, which, in their opinion, gives, or will when completed give, efficient primary or secondary education, and is, or will when completed be, suitable and available for the education of the pupils in such education area.

(5) An education authority shall for the purposes of the last foregoing subsection have power to call upon all head teachers and managers of schools other than public schools for such information and for access to and delivery of all such documents as shall to the education authority appear to be necessary to enable them to discharge their duties under this Act, and an education authority may from time to time appoint fit and proper persons to procure such information and to inspect such documents.

(6) In the preparation of any scheme for the provision of primary and secondary education, an education authority shall, in particular, have regard to the expediency of securing the provision of boarding accommodation, either in boarding schools or in hostels, for pupils for whom education as boarders is considered by their parents and by the authority to be desirable.

(7) In the preparation of any scheme for further education, an education authority shall have regard to such of the following considerations as may be relevant—

(*a*) to any facilities for such education provided for their area by universities, central institutions, training

centres, training colleges, educational associations, and other bodies and to the need for consultation with any such organisations as aforesaid and with the education authorities for adjacent areas; and the scheme may include such provisions as to the co-operation of any such bodies or authorities as may have been agreed between them and the authority preparing the scheme;

(*b*) to the need for consultation with persons concerned or engaged in crafts, industries, commerce or other employments in their area;

(*c*) to the need for securing the adequate provision of technical education and, keeping in view the requirements of the crafts, industries, commerce and other employments in the area and the provision therefor made elsewhere, to the need for the establishment of local technical colleges offering courses of suitable standard;

(*d*) to the expediency of securing the provision of boarding accommodation, either as part of a junior college or in hostels, for pupils for whom residence at a distance from their homes is necessary in order that the greatest advantage may be derived from compulsory further education; and

(*e*) to the desirability of securing the provision of residential colleges for other forms of further education.

(8) Where general arrangements under section forty-four of this Act are part of the measures to be taken by the authority to secure the adequate provision of primary or secondary or compulsory further education for persons resident in any part of their area, information regarding the said arrangements shall be included in the appropriate scheme prepared under this section.

Religious instruction.

8.—(1) Whereas it has been the custom in the public schools of Scotland for religious observance to be practised and for instruction in religion to be given to pupils whose parents did not object to such observance or instruction, but with liberty to parents, without forfeiting any of the other advantages of the schools, to elect that their children should not take part in such observance or receive such instruction, be it enacted that education authorities shall be at liberty to continue the said custom, subject to the provisions of section nine of this Act.

(2) It shall not be lawful for an education authority to discontinue religious observance or the provision of instruction in religion in terms of the last foregoing subsection, unless and until a resolution in favour of such discontinuance

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duly passed by the authority has been submitted to a poll of the local government electors for the education area taken for the purpose, and has been approved by a majority of electors voting thereat.

(3) A poll under the last foregoing subsection shall be by ballot and shall be taken in accordance with rules to be made by the Secretary of State, which rules may apply with any necessary modifications any enactments relating to parliamentary or local government elections.

Conscience clause.

9. Every public school and every grant-aided school shall be open to pupils of all denominations, and any pupil may be withdrawn by his parents from any instruction in religious subjects and from any religious observance in any such school; and no pupil shall in any such school be placed at any disadvantage with respect to the secular instruction given therein by reason of the denomination to which such pupil or his parents belong, or by reason of his being withdrawn from any instruction in religious subjects. The time or times during which any religious observance is practised or instruction in religious subjects is given at any meeting of the school shall be specified in a table approved by the Secretary of State.

Safeguards for religious beliefs.

10.—(1) Where the parent of any pupil who is a boarder at any public school, junior college or other educational establishment under the management of an education authority requests that the pupil be permitted to attend worship in accordance with the tenets of a particular religious denomination on Sundays or other days exclusively set apart for religious observance by the religious body to which his parent belongs, or to receive religious instruction or to practise religious observance in accordance with such tenets outside the working hours of the school, junior college or other educational establishment, the education authority shall make arrangements for affording to the pupil reasonable opportunities for so doing, and such arrangements may provide for affording facilities for such worship, instruction or observance on the premises of the school, junior college or other educational establishment, so however that such arrangements shall not entail expenditure by the education authority.

(2) The requirements prescribed by the code with respect to special schools shall be such as to secure that a pupil shall in no case be compelled to take part in religious observance or to receive religious instruction contrary to the wishes of his parent.

Free books, material, etc.

11.—(1) An education authority shall provide free of charge for all pupils who are given free education at schools or junior colleges under their management or at other schools in accordance with section two of this Act books, writing

materials, stationery, mathematical instruments, practice material and other articles which are necessary to enable the pupils to take full advantage of the education provided. The authority may also make similar provision, with or without charge, for other pupils resident in their area and attending any school or other educational establishment.

(2) For the purposes of the last foregoing subsection, a pupil in respect of whose education fees are charged in a school or class managed by an education authority shall be deemed to be given free education if the authority remit his fees, or pay his fees or grant a scholarship, bursary or allowance under section forty-three of this Act which is not less in amount than the amount of the fees, or if an award not less in amount than the amount of the fees is made to the pupil by the governing body of any educational endowment as defined in section one hundred and thirty-four of this Act, a condition of which is that the candidates require financial assistance, or if a combination of such remission, payments, grants or awards together amounts to or exceeds the amount of the fees.

(3) It shall be in the power of an education authority to provide, for pupils in attendance at any school or junior college under their management, articles of clothing suitable for physical exercise.

Provision of books for general reading.

12.—(1) It shall be lawful for the education authority of a county, as an ancillary means of promoting education, to make such provision of books by purchase or otherwise as they may think desirable, and to make the same available not only to the pupils attending schools, junior colleges or other educational establishments in the county, but also to the adult population resident therein.

(2) For the purposes of this section, an education authority may enter into arrangements with the managers of public libraries.

Provision of hostels.

13. An education authority shall have power to provide and maintain hostels for pupils attending day schools or young persons attending junior colleges or other educational establishments in their area, and shall if required by the Secretary of State exercise, in accordance with such conditions as he may prescribe, the power hereby conferred.

Power to provide education elsewhere than at an educational establishment.

14. If an education authority are satisfied that by reason of any extraordinary circumstances a pupil is unable to attend a suitable educational establishment for the purpose of receiving education, they shall have power, with the approval of the Secretary of State, to make special arrangements for him to receive education elsewhere than at an educational establishment.

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Transference of endowed schools to education authorities.

2. *Transference of Schools to Education Authorities.*

15.—(1) The governing body of any school providing a course of secondary education extending over at least three years administered under a scheme approved in terms of the Act of 1882, or under any Act or any Provisional Order confirmed by Act of Parliament, may, with a view to the maintenance of such school as a school providing a course of secondary education extending over at least three years, resolve to transfer the management thereof, together with the school buildings, and the revenue of the school from endowments in whole or in part, or, where the endowments are held solely for the purpose of such school, together with the endowments, to the education authority of the education area in which the school is situated. The education authority shall have power to receive the same, to manage the school as a school providing a course of secondary education extending over at least three years, and to make good any deficiency in the income of the school as managed by them.

(2) Where the Secretary of State is satisfied that the revenue of any school administered as aforesaid, being of a yearly value on an average of the three years immediately preceding of not more than one thousand pounds, is insufficient to maintain the school in a condition of satisfactory efficiency as a place of secondary education, the Secretary of State shall cause a local inquiry to be held and may, after considering the report of that inquiry, issue an order transferring the management of the school, together with its buildings and revenue or endowments, as the case may be, as aforesaid to the education authority if the education authority are willing to undertake the same, and the education authority shall in such case have power as aforesaid.

(3) The Secretary of State may by order make provision for all matters which appear to him necessary or proper for giving full effect to any transfer under this section, including provision for the determination of any existing trust whose whole endowments are so transferred.

(4) A resolution by a governing body under this section shall not take effect unless it is confirmed by a subsequent meeting called for that special purpose with not less than three weeks notice by circular sent to each member of the governing body and held not sooner than one month nor later than two months after the date of the first meeting, and at such second meeting the requisite majority to secure confirmation shall be not less than the absolute majority of the governing body.

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Transference of denominational schools to education authorities.

16.—(1) It shall be lawful for the person or persons vested with the title of any school established after the twenty-first day of November, nineteen hundred and eighteen, to which section eighteen of the Act of 1918 would have applied had the school been in existence at that date, with the consent of the trustees of any trust upon which the school is held and of the Secretary of State, to transfer the school together with the site thereof and any land or buildings and furniture held and used in connection therewith, by sale, lease or otherwise, to the education authority, who shall be bound to accept such transfer, upon such terms as to price, rent, or other consideration as may be agreed, or as may be determined, failing agreement, by an arbiter appointed by the Secretary of State upon the application of either party.

(2) The consent of trustees to the transference of a school to an education authority under this section may be given by a majority of not less than two thirds of the trustees present at a meeting duly summoned for that purpose. The transference may be effected by an ordinary disposition or other deed of conveyance by the persons vested with the title, recorded in the register of sasines, and no stamp or other duty shall be exigible on such disposition or other deed; and the persons whose consent is hereby required need not be parties to the conveyance, and the validity of the transference and the title of the education authority shall not be subject to challenge on the ground that the requisite consents were not duly given, unless such challenge shall be judicially made within six months after the recording of the deed of conveyance.

(3) The existing staff of teachers in a school transferred under this section shall be taken over by the education authority and shall as from the date of transfer be placed upon the same scale of salaries as teachers of corresponding qualifications appointed to corresponding positions in other schools of the same authority. Any question which may arise as to the due fulfilment or observance of any provision or requirement of this subsection shall be referred to the Secretary of State, whose decision shall be final.

3. *Provision and Maintenance of Educational Establishments.*

Provision and maintenance of buildings.

17.—(1) It shall be the duty of an education authority to provide for their area, in accordance with any scheme under section seven of this Act for the time being in force in the area, sufficient accommodation in public schools (whether day schools or boarding schools), junior colleges and other educational establishments under their management for all pupils resident in the area for whose education efficient and suitable provision is not otherwise made.

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(2) In any case where the Secretary of State is satisfied, upon representations made to him by the education authority of any education area, or by any church or denominational body acting on behalf of the parents of children belonging to such church or body, and after such inquiry as the Secretary of State deems necessary, that a new school is required for the accommodation of children whose parents are resident within that education area, regard being had to the religious belief of such parents, it shall be lawful for the education authority of that area to provide a new school, to be held, maintained and managed by them subject to the conditions prescribed in subsection (1) of section eighteen of this Act so far as those conditions are applicable, the time set apart for religious instruction in the new school being not less than that so set apart in schools transferred to or provided by the education authority under section eighteen of the Act of 1918 or under subsection (1) of section sixteen of this Act or under this subsection in the same education area.

(3) An education authority shall maintain and keep efficient every public school, junior college and other educational establishment under their management, and shall from time to time provide such additional accommodation as may be necessary to carry out the provisions of any such scheme as aforesaid.

(4) An education authority may, for the purposes of their duty under this section, provide, alter, improve, enlarge, equip and maintain schools, junior colleges and other educational establishments outwith as well as within their area.

(5) An education authority may provide, alter, improve, enlarge, equip, maintain and furnish houses and hostels, with such outbuildings and gardens as they think expedient, for teachers and other officers employed by them.

Management of transferred schools.

18.—(1) Any school transferred to or provided by an education authority under section eighteen of the Act of 1918 or under subsection (1) of section sixteen or subsection (2) of section seventeen of this Act shall be held, maintained and managed by the education authority as a public school. The authority shall have in respect thereto the sole power of regulating the curriculum and of appointing teachers:

Provided that—

(i) all teachers appointed to the staff of any such school by the education authority shall in every case be teachers who satisfy the Secretary of State as to qualification, and are approved as regards their religious belief and character by representatives of the church or denominational body in whose interest the school has been conducted;

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(ii) subject to the provisions of section nine of this Act, the time set apart for religious instruction or observance in any such school shall not be less than that so set apart according to the use and wont of the former management of the school, and the education authority shall appoint as supervisor without remuneration of religious instruction for each such school, a person approved as regards religious belief and character as aforesaid, and it shall be the duty of the supervisor so appointed to report to the education authority as to the efficiency of the religious instruction given in such school. The supervisor shall have right of entry to the school at all times set apart for religious instruction or observance. The education authority shall give facilities for the holding of religious examinations in every such school.

(2) Any question which may arise as to the due fulfilment or observance of any provision or requirement of the last foregoing subsection shall be referred to the Secretary of State, whose decision shall be final.

Combination of institutions for mental defectives and special schools.

19.—(1) Subject to the approval of the Secretary of State and of the General Board of Control for Scotland, any council being a local authority for the purposes of the Mental Deficiency Acts and also an education authority may, in the exercise of their functions as such local authority and as an education authority, provide and maintain institutions to be used both as certified institutions under the said Acts and as special schools under this Act.

(2) The Secretary of State shall determine in what proportion the expenses incurred in the provision and maintenance of any such institutions ought to be treated as having been incurred by the council in the exercise of their functions under the Mental Deficiency Acts and in the exercise of their functions under this Act respectively, and the said expenses shall be defrayed accordingly.

Requirements as to premises of educational establishments.

20.—(1) The Secretary of State may make regulations prescribing the standards to which the premises, furnishing and equipment of schools, junior colleges and other educational establishments under the management of education authorities are to conform, and such regulations may prescribe appropriate standards for such descriptions of schools, junior colleges and other establishments as may be specified in the regulations.

(2) Subject as hereinafter provided, it shall be the duty of an education authority to secure that the premises, furnishing and equipment of every school, junior college and other

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educational establishment maintained by them conform to the standards prescribed for schools, colleges or educational establishments of the description to which the school, college or educational establishment belongs:

Provided that if the Secretary of State is satisfied with respect to the premises of any school, college or educational establishment that, having regard to the nature of the site or to any existing buildings thereon or to other special circumstances affecting such premises, it would be unreasonable to require conformity with the requirements of the regulations in any particular respect, he may direct that those premises shall be deemed to conform to the prescribed standards if in lieu of conforming to the requirements of the regulations in that respect they conform to such other requirements as may be specified.

(3) With a view to securing that the premises, furnishing and equipment of schools, junior colleges and other educational establishments under the management of an education authority are maintained in such a condition as to contribute to the good health of the pupils, it shall be the duty of an education authority to cause their medical officers as part of their ordinary work from time to time to inspect and to report to them upon the said premises, furnishing and equipment, and in making the said inspections the medical officers shall have special regard to the lighting, heating and ventilation, and to the sanitary arrangements.

Acquisition of land and execution of works.

21.—(1) In order to enable them to execute any of their functions, an education authority may from time to time—

(*a*) acquire, whether by way of purchase, feu, lease, excambion or donation, any land whether situated within or outwith the area of the authority;

(*b*) erect and furnish buildings or execute any other works on any land belonging to them, or on land leased by them;

(*c*) convert, alter, enlarge or improve any existing building or other works belonging to the authority or leased by them:

Provided always that paragraphs (*b*) and (*c*) of this subsection shall not of themselves authorise the authority to do anything contrary to the conditions contained in the title to or lease of any such land, buildings or other works.

(2) For the purpose of the acquisition of land by an education authority under this Act, the Lands Clauses Acts, except in so far as they relate to the purchase and taking of land otherwise than by agreement, shall be incorporated with this Act.

(3) An education authority may be authorised by the Secretary of State to purchase land compulsorily. PART I. —*cont.*

(4) For the purposes of the Acquisition of Land (Authorisation Procedure) Act, 1946, the last foregoing subsection shall be deemed to have been in force immediately before the commencement of that Act. 9 & 10 Geo. 6. c. 49.

(5) In this section, and in the Lands Clauses Acts as hereby incorporated, the expression "land" includes water and any right or servitude in or over land or water.

22.—(1) Subject to any special conditions attaching thereto and to any scheme under section seven of this Act relating thereto, an education authority may, with the sanction of the Secretary of State,— Discontinuance of educational establishments.

(*a*) discontinue, or change the site of, any educational establishment under their management, or part thereof; and

(*b*) sell, excamb or let any land vested in them:

Provided that the sanction of the Secretary of State shall not be required in the case of a let for a period of one year or less or of a let with breaks in favour of the education authority at intervals not exceeding one year.

(2) If at any time after the expiry of ten years from the transfer of a school under section eighteen of the Act of 1918, or under section sixteen of this Act, or from the provision of a new school under the said section eighteen or under subsection (2) of section seventeen of this Act, the education authority by whom the school is maintained are of opinion that the school is no longer required, or that, having regard to the religious belief of the parents of the children attending the school, the conditions prescribed in subsection (1) of section eighteen of this Act ought no longer to apply thereto, the authority may so represent to the Secretary of State, and if the Secretary of State, after such inquiry as he deems necessary, is of the same opinion and so signifies, it shall be lawful for the education authority thereafter to discontinue the school, or, as the case may be, to hold, maintain and manage the same in all respects as a public school, not subject to those conditions:

Provided that—

(i) in the case of any school which has been transferred as aforesaid to an education authority, that authority

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shall in either of those events make to the trustees by whom the school was transferred, or to their successors in office or representatives, such compensation (if any) in respect of the school or other property so transferred as may be agreed, or as may be determined, failing agreement, by an arbiter appointed by the Secretary of State upon the application of either party; and

(ii) if before the expiry of ten years from the transfer of any such school, the education authority are of opinion as aforesaid and so represent, and the trustees by whom the school was transferred, or their successors in office or representatives, formally intimate to the Secretary of State that they concur with the authority in their opinion as represented, then in such case, if the Secretary of State is of the same opinion and so signifies, it shall be lawful for the education authority forthwith to discontinue or to hold, maintain or manage the school as aforesaid, subject to the like provision with respect to compensation.

4. *Co-operation between Education Authorities and Others.*

Co-operation in the performance of functions.

23.—(1) An education authority may, and shall, if required by the Secretary of State, make arrangements for co-operation or combination with another education authority in the performance of any duty or the exercise of any power under this Act, and any scheme submitted to the Secretary of State under this Act may include provision for such co-operation or combination.

(2) Where any question, difference or dispute arises between authorities in regard to or out of any such arrangements as aforesaid, the same shall be finally determined by the Secretary of State, and it shall be the duty of such authorities to comply with any such determination or any direction given for the purpose thereof.

(3) Any education authorities, or education authorities and town councils or county councils or other local authorities, may from time to time join in making such arrangements with regard to the conduct and management of their business, and the distribution of such business among their officers, and the joint use of offices or buildings, or otherwise, as shall seem to them, in the whole circumstances of the case, to be most effective and economical.

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Provision by education authority for education of pupils belonging to areas of other authorities.

24.—(1) An education authority shall have power to provide, in or in connection with any public school, junior college or other educational establishment under their management, primary, secondary or further education and other services under this Act for any pupil belonging to the area of some other education authority.

(2) Where an education authority or the managers of any school not conducted for private profit situated in the area of that authority have provided primary or secondary education with or without other services for any pupil belonging to the area of some other authority, the education authority or the managers, as the case may be, may, if a claim therefor is made within the prescribed period, recover from that other authority such contributions in respect of such provision as may be agreed by the authorities concerned or by the authority and the managers concerned, as the case may be, or, in default of such agreement, as may be determined by the Secretary of State, who shall have regard to the estimated cost of such provision:

Provided that, if in the case of any pupil the Secretary of State is satisfied, having regard to all the circumstances including the religious belief of the parents, that there was no sufficient reason why he should not have attended a school provided by the authority of the area to which he belongs, the Secretary of State may, on the application of that authority, direct that no contribution shall be recoverable in respect thereof under this subsection.

(3) For the purposes of this section, a pupil shall be deemed to belong to the area in which his parent resides.

(4) Where at the commencement of this Act or at any subsequent date it is the practice of an education authority or of the managers of a school situated in the area of that authority to provide for the primary or secondary education of pupils belonging to the area of another education authority, then, whether contributions have been recovered under subsection (2) of this section or not, they shall not be entitled to discontinue such practice except after giving such notice as the Secretary of State may, in the event of a dispute, consider reasonable.

(5) Nothing in this section shall be construed as preventing the payment by agreement between education authorities or between an education authority and the managers of an educational establishment not conducted for private profit of contributions in respect of education and other services under this Act provided by one authority on behalf of another

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or by such managers on behalf of an authority in cases where the authority or the managers by whom the education or services are provided are not entitled to recover contributions under this section.

Contributions to maintenance of certain schools and institutions.

25.—(1) It shall be lawful for every education authority to contribute to the maintenance of any school or other educational establishment not under their own management which is included in the scheme under section seven of this Act, and in which the teachers are remunerated at a rate not lower than the rate for teachers of similar qualifications employed by the authority, and to make a reasonable representation of the authority on the governing body of any such school or other educational establishment (where such representation is not already provided for) a condition of any contribution other than a contribution required by subsection (3) of this section.

(2) The Secretary of State may by order make such modifications in the provisions of any trust deed or other instrument relating to any school, or other educational establishment in receipt of contributions under the last foregoing subsection as may be necessary to enable provision to be made for such representation as aforesaid, and any such trust deed or other instrument shall, so long as such contributions continue to be paid, have effect subject to any modifications so made.

(3) Every education authority shall continue to contribute to the maintenance of any school within their education area but not under their own management which at the twenty-first day of November, nineteen hundred and eighteen, was recognised by the Scottish Education Department as an intermediate or secondary school, so long as such school continues to be recognised as a school providing a course of secondary education extending over at least three years or at least five years as the case may be. The amount so contributed shall be not less than the contribution made to such school in terms of subsection (4) (*a*) and (*b*) of section seventeen of the Act of 1908, in respect of the financial year ending on the fifteenth day of May nineteen hundred and fourteen, by any secondary education committee whose powers and duties are vested in that education authority:

Provided that the amount of the contribution required to be made under this subsection shall not exceed the amount by which the income of such school from all other sources falls short of the expenditure.

(4) Any question arising as to the application of the last foregoing subsection to any school or as to the amount of

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any contribution so made or to be made shall be determined by the Secretary of State, whose determination shall be final.

(5) Every education authority shall contribute in each year towards the aggregate expense of the committees and other bodies for the training of teachers constituted under section seventy-seven of this Act such sum as the Secretary of State may determine, being a sum proportioned to the number of fully qualified teachers in the service of each education authority on the thirty-first day of March in each year.

(6) It shall be lawful for every education authority with the sanction of the Secretary of State to contribute to the maintenance of any educational institution or agency, where such contribution appears to the Secretary of State desirable for the educational benefit of persons resident within the education area of the authority.

(7) It shall be lawful for an education authority to make payments to the managers of schools other than public schools in order to secure the admission thereto and education therein free of charge of pupils nominated by the education authority.

Contributions to universities.

26.—(1) An education authority may contribute to the maintenance of any university.

(2) An education authority may provide financial assistance to any university for the purpose of improving the facilities for further education available for their area.

5. *Promotion of Educational Developments.*

Educational research.

27. An education authority may with the approval of the Secretary of State 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 education provided for their area.

Educational conferences.

28. Subject to any regulations made by the Secretary of State, an education authority may arrange or organise, or participate in the arrangement or organisation of, conferences or meetings 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 or meetings for the discussion of such questions, including the expenses of any person authorised by them to attend any such conference or meeting.

PART II.

RIGHTS AND DUTIES OF PARENTS AND FUNCTIONS OF EDUCATION AUTHORITIES IN RELATION TO INDIVIDUAL PUPILS.

1. *General Principle.*

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

29.—(1) In the exercise and performance of their powers and duties under this Act, the Secretary of State and education authorities shall have regard to the general principle that, so far as is compatible with the provision of suitable instruction and training and the avoidance of unreasonable public expenditure, pupils are to be educated in accordance with the wishes of their parents.

(2) A parent shall not be entitled to select a course of secondary education for his child from which in the opinion of the education authority (confirmed by the Secretary of State in the event of a dispute between the parent and the authority) the pupil shows no reasonable promise of profiting.

2. *Promotion from Primary to Secondary Education.*

Promotion schemes.

30.—(1) It shall be the duty of an education authority within such time as may be prescribed to prepare and submit for the approval of the Secretary of State under section sixty-five of this Act a scheme (hereinafter referred to as a " promotion scheme ") relating to the schools under their management and showing the method to be adopted for promoting pupils from primary schools or departments to secondary schools or departments and for enabling an opinion to be formed as to the courses from which each pupil shows reasonable promise of profiting and a decision to be made, after taking into account the wishes of the parent, as to the course to which the pupil is to be admitted.

(2) An education authority may at any time, and shall if and when so required by the Secretary of State, prepare and submit for his approval a revised scheme or modification of an existing scheme under this section.

3. *Attendance at School.*

Duty of parents to provide education for their children.

31. It shall be the duty of the parent of every child of school age to provide efficient education for him suitable to his age, ability and aptitude either by causing him to attend a public school regularly or by other means.

School age.

32.—(1) Subject to the provisions of subsections (3) and (4) of this section and of section thirty-three of this Act, the expression " school age " means any age between the age of five years and the age of fifteen years, and accordingly

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a person shall be deemed to be of school age if he has attained the age of five years and has not attained the age of fifteen years, and a person shall be deemed to be over school age if he has attained the age of fifteen years.

(2) The last foregoing subsection shall have effect with the substitution of the word " fourteen " for the word " fifteen " until the first day of April nineteen hundred and forty-six or such subsequent day within one year thereafter as the Secretary of State, having regard to the time required for enabling adequate provision to be made for a supply of teachers or of school accommodation to meet the needs of children between the ages of fourteen and fifteen years, may by order appoint.

(3) As soon as the Secretary of State is satisfied that it is practicable to raise the upper limit of the school age to sixteen, he shall make regulations prescribing that subsection (1) of this section shall have effect with the substitution of references to the age of sixteen for references to the age of fifteen.

(4) Where an education authority have decided under section fifty-five of this Act that a child requires special educational treatment, that child shall, unless the said decision is rescinded, be deemed to be of school age until he attains the age of sixteen although the upper limit of school age in relation to other children is less than sixteen.

Dates for commencing and terminating attendance at school.

33.—(1) The Secretary of State may from time to time require an education authority to fix for their area any or all of the following dates:—

(*a*) two or more dates for commencing school attendance, and

(*b*) two or more dates for terminating school attendance.

(2) The education authority shall intimate to the Secretary of State the dates which they propose to fix, and the Secretary of State may approve the said dates or may, after consultation with the authority and with such other persons as he thinks fit, require the authority to fix other dates. The authority shall fix dates in accordance with the approval or requirement of the Secretary of State, and thereupon a child resident in the area shall for the purpose of attendance at school be deemed to attain any given age on the fixed date for commencing or for terminating attendance, as the case may be, next following the day when he actually attains that age.

PART II. —*cont.*

Exemption from school attendance.

34.—(1) When after due inquiry an education authority are satisfied that by reason of any circumstances existing at his home it would cause exceptional hardship to require a child over fourteen years of age to attend school, they may grant exemption from the obligation to attend school to enable the said child to give assistance at home upon such conditions, if any, as to the amount and manner of further attendance at school until the child reaches the upper limit of the school age as the authority think fit.

(2) No exemption granted under the last foregoing subsection shall extend beyond the date for commencing school attendance next following the date upon which the exemption was granted:

Provided that the authority may if they think fit renew an exemption, so however that the provisions of this section shall apply to such renewal in like manner as they apply to the original grant.

(3) An exemption granted under this section shall exempt the parent of the child concerned from any prosecution or other proceeding under this Act for neglecting to provide for the education of the said child.

(4) The education authority shall keep a register of exemptions granted under this section wherein shall be entered the name of each child so exempted and a statement of the circumstances in which and the conditions upon which such exemption was granted.

(5) The Secretary of State may call upon an education authority for a return of the children to whom exemption has been granted and of the circumstances in which and the conditions upon which exemption has in each case been granted. If he is satisfied that the grant was unjustified, or that the conditions attached thereto were insufficient, or that the attendance of children within the area of the education authority, or any part thereof, is unsatisfactory, he may require the education authority to recall such exemption or to take steps to improve the attendance.

Failure to attend regularly at a public school.

35.—(1) Where a child of school age who has attended a public school on one or more occasions fails without reasonable excuse to attend regularly at the said school, then, unless the education authority have consented to the withdrawal of the child from the school (which consent shall not be unreasonably withheld), his parent shall be guilty of an offence against this section.

(2) It shall be the duty of the education authority if they consider that a parent has committed an offence against this section, to serve a notice on the parent requiring him, within such time as may be specified in the notice (not being less

PART II. —*cont.*

than forty-eight hours or more than seven days from the service thereof) to appear (with or without the child) before the authority, or any committee or sub-committee to whom the function may have been delegated, and explain the reason for the absence of the child from school. If the parent fails to satisfy the authority or such committee or sub-committee that he had a reasonable excuse, the education authority or such committee or sub-committee may instruct that he be prosecuted forthwith under section thirty-eight of this Act, or may warn the parent and postpone for a period not exceeding one month a decision as to whether to prosecute.

(3) A child shall be deemed to attend regularly at a day school if he attends every meeting at which attendance is compulsory. He shall be deemed to attend regularly at a boarding school if he is present at the school throughout the school term except when he is granted leave of absence by the head teacher or by another person duly authorised by him.

Attendance orders.

36.—(1) Where a child of school age has not attended a public school in the area in which his parent is residing, or has attended such a school and has been withdrawn therefrom with the consent of, or excluded by, the education authority, then, if the authority are not satisfied that the parent is providing efficient education for him suitable to his age, ability and aptitude, it shall be the duty of the education authority to serve a notice on the parent requiring him within such time as may be specified in the notice (not being less than seven or more than fourteen days from the service thereof) either—

(i) to appear (with or without the child) before the authority or any committee or sub-committee to whom the function may have been delegated (in this section referred to as " the authority ") and give such information as the authority may require regarding the means, if any, he has adopted for providing education, or,

(ii) in the option of the parent, to give such information in writing.

(2) If a parent on whom a notice has been served in pursuance of the last foregoing subsection fails to satisfy the authority that he is providing efficient education for the child suitable to his age, ability and aptitude or that there is reasonable excuse for his failure to do so, the authority shall, after considering any views expressed by the parent as to the school which he desires his child to attend, by an order in writing (hereinafter referred to as an " attendance order ") require the parent to cause the child to attend a school named in the order being a school the managers of which are willing to receive him:

PART II. —*cont.*

Provided that—

(i) a school at which the parent will be required to pay fees shall not be named in the order except at the request of the parent; and

(ii) a special school shall not be named in the order unless a certificate issued under subsection (2) of section fifty-five of this Act is in force certifying that the child is suffering from such disability as to require special educational treatment.

(3) The authority shall cause a copy of any attendance order made by them under the last foregoing subsection to be served upon the parent, and it shall thereupon be the duty of the parent, subject to an appeal to the sheriff under the next succeeding subsection, to cause the child to attend regularly at the school named in the order.

(4) A parent aggrieved by the making of an attendance order may within fourteen days after the date upon which a copy of the order was served upon him under the last foregoing subsection appeal against it to the sheriff, who may confirm, vary or annul the order and whose decision shall be final.

(5) An authority may at any time while an attendance order is in force with respect to any child serve upon the parent of the said child a notice of their intention to amend the order by substituting the name of another school for that named in the order. The parent may within fourteen days of the service of the said notice intimate in writing to the authority any objections he may have to the proposed amendment. After the expiry of the said period of fourteen days and after considering any objections made by the parent, the authority may amend the attendance order, and the provisos to subsection (2) and subsections (3) and (4) of this section shall apply in the case of the amended attendance order as they apply in the case of an attendance order.

(6) If at any time while an attendance order is in force with respect to any child the parent of the child makes application to the authority by whom the order was made requesting that another school be substituted for that named in the order, or requesting that the order be revoked on the ground that arrangements have been made for the child to receive efficient education suitable to his age, ability and aptitude at a school other than that named in the order or elsewhere than at school, the authority shall amend or revoke the order in compliance with the request unless they are of opinion that the proposed change of school is unreasonable or inexpedient in the interests of the child, or that the arrange-

ments made for the education of the child at a school other than that named in the order or elsewhere than at school are not satisfactory, as the case may be; and, if a parent is aggrieved by a failure of the authority to reach a decision upon his application within one month after the date thereof or by refusal of the authority to comply with any such request, he may appeal to the sheriff, who shall give such direction as he thinks fit. It shall not be deemed to be a reasonable excuse for failure to cause a child to attend regularly at a school named in an attendance order that an application or an appeal has been made under this subsection.

(7) An attendance order made with respect to any child shall, subject to any amendment thereof made by the authority or variation made by the sheriff, and unless revoked by the authority or annulled by the sheriff, continue in force so long as the child is of school age and continues to reside in their area:

Provided that if a certificate under subsection (2) of section fifty-five certifying that a child is suffering from such disability as to require special educational treatment is withdrawn, any attendance order requiring the attendance of that child at a special school shall be deemed to be annulled.

(8) Where an attendance order has been made and is in force in respect of any child, and a copy of such order has been served on the parent of the child, the parent shall, if the order is not complied with, be guilty of an offence against this section unless he satisfies the court that he has a reasonable excuse.

Reasonable excuses.

37.—(1) For the purposes of the last two foregoing sections, there shall be deemed to be a reasonable excuse if—

(*a*) there is within walking distance of the child's home measured by the nearest available route no public or other school the managers of which are willing to receive the child and to provide him with free education, and either—

(i) no arrangements have been made by the education authority under section forty-four of this Act with regard to the child, or

(ii) any arrangements so made are such as to require the child to walk more than walking distance in the course of any journey between his home and school; or

(*b*) the child has been prevented by sickness from attending school or receiving education as the case may be; or

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(*c*) there are other circumstances which in the opinion of the education authority or the court afford a reasonable excuse.

(2) When a parent alleges that his child has been prevented by sickness from attending school or receiving education as the case may be, the parent shall, if required by the education authority, permit a medical officer of the education authority to examine the child, and any parent who fails to do so shall be guilty of an offence against this section.

(3) In this section the expression "walking distance" means, in the case of a child who has not attained the age of eight years, two miles, and, in the case of any other child, three miles.

Legal proceedings.

38.—(1) Any person guilty of an offence against any of the last three foregoing sections shall be liable, on conviction by a court of summary jurisdiction, in the case of a first conviction to a fine not exceeding one pound, in the case of a second conviction, whether in respect of the same or of another child, to a fine not exceeding five pounds, and in the case of a third or subsequent conviction, whether in respect of the same or of another child, to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.

(2) If the court before which a prosecution is brought for any such offence as aforesaid is satisfied that the child has failed to attend regularly at school, then, whether or not the parent is convicted, the court may direct that the child be brought before a juvenile court by the education authority of the area in which the child resides, and the court shall so direct if the education authority so request. The juvenile court may, if it is satisfied that it is necessary to do so for the purpose of securing the regular attendance of the child at school, make any order which a juvenile court has power to make under section sixty-six of the Children and Young Persons (Scotland) Act, 1937, in the case of children and young persons in need of care or protection who are brought before that court under that section.

1 Edw. 8 & 1 Geo. 6. c. 37.

(3) Proceedings under this section may be taken at the instance either of the public prosecutor of the court of summary jurisdiction in which the proceedings are to be taken or of another person authorised by the education authority to institute proceedings on their behalf.

(4) For the purposes of the Children and Young Persons (Scotland) Act, 1937, any child with respect to whom a direction has been given under this section that he be brought before a juvenile court shall be deemed to be a child about

to be brought, or brought, before such a court under section sixty-six of that Act, and any order made by a juvenile court under this section shall be deemed to be an order made under that section, and all the provisions of that Act shall have effect accordingly, but subject to the modification that in relation to any such child subsection (1) of section seventy-one of the said Act shall have effect as if the words " A constable, or " were omitted therefrom.

4. *Attendance at Junior Colleges.*

Attendance at junior colleges.

39.—(1) It shall be the duty of every education authority to serve on every young person residing in their area who is not exempt from compulsory further education a notice (hereinafter referred to as an " attendance notice ") directing him to attend a junior college named in the notice, and it shall be the duty of every young person upon whom such a notice is served to attend at the junior college in accordance with the requirements specified in the notice. The authority shall serve a copy of the notice and of any amendment thereof upon the parent of the young person.

(2) Subject to the provisions of the next following subsection, the requirements specified in an attendance notice shall be such as to secure the attendance at a junior college of the young person upon whom the notice is served—

(*a*) for one whole day, or two half-days, in each of forty-four weeks in every year while he remains a young person; or

(*b*) for one continuous period of eight weeks, or for two continuous periods of four weeks each in every such year, if the authority are satisfied that continuous attendance would be more suitable for the said young person;

and in this section the expression " year " means, in relation to any young person, in the case of the first year, the period of twelve months beginning with the first day on which he is required by an attendance notice served on him to attend a junior college, and in the case of every subsequent year the period of twelve months beginning immediately after the expiration of the last preceding year:

Provided that—

(i) in respect of the year in which the young person attains the age of eighteen the requirements specified in the notice shall be reduced to such extent as the education authority think expedient for securing that the attendances required of him until he attains that age shall be as nearly as may be proportionate to

PART II. —*cont.*

those which would have been required of him during a full period of twelve months; and

(ii) the Secretary of State may from time to time require an education authority to fix for their area two or more dates for terminating attendance at junior colleges. The education authority shall intimate to the Secretary of State the dates which they propose to fix, and the Secretary of State may approve the said dates or may, after consultation with the authority and with such other persons as he thinks fit, require the authority to fix other dates. The authority shall fix dates in accordance with the approval or requirement of the Secretary of State, and thereupon a young person resident in the area shall for the purpose of attendance at a junior college be deemed to attain the age of eighteen on the fixed date next following the day when he actually attains that age.

(3) If by reason of the nature of the employment of any young person or of other circumstances affecting him the education authority are satisfied that attendance in accordance with the provisions of the last foregoing subsection would not be suitable in his case, an attendance notice may, with the consent of the young person, require his attendance in accordance with such other arrangements as may be specified in the notice, so, however, that the requirements specified in the notice in accordance with such arrangements as aforesaid shall be such as to secure the attendance of the young person for periods amounting in the aggregate to three hundred and thirty hours in each year, or, in the case of the year in which he attains the age of eighteen, to the proportionately reduced number of hours.

(4) Except where continuous attendance at a junior college involves residence at the college or at a hostel, no attendance notice shall require a young person to attend a junior college on a Sunday or during any holiday or half-holiday to which by any enactment regulating his employment or by agreement he is entitled, or, so far as practicable, during any holiday or half-holiday which is allowed in accordance with any custom of his employment, or between the hours of six in the evening and half past eight in the morning:

Provided that the Secretary of State may, on the application of an education authority, direct that in relation to young persons in their area or in any part thereof employed at night or otherwise employed at abnormal times this subsection shall have effect as if for the reference to the hours of six in the evening and half past eight in the morning there were sub-

stituted a reference to such other times as may be specified in the direction.

(5) The place, days, times and periods of attendance required of a young person and the period for which the notice is to be in force shall be specified in any attendance notice served on him; and the requirements of any such notice may be amended as occasion may require either by the authority by whom it was served or by any other education authority in whose area he may for the time being reside, so, however, that the provisions of every such notice shall be such as to secure that the requirements imposed on the young person during each year while he remains a young person shall comply with the provisions of the last three foregoing subsections.

(6) In determining what requirements shall be imposed upon a young person by an attendance notice or by any amendments to such a notice, the education authority shall have regard, so far as practicable, to any preference which he and, in the case of a young person under the age of sixteen years, his parent may express, to the circumstances of his employment or prospective employment, and to any representations that may be made to the authority by his employer or any person proposing to employ him.

(7) If a pupil satisfies the education authority that any religious observance or any part of the instruction at a junior college which the pupil is required to attend is contrary to his religious belief or likely to give offence to his religious feelings, the education authority shall permit the pupil to withdraw from such observance or instruction and shall, so far as practicable, arrange for him to be suitably occupied while such observance or instruction is in progress.

(8) The following persons shall be exempt from compulsory attendance at a junior college, that is to say—

(*a*) any person who is in full-time attendance at any school or other educational establishment (not being a junior college) approved by the Secretary of State for the purpose;

(*b*) any person who is shown to the satisfaction of the education authority to be receiving suitable and efficient instruction in some other manner either full-time or for such times as in the opinion of the authority are equivalent to not less than three hundred and thirty hours instruction in a period of twelve months;

(*c*) any person who having been exempt under either of the last two foregoing paragraphs did not cease to be

PART II. —*cont.*

so exempt until after he had attained the age of seventeen years and eight months;

(*d*) any person who is undergoing a course of training approved by the Secretary of State for the mercantile marine or the sea fishing industry or who, having satisfactorily completed such a course, is engaged in the mercantile marine or in the sea fishing industry;

(*e*) any person to whom, by reason of section one hundred and thirty-nine or section one hundred and forty of this Act, the duties of education authorities do not relate;

(*f*) any person who attained the age of fifteen years before the date when the scheme for the provision of junior colleges came into force.

(9) If any person is aggrieved by a decision of an education authority given under paragraph (*b*) of the last foregoing subsection, he may refer the question to the Secretary of State, who shall give such direction thereon as he thinks fit.

(10) If any young person upon whom an attendance notice has been served fails to comply with any requirement of the notice, he shall be guilty of an offence against this section unless he proves either—

(*a*) that he was exempt from compulsory attendance for further education, or

(*b*) that he was prevented from complying with the requirement by reason of sickness or any other unavoidable cause,

or unless the court is satisfied that there was some other reasonable cause for such failure.

Provisions for securing attendance at junior colleges.

40.—(1) For the purpose of facilitating the execution by education authorities of their functions under the last foregoing section, the following provisions shall have effect, that is to say—

(*a*) every young person who is not exempt from compulsory attendance at a junior college shall at all times keep the education authority concerned informed of his proper address;

(*b*) every person whose employment such a young person as aforesaid enters shall, not later than four days thereafter, if the young person has not then left his employment, notify the education authority concerned that the young person has entered his employment;

PART II. —*cont.*

(*c*) where a young person whose entry into employment has been notified in pursuance of the last foregoing paragraph leaves that employment, the employer shall within four days thereafter notify the education authority concerned that the young person has ceased to be employed by him;

(*d*) where such a young person as aforesaid enters the employment of an employer by whom he had previously been employed, the employer shall immediately notify such entry to the education authority concerned unless the previous entry was so notified in pursuance of paragraph (*b*) of this subsection;

(*e*) every person by whom such a young person as aforesaid is employed shall notify the education authority concerned of any change of his address, and, if known to him, of any change of the young person's address.

In this subsection the expression " the education authority concerned " means the education authority in whose area the young person resides.

(2) Any person who fails to comply with any requirement imposed on him by the last foregoing subsection shall be guilty of an offence against this section.

(3) The education authority by whom an attendance notice is served upon any young person shall serve a copy thereof upon any person who notifies the authority that the young person is employed by him.

(4) The Secretary of State may by regulations make provision as to the form of attendance notices, as to consultation and the exchange of information between education authorities, as to the issue of certificates of exemption in respect of young persons who are exempt from compulsory attendance at a junior college, and generally for the purpose of facilitating the administration by education authorities of the provisions of this Act as to attendance at junior colleges.

(5) The Secretary of State and the Minister of Labour shall give directions to education authorities and to local offices of the Ministry of Labour respectively for ensuring due consultation and exchange of information between such authorities and offices.

Enforcement of attendance at junior colleges.

41.—(1) Any person guilty of an offence against either of the last two foregoing sections shall be liable on conviction by a court of summary jurisdiction in the case of a first offence against that section to a fine not exceeding one pound, in the case of a second offence against that section to a fine not

PART II. —*cont.*

exceeding five pounds, and in the case of a third or subsequent offence against that section to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.

(2) If, in furnishing any information for the purposes of either of the last two foregoing sections, any person makes any statement which he knows to be false in any material particular, or recklessly makes any statement which is false in any material particular, he shall be liable on summary conviction to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

(3) If the parent of a young person or any person by whom a young person is employed or the servant or agent of any such person has connived at any offence committed by the young person against either of the last two foregoing sections, the person who has connived at the offence shall, whether or not any person is proceeded against or convicted in respect of the offence connived at, be guilty of the like offence and punishable accordingly.

Power to require attendance of unemployed young persons at junior colleges.

42.—(1) If any young person is capable of and available for work but has no work or only part-time or intermittent work, the Secretary of State may require his attendance in accordance with regulations at any junior college at which he can reasonably be expected to attend.

(2) If any young person whose attendance at a junior college has been required by the Secretary of State under this section fails, except by reason of sickness or other unavoidable cause, to attend at that college, he shall be liable on conviction by a court of summary jurisdiction in the case of a first offence to a fine not exceeding one pound, in the case of a second offence to a fine not exceeding five pounds, and in the case of a third or subsequent offence to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.

(3) For the purposes of the last foregoing subsection and of any such proceedings as are therein mentioned, a young person who, by reason of his misbehaviour while attending at a junior college, has been required to discontinue his attendance thereat for any period shall be deemed to have failed without unavoidable cause to attend at that college.

(4) An education authority shall have power to assist the Secretary of State with respect to the attendance at junior

colleges of young persons who may be, or have been, required by the Secretary of State under this section to attend thereat.

(5) Regulations made by the Secretary of State under this section shall make provision as to the functions to be performed by education authorities with respect to young persons required under this section to attend at junior colleges, and, in particular, shall direct such authorities to make in any attendance notice served on any such young person such modifications as may be provided by the regulations, and shall make provision as to the circumstances in which and the extent to which attendances in pursuance of requirements under this section may be reckoned as attendances in pursuance of the requirements of attendance notices.

(6) The aforesaid regulations may make provision for the establishment of boards of assessors for the purpose of reporting to the Secretary of State as to the advisability of requiring young persons to attend at a junior college.

5. *Provision to enable Pupils to take Advantage of Educational Facilities.*

Power of education authorities to enable persons to take advantage of educational facilities.

43.—(1) For the purpose of enabling persons resident in their area to take advantage, without financial hardship to themselves or their parents, of any educational facilities available to them, an education authority shall have power—

(*a*) to defray such expenses of pupils attending any school as may be expedient to enable them to take full part in the activities of the school; and

(*b*) to pay the whole or any part of the fees payable in respect of pupils attending schools at which fees are payable; and

(*c*) to grant scholarships, bursaries and other allowances to persons over school age.

(2) The powers conferred by the last foregoing subsection shall be exercised in accordance with regulations made by the Secretary of State.

(3) The said regulations may include a provision requiring the education authority to leave out of account, in assessing the needs of the applicants, the whole or such part of any scholarship, bursary, prize or other award won in open competition as may be prescribed and any award made by the Carnegie Trustees for the Universities of Scotland. The expression " open competition " means a competition with regard to which the education authority are satisfied that there are no restrictions upon entry which unduly limit the field from which candidates may be drawn.

PART II. —*cont.* Education of pupils in exceptional circumstances.

44.—(1) Where in the opinion of an education authority—

(*a*) any pupil resident in their area is, owing to the remoteness of his home or the conditions under which he is living or other exceptional circumstances, unable to receive the full benefit of primary or secondary education unless special arrangements are made for him, or

(*b*) primary or secondary education suitable to the age, ability and aptitude of any pupil can best be provided for him at any particular school, or

(*c*) compulsory further education should in the case of any pupil be provided by requiring his continuous attendance at a junior college under section thirty-nine of this Act,

the authority shall, after consultation with the parent and, in any case falling under paragraph (*c*) of this subsection, with the pupil, make such arrangements of either a temporary or a permanent character as they think best suited to the purpose of enabling that pupil to attend an appropriate school or college.

(2) The arrangements made under the last foregoing subsection may include—

(*a*) the provision of travelling facilities or the payment of travelling expenses under section forty-five of this Act; or

(*b*) the accommodation of the pupil at a boarding school or at a junior college where boarding is provided, or in a hostel, home or other institution; or

(*c*) other provision of board and lodging, provided that the education authority shall, so far as practicable, give effect to the wishes of the parent with respect to the religious denomination of the person with whom the pupil will reside; or

(*d*) provision for the travelling, board and lodging of teachers.

Provision of transport and other facilities.

45. An education authority shall make such arrangements as they consider necessary or as the Secretary of State may direct—

(*a*) for the conveyance of pupils without charge for the whole or part of the journey between their homes and the schools or other educational establishments which they are attending;

(*b*) for making bicycles or other suitable means of transport available to the pupils attending schools or other educational establishments, or to their parents

PART II. —*cont.*

for the use of the pupils, upon such terms and conditions as may be arranged, or for paying a money allowance in lieu thereof;

(*c*) for paying the reasonable travelling expenses of pupils attending schools and other educational establishments for whom no provision is made under the foregoing paragraphs.

Recovery of cost of board and lodging.

46. Where an education authority have provided a pupil with board and lodging, whether at a school, junior college or hostel or elsewhere, the authority shall require the parent to pay to them in respect thereof such sums if any not exceeding the cost of such board and lodging as in the opinion of the authority he is able without financial hardship to pay:

Provided that—

(i) where the board and lodging provided for any pupil were so provided under arrangements made by the authority for any of the reasons specified in subsection (1) of section forty-four of this Act, no sum shall be recoverable in respect thereof under this section; and

(ii) where the board and lodging have been so provided for a young person in voluntary attendance at a junior college or, under section thirteen of this Act, at another educational establishment, the authority, if satisfied that he is in a financial position to pay the whole or any part of a sum recoverable from his parent under this section, may recover that sum or that part thereof from the young person instead of from the parent.

6. *Provision of Food and Clothing.*

Provision of food.

47.—(1) It shall be the duty of an education authority to provide milk and a midday meal, and it shall be lawful for them to provide other meals and refreshments, for pupils in attendance at public schools and junior colleges under their management on days when the schools meet or when the pupils are required by attendance notices to be present at a junior college, as the case may be, and they may make similar provision for the said pupils on other days, for children who have attained the age of five pending their admission to school, and for pupils in attendance at other educational establishments under their management.

(2) Where in the opinion of an education authority any pupil attending a public school in their area would otherwise be unable to take full advantage of the education provided, they shall make such arrangements for such period as they

PART II. —*cont.*

deem necessary for the provision to the pupil of milk and midday meals on days when the school does not meet.

(3) The Secretary of State may make regulations as to the manner in which and the persons by whom the expense of providing such milk, meals and other refreshment is to be defrayed, as to the facilities to be afforded (including any buildings or other equipment to be provided) and as to such other consequential matters as he considers expedient.

(4) For the purposes of this section, a pupil for whom an education authority have made special arrangements under section fourteen of this Act may, at the discretion of the education authority, be deemed to be in attendance at a public school under their management.

Provision of clothing.

48.—(1) When it is brought to the notice of an education authority that a pupil attending a public school in their area is unable by reason of the inadequacy or unsuitability of his clothing to take full advantage of the education provided, the education authority shall make such provision for the pupil for the purpose of ensuring that he is sufficiently and suitably clad as they may deem necessary during such period while the pupil is attending school (including days when the school does not meet) as they may determine.

(2) Where an education authority make provision for a pupil in pursuance of this section, they shall be entitled to recover from the parent of the pupil the expense thereby incurred or, if the authority are satisfied that the parent is unable without financial hardship to pay the whole of that expense, such part thereof, if any, as he is, in the opinion of the authority, able without financial hardship to pay.

(3) For the purposes of this section—

(*a*) a pupil on attaining the age of five shall, pending his admission to school, be deemed to be attending a school in the area of the authority in which he resides; and

(*b*) a pupil for whose education it is the duty of an education authority to provide special educational treatment shall be deemed to be attending a school in the area of that authority.

Provision of food and clothing for pupils not in attendance at public schools.

49. An education authority may, with the consent of the managers of any school in their area which is not a public school, and upon such financial and other terms, if any, as may be determined by agreement between the authority and the managers, make arrangements for securing—

(*a*) the provision of milk, meals and other refreshment for pupils in attendance at the school; and

PART II. —*cont.*

(*b*) the provision, for any pupil in attendance at the school who is unable by reason of the inadequacy or unsuitability of his clothing to take full advantage of the education (including physical exercise) provided by the school, of such clothing as is necessary for the purpose of ensuring that he is sufficiently and suitably clad while he remains a pupil at the school:

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

7. Health and Cleanliness of Pupils.

Regulations as to medical examination and inspection.

50. The Secretary of State may make regulations as to the conduct of medical examinations and medical inspections for the purposes of this Act. Such regulations may, in particular, prescribe the special qualifications or experience to be possessed by the medical practitioners by whom any class of medical examinations may be conducted, by the persons who may assist in the conduct of such examinations, and by the medical practitioners by or under whose directions any class of medical inspections may be conducted.

Medical inspection and treatment of pupils.

51.—(1) It shall be the duty of an education authority to provide for the medical inspection, at appropriate intervals, and for the medical supervision of all pupils in attendance at any school or junior college under their management and of all young persons in attendance at any other educational establishment under their management, and an education authority shall have power to provide for such inspection and supervision of other pupils in attendance at any educational establishment under their management who desire such inspection and supervision.

(2) For the purpose of securing the proper medical inspection of the pupils for whom it is their duty to provide such inspection, an education authority may require the parent of any pupil in attendance at any such school to submit the pupil for medical inspection in accordance with arrangements made by the authority, and may require any young person in attendance at such junior college or other educational establishment to submit himself to such medical inspection; and any person who fails without reasonable excuse to comply with any such requirement shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding five pounds.

PART II. —*cont*

(3) It shall be the duty of an education authority to make such arrangements for securing the provision of free medical treatment for pupils in attendance at any such school and for young persons in attendance at any such junior college or other educational establishment as are necessary for securing that comprehensive facilities for free medical treatment are available to them either under this Act or otherwise, and an education authority shall have power to make such arrangements as aforesaid with respect to other pupils in attendance at any educational establishment under their management who desire such treatment.

(4) It shall be the duty of an education authority to make arrangements for encouraging and assisting pupils to take advantage of such facilities as aforesaid:

Provided that if the parent of any child or young person gives to the authority notice that he objects to the child or young person availing himself of any medical treatment provided under this section, the child or young person shall not be encouraged or assisted so to do.

(5) Where under powers conferred by section fourteen of this Act an education authority make special arrangements for any child or young person to receive primary or secondary education elsewhere than at school, the authority may provide for the medical inspection, supervision and treatment of that pupil as if he were in attendance at a school under their management.

(6) An education authority may, with the consent of the managers of any school or other educational establishment in their area which is not under their management, and upon such terms, if any, as may be determined by agreement between the authority and the managers, make arrangements for securing the medical inspection and supervision of, and the provision of medical treatment for, pupils in attendance at the school or educational establishment:

Provided that the arrangements shall be such as to secure, so far as is practicable, that the expense incurred by the authority in connection with such inspection, supervision and treatment shall not exceed the expense which would have been incurred by them if the pupils had been pupils at a school or educational establishment under their management.

(7) Every education authority shall furnish to the Secretary of State such particulars as he may from time to time require of the arrangements made by the authority in the exercise of their functions relating to medical examination, inspection, supervision and treatment; and the Secretary of State may give to any such authority such directions as to the discharge by the authority of those functions as appear to him to be expedient.

PART II —*cont.*

Power to ensure cleanliness.

52.—(1) An education authority may, by directions in writing issued with respect to all schools, junior colleges and other educational establishments under their management or with respect to any of such schools, colleges or establishments named in the directions, authorise a medical officer of the authority to cause examinations to be made of the bodies and clothing of all or any of the pupils in attendance at such schools and young persons in attendance at such colleges or establishments whenever in his opinion such examinations are necessary in the interests of cleanliness.

(2) Any such examination as aforesaid shall be made by the said medical officer or by a person authorised in writing by him to make such examinations (in this section referred to as an " authorised person "), and, if the body or clothing of any pupil or young person is found upon such an examination to be infested with vermin or in a foul condition, the medical officer, the authorised person or any officer of the authority on their behalf may serve upon the parent of such pupil or upon the young person a notice requiring the parent to cause the body and clothing of the pupil to be cleansed or the young person to cause himself and his clothing to be cleansed as the case may be.

(3) A notice served under the last foregoing subsection shall inform the person upon whom it is served that, unless within the period limited by the notice, not being more than twenty-four hours after the service thereof, the body and clothing of the pupil or young person to whom the notice relates are cleansed to the satisfaction of the medical officer or an authorised person as may be specified in the notice, the cleansing thereof will be carried out under arrangements made by the education authority; and, if at the expiration of that period the medical officer or an authorised person is not satisfied that the body and clothing of the pupil or young person have been properly cleansed, the medical officer or an authorised person may issue an order directing that the body and clothing of the pupil or young person be cleansed under such arrangements. The order shall be sufficient to authorise any officer of the authority to cause the body and clothing of the pupil or young person named in the order to be cleansed in accordance with such arrangements, and for that purpose to convey him to the premises where the cleansing is to be carried out and to detain him there until such time as the cleansing has been completed.

(4) It shall be the duty of the education authority to make arrangements for securing that any cleansing under this section, whether at the request of a parent or young person or in pursuance of an order issued under this section, may be

PART II. —*cont.*

carried out in suitable premises by suitable persons and with suitable appliances.

(5) If after the cleansing of the body or clothing of any pupil or young person has been carried out under this section his body or clothing is again found to be infested with vermin or in a foul condition at any time while he is in attendance at such school, junior college or other educational establishment, and it is proved that the condition of his body or clothing is due to neglect on the part of his parent, or, in the case of a young person in attendance at a junior college or other educational establishment, to his own neglect, the parent or the young person, as the case may be, shall be liable on conviction by a court of summary jurisdiction in the case of a first conviction to a fine not exceeding one pound, in the case of a second conviction to a fine not exceeding five pounds, and in the case of a third or subsequent conviction to a fine not exceeding ten pounds or to a term of imprisonment not exceeding one month or to both such fine and such imprisonment.

(6) Where a medical officer or authorised person has reason to believe that the body or clothing of any pupil or young person in attendance at such school, junior college or other educational establishment is infested with vermin or in a foul condition, but action for the examination or cleansing thereof cannot immediately be taken, he may, if he considers it necessary so to do in the interests either of the pupil or young person or of other children or young persons in attendance at the school, college or other educational establishment, direct that the pupil or young person be excluded from the school, college or other educational establishment until such action has been taken; and such a direction shall be a defence to any proceedings under this Act in respect of the failure of the pupil or young person to attend school or to comply with the requirements of an attendance notice, as the case may be, on any day on which he is excluded in pursuance of the direction, unless it is proved that the issue of the direction was necessitated by the wilful default of the parent or of the young person.

(7) No female shall be examined or cleansed under the powers conferred by this section except by a duly qualified medical practitioner or by a woman authorised for that purpose by a medical officer of an education authority.

8. *Handicapped Children.*

Classification and educational arrangements.

53. The Secretary of State shall make regulations defining the several categories of pupils requiring special educational treatment and making provision as to the special educational arrangements appropriate for pupils of each category.

PART II. —*cont.*

Duty of education authorities to ascertain what children are suffering from disability.

54.—(1) It shall be the duty of an education authority to ascertain what children in their area who have attained the age of five years—

(*a*) require special educational treatment; or

(*b*) are suffering from a disability of mind of such a nature or to such an extent as to make them incapable of receiving education or training in a special school, or as to make it inexpedient that they should be educated or trained in association with other children either in their own interests or in those of the other children.

(2) If for the purpose of their duty under the last foregoing subsection an authority consider it necessary that a child should be medically examined, they shall by notice in writing served upon the parent of the child require him to submit the child for medical examination by a medical officer of the authority in order to obtain advice as to whether the child is suffering from any disability of mind or body and as to the nature and extent of any such disability; and if a parent upon whom such a notice is served fails without reasonable excuse to comply with the requirements thereof he shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding five pounds.

(3) Before any child is so medically examined as aforesaid, the authority shall cause notice to be given to the parent of the time and place at which the examination will be held, and the parent shall be entitled to be present at the examination if he so desires.

(4) If the parent of any child who has attained the age of two years requests the education authority for the area to cause the child to be so medically examined as aforesaid, the authority shall comply with the request unless in their opinion the request is unreasonable.

(5) It shall be the duty of an education authority to disseminate in their area information as to the educational importance to any child suffering from disability of mind or body of the early ascertainment of his disability, and of the opportunity for medical examination available under this section.

Children requiring special educational treatment.

55.—(1) The education authority shall consider the advice given with respect to any child in consequence of the medical examination under the last foregoing section and any reports or information which they are able to obtain from teachers or other persons with respect to the ability and aptitude of the child, and, if the authority decide that the child requires special educational treatment, they shall give to the parent notice of

PART II. —*cont.*

their decision and shall ensure that any education provided for the child is by means of special educational treatment.

(2) The advice given with respect to any child in consequence of any such medical examination as aforesaid shall be communicated to the parent of the child, and the medical practitioner by whom the examination was made shall, if required by the parent or by the authority so to do, issue to the parent and to the authority a certificate in the prescribed form showing whether the child is suffering from any such disability as aforesaid and, if so, the nature and extent thereof, and any parent who is aggrieved by the terms of the certificate may refer the case to the Secretary of State:

Provided that an education authority shall not require the issue of such a certificate in respect of any child unless the certificate is, in their opinion, necessary for the purpose of securing that the child shall receive special educational treatment.

(3) Any certificate issued under the last foregoing subsection may be withdrawn by the Secretary of State or by a medical officer of the education authority, and upon the withdrawal of such a certificate the decision of the education authority under subsection (1) of this section in regard to the child with respect to whom the certificate was issued shall be deemed to have been rescinded, and the education authority shall cease to provide special educational treatment for the child and shall notify the parent accordingly.

(4) Where an education authority have decided under subsection (1) of this section that a child requires special educational treatment, and where such treatment is being provided for that child in a special school, by or with the approval of the authority, the child shall not while of school age be withdrawn from that school without the consent of the authority:

Provided that if the parent of any child is aggrieved by the failure of the authority to reach a decision upon his application for their consent to such withdrawal within one month after the date of his application or by the refusal of the authority to comply with such application, he may within fourteen days after the expiry of the said period of one month or after such refusal, as the case may be, appeal to the sheriff, who shall give such direction as he thinks fit.

Children incapable of receiving education.

56. If, after considering, in accordance with the provisions of subsection (1) of the last foregoing section, the advice, reports and information with respect to any child who has attained the age of five years, the authority decide that the child is suffering from a disability of mind of such a nature or to such an extent as to make him incapable of receiving education or training in a special school or as to make it inexpedient that

PART II. —*cont.*

he should be educated or trained in association with other children either in his own interests or in those of the other children, it shall be the duty of the authority to issue to the local authority for the purposes of the Mental Deficiency Acts and to the General Board of Control for Scotland a report that the child has been found incapable of receiving education or training in a special school:

Provided that before issuing such a report with respect to any child the education authority shall give to the parent of the child not less than fourteen days' notice in writing of their intention to do so, and if within that period the parent refers to the Secretary of State the question whether such a report should be issued, the report shall not be issued except by direction of the Secretary of State.

Children requiring to be dealt with under the Mental Deficiency Acts after leaving school.

57. If an education authority are of opinion that any child in attendance at a school in their area, or under their management, or at a special school, is suffering from a disability of mind of such a nature or to such an extent that he may require to be dealt with under the Mental Deficiency Acts after leaving school, the authority shall, not earlier than the beginning of such period before the child ceases to be of school age as may be prescribed, issue to the local authority for the purposes of the Mental Deficiency Acts, to the General Board of Control for Scotland and to the parent of the child a report that by reason of a disability of mind the child may require to be dealt with under the Mental Deficiency Acts after leaving school.

Information to be supplied to local authority for purposes of Mental Deficiency Acts.

58. Any report issued under the last two foregoing sections to a local authority for the purposes of the Mental Deficiency Acts shall be accompanied by such records and other information relating to the child as may be prescribed; and upon receiving such a report it shall be the duty of that authority to consider whether the person in respect of whom the report was issued ought to be dealt with under these Acts.

PART III.

ADMINISTRATION AND FINANCE.

1. *Central Administration.*

Procedure for making regulations.

59.—(1) The Secretary of State shall, not less than forty days before making regulations under this Act, cause a draft of the regulations to be published and send a copy thereof to every education authority, and shall have regard to any representations made by an education authority or by any person interested before he makes the regulations. The regulations may be made in the same form as in the published draft or in an amended form:

PART III. —*cont.*

Provided that where the Secretary of State certifies that on account of urgency or any special reason any regulation ought to come into immediate operation, he may make such regulation come into operation immediately as a provisional regulation, but such regulation shall continue in force only until a regulation to the same effect has been made in accordance with the foregoing provisions.

(2) All regulations made by the Secretary of State under this Act shall be laid before Parliament as soon as may be after they are made, and if either House of Parliament, within the period of forty days beginning with the day on which any such regulations are laid before it, resolves that the regulations be annulled, the regulations shall cease to have effect, but without prejudice to anything previously done thereunder or to the making of any new regulations. 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.

Revocation and variation of orders and directions.

60.—(1) Any Order in Council made under section twenty of the Act of 1918 or under section sixty-eight of this Act may be revoked or varied as occasion requires by a subsequent Order in Council.

(2) Any rule, regulation or order made or direction given by the Secretary of State or an education authority under the provisions of this Act may be varied or revoked by a further rule, regulation or order made or direction given by the Secretary of State or that authority, as the case may be:

Provided that where the power to make or give any such rule, regulation, order or direction is exercisable only upon the application or with the consent of any person, or after consultation with or intimation to any person or is otherwise subject to any conditions, no rule, regulation, order or direction made or given under such power shall be varied or revoked except upon the like application, with the like consent, after the like consultation or intimation or subject to the like conditions, as the case may be.

Inspection of educational establishments.

61.—(1) It shall be the duty of the Secretary of State to cause inspection to be made of every educational establishment being a school or junior college at such intervals as appear to him to be appropriate, and to cause a special inspection of any such school or junior college to be made whenever he considers such an inspection to be desirable, and he may from time to time cause inspection to be made of any other educational establishment, and such inspections shall be made by His Majesty's Inspectors or other persons appointed by the Secretary of State for the purpose.

(2) It shall be no part of the duty of a person authorised under this section to make an inspection of any educational establishment, to inquire into instruction in religious subjects given therein or to examine any pupil in religious knowledge or in any religious subject or book.

(3) If any person obstructs any person authorised to make an inspection in pursuance of this section in the execution of his duty, he shall be liable on summary conviction to a fine not exceeding twenty pounds or in the case of a second or subsequent conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

Inspection of schools on request of managers.

62. Where the managers of a school other than a public school apply to the Secretary of State for an inspection of the school with a view to ascertaining its general efficiency or the efficiency of the instruction in any specified subject, and undertake to pay towards the expenses of such inspection such sum as the Secretary of State may fix, it shall be lawful for the Secretary of State to cause the school to be inspected either by one or more of His Majesty's Inspectors or by such other persons as the Secretary of State may appoint for the purpose.

Local inquiries.

63. The Secretary of State 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 the First Schedule to this Act shall have effect with regard to any such inquiry.

Power to require submission to medical examination.

64. Where any question is to be decided by the Secretary of State under this Act or under any rule, regulation or order made thereunder, then, if in the opinion of the Secretary of State the medical examination of any pupil would assist the determination of the question, the Secretary of State may by notice in writing served on the parent of that pupil, if the pupil is enrolled at a school, or, if that pupil is enrolled at a junior college or other educational establishment, upon him, require the parent to submit him, or require him to submit himself, as the case may be, for such examination; and if any person on whom such a notice is served fails without reasonable excuse to comply with the requirements thereof, he shall be liable on summary conviction to a fine not exceeding five pounds.

Approval and carrying out of schemes.

65.—(1) The Secretary of State may, after considering any representations made to him on the subject and the report of any local inquiry which may have been held under section sixty-three of this Act, approve, either as submitted or with such modifications and amendments as he thinks proper, any scheme or revised scheme or modification of an existing

PART III. —*cont.*

scheme (in this section referred to as " the scheme ") submitted to him under this Act; and thereupon it shall be the duty of the education authority to carry the scheme into effect as so approved.

(2) If an education authority inform the Secretary of State that they are aggrieved by his approval with modifications or amendments of the scheme, the Secretary of State shall cause the scheme as so approved to be laid before Parliament as soon as may be thereafter together with the report of any local inquiry which may have been held under section sixty-three of this Act. If either House of Parliament within the period of forty days beginning with the day on which the scheme is laid before it resolves that the approval of the scheme be annulled, the scheme as so approved shall cease to have effect, but without prejudice to anything previously done thereunder or to the submission and approval with or without modifications and amendments of any new scheme, revised scheme or modification of an existing scheme.

(3) 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.

Powers to enforce duty of education authorities and other persons.

66. If the Secretary of State is satisfied, either on complaint by any person interested or otherwise, that an education authority, the managers of a school or educational establishment, or other persons have failed to discharge any duty imposed on them by or for the purposes of this Act, the Secretary of State may make an order declaring them to be in default in respect of that duty and requiring them before a date stated in the order to discharge that duty. If by the said date the education authority, managers or other persons have not discharged the duty, one or other of the following steps may be taken to secure the discharge thereof—

(*a*) the Secretary of State may make such arrangements as he thinks fit for the discharge of the duty, and all expenses incurred by the Secretary of State in so doing shall be recoverable as a debt due by the authority, managers or other persons to the Secretary of State; or

(*b*) the Court of Session may, on the application of the Lord Advocate, order specific performance of the duty.

Annual report.

67.—The Secretary of State shall in every year cause to be laid before both Houses of Parliament a report of his proceedings under this Act during the preceding year.

2. *Advisory Councils.*

PART III. —*cont.*

Advisory councils.

68.—(1) It shall be lawful for His Majesty in Council by order to establish an advisory council consisting, as to not less than two-thirds of the members, of persons qualified to represent the views of various bodies interested in education, for the purpose of advising the Secretary of State on educational matters, and the Secretary of State shall take into consideration any advice or representation submitted to him by the advisory council.

(2) Provision may be made in the said order for the appointment by the advisory council of special committees to deal with remits on particular subjects made to the council by the Secretary of State, for such special committees to be composed of persons nominated by the Secretary of State of whom some shall be members of the council and the remainder shall be persons having special knowledge or experience of the subjects of the respective remits, and for the reports of special committees to be submitted to the Secretary of State by the advisory council, who shall be entitled in submitting the reports to make such comments thereon as they think fit.

(3) The Secretary of State may, after consultation with education authorities and other persons interested, by order establish a regional advisory council for any branch of education, to advise the education authorities and other managers of schools, junior colleges and other educational establishments in the region as to the development of the branch of education for which the council is appointed.

3. *Education (Scotland) Fund.*

Constitution of and payments into Education (Scotland) Fund.

69.—(1) There shall continue to be a fund, known and referred to as the Education (Scotland) Fund, which shall be distributed by the Secretary of State.

(2) In respect of each year commencing on the first day of April, there shall be paid into the Education (Scotland) Fund out of moneys provided by Parliament—

(*a*) in lieu of the payments which were made before the first day of April, nineteen hundred and thirty, to the said fund out of the Local Taxation (Scotland) Account, a sum equal to the amount of the sums payable thereto out of the said Account in respect of the year ending the thirty-first day of March, nineteen hundred and twenty-nine;

(*b*) a sum equal to the amount of the sums applicable to education in Scotland shown by the appropriation account to have been expended from the parliamentary vote for education in Scotland in the year ended

PART III. —*cont*

the thirty-first day of March nineteen hundred and fourteen (hereafter in this section referred to as " the standard year "), except in so far as the sums so applicable included—

(i) the Royal Scottish Museum grant,

(ii) the capital grant for the training of teachers,

(iii) sums spent on the superannuation of school teachers, and

(iv) any sums paid under section two or section fifty of the Act of 1872 (which related to salaries of officers);

(*c*) eleven-eightieths of the excess of the amount of the sums estimated to be expended in each year from the vote for education in England and Wales over the amount of the sums shown by the appropriation account to have been so expended in the standard year, except in so far as the sums so estimated and the sums so expended represent or represented—

(i) expenses of general departmental administration,

(ii) sums spent on the superannuation of teachers,

(iii) sums included in the amounts aforesaid in lieu of the sum of eight hundred and seven thousand two hundred and sixty pounds paid before the first day of April, nineteen hundred and thirty, out of the Local Taxation Account for the purposes of higher education in England, and

(iv) expenses of services for which in the opinion of the Treasury, after consultation with the Secretary of State, Scotland already receives an equivalent by way of direct contribution or of common benefit; and

(*d*) eleven-eightieths of the amount of the sums estimated to be expended in the same year from the vote for education in England and Wales, so far as such sums represent sums spent on the superannuation of teachers and including any contributions or balance of contributions returned in terms of the Teachers (Superannuation) Acts, 1918 to 1945, as well as any sums paid as compensation in terms of the said Acts:

Provided that in calculating the payments to be made into the said fund under paragraph (*c*) and under paragraph (*d*) of

PART III. —*cont.*

this subsection, if the amount of the sums (in the case of paragraph (*c*) with the exceptions specified therein) actually expended in any year from the vote for education in England and Wales, as shown by the appropriation account, exceeds or falls short of the corresponding estimate, the sum to be paid into the said fund in the year commencing on the first day of April next following the day on which such appropriation account is presented to Parliament shall be increased or reduced, as the case may be, by eleven-eightieths of the difference between such expenditure and estimate.

(3) It shall be competent to the Treasury to make such adjustments in the methods of calculating the sums payable under paragraphs (*b*) and (*c*) of the last foregoing subsection as may be expedient in view of any changes which may be made in the votes from which any expenditure either in Scotland or in England and Wales may be made.

(4) All sums paid to or collected or recovered by the Secretary of State in pursuance of section one hundred and three of this Act shall be paid into the said fund.

(5) Any other moneys applicable to a purpose to which the said fund may be applied may also, with the consent of the Treasury, be paid into the said fund for application to the said purpose.

Application of Education (Scotland) Fund.

70. The Education (Scotland) Fund in any year shall be applied to the following purposes, that is to say:—

(1) to defraying the expenses of conducting leaving certificate examinations in so far as such expenses are not provided for from moneys voted by Parliament;

(2) to defraying the expenses (other than administrative expenses) incurred by the Secretary of State in carrying Part IV of this Act and the Teachers Superannuation Scheme into effect so far as such expenses are not met from the Scottish Teachers Superannuation Fund established under the Act of 1908;

(3) to making payments of grants in aid of retiring allowances to teachers;

(4) to making payment into the Exchequer of a sum equal to eleven-eightieths of the amount received by the Exchequer in respect of contributions paid by teachers and employers in England and Wales under the Teachers (Superannuation) Acts, 1918 to 1945, towards the cost of the benefits thereunder;

PART III. —*cont.*

(5) to making payment to the universities of Scotland, in addition to any sums otherwise payable to them under any Act, of such sums in respect of yearly maintenance expenditure as the Secretary of State, on application by the university courts or any of them, may determine after consideration of the results of such inquiries as he may from time to time direct to be made by a special committee appointed by him: Provided that each university court shall make an annual report to the Secretary of State as to the mode in which it has applied any sum so granted;

(6) to making payment to central institutions in respect of either capital or maintenance expenditure of such sums as the Secretary of State may determine, being in respect of maintenance sums not less in amount than the sums paid to such institutions respectively for the like purpose in the year ending the thirty-first day of March, nineteen hundred and nine, by county councils and town councils from the amounts received by such councils under sub-paragraph (*b*) of paragraph (iii) of section two of the Local Taxation (Customs and Excise) Act, 1890;

53 & 54 Vict. c. 60.

(7) to making payment to any committee or other body for the training of teachers constituted under section seventy-seven of this Act, in addition to any sums voted by Parliament for the training of teachers, of such sums as the Secretary of State may determine;

(8) to making payment of grants in respect of any residential institution not under the management of an education authority which is shown to the satisfaction of the Secretary of State to be either—

(i) a special school attended largely by pupils whose parents or guardians are resident outwith the education area in which the school is situated, or

(ii) an orphanage required for the proper education of pupils destitute of efficient guardianship;

(9) to making payment of such sums as the Secretary of State may think necessary for the purposes of promoting the progressive development of education and educational establishments and of promoting educational research;

(10) to making payment of sums by way of scholarships, bursaries and other allowances for the purpose of enabling pupils over school age to take advantage without hardship to themselves or their parents of any educational facilities available to them;

PART III. —*cont.*

(11) to providing for any other educational expenditure approved by the Secretary of State; and

(12) to the application of the balance as nearly as may be to making payment of grants in aid of the expenditure of education authorities, of the managers of schools and other educational establishments, and of other persons providing educational services approved by the Secretary of State:

Provided that—

(i) payments under paragraphs (6) to (12), both inclusive, shall be made in accordance with regulations made by the Secretary of State, and

(ii) no grant shall be made in respect of any school to which the provisions of subsection (1) of section sixteen of this Act apply unless the school has been transferred to the education authority.

Payment of grants to be subject to conditions.

71.—(1) The Secretary of State may by regulations make provision that any payment which he is required or authorised to make by or under this Act shall be subject to such conditions as may be prescribed in the regulations, and that education authorities and other persons to whom such payments have been made shall comply with such requirements as may be specified in the regulations. The said regulations may include codes relating to the conduct of schools, junior colleges and other educational establishments and the education to be provided therein.

(2) Where the Secretary of State is satisfied that the persons to whom any grant is payable under this Act are, by reason of the provisions of any trust deed or other instrument, unable to fulfil any condition or comply with any requirement imposed under this section, he may, after consultation with them, by order make such modifications of the said provisions as may be necessary for the purpose of enabling the said persons to fulfil that condition or comply with that requirement; and any such trust deed or other instrument shall, during such period as may be specified in the order, have effect subject to any modifications so made.

(3) Nothing in this Act 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.

4. *Miscellaneous Grants.*

Highland schools grant.

72. The annual sums mentioned in the Second Schedule to this Act shall be charged on the Consolidated Fund of the United Kingdom, and the Treasury shall by equal half-yearly payments in every year pay out of that Fund or the

PART III. —*cont.*

growing produce thereof to the education authority of every education area named in the first column of the said Schedule the annual sum which in the second column of that Schedule is placed opposite to the name of such area.

5. *Accounts and Audit.*

Appointment of accountant.

73.—(1) It shall be lawful for the Secretary of State to appoint during his pleasure a duly qualified person to be accountant, to perform the duties herein required.

(2) The accountant shall have an office in Edinburgh, and shall be remunerated in such manner as the Secretary of State, with the consent of the Treasury, shall determine.

Examination of accounts.

74.—(1) Save as may be otherwise prescribed, it shall be a condition of the payment by the Secretary of State of a grant to the managers of a school or other educational establishment not under the management of an education authority or to other persons providing educational services approved by the Secretary of State that the accounts of the income and expenditure of such managers or persons in respect of such school, educational establishment or service shall be set out according to a form prescribed by the Secretary of State and shall together with the relative vouchers and other documents be submitted for examination and report to the accountant.

(2) Notwithstanding anything in section fifteen of and the Third Schedule to the Act of 1929, and for the purpose of securing compliance with this Act and the orders and regulations thereunder, the accountant may, by demand in writing, require the production before him of all the accounts of any county council or of a town council of a burgh being a county of a city relating to education and of all books and documents which he may deem necessary for the purpose of examining the said accounts, and shall have the same powers as the auditor appointed under paragraph 1 of the said Schedule with reference to requiring the appearance before him of any person, the production of any books or documents, and declarations as to the same, and the provisions of paragraph 4 of the said Schedule so far as relating to penalties for neglect or refusal or making an untrue declaration shall apply as in the case of a requirement by the auditor.

(3) If it shall appear to the accountant that any payment included in the said accounts is in his opinion contrary to law or that any sum which in his opinion ought to have been is not brought into account by any person, he shall report thereon to the Secretary of State, setting forth the grounds of his opinion, and the Secretary of State shall cause such report to be intimated to the officer of the council or other

PART III. —*cont.*

person concerned with the payment or the failure to bring into account and also to the council, and shall give such officer, person or council an opportunity of submitting representations thereon, and if the Secretary of State agrees with the accountant he shall cause intimation to be given to the council and to the officer or other person concerned and also to the auditor that in the event of any expenditure of the same nature as any such payment as aforesaid being incurred after the date of such intimation, or of any similar failure to bring any sum into account after such date, it shall be the duty of the auditor to make an interim report with respect thereto.

Abstract of receipts and expenditure to be laid before Parliament.

75. The accountant shall cause to be annually prepared an abstract showing the total amount of the receipts and expenditure of each education authority and of the managers of schools and other educational establishments in respect of which, and of persons providing educational services to whom, grants are made by the Secretary of State, and shall transmit the same together with such report as he shall see fit to the Secretary of State in order that the same may be laid before Parliament:

Provided that the abstract and report shall not relate—

(i) to a school or other educational establishment in respect of which the only grant is a grant in aid of the managers' contributions under Part IV of this Act, or

(ii) to any other educational establishment which may be excepted by the Secretary of State.

6. *Expenses of Secretary of State.*

Expenses of Secretary of State.

76.—(1) The expenses incurred by the Secretary of State in the exercise of his functions under this Act shall, in so far as they are not met from the Education (Scotland) Fund or under subsection (2) of section one of the Reorganisation of Offices (Scotland) Act, 1939, be defrayed out of moneys provided by Parliament.

2 & 3 Geo. 6. c. 20.

(2) Any sum by which any grants under this Act are increased by reason of the powers and duties conferred and imposed by the provisions of section forty-two of this Act on education authorities shall be defrayed out of moneys provided by Parliament.

7. *Teachers.*

Training of teachers and certificates of competency.

77.—(1) The Secretary of State may by regulations constitute, alter the constitution of, incorporate and dissolve committees or other bodies for the training of teachers for service

PART III. —*cont.*

in schools and other educational establishments, and may prescribe the duties to be performed by the said committees or other bodies, including the courses of training to be provided, may confer upon them such powers as may seem appropriate and may make such consequential provisions as may appear to him to be expedient.

(2) The Secretary of State may award certificates of competency to teach, and he may by regulations prescribe the forms of the said certificates, the conditions of award and the conditions under which they may be withdrawn, whether temporarily or permanently.

(3) Regulations made under this section may empower the said committees or other bodies to provide courses of training for teachers, leaders, wardens and other persons for the purposes of section three of this Act and for other purposes of a similar nature and enable the Secretary of State to issue documents recognising persons who have satisfactorily completed such courses, and persons who have otherwise qualified themselves for recognition, as persons competent to fulfil the duties of teachers, leaders or wardens under the said section.

(4) The National Committee, the Provincial Committees and the Committees of Management shall be deemed to be committees constituted under subsection (1) of this section.

Appointment of teachers.

78.—(1) The function of appointing teachers for service in public schools and other educational establishments under the management of an education authority shall be in the education authority, and every appointment shall be during the pleasure of the authority.

(2) No woman shall be disqualified for employment as a teacher in any school, junior college or other educational establishment under the management of an education authority or be dismissed from such employment by reason only of marriage.

Salaries of teachers.

79.—(1) It shall be the duty of every education authority to pay to the teachers appointed by them salaries in accordance with such scales as may from time to time be prescribed by regulations made by the Secretary of State:

Provided that—

(i) it shall not be lawful for an education authority to pay additional remuneration to any teacher in respect of services already remunerated in accordance with the prescribed scale;

(ii) it shall be lawful for an education authority to pay such salary as they think fit to any teacher to whose salary no prescribed scale is for the time being applicable; and

PART III. —*cont.*

(iii) the regulations first made under this section relating to any category of teacher in respect of whose salaries no regulations were made under section fifty of the Act of 1945 may require that salaries in accordance with the scales therein prescribed shall be payable with effect from such date not earlier than the first day of April, nineteen hundred and forty-five, as may be prescribed.

(2) Before making regulations under this section, the Secretary of State shall intimate his intention to make such regulations to any council or other body which include among their objects the making of recommendations with regard to the salaries of teachers, being a council or other body constituted with his approval by agreement between the education authorities and the teachers employed by them, or, failing such agreement, by him, and he shall have regard to any recommendations made by the said council or other body.

Retiring allowances.

80.—(1) An education authority may permit any teacher in a public school or other educational establishment under their management to resign his office upon the condition of receiving a retiring allowance, and may award and pay to such teacher such retiring allowance as they shall think fit.

(2) An education authority may also award and pay a retiring allowance to any teacher who retired from any public school in their area with the permission of the school board between the first day of April, eighteen hundred and ninety-nine, and the twentieth day of December, nineteen hundred and eight.

(3)—(*a*) The governing body of any school, administered under a scheme approved in terms of the Act of 1882, or under any Act, or any Provisional Order confirmed by Act of Parliament or under the Act of 1878; and

(*b*) the governing body of a central institution; and

(*c*) a committee or other body for the training of teachers constituted under section seventy-seven of this Act

shall, notwithstanding anything contained in any scheme, Act, or Order, have the like power as an education authority to award and pay retiring allowances to teachers out of the funds administered by them respectively.

Dismissal of teachers.

81.—(1) No resolution of an education authority for the dismissal of a certificated teacher from their service shall be valid unless—

(*a*) written notice of the motion for his dismissal shall, not less than three weeks before the meeting at which

PART III —*cont.*

the resolution is adopted, have been sent to the teacher and to each member of the education authority; and

(*b*) not less than one half of the members of the education authority are present at the meeting; and

(*c*) the resolution is agreed to by two-thirds of the members so present.

(2) Where a county or town council delegate to their education committee the power of dismissing a certificated teacher from their service, the provisions of the last foregoing subsection shall apply with the substitution of the education committee for the education authority.

(3) If at any time within six weeks after the adoption of a resolution for the dismissal of a certificated teacher a petition shall be presented to the Secretary of State by the said teacher, praying for an inquiry into the reasons for the dismissal, the Secretary of State shall make such inquiry as he sees fit, and if as the result of such inquiry he is of opinion that the dismissal is not reasonably justifiable he shall communicate such opinion to the education authority with a view to reconsideration of the resolution, and in the event of the education authority not departing from the resolution within six weeks thereafter may attach to the resolution the condition that the education authority shall pay to the teacher such sum not exceeding one year's salary as the Secretary of State may determine; and any sum so determined may be recovered by the teacher as a debt from the education authority.

(4) Notwithstanding anything in this Act, it shall be lawful for an education authority and for any school management committee summarily to suspend any teacher from the exercise of his duties in any school under their management; but such suspension shall not affect the teacher's rights to the salary or other emoluments attached to his office.

(5) Subsections (1), (3) and (4) of this section shall apply in like manner as they apply to an education authority and certificated teachers in their service to—

(*a*) the governing body (other than an education authority) of any school other than an independent school and the certificated teachers employed therein; and

(*b*) any committee or other body for the training of teachers constituted under section seventy-seven of this Act and the certificated teachers employed by them in a school.

8. *Education Authority Staff.*

PART III —*cont.*

Appointment of director of education.

82.—(1) The education authority shall employ a director of education, who shall be the chief education officer of the authority, and, on a vacancy occurring in the office, shall appoint a suitable person to fill the vacancy. The director of education shall not, except with the approval of the Secretary of State, hold any other office or appointment under the education authority whether in its capacity as such authority or in its capacity as a county or town council.

(2) The director of education shall hold office during the pleasure of the education authority, so, however, that he shall not be removed from office except by a resolution of the authority passed by not less than two-thirds of the members present at a meeting of the authority of which written notice stating that the removal from office of the director of education is to be considered shall have been given to each member of the authority and to the director at least three weeks before the meeting.

(3) The powers to be exercised and the duties to be performed by the director of education shall be set forth in every scheme for the administration of the functions of a council relating to education.

Pensions, &c., for education authority officers other than teachers.

83. Nothing in this Act shall render it illegal for an education authority to grant pensions, gratuities or retiring allowances to officers and servants of the education authority, other than teachers, who are incapacitated by age or infirmity.

9. *Local Administration.*

Admission of Press to meetings of education committees.

84.—(1) Representatives of the Press shall be admitted to any meeting of an education committee at which any matter is to be dealt with, a decision on which does not require to be submitted for the approval of the education authority:

Provided that it shall be competent to an education committee to exclude the representatives of the Press temporarily from any such meeting as often as may be desirable when in the opinion of a majority of the members of the committee present at the meeting, expressed by resolution, in view of the special nature of the business being, or about to be, dealt with, such exclusion is advisable in the public interest.

(2) In this section " representatives of the Press " means duly accredited representatives of newspapers and duly accredited representatives of news agencies which systematically carry on the business of selling and supplying reports and information to newspapers.

PART III. —*cont.*

Minutes of education committee meetings.

85. The minutes of proceedings of the education committee of an education authority shall be open to the inspection of any local government elector for the area at all reasonable hours on payment of a fee not exceeding one shilling, and any such local government elector may make a copy thereof or an extract therefrom.

Education estimates.

86. The estimates (including supplementary estimates) of capital and revenue expenditure relating to education shall be in the prescribed form, and approval by the education authority of those estimates and authorisation of the expenditure included therein shall be sufficient authority to the education committee to incur, on purposes falling within the description of any head in the prescribed form, expenditure not exceeding in amount the total under that head in the estimates so approved. Savings under one head may not be used to defray expenditure under another head without the consent of the education authority.

Borrowing powers.

87. Where an education authority require to incur expenditure in the exercise of any of the powers conferred upon them by subsection (1) of section twenty-one of this Act, or in purchasing any moveable property, or in making any other payment, and the authority are of opinion that the expenditure cannot conveniently be met out of revenue, they shall report the position to the Secretary of State, and if he considers that by reason of—

(*a*) the permanent character of the works involved,

(*b*) the length of time for which the moveable property may be expected to remain serviceable, or

(*c*) the purpose for which such other payment is to be made,

the expenditure may properly be met by borrowing, and that the repayment of the loan should be spread over a term of years, the authority may borrow money for the purpose, and shall repay the money so borrowed within such period not exceeding fifty years as the Secretary of State may determine.

Incidental expenses of education authorities.

88. It shall be lawful for an education authority to pay such reasonable expenses incidental to the proper discharge of their duties as may be sanctioned by regulations made by the Secretary of State. Such expenses may include contributions to any association of education authorities concerned in the consideration of educational questions.

Education authorities may receive and administer bequests.

89. Every education authority shall be at liberty to accept any bequest or gift of property or funds for behoof of any school or other educational establishment under their management, whether generally or for the promotion of any particular branch or branches of education or instruction, or

for increasing the income of any teacher, and it shall be the duty of the authority to administer such property, funds or money according to the wishes and intentions of the donors, and in such manner as to raise the standard of education and otherwise increase the educational efficiency of the school or other educational establishment intended to be benefited.

Funds for behoof of public schools etc., to be transferred to education authorities.

90.—(1) Where property or money has been or shall be vested in any persons as trustees for behoof of a public school or other educational establishment under the management of an education authority, or for the promotion of any branch of education in such school or educational establishment, or to increase the income of any teacher therein, the free income of such property or money shall be accounted for and paid to the education authority, and shall be applied and administered by the education authority according to the trusts attaching thereto.

(2) It shall be lawful for the education authority, with the approval of the Secretary of State, to vary or depart from the said trusts, with a view to increasing the efficiency of the school or educational establishment by raising the standard of education therein or by other means.

Education authorities to administer revenues of endowments applicable to bursaries.

91. When any part of the annual revenue administered under a scheme approved in terms of the Act of 1882, or under any Provisional Order confirmed by Act of Parliament, is applicable to the granting of bursaries, or to the payment of fees, such part of the revenue, if not on the average exceeding fifty pounds per annum, shall be paid over in each year by the governing body of the endowment to the education authority of the education area, to be applied to the granting of bursaries in conformity with the regulations made by the Secretary of State under section forty-three of this Act, and, if on the average exceeding fifty pounds but not exceeding one thousand pounds per annum, shall, notwithstanding any provision of the scheme regulating the number, amount, conditions of tenure or method of award of the bursaries, be applied by the governing body to the granting of bursaries in conformity with the said regulations. Any question arising under this section as to the interpretation of the said regulations, or as to what revenues from an endowment are applicable to the granting of bursaries or to the payment of fees, shall be determined by the Secretary of State:

Provided that—

(i) when under the scheme a bursary is reserved for the benefit of any particular parish or district, or for any specially privileged class of persons, or is restricted

PART III. —*cont.*

in tenure to any particular school, college or university, and when duly qualified applicants therefor are forthcoming, the same reservation and the restriction shall hold good with regard to the said bursary by whomsoever granted, notwithstanding anything that may be contained in the said regulations, to such extent as funds derived from the endowment may be available; and

(ii) when the governing body of any such endowment are of opinion that this section is inapplicable or is unfair in its application in the case of the endowment administered by them, they may represent their views to the Secretary of State, who, after making such inquiry as he may deem fit, may make an order either exempting the revenue of the said endowment from the provisions of the section or confirming the application of the section to such revenue.

Trust funds to be kept separate.

92. The amount of every property or fund held by an education authority on a separate trust shall be kept separate.

Reports by education authorities.

93. Every education authority shall make such reports and returns and give such information to the Secretary of State as he may from time to time require.

Returns by registrars of births, deaths and marriages to education authorities.

94.—(1) Every registrar of births, deaths, and marriages shall make to an education authority such returns of particulars with regard to the births and deaths of children registered by him as may be required by the authority with the approval of the Registrar-General of Births, Deaths and Marriages in Scotland.

(2) The education authority by whom any return is required under the foregoing subsection shall provide the form on which it is to be made and shall pay to the registrar (*a*) such fee as may be agreed upon between them not exceeding twopence for every birth or death included in the return; and (*b*) the cost of transmission thereof by post.

10. *Procedure and Evidence.*

Service of notices.

95. Any notice or other document required or authorised by this Act to be served on or sent to any person may be served or sent—

(*a*) by delivering it to him personally; or

(*b*) by leaving it for him at his dwelling-place or place of business with some person resident or employed

therein, or, if he has no known dwelling-place or place of business, at any other place in which he may at the time be resident, or, in the case of a master of or seaman or person employed in any ship or vessel, in the hands of a person on board thereof and connected therewith, or in the case of a company, association or incorporation, at their ordinary place of business in the hands of a partner, director, secretary or other official thereof, or in the case of a body of trustees in the hands of one of their number or of their known solicitor; or

(*c*) by sending it in a prepaid registered letter addressed to him at his dwelling-place or last known place of residence, or in the case of a company, association or incorporation at their ordinary place of business, or in the case of a body of trustees at the dwelling-place or last known place of residence of one of their number or at the office of their known solicitor.

Certificates of birth.

96.—(1) Where the age of any person is required to be ascertained or proved for the purposes of this Act or of any enactment relating to the employment of children or young persons, the registrar of births, deaths and marriages having the custody of the register of births 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 prescribed and upon payment of a fee of sixpence, supply that person with a copy of the entry certified under his hand.

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

Presumption of age.

97. Where in any proceedings under this Act the prosecutor 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.

Admissibility of documents.

98. In any legal proceedings any document purporting to be—

(*a*) a document issued by an education authority, and to be signed by the clerk of that authority or by the director of education of that authority or by any other officer of the authority authorised to sign it;

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(*b*) an extract from the minutes of the proceedings of an education authority or of any committee or sub-committee thereof, and to be signed by the chairman of the authority or of the committee or sub-committee or by the officer having the custody of the minutes;

(*c*) a certificate giving particulars of the attendance of a pupil at a school or junior college, and to be signed by the head teacher of the school or college;

(*d*) a certificate issued by a medical officer of an education authority, and to be signed by such an officer;

(*e*) a certificate issued by an education authority that an attendance order has been made by the authority and a copy thereof served upon the parent of the child to whom the order relates, and to be signed by the clerk to the authority or by the director of education or by any other officer authorised to sign it; or

(*f*) a certificate, in the prescribed form, of exemption from attendance at a junior college, and to be authenticated in the prescribed manner;

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*) (*d*) (*e*) or (*f*) of this subsection shall, in the absence of evidence to the contrary, be sufficient evidence of the matters therein stated.

PART IV.

SUPERANNUATION OF TEACHERS.

Provisions of Teachers Superannuation Scheme.

99.—(1) The Teachers Superannuation Scheme shall include articles to give effect to the provisions set forth in Part I of the Third Schedule to this Act.

(2) The said Scheme may include articles to give effect to the provisions set forth in Part II of the said Schedule.

(3) The articles set forth in Part III of the said Schedule shall be incorporated at the appropriate places in the said Scheme.

Application of Teachers Superannuation Scheme.

100.—(1) Subject to the provisions of subsections (*2*) and (3) of this section the Teachers Superannuation Scheme shall apply to the teachers prescribed therein including—

(*a*) every teacher to whom the superannuation scheme made in pursuance of section fourteen of the Act of

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1908 applied on the twenty-ninth day of May, nineteen hundred and nineteen;

(*b*) every teacher who was in service within the meaning of the Teachers Superannuation Scheme on the first day of April, nineteen hundred and twenty-six;

(*c*) every teacher who has been or shall be in such service after the last mentioned date; and

(*d*) every teacher who having been in such service before the last mentioned date is employed on or after that date in such employment as may be prescribed.

(2) Where a teacher—

(i) who was in service within the meaning of the Teachers Superannuation Scheme on the first day of April, nineteen hundred and twenty-six, or

(ii) who has discontinued such service before the said day, and returns to such service after the said day,

gave or gives notice to the Secretary of State within three months of the said day or of the day of such return, as the case may be, that he elects that the said scheme as modified by amendments taking effect on or after the said first day of April shall not apply to him, the scheme as amended before the said date shall continue to apply to him without further modification:

Provided that any reference in the scheme as so applied to contributions payable under section one of the Act of 1922 shall be deemed to include a reference to contributions payable under paragraph (*a*) of subsection (1) of section two of the Act of 1925 and under section one hundred and three of this Act.

(3) In any case where the special circumstances seem to the Secretary of State to justify an extension of the period of three months under the last foregoing subsection, he may grant such extension as he thinks fit.

Approval and effect of scheme.

101.—(1) The Teachers Superannuation Scheme, including the articles set forth in Part III of the Third Schedule to this Act, may be amended by a subsequent amending scheme framed by the Secretary of State and approved as herein prescribed.

(2) When an amending scheme has been framed by the Secretary of State it shall forthwith be laid before each House of Parliament, if Parliament be sitting, or, if not, then within three weeks after the commencement of the next ensuing session of Parliament, and if neither House of Parliament within one month, exclusive of any period of prorogation, after the amending scheme has been laid before it presents

PART IV. —*cont.*

an Address praying His Majesty to withhold His assent from such amending scheme, or any part thereof, His Majesty may by Order in Council approve the same, or any part thereof to which such Address does not relate. The presentation of an Address as aforesaid shall be without prejudice to the making of a further amending scheme.

(3) The Teachers Superannuation Scheme and any amending scheme approved by Order in Council under section eight of the Act of 1919 or under this section shall, as from the date prescribed in such Order, be of the same force as if it were enacted in this Act:

Provided that the date so prescribed may, as regards the operation of the whole or any part of the scheme, be a date prior to the date of such Order in Council or to the date of the passing of this Act.

Power to governing bodies to fulfil conditions.

102. Notwithstanding any provisions regulating the trusts or management of a school (including an approved school) or other educational establishment, the governing body of such school or educational establishment shall have power to fulfil any conditions which may require to be fulfilled in order that employment as a teacher in such school or educational establishment may be recorded as service for the purposes of the Teachers Superannuation Scheme.

Contributions towards benefits under Teachers Superannuation Scheme.

103.—(1) In respect of every teacher employed in service within the meaning of the Teachers Superannuation Scheme the following contributions shall be paid in each year to the Secretary of State towards the cost of providing benefits under the scheme, that is to say:—

(*a*) an amount to be paid by the teacher equal to five per centum of his salary for the time being;

(*b*) an amount to be paid by the education authority, governing body or other body of managers by whom the teacher is employed, equal to five per centum of the salary for the time being of the teacher.

(2) The payments due in terms of the foregoing subsection shall be collected by the Secretary of State from each education authority, governing body or other body of managers either directly or by deduction from any grants that may accrue under any regulations or code made by the Secretary of State, and it shall be lawful for each education authority, governing body or other body of managers to deduct five per centum from the salary of every teacher in their employment in respect of whom payments are due under the foregoing subsection:

Provided that, where any payment due by a teacher has not been so deducted and collected, the same (together with

compound interest thereon from the date when the payment became due, calculated at four per centum per annum with yearly rests) shall be recoverable by the Secretary of State either directly from the teacher or by deduction from any sum payable to him or to his legal personal representatives under the Teachers Superannuation Scheme.

(3) For the purposes of this section, the salary of a teacher shall be calculated in accordance with rules under the Teachers Superannuation Scheme.

Payment of benefit in case of persons mentally disabled.

104. Where any person to whom any sum in respect of any benefit is payable is certified by a justice of the peace or minister of religion, and by a duly qualified medical practitioner, to be unable by reason of mental disability to manage his affairs, the Secretary of State may pay the whole of the said sum, or so much thereof as he thinks fit, to the institution or person having the care of the disabled person, and may pay the remainder, if any, or such part thereof as he thinks fit, for or towards the maintenance and advantage of the wife or husband and relatives of the disabled person.

Increase of annual allowances.

105. For the purpose of determining the amount of the annual allowance granted under the Teachers Superannuation Scheme to any person whose service included service during the whole or any part of the period beginning on the first day of October, nineteen hundred and thirty-one, and ending with the thirtieth day of June, nineteen hundred and thirty-five, there shall be ascertained the amount of the annual allowance which would have been payable to him if, during that period, no reduction had been made in his salary in pursuance of Article 1 of the National Economy (Education) (Scotland) Order, 1931, or otherwise on account of the national economic conditions by reason whereof that Order was made; and the annual allowance accruing to him after the said thirtieth day of June shall be increased by such amount, if any, as is necessary to secure that the allowance shall not be less than ninety-eight per centum of the amount so ascertained.

Account and actuarial inquiries.

106.—(1) There shall be kept in accordance with the directions contained in the Fourth Schedule to this Act an account in such form and prepared in such manner as may be determined by the Secretary of State, after consultation with the Treasury, of all revenue and expenditure (including any sums which are under the said Schedule to be deemed to be revenue or expenditure) under the Education (Scotland) (Superannuation) Acts, 1919 to 1939, and under this Part of this Act.

(2) The Secretary of State shall, as soon as may be after the passing of this Act and thereafter at intervals of seven

PART IV. —*cont.*

years, cause an actuarial inquiry to be held for the purpose of determining whether on the basis of the aforesaid account the contributions payable under this Act are sufficient, or more than sufficient or less than sufficient, to support the benefits payable in respect of service subsequent to the thirty-first day of May, nineteen hundred and twenty-two.

(3) The Secretary of State shall cause a report of every inquiry made under this section to be laid before both Houses of Parliament.

Payment of deferred annuities under 61 & 62 Vict. c. 57.

107. Any deferred annuity payable in respect of Scottish contributions to the deferred annuity fund established under the Elementary School Teachers (Superannuation) Act, 1898, shall be charged on the Consolidated Fund and the growing produce thereof, and shall be paid by the National Debt Commissioners in such manner as the Treasury direct.

Interpretation of Part IV.

108.—(1) In this Part of, and in the Third Schedule to, this Act, unless the context otherwise requires—

9 & 10 Geo. 5. c. 17.

" Act of 1919 " means the Education (Scotland) (Superannuation) Act, 1919;

12 & 13 Geo. 5. c. 48.

" Act of 1922 " means the Education (Scotland) (Superannuation) Act, 1922;

15 & 16 Geo. 5. c. 55.

" Act of 1925 " means the Education (Scotland) (Superannuation) Act, 1925;

1 Edw. 8 & 1 Geo. 6. c. 47.

" Act of 1937 " means the Teachers (Superannuation) Act, 1937;

" Benefit " includes any retiring allowance, additional annual payment or lump sum, gratuity, death gratuity or return of contributions under the superannuation scheme framed under the Act of 1908 or the Teachers Superannuation Scheme, as the case may be;

" His Majesty's dominions " includes any territory which is under His Majesty's protection or in respect of which a mandate is being exercised by the Government of any part of His Majesty's dominions;

" Pensionable salary " in relation to a teacher means the amount representing the average salary of the teacher, either throughout his service or during such number of years immediately preceding retirement as may be prescribed;

" Prescribed " means prescribed by the Teachers Superannuation Scheme or by rules under the said scheme;

PART IV. —*cont.*

Other expressions not specially defined in this Act shall have the meaning assigned thereto in the Teachers Superannuation Scheme.

(2) A teacher shall be deemed to be in receipt of a retiring allowance if the Secretary of State, after application made, has given direction for the payment of the allowance.

PART V.

INDEPENDENT SCHOOLS.

Registration of independent schools.

109.—(1) The Secretary of State shall appoint one of his officers to be the Registrar of Independent Schools in Scotland (hereafter in this Part of this Act referred to as " the Registrar "), and it shall be the duty of the Registrar to keep a register of independent schools, which shall be open to public inspection at all reasonable times, and the Registrar shall register therein—

(*a*) the prescribed particulars relating to any independent school the proprietor of which makes application for the purpose and furnishes the information required by regulations made under this section, and

(*b*) every order of an Independent Schools Tribunal or of the Secretary of State imposing or removing any disqualification under this Part of this Act:

Provided that—

(i) no independent school shall be registered if, by virtue of an order made under the provisions hereinafter contained, the proprietor is disqualified from being the proprietor of an independent school, or if the school premises are disqualified from being used as a school, or if the school premises are used or proposed to be used for any purpose for which they are disqualified by virtue of any such order; and

(ii) the registration of any school shall be provisional only until the Secretary of State, after the school has been inspected on his behalf under section sixty-one of this Act, gives notice to the proprietor that the registration is final.

(2) If after the expiration of six months from the appointed day any person—

(*a*) conducts an independent school (whether established before or after the appointed day) which is not a registered school or a provisionally registered school, or

PART V. —*cont.*

(*b*) being the proprietor of an independent school does any act calculated to lead to the belief that the school is a registered school while it is a provisionally registered school,

he shall be liable on summary conviction to a fine not exceeding twenty pounds or in the case of a second or subsequent conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

(3) The Secretary of State shall make regulations—

(*a*) prescribing the particulars information as to which is to be furnished to the Registrar by the proprietors of independent schools and the manner in which it shall be so furnished;

(*b*) requiring the notification to the Registrar of any changes in such particulars;

(*c*) prescribing the circumstances in which the name of a school may be deleted from the register if the Registrar is unable to obtain sufficient information of such changes; and

(*d*) dealing with such incidental matters as the Secretary of State may deem expedient.

Complaints.

110.—(1) If at any time the Secretary of State is satisfied that any registered or provisionally registered school is objectionable upon all or any of the following grounds—

(*a*) that efficient and suitable instruction is not being provided at the school, having regard to the ages and sex of the pupils attending thereat;

(*b*) that the school premises or any parts thereof are unsuitable for a school;

(*c*) that the accommodation provided at the school premises is inadequate or unsuitable, having regard to the number, ages and sex of the pupils attending the school;

(*d*) that the proprietor of the school or any teacher employed therein is not a proper person to be the proprietor of an independent school or to be a teacher in any school, as the case may be,

the Secretary of State shall serve upon the proprietor of the school a notice of complaint stating the grounds of complaint together with full particulars of the matters complained of, and, except in so far as any of such matters are stated in the notice to be in the opinion of the Secretary of State irremediable, the notice shall specify the measures necessary in the opinion of the Secretary of State to remedy the matters complained of, and shall specify the time, not being less than six

PART V. —*cont.*

months after the service of the notice, within which such measures are thereby required to be taken.

(2) If it is alleged by any notice of complaint served under this section that any person employed as a teacher at the school is not a proper person to be a teacher in any school, that person shall be named in the notice and the particulars contained in the notice shall specify the grounds of the allegation, and a copy of the notice shall be served upon him at the same time as the notice is served.

(3) Every notice of complaint served under this section shall limit the time, not being less than one month after the service of the notice, within which the complaint may be referred to an Independent Schools Tribunal under the provisions hereinafter contained.

Determination of complaints.

111.—(1) Any person upon whom a notice of complaint or a copy of such a notice is served under the last foregoing section may, within the time limited by the notice, appeal therefrom by referring the complaint, in such manner as may be provided by rules made under this Part of this Act, to an Independent Schools Tribunal constituted in accordance with the provisions of the Fifth Schedule to this Act.

(2) Upon a complaint being referred to an Independent Schools Tribunal the tribunal shall, after affording to all parties concerned an opportunity of being heard, and after considering such evidence as may be tendered by them or on their behalf, have power—

(*a*) to order that the complaint be annulled;

(*b*) to order that the school in respect of which the notice of complaint was served be struck off the register;

(*c*) to order that the school be so struck off unless the requirements of the notice, with such modifications, if any, as may be specified in the order, are complied with to the satisfaction of the Secretary of State before the expiration of such time as may be specified in the order:

Provided that where the Secretary of State intimates that he is not satisfied that such requirements are complied with, the person upon whom the notice of complaint or a copy thereof has been served may, within fourteen days after such intimation, refer the matter to the tribunal, who shall have power to dispose of the reference in such manner as shall appear to them to be just;

(*d*) if satisfied that the premises alleged by the notice of complaint to be unsuitable for use as a school or any part of such premises are in fact unsuitable for such

PART V. —*cont.*

use, by order to disqualify the premises or part from being so used, or, if satisfied that the accommodation provided at the school premises or any part thereof is inadequate or unsuitable having regard to the number, ages and sex of the pupils attending the school, by order to disqualify the premises or the said part, as the case may be, from being used as a school or part of a school for pupils exceeding such number or of such age or sex as may be specified in the order;

(*e*) if satisfied that any person alleged by the notice of complaint to be a person who is not proper to be the proprietor of an independent school or to be a teacher in any school is in fact such a person, by order to disqualify that person from being the proprietor of any independent school or from being a teacher in any school, as the case may be.

(3) Where a notice of complaint has been served under this Part of this Act on the proprietor of any school and the complaint is not referred by him to an Independent Schools Tribunal within the time limited in that behalf by the notice, the Secretary of State shall have power to make any order which such a tribunal would have had power to make if the complaint had been so referred:

Provided that—

(i) if the Secretary of State makes any such order as is mentioned in paragraph (*c*) of the last foregoing subsection, the proviso to the said paragraph shall apply in like manner as if the order had been made by the tribunal; and

(ii) if it was alleged by the notice of complaint that any person employed as a teacher at the school is not a proper person to be a teacher in any school and that person has, within the time limited in that behalf by the copy of the notice served upon him, referred the complaint to an Independent Schools Tribunal, the Secretary of State shall not have power to make an order requiring his dismissal or disqualifying him from being a teacher in any school.

(4) Where by virtue of an order made by an Independent Schools Tribunal or by the Secretary of State any person is disqualified either from being the proprietor of an independent school or from being a teacher in any school, then, unless the order otherwise directs, that person shall, by virtue of the order, be disqualified both from being the proprietor of an independent school and from being a teacher in any school.

PART V. —*cont.* Enforcement of orders.

112.—(1) Where an order is made by the Secretary of State or by an Independent Schools Tribunal, directing that any school be struck off the register, the Registrar shall as from the date on which the direction takes effect strike the school off the register.

(2) If any person uses any premises for purposes for which they are disqualified by virtue of any order made under this Part of this Act, that person shall be liable on summary conviction to a fine not exceeding twenty pounds or in the case of a second or subsequent conviction, whether in respect of the same or of other premises, to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

(3) If any person acts as the proprietor of an independent school, or accepts or endeavours to obtain employment as a teacher in any school, while he is disqualified from so acting or from being so employed by any such order as aforesaid, he shall be liable on summary conviction to a fine not exceeding twenty pounds, or in the case of a second or subsequent conviction to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

(4) For the purposes of the foregoing provisions of this Part of this Act, a person who is disqualified by an order made under Part III of the Education Act, 1944, from being the proprietor of an independent school or from being a teacher in any school shall be deemed to be so disqualified by an order made under this Part of this Act.

7 & 8 Geo. 6. c. 31.

Removal of disqualifications.

113.—(1) If on the application of any person the Secretary of State is satisfied that any disqualification imposed by an order made under this Part of this Act is, by reason of any change of circumstances, no longer necessary, the Secretary of State shall by order remove the disqualification.

(2) Any person who is aggrieved by the refusal of the Secretary of State to remove a disqualification so imposed may, within such time after the refusal has been communicated to him as may be limited by rules made under this Part of this Act, appeal to an Independent Schools Tribunal, who may or may not order the removal of the disqualification as they think fit.

Proceedings before Independent Schools Tribunals and matters relating thereto.

114.—(1) The Lord President of the Court of Session may, with the concurrence of the Secretary of State, make rules as to the manner of making appeals to Independent Schools Tribunals and as to proceedings before such tribunals and matters incidental to or consequential on such proceedings; and, in particular, such rules may make provision requiring

PART V. —*cont.*

any such tribunal to sit at such places as may be directed in accordance with the rules, and may make provision as to appearance before such tribunals by counsel or solicitor and as to the payment to members of such tribunals, as part of the expenses of the Secretary of State under this Act, of such remuneration and allowances as may, with the consent of the Treasury, be provided by the rules.

(2) Rules under the last foregoing subsection may make provision for reference to the Court of Session, by way of stated case, of any question of law arising in such proceedings.

(3) An Independent Schools Tribunal shall have power to make such orders as to expenses, and as to such other consequential or incidental matters as appear to the tribunal to be necessary for giving effect to any order made by the tribunal, as the tribunal considers to be just, and any such order as to expenses may be enforced as if it were a recorded decree arbitral.

PART VI.

REORGANISATION OF ENDOWMENTS.

Register of educational endowments.

115.—(1) The Secretary of State shall appoint one of his officers to be Registrar of Educational Endowments, and it shall be the duty of the Registrar to keep a register of all educational endowments, which shall contain such information as may be prescribed, and shall be open to public inspection at all reasonable times.

(2) Except as hereinafter provided, it shall be the duty of the governing body of every educational endowment within twelve months after the appointed day or after the date upon which the deed creating the endowment came into operation, whichever is the later, to furnish the Registrar with such information about the endowment as may be prescribed by regulations made by the Secretary of State.

(3) This section shall not apply to a university endowment, to a theological endowment, or to the Carnegie Trust, and regulations made under this section may exempt any endowment or class of endowments from any of the provisions of this section.

Schemes for reorganisation of educational endowments.

116.—(1) Subject to the provisions hereinafter contained, the Secretary of State shall have power to prepare draft schemes for the future government and management of educational endowments, which schemes may provide—

(*a*) for altering the purposes to which such endowments are applied or applicable and the conditions and provisions regarding such application;

(*b*) for the application of the capital or income of such endowments to such educational purposes, mental or physical, moral or social, as the Secretary of State thinks fit having regard to the public interest and to existing conditions, social and educational: Provided always that the capital of any such endowment shall not be expended except on a purpose to which capital may properly be devoted;

(*c*) for grouping, amalgamating, combining or dividing any such endowments;

(*d*) for altering the constitution of the governing body of any such endowment, or uniting two or more existing governing bodies or establishing new governing bodies with such powers as shall seem necessary, and for incorporating any governing body, whether old or new; and

(*e*) for altering the powers as to the investment of the funds of any such endowment.

(2) It shall be the duty of the Secretary of State in reorganising any endowment in pursuance of the powers conferred by this Part of this Act to have special regard—

(*a*) to the spirit of the intention of the founders as embodied either—

(i) in the original deed constituting the endowment where it is still the governing instrument, or

(ii) in the scheme approved under any Act, or in any Provisional Order affecting the endowment;

(*b*) to the interest of the locality to which the endowment belongs;

(*c*) to the possibility of effecting economy in administration by the grouping, amalgamation or combination of any two or more endowments; and

(*d*) to the need for continuing the provision from endowments of competitive bursaries at universities, central institutions, training centres, training colleges or other educational institutions of a similar character.

(3) In every scheme which abolishes or modifies any privileges or educational advantages to which a particular class of persons is entitled, whether as inhabitants of a particular area or as belonging to a particular class in life or otherwise, the Secretary of State shall have regard to the educational interests of such class of persons:

Provided always that, where the governing instrument of any educational endowment has expressly provided for the education of children belonging to the poorer classes, either generally or within a particular area, or otherwise for their

PART VI. —*cont.*

benefit, such endowment for such education or otherwise for their benefit shall continue, so far as requisite, to be applied for the benefit of such children.

(4) The powers of the Secretary of State under this section shall not extend—

(*a*) to a university endowment, or

(*b*) to the Carnegie Trust, or

(*c*) to a theological endowment, or

(*d*) to a new endowment:

Provided that if the founder or the governing body of a theological endowment or of a new endowment shall intimate in writing to the Secretary of State his or their consent to the endowment being dealt with under this section, the said powers shall extend to the endowment.

(5) If the founder or the governing body or the university court of any university, with respect to a university endowment, or the Carnegie Trustees with respect to the Carnegie Trust, shall intimate in writing to the Scottish Universities Committee of the Privy Council their consent to the endowment or the Trust being dealt with under this section, the Scottish Universities Committee shall have the like powers and duties with regard to the endowment or the Trust as are conferred by this Part of this Act upon the Secretary of State with regard to an educational endowment; so, however, that subsection (7) (in so far as it relates to the presentation of a petition to the Court of Session), paragraph (*a*) of subsection (8), subsection (9) of section one hundred and twenty-three and subsection (5) of section one hundred and twenty-five of this Act shall not apply, and that the accountant shall not be prescribed as the person by whom the accounts of the endowment or the Trust shall be audited.

Sale of land belonging to educational endowments.

117.—(1) Where it appears to the Secretary of State to be desirable that a scheme under this Part of this Act should make provision for the sale of any land forming an endowment or part thereof and for the application of the proceeds of sale in accordance with the provisions of the scheme, but that such provision cannot be made by reason of the third proviso to section two of the School Sites Act, 1841 (which provides that if any land granted in accordance with the provisions of that section ceases to be used for the purposes mentioned in that Act, the land shall revert to the grantor), or by reason of any condition of a similar nature contained in the governing instrument of the endowment, he may by order direct that the said proviso or condition shall not have effect in relation to the land:

4 & 5 Vict. c. 38.

PART VI. —*cont.*

Provided that no such direction shall be given in relation to any land unless the Secretary of State is satisfied either—

(*a*) that the person to whom the land would revert in accordance with the said proviso or condition cannot after due inquiry be found; or

(*b*) that, if that person can be found, he has consented to relinquish his rights in relation to the land under the said proviso or condition, and that, if he has consented so to do in consideration of the payment of a sum of money to him, adequate provision can be made for the payment to him of that sum out of the proceeds of the sale of the land.

(2) A scheme under this Part of this Act relating to any endowment which includes land in respect of which an order has been made under the last foregoing subsection may make provision for the payment out of the proceeds of the sale of the land of any sum which is payable to any person in consideration of the relinquishment of his rights in relation to the land under the said proviso or condition.

(3) For the purpose of this section, any land conveyed under section two of the School Sites Act, 1841, or held under a governing instrument containing a condition of the nature referred to in subsection (1) of this section shall be deemed to be an educational endowment or part thereof notwithstanding anything in the third proviso to that section or in the said condition.

Educational endowments applicable in part to non-educational purposes.

118.—(1) Where an endowment is an educational endowment within the meaning of this Part of this Act, and part of it is applicable or applied to other charitable purposes, the scheme shall be in conformity with the following provisions (except so far as the governing body of such endowment assent to the scheme departing therefrom), that is to say:—

(*a*) the proportion of the endowment or annual income for the time being derived therefrom which is applicable to such other charitable purposes shall not be diverted by the scheme from such purposes unless in the opinion of the Secretary of State—

(i) there are no persons who are entitled to benefit out of such part of the endowment; or

(ii) the purposes of such part of the endowment have failed altogether or have become obsolete or useless or are otherwise sufficiently provided for; or

PART VI. —*cont.*

(iii) such purposes have become insignificant in comparison with the magnitude of such part of the endowment; or

(iv) such purposes have become prejudicial to the public welfare:

(*b*) the proportion of the endowment or annual income for the time being so applicable to such other charitable purposes shall be deemed to be the proportion which, in the opinion of the Secretary of State, is the proportion which has according to the average of such number of years as the Secretary of State shall determine been appropriated as regards capital or applied as regards income to such purposes, or if that proportion differs from the proportion which ought to have been so appropriated or applied according to the express directions of the instrument of foundation or the decree of any competent court or the statutes or regulations governing such endowment, the proportion applicable to such other charitable purposes shall be the proportion which ought, according to the express directions of such instrument, or such decree or such statutes or regulations, to have been appropriated or applied to such other charitable purposes:

(*c*) if the proportion applicable to other charitable purposes amounts to or exceeds one half of the whole of the endowment, the governing body of such endowment existing at the date of the scheme shall, so far as regards its non-educational purposes, remain unaltered by the scheme:

(*d*) where the governing body remains so unaltered, that body shall pay or apply for educational purposes such proportion as under the former provisions of this section is applicable to those purposes, or such less sum as may be fixed by the Secretary of State:

(*e*) when any portion of the endowment or the annual income of such portion has been accumulated and not applied to any purpose, the Secretary of State shall determine whether, and in what proportion, such portion or income is to be considered for the purposes of this section as having been appropriated or applied for educational purposes or for other charitable purposes.

(2) Subject to the provisions of the last foregoing subsection, the Secretary of State shall have power by any scheme to deal with any such endowment, and with the governing body thereof, in the same manner in all respects as if it were an endowment applied wholly to educational purposes.

PART VI. —*cont.*

Non-educational endowments.

119.—(1) Where the governing body of any endowment (not being an educational endowment) are of opinion that it is expedient that the endowment should be dealt with by the Secretary of State on any of the following grounds, that is to say:—

(*a*) that there are no persons entitled to benefit out of the endowment; or

(*b*) that the purposes of the endowment have failed altogether or have become obsolete or useless or prejudicial to the public welfare, or are otherwise sufficiently provided for, or are insignificant in comparison with the magnitude of the endowment, or are not substantially beneficial to the class of persons for whom the endowment was originally intended; or

(*c*) that it is impossible, owing to the inadequacy of the endowment or to the impracticable character of the founder's intentions, to carry these intentions into effect,

the governing body may intimate in writing to the Secretary of State their consent to the endowment being dealt with under this Part of this Act and thereafter such endowment may be dealt with in all respects as if it were an educational endowment.

(2) Where the Lord Advocate is of opinion on any such ground as is specified in the last foregoing subsection that a scheme should be framed for the future government and management of any endowment which is not an educational endowment or of any new endowment the governing body of which have not intimated their consent to its being dealt with under this Act, he may present a petition to the Court of Session for such a scheme, and on any such petition the Court shall have power to frame a scheme for the future government and management of the endowment and for the application of the capital or income of the endowment to any purposes, as nearly as may be analogous to those contained in the governing instrument, as the Court shall think fit.

Provisions regarding interests of individuals.

120.—(1) Where at the third day of August, nineteen hundred and twenty-eight, any individual held a vested interest in any office, place, employment, pension, compensation allowance, bursary or emolument under or arising out of an endowment being dealt with in a scheme, the Secretary of State shall in such scheme save or make due compensation for the said vested interest.

(2) Every interest, right, privilege or preference which any person may acquire or may have acquired since the third day of August, nineteen hundred and twenty-eight, in

PART VI. —*cont.*

or relative to any endowment, or in the governing body thereof, or as member of any such governing body, or in or relative to any office, place, employment, pension, compensation allowance, bursary or emolument in the gift of any such governing body, shall be subject to the provisions of any scheme made under this Part of this Act.

Provisions as to beneficiaries and teachers.

121.—(1) In framing a scheme for any endowment, the Secretary of State shall——

(*a*) provide that in making a selection from amongst those eligible for the benefits of the endowment, due regard shall be paid to diligence, attainment and promise as ascertained in such manner as the Secretary of State shall determine, and

(*b*) so far as can be equitably arranged and as the circumstances of each particular locality require, provide for extending to both sexes the benefit of the endowment.

(2) In every scheme the Secretary of State shall provide for the dismissal at pleasure of every officer in the employment of the governing body and of every teacher and officer in any endowed school to which the scheme relates:

Provided that—

(i) the scheme shall make provision for the application in the case of the dismissal of a certificated teacher of the provisions of section eighty-one of this Act, with the substitution of the governing body for the education authority, and with any other necessary modifications; and

(ii) the scheme may confer on any such officer or teacher (other than a certificated teacher) as aforesaid a right of appeal to such authority and on such conditions as to the Secretary of State may seem fit.

(3) Any such scheme may contain provision for the removal of any religious test or qualification applicable to teachers.

Provisions as to audit.

122.—(1) Every scheme shall provide for the periodical audit of the accounts of any endowment dealt with by the scheme in such manner and by such person as the Secretary of State may from time to time prescribe, and, subject to the provisions of subsection (5) of section one hundred and sixteen of this Act, the person to be so prescribed may, except in the case of a theological endowment, be the accountant.

(2) The accounts of every endowment which has been regulated in whole or in part by a Provisional Order made under the Act of 1878 shall be periodically audited in such manner as the Secretary of State may from time to time prescribe.

PART VI —*cont.*

(3) The cost of any audit in pursuance of a scheme framed under the Act of 1882 or the Acts of 1928 to 1935 or of the last two foregoing subsections shall be paid out of the funds of the endowment, and, where the audit is made by the accountant, there shall be chargeable and included in the cost thereof such fees as the Secretary of State with the consent of the Treasury may fix.

Procedure in preparation of schemes.

123.—(1) Before preparing the draft of a scheme for any endowment, the Secretary of State may cause a local inquiry to be held, and shall give the governing body an opportunity of being heard. The provisions of the First Schedule to this Act, with the exception of paragraphs 7 and 8 thereof, shall apply to such inquiry.

(2) When the Secretary of State has prepared the draft of a scheme, he shall cause it to be printed, and printed copies of it to be sent to the governing body of the endowment to which it relates, and shall also cause the draft, or a proper abstract thereof, to be published in such manner as he thinks sufficient for giving information to all persons interested.

(3) During one month after the first publication of the draft of a scheme, the Secretary of State shall receive any objections made to him in writing by any public body or persons interested respecting such scheme, and any amendments proposed thereon, and at any time after the expiration of such month the Secretary of State, if he thinks fit, may cause a local inquiry to be held concerning the subject-matter of such scheme, and the provisions of the First Schedule to this Act, with the exception of paragraphs 7 and 8 thereof, shall apply to such inquiry.

(4) As soon as may be after the expiration of the said month or the receipt by the Secretary of State of the report of such inquiry the Secretary of State shall proceed to consider any objections made to him in writing respecting the draft scheme, and any amendments proposed thereon, and the report (if any), and thereupon he shall, if he thinks fit, frame a scheme in such form as he thinks expedient.

(5) The Secretary of State, as soon as may be after framing a scheme shall, before confirming it, cause it, or a proper abstract of it, to be published in such manner as he thinks sufficient for giving information to all persons interested, together with a notice stating that during one month after the first publication of such notice the Secretary of State will receive any objections made to him in writing by any public body or persons interested respecting such scheme. After the expiration of the said one month, unless a case has been submitted to the Court of Session within the time and in the

PART VI. —*cont.*

manner provided in section one hundred and twenty-four of this Act, the Secretary of State may, if he thinks fit, confirm the scheme or may frame an amended scheme, and so on from time to time as often as occasion may require. The provisions of this section with regard to the procedure to be followed and to the confirmation of a scheme shall apply to an amended scheme as they apply to a scheme.

(6) (*a*) Where the Secretary of State causes the draft of a scheme or a scheme or an amended scheme to be printed under this section, he shall prefix to such draft or scheme or amended scheme a memorandum setting forth—

(i) the reasons for which, in his view, reorganisation of the endowment is necessary;

(ii) the respects in which the draft or scheme or amended scheme involves any substantial alteration of the purposes to which the endowment is applied or applicable (including any alteration of an existing provision for competitive bursaries); and

(iii) the reasons for any such alteration.

(*b*) For the purposes of the provisions of subsections (2) and (5) of this section relating to publication, a memorandum prefixed to the draft of a scheme or to a scheme or to an amended scheme in pursuance of the foregoing subsection shall be deemed to be part thereof.

(7) The Secretary of State as soon as he confirms a scheme shall forthwith, in such manner as he thinks sufficient for giving information to all persons interested, publish a notice that the scheme has been confirmed by him and that, unless within one month after the first publication of such notice a petition is presented to the Court of Session or to the Secretary of State as in this section mentioned, the scheme may be approved by His Majesty by an Order in Council without being laid before Parliament.

(8) During the said month—

(*a*) a petition to the Court of Session for amendment of the scheme or for the substitution of a new scheme may be presented by the governing body, or

(*b*) a petition to the Secretary of State praying that the scheme may be laid before Parliament may be presented by the governing body, or by the town council of any burgh directly affected by the scheme, or by any education authority so affected, or by any ratepayers (not less than twenty) of any burgh or parish or place directly affected by the scheme, or by any person or persons having a vested interest in the endowment or any part of it.

PART VI. —*cont.*

(9) On any petition presented to them under the last foregoing subsection the Court of Session may amend the scheme or may frame a new scheme, and for such purposes the court shall have the like powers as are conferred by this Part of this Act on the Secretary of State regarding schemes for the future government and management of endowments.

(10) When a petition is presented to the Secretary of State under paragraph (*b*) of subsection 8 of this section, he shall, unless a petition has been presented to the Court of Session under paragraph (*a*) of the said subsection, cause the scheme to be laid as soon as may be before both Houses of Parliament.

Special case to Court of Session on questions of law.

124.—(1) If—

(*a*) the governing body of any endowment to which a scheme relates, or any person or body corporate directly affected by such scheme, feel aggrieved by the scheme on the ground that it is not within the scope of, or is not made in conformity with, this Part of this Act, or

(*b*) any person holding any office, place, employment, pension, compensation allowance, bursary or emolument under or arising out of an endowment dealt with by the scheme feels aggrieved by the scheme on the ground that it does not comply with the provisions of this Part of this Act as to saving or making due compensation for his vested interests,

such governing body, person or body corporate may, within one month after the first publication of the scheme, submit a case to the Court of Session, to which the Secretary of State shall and any others directly interested may be parties, for the opinion of the said Court on the question or questions therein stated, and if the Court is of opinion that the scheme is contrary to law on any of the grounds in this section mentioned, the Secretary of State shall not confirm the said scheme, but he may, if he thinks fit, frame an amended scheme.

(2) Subject to the provisions of section one hundred and thirty-three of this Act, and of section sixteen of the Administration of Justice (Scotland) Act, 1933, a case submitted under this section shall be framed, lodged, amended, heard and otherwise dealt with in the same manner, as nearly as may be, as a special case presented in terms of section sixty-three of the Court of Session Act, 1868.

23 & 24 Geo. 5. c. 41.

31 & 32 Vict. c. 100.

Approval and effect of schemes.

125.—(1) If at the expiration of the month allowed by subsection (8) of section one hundred and twenty-three of this Act for the presentation of a petition to the Court of

PART VI. —*cont.*

Session or to the Secretary of State no such petition has been presented, it shall be lawful for His Majesty, by Order in Council, to approve the scheme without the same being laid before Parliament.

(2) Where a scheme has been laid before Parliament under subsection (10) of the said section, it shall be lawful for His Majesty, after it has lain one month before Parliament, by Order in Council—

(*a*) to approve such scheme if no Address has been presented within such month by either of the said Houses praying His Majesty to withhold his approval, or

(*b*) to approve any part of the scheme to which any address so presented does not relate.

(3) A scheme when approved by His Majesty in Council shall have full operation and effect from the date of such Order in Council, in the same manner as if it had been enacted in this Act; and thereupon every Act of Parliament, letters patent, statute, deed, instrument, trust or direction relating to the subject-matter of the scheme, so far as inconsistent with the provisions thereof, shall be repealed and abrogated.

(4) The Order in Council approving a scheme shall be conclusive evidence that such scheme was within the scope of and made in conformity with this Act, and the validity of such scheme and order shall not be questioned in any legal proceedings whatever.

(5) Where the Court of Session have, in pursuance of the powers conferred upon them by subsection (9) of section one hundred and twenty-three of this Act, amended a scheme or framed a new scheme, the scheme as so amended or the new scheme as so framed shall have the like effect as a scheme approved by His Majesty in Council.

Schemes for small endowments.

126. In the case of an educational endowment of less annual value than fifty pounds, the procedure hereinbefore prescribed shall not apply, if the governing body of such endowment frame and submit to the Secretary of State a scheme respecting such endowment. The Secretary of State may approve such scheme with or without any modifications as he thinks fit. In framing and approving such scheme the same powers may be exercised, and subject to the same conditions, as nearly as may be, as in the case of any scheme under this Part of this Act; and such scheme, when approved by the Secretary of State, shall have effect as if it were a scheme approved by Order in Council under this Part of this Act.

PART VI. —*cont.*

Amending schemes.

127. Schemes may be from time to time framed and approved for amending any scheme approved under the Acts of 1928 to 1935 or under this Part of this Act, and all the provisions of this Part of this Act relative to an original scheme shall, with any necessary modifications, apply also to an amending scheme.

Cost of publishing scheme, etc.

128. The cost of publishing and circulating any draft scheme, or scheme, or amended scheme, or any abstract thereof, under this Part of this Act shall be paid out of the funds of the endowment or endowments to which the same relates:

Provided that, if the Secretary of State causes any draft scheme, or scheme, or amended scheme, or abstract thereof to be published in the Edinburgh Gazette, no fees shall be exigible in respect of such publication.

Reports by governing body.

129. Every governing body shall make such reports and returns and give such information to the Secretary of State as he may from time to time require.

Quorum of governing body.

130. The majority of members of a governing body who are present at a meeting of their body duly constituted shall have power to do anything that may be required to be done by a governing body for the purposes of this Part of this Act:

Provided that this power shall be in addition to and not in restraint of any power which any meeting of such governing body may have independently of this Part of this Act.

Date of endowment accounts.

131. Notwithstanding anything in any scheme under the Act of 1882, or the Acts of 1928 to 1935, or this Part of this Act, relating to the accounts of an educational endowment of which a county council or a town council is the governing body, the said accounts shall be made up and balanced to the same day in every year as the accounts of the county fund or the burgh fund as the case may be:

Provided that the accounts of any such endowment as aforesaid current on the day when the council's financial year ends first occurring after the second day of July, nineteen hundred and forty-five, may be made up and balanced to the first mentioned day or to a day one year thereafter as the council think fit.

Provision for default of governing body.

132. If the governing body of any educational endowment fail to give effect to the provisions of any Provisional Order or of any scheme approved under the Act of 1882 or the Acts of 1928 to 1935 or this Part of this Act, it shall be lawful for the Secretary of State, after such inquiry as he shall think proper, to send a requisition to such governing body,

PART VI. —*cont.*

requiring them to give effect to the provisions of the Provisional Order or scheme, and the governing body shall comply with the said requisition without undue delay, and, if they fail, may be summarily compelled to do so by the Court of Session, on the application of the Lord Advocate.

Judgment of Court of Session final.

133. In any proceeding before the Court of Session authorised by this Part of this Act—

(*a*) the judgment or deliverance of the Court shall be final and not subject to review; and

(*b*) the Court shall dispose of all questions of expenses, and may, if they think fit, direct the expenses or any part thereof (including the expenses of the Secretary of State) to be paid out of the funds of the educational endowment to which the proceeding relates: Provided always that it shall not be lawful for the Court to find the Secretary of State liable in expenses.

Interpretation of Part VI.

134.—(1) In this Part of this Act, unless the context otherwise requires—

" Carnegie Trust " means the property vested in the Carnegie Trustees for the Universities of Scotland;

" Educational endowment " means any endowment which has been applied or is applicable in whole or in part, whether by the declared intention of the founder, or by the consent of the governing body, or in pursuance of any scheme approved under any Act or of any Provisional Order or by custom or otherwise, to educational purposes;

" Educational purposes " includes—

(*a*) the payment of apprenticeship fees,

(*b*) the advancement in life, and

(*c*) the maintenance, clothing, and other provision for the benefit,

of poor children;

" Endowment " means any property, heritable or moveable, dedicated to charitable purposes, but shall not, except with the consent of the governing body, include the funds, whether capital or revenue, of any incorporation or society contributed or paid by the members of such incorporation or society by way of entry moneys or other fixed or stated payments, nor burgess or guildry fines paid to any such incorporation or society, nor funds bequeathed or given to any such incorporation or society for the benefit solely

PART VI. —*cont.*

of members or widows or families of members of such incorporation or society;

" Governing body " means the managers, governors or trustees of any endowment or other person having the administration of the revenue thereof;

" Governing instrument " means, with regard to any endowment, the scheme approved under any Act or any Provisional Order, in accordance with which the endowment is governed and managed or, where there is no such scheme or Provisional Order, the deed constituting the endowment;

" Provisional Order " means Provisional Order confirmed by Act of Parliament and Provisional Order made under the Act of 1878;

" Theological endowment " means an endowment solely or mainly applicable or applied for the purposes of theological instruction or belonging to any theological institution;

" University endowment " means an endowment vested in, or administered by or in the gift of any of the universities of Scotland, or any of the colleges of such universities.

(2) An educational endowment shall be deemed to be a " new endowment " until the expiry of twenty years from the date when the deed creating the endowment comes into operation, so, however, that where part of an endowment has been given at one time and another part has been given at a later time and the two portions cannot in the opinion of the Secretary of State be conveniently separated from each other, the date of the older part of the endowment shall be held to be the date of the endowment.

PART VII.

MISCELLANEOUS PROVISIONS.

1. *Employment.*

Information as to employments.

135. It shall be lawful for an education authority to maintain an agency for collecting and distributing information as to employments open to pupils on leaving school.

Power of education authorities to prohibit or restrict employment of children.

136.—(1) If it appears to an education authority that the employment of a child on the roll of a school in their area is or is likely to be prejudicial to his health or otherwise to render him unfit to obtain the full benefit of the education provided for him, the authority shall serve upon the parent and upon any person who is employing him for the time being

PART VII —*cont.*

a notice prohibiting the employment of the child in any employment or imposing such restrictions upon the employment of the child as appear to them to be expedient in the interests of the child:

Provided that if the parent or the employer feels aggrieved by the prohibition or restriction, he may appeal to the Secretary of State, who shall have power to confirm, vary or annul the notice as he thinks fit.

(2) An education authority may, by notice in writing served upon the parent or employer of any child on the roll of a school in their area, require the parent or employer to provide the authority, within such period as may be specified in the notice, with such information as appears to the authority to be necessary for the purpose of enabling them to ascertain whether the child is being employed in such a manner as to be or to be likely to be prejudicial to his health or to render him unfit to obtain the full benefit of the education provided for him.

(3) Any person who knowingly employs a child in contravention of any prohibition or restriction imposed under subsection (1) of this section, or who fails to comply with the requirements of a notice served under subsection (2) of this section, shall be guilty of an offence against this section, and liable on conviction by a court of summary jurisdiction to a fine not exceeding five pounds, or, in the case of a second or subsequent offence, not exceeding twenty pounds.

(4) Subsections (1) and (3) of section thirty-six of the Children and Young Persons (Scotland) Act, 1937 (which relate to powers of entry for the enforcement of the provisions of Part III of that Act with respect to the employment of children), shall apply with respect to the provisions of any notice served under this section as they apply with respect to the provisions of the said Part III.

Effect of attendance notices on computation of working hours.

137.—(1) Where a young person is employed in any employment with respect to which a limitation upon the number of working hours during which he may be employed in that employment otherwise than by way of overtime in any week is imposed by or under any enactment, any period of attendance at a junior college required of him during that week by an attendance notice served on him shall, for the purposes of the limitation, be deemed to be time during which he has been so employed in that week.

(2) Where a young person employed in any employment is entitled by or under the provisions of any enactment or of any agreement to overtime rates of pay in respect of any time during which he is employed in that employment on any day or in any week in excess of any specified number of

hours or before or after any specified hour, any period of attendance at a junior college required of him on that day or during that week by an attendance notice served on him shall, for the purposes of those provisions, be deemed to be a period during which he was employed in that employment otherwise than in excess of the specified number of hours or before or after the specified hour, as the case may be. PART VII. —*cont.*

Adaptation of enactments relating to employment of children and young persons.

138.—(1) For the purpose of any enactment relating to the prohibition or regulation of the employment of children or young persons, any person who is not for the purposes of this Act over school age shall be deemed to be a child within the meaning of that enactment.

(2) For the purposes of any byelaws under Part III of the Children and Young Persons (Scotland) Act, 1937, the expression " child " shall have the same meaning as it has for the purposes of the said Part III.

2. *Savings and Exceptions.*

Saving as to persons in the service of the Crown.

139. No power or duty conferred or imposed by this Act on the Secretary of State, on education authorities, on parents or on young persons shall be construed as relating to any child or young person who is employed by or under the Crown in any service or capacity with respect to which the Secretary of State certifies that, by reason of the arrangements made for the education of children and young persons employed therein, the exercise and performance of those powers and duties with respect to such children and young persons is unnecessary.

Saving as to lunatics, mental defectives, etc.

140. Subject to the provisions of Part IV of this Act, and to the scheme and rules made thereunder and to the provisions of sections fifty-six, fifty-seven and fifty-eight of this Act, no power or duty conferred or imposed by this Act on the Secretary of State, on education authorities or on parents or young persons shall be construed as relating to any person who is the subject of an order or warrant for his detention or custody under the Lunacy (Scotland) Acts, 1857 to 1919, or is being entertained and kept in an asylum in pursuance of section fifteen of the Lunacy (Scotland) Act, 1866, or is a person for whose safe custody during His Majesty's pleasure His Majesty is authorised to give order or is a prisoner whom the Secretary of State has in pursuance of any Act directed to be removed to a criminal lunatic asylum or to the criminal lunatic department of Perth prison or to an asylum or is a person placed in an institution or a certified house or under guardianship under section four of the Mental Deficiency and Lunacy (Scotland) Act, 1913, or is the subject of an order under

29 & 30 Vict. c. 51.

3 & 4 Geo. 5. c. 38.

PART VII. —*cont.*

sections seven, nine or ten of that Act, or has been reported under section fifty-six of this Act as having been found incapable of receiving education at school, or to any person who is detained in pursuance of an order made by any court.

Exemption from rates.

141. No assessment or rate under any general or local Act for any county, burgh or other local purpose shall be assessed or levied upon or in respect of any land or building used exclusively or mainly for the purposes of the premises of a special school or orphanage in respect of which grants may be paid under paragraph (8) of section seventy of this Act, except to the extent of any profit derived by the managers from the letting thereof.

3. *General.*

Amendment of enactments.

25 & 26 Geo. 5. c. 8.

142.—(1) In relation to any young person punishable under this Act, or under section seventy-eight of the Unemployment Insurance Act, 1935, subsection (3) of section fifty-six and section fifty-eight of the Children and Young Persons (Scotland) Act, 1937 (which relate to the substitution of other punishments for imprisonment), shall have effect as if references therein to a young person included references to any person who has not attained the age of eighteen years.

(2) Any reference in an enactment passed before the second day of July, nineteen hundred and forty-five, to a school in receipt of a parliamentary grant shall, unless the context otherwise requires, be construed as a reference to a school other than an independent school.

Interpretation.

143.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings respectively assigned to them:—

"Accountant" means the accountant appointed in pursuance of section seventy-three of this Act and includes any person appointed from time to time by the Secretary of State for the purpose of exercising the powers or performing the duties conferred or imposed upon the accountant, or any of such powers or duties;

35 & 36 Vict. c. 62.

"Act of 1872" means the Education (Scotland) Act, 1872;

41 & 42 Vict. c. 48.

"Act of 1878" means the Endowed Institutions (Scotland) Act, 1878;

45 & 46 Vict. c. 59.

"Act of 1882" means the Educational Endowments (Scotland) Act, 1882;

8 Edw. 7. c. 63.

"Act of 1908" means the Education (Scotland) Act, 1908;

" Act of 1918 " means the Education (Scotland) Act, 1918; 8 & 9 Geo. 5. c. 48.

" Acts of 1928 to 1935 " means the Educational Endowments (Scotland) Acts, 1928 to 1935;

" Act of 1929 " means the Local Government (Scotland) Act, 1929; 19 & 20 Geo. 5. c. 25.

" Act of 1945 " means the Education (Scotland) Act, 1945; 8 & 9 Geo. 6. c. 37.

" Central institution " means one of the central institutions specified in the Sixth Schedule to this Act and any others which may subsequently be recognised as central institutions by regulations made by the Secretary of State;

" Certificated teacher " means a teacher holding or who is deemed to hold a certificate of competency issued in accordance with regulations made under the Education (Scotland) Acts, 1872 to 1945, or under subsection (2) of section seventy-seven of this Act;

" Child " means a person who is not over school age;

" Clothing " includes boots and other footwear;

" Code " means a code included in regulations under section seventy-one of this Act;

" County " means a county inclusive of any burgh situate therein other than a county of a city;

" Education authority " means—

(*a*) in relation to a burgh being a county of a city, the town council;

(*b*) in relation to counties combined for the purposes mentioned in subsection (7) of section ten of the Act of 1929, the joint county council; and

(*c*) in the case of any other county the county council;

and " area " in relation to an education authority shall be construed accordingly;

" Educational establishment "—

(i) means a school, a junior college and any other institution for the provision of any form of further education and the premises of such school, junior college or institution, and

(ii) without prejudice to the foregoing generality, includes a central institution, a training centre, a training college, a hostel used mainly by pupils attending such schools or junior colleges or institutions, and a residential institution conducted under a scheme under the Educational Endowments (Scotland) Acts, 1928 to 1935, or Part VI of this Act, but

PART VII. —*cont.*

(iii) does not include a university, a theological college, a hostel or other residence used exclusively by students attending a university or a theological college, or a club or other centre conducted by a voluntary society or body for the purpose of providing facilities or organising activities of a character similar to those which may be provided by an education authority under section three of this Act, unless the society or body are in receipt of a grant from the Secretary of State or of a contribution from an education authority or apply in writing to the Secretary of State for the club or centre to be treated in all respects as an educational establishment;

" Employment " includes employment in any labour exercised by way of trade or for purposes of gain whether the gain be to the child or to the young person or to any other person, and a person who assists in a trade or occupation carried on for profit shall be deemed to be employed notwithstanding that he receives no reward for his labour; and " employ " shall be construed accordingly;

" Employer " includes a parent who employs his children;

" Functions " includes powers and duties;

" Further education " has the meaning assigned to it by subsection (5) of section one of this Act;

" Grant-aided school " means a school in respect of which grants are made by the Secretary of State to the managers of the school other than grants in aid of the managers' contributions under Part IV of this Act;

" Independent school " means a school at which full-time education is provided for five or more pupils of school age (whether or not such education is also provided for pupils under or over that age), not being a public school or a grant-aided school;

" His Majesty's inspectors " means the inspectors of schools appointed by His Majesty on the recommendation of the Secretary of State;

" Junior college " has the meaning assigned to it by subsection (5) of section one of this Act;

" Managers ", in relation to an educational establishment, means the governing body, trustees, or other person or body of persons responsible for the management of the establishment;

PART VII. —*cont.*

" Medical examination " means examination by a duly qualified medical practitioner: Provided that in conducting an examination of any such class as may be prescribed, such practitioner may be assisted by other persons having such special qualifications or experience as may be prescribed;

" Medical inspection " and " medical supervision " mean, respectively, inspection and supervision by or under the directions of a duly qualified medical practitioner or in appropriate cases by a person registered under the Dentists Act, 1878; 41 & 42 Vict. c. 33.

" Medical officer " means, in relation to any education authority, a duly qualified medical practitioner employed or engaged, whether regularly or for the purposes of any particular case, by that authority;

" Medical treatment " includes prevention and treatment of diseases by any duly qualified medical practitioner or by any person registered under the Dentists Act, 1878, and the supply of appliances on the recommendation of such practitioner or person, but does not, in relation to any pupil other than a pupil receiving primary or secondary education elsewhere than at school under arrangements made by an education authority under section fourteen of this Act, include treatment in that pupil's home;

" Mental Deficiency Acts " means the Mental Deficiency and Lunacy (Scotland) Acts, 1913 and 1940;

" National committee ", " provincial committee " and " committee of management " mean respectively the National Committee for the Training of Teachers, a Provincial Committee and a Committee of Management established under the minute of the Scottish Education Department dated the tenth day of February, 1920, and include any committee or other body that may be appointed in their place under section forty-nine of the Act of 1945 or section seventy-seven of this Act;

" Nursery school " and " nursery class " have the respective meanings assigned to them by subsection (2) of section one of this Act;

" Officers " includes servants;

" Parent " includes guardian and any person who is liable to maintain or has the actual custody of a child or young person;

" Premises " in relation to any educational establishment includes any building in which pupils attending such establishment are boarded whether managed by the managers of such establishment or by

PART VII. *cont.*

any other person by arrangement with such managers, and any playing fields used in connection with such establishment whether contiguous to or detached therefrom;

" Prescribed ", except in Part IV of this Act, means prescribed by the Secretary of State;

" Primary education " has the meaning assigned to it by subsection (2) of section one of this Act;

" Proprietor " in relation to an independent school means the managers of such school, and for the purposes of the provisions of this Act relating to applications for the registration of independent schools includes any person or body of persons proposing to be the managers;

" Provisionally registered school " means an independent school registered in the register of independent schools whereof the registration is provisional only;

" Public school " means any school under the management of an education authority;

" Pupil " where used without qualification means a person of any age for whom education is or is required to be provided under this Act;

" Registered school " means an independent school the registration of which in the register of independent schools is final;

" School " means an institution providing primary or secondary education or both primary and secondary education being a public school, a grant-aided school or an independent school, and includes a nursery school and a special school; and the expression " school " where used without qualification includes any such school or all such schools as the context may require, but does not include an approved school within the meaning of the Children and Young Persons (Scotland) Act, 1937;

" School age " has, subject to the provisions of section thirty-three and of subsection (2) of this section, the meaning assigned to it by section thirty-two of this Act;

" Secondary education " has the meaning assigned to it by subsection (3) of section one of this Act;

" Special educational treatment " has the meaning assigned to it by subsection (4) of section one of this Act;

PART VII. —*cont.*

"Special school" includes special classes forming part of primary schools and secondary schools, child guidance clinics and occupational centres;

"Teachers Superannuation Scheme" means the superannuation scheme framed and approved under the Education (Scotland) (Superannuation) Acts, 1919 to 1939, and any amendment thereof;

"Training centre" and "training college" mean a centre or college for the purposes of section seventy-seven of this Act managed respectively by a provincial committee or a committee of management;

"Young person" means a person over school age who has not attained the age of eighteen.

(2) Any person who, whether before or after the passing of this Act, has ceased to be of school age shall not in the event of any subsequent change in the upper limit of school age again become a person of school age.

(3) In this Act, unless the context otherwise requires, references to any enactment or any provision of any enactment shall be construed as references to that enactment or provision as amended by any subsequent enactment, including this Act.

Citation, extent, commencement and repeal.

144.—(1) This Act may be cited as the Education (Scotland) Act, 1946.

(2) This Act shall extend to Scotland only.

(3) This Act, except the provisions set forth in the first column of the Seventh Schedule, shall come into operation on the first day of January, nineteen hundred and forty-seven. The said provisions shall respectively come into operation on the days mentioned opposite to them in the second column of the said Schedule, and, where days are to be appointed by the Secretary of State for the coming into operation of any of the said provisions, he may appoint different days for different purposes and different provisions.

(4) The enactments set out in the Eighth Schedule to this Act shall be repealed to the extent specified in the third column of that Schedule:

Provided that without prejudice to the provisions of section thirty-eight of the Interpretation Act, 1889— 52 & 53 Vict. c. 63.

(*a*) any minute, rule, regulation, order or scheme passed or made, any appointment made or any certificate, notice, direction or approval given, or thing done under any enactment repealed by this Act shall, if in force immediately before the commencement of this Act, continue in force notwithstanding such

PART VII. —*cont.*

repeal in like manner as if it had been passed, made, given or done under this Act and, in so far as it could have been passed, made, given or done under a particular provision of this Act, shall be deemed to have been passed, made, given or done under that provision;

(*b*) nothing in this repeal shall affect—

(i) the title of an education authority to any property vested in or held in trust for them immediately before the commencement of this Act; or

(ii) the terms and conditions upon which any officer of an education authority holds his office or the powers of an education authority in relation thereto;

(*c*) a conviction for an offence against any enactment repealed and re-enacted (whether with or without modifications) by this Act, shall for the purposes of any provision of this Act relating to penalties be deemed to be a conviction for an offence against the enactment as so re-enacted.

SCHEDULES.

FIRST SCHEDULE.

Section 63.

LOCAL INQUIRIES.

1. The Secretary of State shall appoint a commissioner to hold the inquiry and to report thereon to him.

2. The commissioner shall notify the bodies and persons appearing to him to be interested of the time when and the place where the inquiry is to be held.

3. The commissioner may by notice in writing require any person—

(*a*) to attend at the time and place set forth in the notice to give evidence or to produce any books or documents in his custody or under his control which relate to any matter in question at the inquiry; or

(*b*) to furnish within such reasonable period as is specified in the notice such information relating to any matter in question at the inquiry as the commissioner may think fit and as the person so required is able to furnish:

Provided that—

(i) no person shall be required in obedience to such a notice to attend at any place which is more than ten miles from the place where he resides unless the necessary expenses are paid or tendered to him; and

(ii) nothing in this paragraph shall empower the commissioner to require any person to produce any book or document or to answer any question which he would be entitled, on the ground of privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.

4. The commissioner may administer oaths and examine witnesses on oath and may accept, in lieu of evidence on oath by any person, a statement in writing by that person supported by a declaration of the truth thereof in such form as the commissioner may require.

5. The inquiry shall unless the Secretary of State otherwise directs be held in public.

6. Any person who refuses or wilfully neglects to attend in obedience to a notice issued under paragraph 3 of this Schedule, or who wilfully alters, suppresses, conceals, destroys or refuses to produce any book or document which he may be required to produce by any such notice, or who refuses or wilfully neglects to comply with any requirement of the commissioner under paragraph 3 of this Schedule, shall be liable on summary conviction to a fine not exceeding twenty pounds or to imprisonment for a period not exceeding three months.

1ST SCH. —*cont.*

7. The Secretary of State may make orders as to the expenses incurred by the parties appearing at the inquiry and as to the parties by whom such expenses shall be paid.

8. Any order by the Secretary of State under paragraph 7 of this Schedule requiring any party to pay expenses may be enforced in like manner as a recorded decree arbitral.

Section 72.

SECOND SCHEDULE.

ANNUAL SUMS CHARGED ON THE CONSOLIDATED FUND.

	Education Area *County*	*Annual sum* £
1.	Argyll	353
2.	Banff	30
3.	Caithness	58
4.	Inverness	128
5.	Orkney	30
6.	Perth	62
7.	Ross and Cromarty	149
8.	Sutherland	89
		£899

Section 99.

THIRD SCHEDULE.

TEACHERS SUPERANNUATION SCHEME.

PART I.

PROVISIONS TO WHICH THE TEACHERS SUPERANNUATION SCHEME SHALL GIVE EFFECT.

The Teachers Superannuation Scheme shall include provision—

1. in the case of every teacher who on the first day of April, nineteen hundred and nineteen, was in receipt of a retiring allowance under the superannuation scheme made in pursuance of section fourteen of the Act of 1908, for the continued payment of the said allowance, and for the payment of such supplementary benefits as may be prescribed:

2. in the case of every other teacher to whom the Teachers Superannuation Scheme applies—

(1) for the payment on retirement after attaining the prescribed age, or on retirement in case of permanent incapacity, of a retiring allowance (which may, if so prescribed, include a lump sum in addition to an annual

3RD SCH. —*cont.*

allowance) not exceeding the prescribed proportion for each completed year of service in Scotland of the pensionable salary of the teacher: Provided that a retiring allowance shall not be payable in respect of less than ten completed years of service;

(2) for the payment on retirement in case of permanent incapacity, after service for a prescribed period less than ten years, of a gratuity not exceeding the prescribed proportion of the pensionable salary of the teacher;

(3) where the teacher dies in service after completing the prescribed period of service, for the payment to his personal representatives of a death gratuity of an amount calculated in the prescribed manner;

(4) for the return to the teacher of any contributions made by him to the Scottish Teachers Superannuation Fund established in accordance with section fourteen of the Act of 1908;

(5) for the repayment to a teacher or to his legal personal representatives, in circumstances and on conditions to be prescribed, of contributions made by him in terms of the Act of 1922, the Act of 1925 or of this Act, together with compound interest on each contribution as from the prescribed date calculated at the rate of three per centum per annum with yearly rests and for the cancellation on such repayment of the service in respect of which the said contributions were paid;

(6) for permitting a teacher in circumstances and on conditions to be prescribed to repay the sums repaid to him under the last foregoing sub-paragraph or under section two of the Act of 1922 or under paragraph (*a*) of subsection (1) of section four of the Act of 1925, together with compound interest thereon calculated from the date of repayment to him at the rate of three and a half per centum per annum with yearly rests, and for the restoration to such teacher on such repayment by him of such claims under the Teachers Superannuation Scheme as he would have had if no repayment had been made to him;

(7) for securing that the total amount of benefit payable under the Teachers Superannuation Scheme to any teacher or to his legal personal representatives together with compound interest on any benefit calculated from the date of payment at three per centum per annum with yearly rests shall not (save as may be otherwise provided in cases where benefit is payable also under the Teachers (Superannuation) Acts, 1918 to 1945), be less than the total amount of the contributions paid by him under the Act of 1922, the Act of 1925 and this Act together with compound interest on such contributions from the prescribed date calculated at three per centum per annum with yearly rests;

3RD SCH. —*cont.*

(8) for securing that, in such circumstances and subject to such conditions as to proof of good health and other matters as may be prescribed, a teacher shall be allowed to surrender as from the date of commencement of an annual retiring allowance granted to him under the Teachers Superannuation Scheme such part not exceeding one-third of the allowance as may be specified, in return for benefits to be prescribed, and for enabling the Secretary of State to grant, in return for such surrender as aforesaid, according as the teacher may in conformity with rules under the Teachers Superannuation Scheme elect, either—

(*a*) to the spouse or to a dependant of the teacher a pension payable in respect of the period, if any, for which the spouse or dependant survives the teacher; or

(*b*) to the teacher an annuity payable as from the date of commencement of the retiring allowance in respect of the period of the joint lives of himself and his spouse and to the spouse a pension payable in respect of the period, if any, for which the spouse survives the teacher:

Provided that the amount of the said pension or the amounts of the said annuity and pension, as the case may be, shall be such that the value, or the aggregate value, thereof shall be actuarially equivalent (according to tables to be prepared from time to time by the Government Actuary), at the date of the commencement of the retiring allowance, to the value of that part of the allowance which is surrendered, so, however, that the said amount or amounts shall be reduced to such extent as the Government Actuary considers sufficient to recoup to the Secretary of State the cost, as estimated by him, of administering the provisions made in pursuance of this sub-paragraph;

(9) for determining, in the case where a teacher has surrendered part of a retiring allowance or of a superannuation allowance under any provision of subsection (3) of section four of the Act of 1937 or of the last foregoing sub-paragraph, how the amounts of any payments to him or his legal personal representatives are to be calculated for the purpose of any provision of the Teachers Superannuation Scheme, and for applying any provision of the said scheme, with or without modifications, in respect of pensions and annuities granted under subsection (3) of section four of the Act of 1937 or under the last foregoing sub-paragraph and of persons entitled thereto;

(10) for enabling a teacher whose service is discontinued—

(*a*) for a period not exceeding five years, or not exceeding such longer period as the Secretary of State may in the special circumstances of a particular case

direct, in the case of a teacher who during that period is employed—

(i) as a teacher in any part of His Majesty's dominions outside the United Kingdom, or

(ii) as a teacher in any school in a foreign country which is shown to the satisfaction of the Secretary of State to be a school in which it is expedient to facilitate the employment of British teachers, or

(iii) in an educational service outside the United Kingdom in employment which to a substantial extent involves the control or supervision of teachers, or

(*b*) for a period not exceeding one year in any other case,

to pay into the Education (Scotland) Fund with the consent of the Secretary of State in respect of such period sums equal to ten per centum of his salary as at the date of discontinuing service, so that the said period may be reckoned as a period of service within the meaning of the Teachers Superannuation Scheme, and for determining the amount of such payments which shall be reckoned as contributions by the teacher:

3. for the disposal and application of the Scottish Teachers Superannuation Fund established in accordance with section fourteen of the Act of 1908:

4. for such other matters as appear necessary to carry out the purposes of Part IV of this Act.

PART II

PROVISIONS TO WHICH THE TEACHERS SUPERANNUATION SCHEME MAY GIVE EFFECT.

The Teachers Superannuation Scheme may without prejudice to the generality of paragraph 4 of the First Part of this schedule provide—

1. for the adjustment of existing interests under the Elementary School Teachers (Superannuation) Act, 1898, or the scheme framed in pursuance of section fourteen of the Act of 1908; 61 & 62 Vict. c. 57.

2. for the adjustment of retiring allowances, gratuities or death gratuities in the case of teachers re-entering service after retirement therefrom;

3. for the retirement from service at a prescribed age of teachers to whom the scheme applies;

4. for the refusal, reduction or suspension of any benefit in the case of any teacher who has been guilty of misconduct;

5. for the protection of benefits against the diligence of creditors;

6. for dispensing with the necessity for confirmation before payment of benefits to the legal personal representatives of a deceased teacher;

3RD SCH. —*cont.*

7. for giving effect to any arrangements made with any authority administering any statutory scheme of superannuation for school teachers in any part of His Majesty's dominions, providing for the extension (whether with or without modification) of the Teachers Superannuation Scheme to service in the capacity of a teacher in that part of His Majesty's dominions and for the extension of such statutory scheme to service within the meaning of the Teachers Superannuation Scheme;

8. for applying on such conditions and with such modifications in regard to contributions and otherwise as may be prescribed the provisions of the Teachers Superannuation Scheme to teachers in schools which are not otherwise within the scope of the said Scheme:

Provided that the contributions payable by and in respect of such teachers shall be at rates prescribed from time to time after consultation with the Government Actuary with a view to securing that the contributions paid shall be equal in value to the benefits to be accorded in respect of such contributions;

9. for the calculation of benefit in such special circumstances and in such manner as may be prescribed by reference to the actual period of service in lieu of the completed years of service;

10. for the making by the Secretary of State of rules for the purpose of giving effect to the provisions of Part IV of this Act and for carrying the Teachers Superannuation Scheme into effect;

11. for applying, with such modifications as appear necessary, any provisions contained in any Act of Parliament or Provisional Order confirmed by Parliament dealing with superannuation, including any penal provisions thereof;

12. for the final settlement by the Secretary of State of any questions which may arise as to the application of any part of the scheme framed in pursuance of section fourteen of the Act of 1908 or the Teachers Superannuation Scheme to any person, or as to the amount of any benefit, or as to the payment, refusal, reduction or suspension of any benefit, or as to the return of any contribution to the Scottish Teachers Superannuation Fund established in accordance with section fourteen of the Act of 1908, or as to the reckoning of any service.

PART III.

ARTICLES INCORPORATED IN THE TEACHERS SUPERANNUATION SCHEME.

The following articles shall be incorporated in the Teachers Superannuation Scheme:—

1.—(1) Where, for the purpose of enabling a teacher to gain special experience of value in teaching, his service is discontinued for such period exceeding one year but not exceeding five years as the Secretary of State may approve, being a period beginning on or after the first day of January nineteen hundred and forty-two, the teacher

3RD SCH. —*cont.*

may pay into the Education (Scotland) Fund with the consent of the Secretary of State in respect of such period sums equal to ten per centum of his salary as at the date of discontinuing service, so that the said period may be reckoned as a period of service within the meaning of this Scheme.

(2) The Secretary of State may determine the amount of such payments which shall be reckoned as contributions by the teacher.

2.—(1) Notwithstanding anything in any enactment, a teacher employed in service within the meaning of this Scheme shall not be subject to an independent superannuation scheme in respect of that service.

(2) Where a teacher who becomes employed in service within the meaning of this Scheme after the first day of July, nineteen hundred and forty-five,—

(*a*) has, not more than one year before he so becomes employed in such service, been subject to an independent superannuation scheme, and

(*b*) would, but for the foregoing paragraph, be subject to such a scheme in respect of the service in which he so becomes employed,

the service in which he so becomes employed shall not be treated as service within the meaning of this Scheme, and he shall be subject to the independent superannuation scheme accordingly:

Provided that if any teacher who is subject to an independent superannuation scheme by virtue of the foregoing provisions of this paragraph elects within the prescribed time and in the prescribed manner to withdraw from the scheme, the said provisions shall not have effect in relation to any service in which he is employed after the election takes effect.

(3) Where any teacher makes such an election, the election shall take effect as from the second day of July, nineteen hundred and forty-five, or as from the time when he entered the service in which he is for the time being employed, whichever is the later.

(4) Where any such election is made by a teacher who is a contributory employee or a local Act contributor as defined by the Local Government Superannuation (Scotland) Act, 1937, he shall be entitled to receive out of the appropriate superannuation fund a sum equal to the aggregate amount of his contributions to that fund calculated in accordance with subsection (5) of section ten of the said Act of 1937, or, as the case may be, in accordance with the corresponding provision of the local Act scheme, together with compound interest on those contributions, calculated to the date on which he ceases to be a contributory employee or a local Act contributor at the rate of three per cent. per annum with half-yearly rests.

1 Edw. 8. & 1 Geo. 6. c. 69.

(5) In this article the expression 'independent superannuation scheme' means:—

(*a*) any superannuation scheme other than this Scheme (including a superannuation scheme established by or under any public general or local Act of Parliament or Provisional Order confirmed by Act of Parliament) which provides for the payment

3RD SCH. —*cont.*

of contributions to a fund by any local authority or the persons responsible for the management of any educational establishment or other educational institution, and for the payment out of that fund, in respect of service rendered to the authority or to those persons, of benefits on disablement, retirement, attainment of any specified age or death; and

(*b*) any system of superannuation (not being a system established by or under any public general or local Act of Parliament or Provisional Order confirmed by Act of Parliament) operated jointly by a number of educational establishments or other educational institutions for the purpose of providing such benefits as aforesaid in respect of the service of persons employed by them.

3.—(1) Subject to the provisions of this article, where a teacher who is employed in service within the meaning of this Scheme after the second day of July, nineteen hundred and forty-five, by an education authority has before the said day been in whole-time paid employment in connection with education in Scotland, such employment shall, if he makes application to the Secretary of State for that purpose within the prescribed time and in the prescribed manner, be treated for the purposes of this Scheme as if it had been service within the meaning thereof:

Provided that if upon making such an application he requests that his employment before any date specified by him shall not be treated as if it had been service within the meaning of this Scheme, his said employment before that date shall not be so treated by virtue of this article.

(2) Where an application made by a teacher under this article relates, whether wholly or in part, to employment after the thirty-first day of May, nineteen hundred and twenty-two, he shall be liable to pay the appropriate contributions to the Secretary of State in respect of that employment in accordance with rules made by the Secretary of State; and no employment after the said date shall be treated as service within the meaning of this Scheme by virtue of this article unless the appropriate contributions are so paid in respect thereof.

(3) For the purposes of this article, the appropriate contributions are the contributions which would have been payable by the teacher in respect of the employment in question under the Education (Scotland) (Superannuation) Acts, 1919 to 1939, or the Education (Scotland) Act, 1946, if that service had been service within the meaning of this Scheme.

(4) Where a teacher has ceased to be in employment which is treated as service within the meaning of this Scheme by virtue of this article in order to undertake war service, the provisions of the Education (Scotland) (War Service Superannuation) Act, 1939, shall have effect accordingly with respect to his period of war service, including any such period which falls after the second day of July, nineteen hundred and forty-five.

2 & 3 Geo. 6. c. 96.

4.—(1) Subject to the provisions of this article, where any period of employment after the fifteenth day of May, nineteen hundred and twenty-three, including any period of war service, is treated as service within the meaning of this Scheme by virtue of the last foregoing

article, the contributions (hereinafter referred to as ' employer's contributions ') which would have been payable under the Education (Scotland) (Superannuation) Acts, 1919 to 1939, or the Education (Scotland) Act, 1946, by the teacher's employer in respect of that employment shall be paid to the Secretary of State by the education authority by whom the teacher in question is employed in service within the meaning of this Scheme when he first becomes entitled to make an application under the last foregoing article.

(2) Where a teacher who has been a contributory employee or a local Act contributor as defined by the Local Government Superannuation (Scotland) Act, 1937, (hereinafter referred to as a Local Government Superannuation Act employee), becomes, not more than one year after ceasing to be a Local Government Superannuation Act employee, entitled to make an application under the last foregoing article, no employer's contributions shall be payable in respect of any employment which he was, immediately before he last ceased to be a Local Government Superannuation Act employee, entitled to reckon for superannuation purposes under the said Act of 1937 or under any local Act scheme as defined by that Act.

(3) In lieu of the employer's contributions which would have been payable in respect of any employment but for the last foregoing paragraph, there shall be paid to the Secretary of State in respect of that employment, out of the appropriate superannuation fund, a sum equivalent to the difference between the sum which has become or will become payable out of that fund in respect of the past contributions of the teacher who made the application (including any sum payable as interest upon such contributions) and the transfer value which would have been payable out of that fund under section twenty-four of the Local Government Superannuation (Scotland) Act, 1937, if, after he last ceased to be entitled to participate in the benefits of the fund, the said teacher had forthwith become entitled to participate in the benefits of some other superannuation fund maintained under that Act or under a local Act scheme as defined by that Act:

Provided that the sum paid to the Secretary of State by virtue of this paragraph in respect of any employment shall not exceed the aggregate amount of the contributions which would have been payable under the Education (Scotland) (Superannuation) Acts, 1919 to 1939, or the Education (Scotland) Act, 1946, by the teacher's employer in respect of that employment.

(4) For the purpose of the last foregoing paragraph—

(*a*) the appropriate superannuation fund is the fund in the benefits of which the teacher in question was last entitled to participate as a Local Government Superannuation Act employee before becoming entitled to make the application under the last foregoing article; and

(*b*) the expression ' past contributions ' includes in relation to a contributory employee all such contributions as are mentioned in subsection (5) of section ten of the Local Government Superannuation (Scotland) Act, 1937, and in relation to a local Act contributor shall be construed accordingly.

3RD SCH. —*cont.*

(5) Where a teacher ceased to be employed in any capacity in respect of which he was a Local Government Superannuation Act employee in order to undertake service which he was entitled to reckon for superannuation purposes by virtue of the Education (Scotland) (War Service Superannuation) Act, 1939, paragraphs (2), (3) and (4) of this article shall have effect as if he had continued to be a Local Government Superannuation Act employee during the period of service which he was so entitled to reckon.

(6) Any reference in this article to the contributions which would have been payable under the Education (Scotland) (Superannuation) Acts, 1919 to 1939, or the Education (Scotland) Act, 1946, by the teacher's employer in respect of the employment of any teacher shall, in relation to a period of war service, be construed as a reference to such employer's contributions only as would have been payable in respect of his service during that period, if immediately before undertaking war service he had been employed by an education authority, governing body or other body of managers.

5.—(1) Where by virtue of section one of the Education (Scotland) (War Service Superannuation) Act, 1939, a teacher's period of war service is treated as if it were a period of service within the meaning of this Scheme, he may at any time during that period require the Secretary of State to repay to him a sum equal to the balance of his contributions computed as at the date of repayment.

(2) Where any teacher makes such a requirement, his period of war service after the requirement is made shall not be treated as if it were a period of service within the meaning of this Scheme by virtue of the said Act of 1939.

(3) Where the balance of any teacher's contributions is repaid under this article, the provisions of sub-paragraphs (5) and (6) of paragraph 2 of Part I of the Third Schedule to the Education (Scotland) Act, 1946, shall have effect as if a repayment had been made under the said sub-paragraph (5).

(4) The balance of a teacher's contributions shall be calculated for the purposes of this article as it is calculated for the purposes of sub-paragraphs (5) and (6) of paragraph 2 of Part I of the Third Schedule to the Education (Scotland) Act, 1946.

6. A death gratuity shall not be payable to the legal personal representative of a teacher where the amount thereof would be less than the amount of the contributions made by the teacher in terms of the Education (Scotland) (Superannuation) Acts, 1919 to 1939, and Part IV of the Education (Scotland) Act, 1946, together with compound interest on each contribution as from the prescribed date calculated at the rate of three per centum per annum with yearly rests, but under deduction of—

(*a*) any contributions returned to the teacher and not repaid by him, and

(*b*) any other sums paid or payable under this scheme to him or to his legal personal representative.

FOURTH SCHEDULE.

Section 106.

TEACHERS SUPERANNUATION ACCOUNT.

1. The accounting periods for which the account shall be made up shall be from the first day of April in each year to the thirty-first day of March in the next year.

2. There shall be treated as having been paid into the revenue for each accounting period—

(*a*) by teachers the amount of teachers' contributions attributable to the period, and by the education authorities, governing bodies or other bodies of managers by whom such teachers are employed a sum equal to that amount; and

(*b*) out of the Education (Scotland) Fund a sum equal to the expenditure during the period upon superannuation and other allowances attributable to service before the first day of June, nineteen hundred and twenty-two; and

(*c*) a sum representing interest at the rate of three and a half per cent. per annum on the mean balance, if any, of revenue over expenditure during the period; such mean balance being calculated by adding together one half of the balance (exclusive of any interest under this paragraph) remaining at the end of the period and one half of the balance, if any, carried forward from the last preceding accounting period; and

(*d*) the amount of any balance of revenue over expenditure remaining at the end of the last preceding accounting period; and

(*e*) any other revenue attributable to the period.

3. There shall be shown the expenditure upon allowances and gratuities attributable to service before the first day of June, nineteen hundred and twenty-two, separately from expenditure upon allowances, gratuities, and the return of contributions attributable to service since that date.

FIFTH SCHEDULE.

Section 111.

CONSTITUTION OF INDEPENDENT SCHOOLS TRIBUNALS.

1. For the purpose of enabling Independent Schools Tribunals to be constituted as occasion may require, there shall be appointed by the Secretary of State a panel (hereinafter referred as the "educational panel") of persons to act when required as members of any such tribunal.

5TH SCH. —*cont.*

2. No officer of any government department and no person employed by an education authority in any capacity other than that of a teacher shall be qualified to be appointed to the educational panel, and no person shall be so qualified unless he has had such experience in teaching or in the conduct, management or administration of schools as the Secretary of State considers suitable.

3. Any person appointed to be a member of the educational panel shall hold office for such period and subject to such conditions as may be determined by the Secretary of State.

4. Where any complaint is required to be determined by an Independent Schools Tribunal, the tribunal shall consist of the sheriff (or, if he is unable to act, a person qualified for appointment as sheriff nominated by the Lord President of the Court of Session), who shall be chairman, and two other members appointed from the educational panel by the Secretary of State, of whom at least one shall be a woman in the case of a complaint concerning a school for girls or a complaint concerning the proprietor of a school, or a teacher therein, who is a woman.

5. In this Schedule the expression "sheriff" does not include sheriff-substitute, and means the sheriff of the county in which the school to which the complaint relates is situated, or, in the case of an appeal against a refusal to remove a disqualification, the sheriff of the county where the appellant resides.

Section 143 (1).

SIXTH SCHEDULE.

LIST OF CENTRAL INSTITUTIONS.

Dundee Institute of Art and Technology.
Edinburgh and East of Scotland College of Agriculture.
Edinburgh College of Art.
Edinburgh College of Domestic Science.
Glasgow and West of Scotland College of Domestic Science.
Glasgow and West of Scotland Commercial College.
Glasgow School of Art.
Glasgow Veterinary College.
Heriot-Watt College, Edinburgh.
Leith Nautical College.
North of Scotland College of Agriculture, Aberdeen.
Robert Gordon's Technical College, Aberdeen.
Royal (Dick) Veterinary College, Edinburgh.
Royal Scottish Academy of Music.
Royal Technical College, Glasgow.
Scottish Woollen Technical College, Galashiels.
West of Scotland Agricultural College, Glasgow.

SEVENTH SCHEDULE.

Section 144 (3).

POSTPONEMENT OF THE COMMENCEMENT OF CERTAIN PROVISIONS.

Provision.	Day upon which the provision shall come into operation.
In section one, paragraph (*a*) of subsection (5).	Such day as the Secretary of State may appoint.
Section two so far as relating to compulsory further education and junior colleges.	do.
Section three so far as relating to junior colleges.	do.
In section seven, paragraph (*d*) of subsection (7), and subsection (8) so far as relating to compulsory further education.	do.
In section ten, subsection (1) so far as relating to junior colleges.	do.
Section eleven so far as relating to junior colleges.	do.
Section thirteen so far as relating to junior colleges.	do.
Section seventeen so far as relating to junior colleges.	do.
Section twenty so far as relating to junior colleges.	do.
Section twenty-four so far as relating to junior colleges.	do.
Section thirty-four	The day upon which the upper limit of the school age is raised to fifteen.
Sections thirty-nine to forty-one	Such day as the Secretary of State may appoint being a day not later than three years after the date on which the upper limit of the school age is raised to fifteen.
Section forty-two	Such day as the Secretary of State may appoint.
Section forty-four so far as relating to junior colleges and in subsection (1) paragraph (*c*).	do.
Section forty-six so far as relating to junior colleges.	do.
Section forty-seven so far as relating to junior colleges.	do.

7TH SCH. —*cont.*

Provision.	Day upon which the provision shall come into operation.
Section fifty-one so far as relating to junior colleges.	Such day as the Secretary of State may appoint.
Section fifty-two so far as relating to junior colleges.	do.
Section sixty-one so far as relating to junior colleges.	do.
Section sixty-four so far as relating to junior colleges.	do.
Section seventy-one so far as relating to junior colleges.	do.
In section seventy-six, subsection (2).	do
Section seventy-eight so far as relating to junior colleges.	do.
Section ninety-eight so far as relating to junior colleges.	do.
Sections one hundred and nine to one hundred and fifteen.	do.
Section one hundred and thirty-seven.	Such day as the Secretary of State may appoint being a day not later than three years after the day on which the upper limit of the school age is raised to fifteen.
Fifth Schedule	Such day as the Secretary of State may appoint.
Eighth Schedule so far as relating to—	
The Education (Scotland) Act, 1901;	The day upon which the upper limit of the school age is raised to fifteen.
The Education (Scotland) Act, 1908, sections one, two, nine and eleven;	do.
The Unemployment Insurance Act, 1935;	Such day as the Secretary of State may appoint.
The Unemployment Insurance Act, 1938; and	do.
The Education (Scotland) Act, 1945, the Fourth Schedule so far as it amends the Unemployment Insurance Act, 1935, sections seventy-eight, eighty-seven, one hundred and four and one hundred and thirteen.	do.

EIGHTH SCHEDULE.

Section 144 (4).

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
35 & 36 Vict. c. 62.	The Education (Scotland) Act, 1872.	The whole Act so far as unrepealed.
36 & 37 Vict. c. 53.	The Highland Schools Act, 1873.	The whole Act so far as unrepealed.
45 & 46 Vict. c. 59.	The Educational Endowments (Scotland) Act, 1882.	The whole Act so far as unrepealed.
52 & 53 Vict. c. 50.	The Local Government (Scotland) Act, 1889.	Section eighty-seven.
1 Edw. 7. c. 9...	The Education (Scotland) Act, 1901.	The whole Act so far as unrepealed.
8 Edw. 7. c. 63	The Education (Scotland) Act, 1908.	The whole Act so far as unrepealed.
8 & 9 Geo. 5. c. 48.	The Education (Scotland) Act, 1918.	The whole Act so far as unrepealed except sections three and seventeen, in section thirty-one, paragraph (1) so far as necessary for the interpretation of section three, in section thirty-two, subsection (1) so far as it relates to the Third Schedule, section thirty-three, and the Third Schedule.
9 & 10 Geo. 5. c. 17.	The Education (Scotland) (Superannuation) Act, 1919.	The whole Act so far as unrepealed.
10 & 11 Geo. 5. c. 49.	The Blind Persons Act, 1920.	In section four, in subsection (1), paragraph (*b*).
12 & 13 Geo. 5. c. 48.	The Education (Scotland) (Superannuation) Act, 1922.	The whole Act.
14 & 15 Geo. 5. c. 13.	The Education (Scotland) (Superannuation) Act, 1924.	The whole Act.
15 & 16 Geo. 5. c. 55.	The Education (Scotland) (Superannuation) Act, 1925.	The whole Act so far as unrepealed.
15 & 16 Geo. 5. c. 89.	The Education (Scotland) Act, 1925.	Section one.
16 & 17 Geo. 5. c. 47.	The Rating (Scotland) Act, 1926.	Section six.
18 & 19 Geo. 5. c. 30.	The Educational Endowments (Scotland) Act, 1928.	The whole Act so far as unrepealed.

8TH SCH. —*cont.*

Session and Chapter.	Short Title.	Extent of Repeal.
19 & 20 Geo. 5. c. 25.	The Local Government (Scotland) Act, 1929.	In section twelve, in paragraph (*c*) of subsection (3), the words from " Where a county or town council " to the end of the subsection; section thirty-one; in section fifty-two, subsection (4); in the Third Schedule, paragraph 14; and in the Sixth Schedule the first paragraph (which relates to payments to the Education (Scotland) Fund.)
22 & 23 Geo. 5. c. 5.	The Educational Endowments (Scotland) Act, 1931.	The whole Act.
23 & 24 Geo. 5. c. 22.	The Teachers (Superannuation) Act, 1933.	The whole Act so far as unrepealed.
25 & 26 Geo. 5. c. 35.	The Teachers (Superannuation) Act, 1935.	The whole Act.
25 & 26 Geo. 5. c. 5.	The Educational Endowments (Scotland) Act, 1935.	The whole Act.
25 & 26 Geo. 5. c. 8.	The Unemployment Insurance Act, 1935.	Sections seventy-six and seventy-eight; in section seventy-nine, in subsection (1), the words " and contribute towards the cost of any other authorised courses "; in section eighty, in subsection (1), the words " persons who have not attained the age of eighteen years and of " and the words " who have attained that age," and in subsection (2), paragraph (*a*); in section eighty-three, subsections (2) and (3); in section eighty-seven as amended by the Fourth Schedule to the Act of 1945, subsection (5); in section one hundred and four, in subsection (2), the words " section seventy-eight or "; section one hundred and twelve; and in section one hundred and thirteen, in paragraph (*b*) of subsection (1) as amended by the Fourth Schedule to the Act of 1945, the words " a course at a junior college established under the enactments relating to education or ".

8TH SCH. —*cont.*

Session and Chapter.	Short Title.	Extent of Repeal.
26 Geo. 5 & 1 Edw. 8. c. 42.	The Education (Scotland) Act, 1936.	The whole Act so far as unrepealed except sections sixteen and eighteen and the schedule so far as it relates to the amendment of section three of, and paragraph 3 of the Third Schedule to, the Act of 1918.
1 Edw. 8 & 1 Geo. 6. c. 47.	The Teachers (Superannuation) Act, 1937.	Section four; and in section five, in subsection (1), from the words " and in so far as it relates to Scotland " to the end of the subsection.
1 & 2 Geo. 6. c. 8.	The Unemployment Insurance Act, 1938.	Sections one and six.
5 & 6 Geo. 6. c. 5.	The Education (Scotland) Act, 1942.	The whole Act.
8 & 9 Geo. 6. c. 37.	The Education (Scotland) Act, 1945.	The whole Act except section forty-four, in section eighty-six, subsection (3), in section eighty-seven, subsection (1) so far as necessary for the interpretation of section forty-four, and subsection (2), in section eighty-nine, subsections (1) and (3), and the Fourth Schedule in so far as it amends— (*a*) the Mental Deficiency and Lunacy (Scotland) Act, 1913; (*b*) the Local Government (Scotland) Act, 1929, sections three, twelve, fourteen and seventeen; (*c*) the Unemployment Insurance Act, 1935, section one hundred and thirteen and the First Schedule; (*d*) the National Health Insurance Act, 1936; (*e*) the Children and Young Persons (Scotland) Act, 1937; (*f*) the Factories Act, 1937; and (*g*) the Education (Scotland) (War Service Superannuation) Act, 1939.

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