SUPPLIED FOR THE PUBLIC SERVICE



CHAPTER 20.

An Act to make provision for promoting economy and efficiency in the carrying on of the work of public and certain other schools under war conditions.

[22nd May 1941.]

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 :—

Power to make orders with respect to certain schools.

1.—(1) As respects any of the following schools namely—

(*a*) any school to which the Public Schools Acts, 1868 to 1873, apply ; or

(*b*) any school administered by a body incorporated by Royal Charter ;

His Majesty may by Order in Council, upon the application of the governing body of the school, make such provision as appears to Him to be necessary or expedient for the purposes of securing economy or efficiency in the carrying on of the work of the school under war conditions.

(2) As respects any other school, being a school with respect to the endowments of which the Board of Education has power to make, or to establish, or to approve and certify, a scheme under the Endowed Schools Acts, 1869 to 1908, or under the Charitable Trusts Acts, 1853 to 1925, the Board may by order, upon the application of the governing body of the school, make such provision as appears to the Board to be necessary or expedient as aforesaid.

(3) Without prejudice to the generality of the foregoing provisions of this section, any Order in Council or order made

thereunder with respect to any school may in particular provide for enabling the governing body of the school—

(*a*) to apply, during the war period, the income or capital of any endowment of the school for purposes other than those for which, apart from the provisions of the Order in Council or order, such income or capital might be applied;

(*b*) to suspend or reduce during the war period any payments required to be made into any sinking fund established in connection with the administration of the finances of the school, and to extend the period during which any such payments are to be made;

(*c*) to vary, so far as it relates to the war period, any provision relating to the election or retirement of members of the governing body or to the meetings of that body;

(*d*) to delegate the exercise during the war period of any of the functions of the governing body to such person as may be provided for by or under the Order in Council or order:

Provided that—

(A) any Order in Council or order conferring on a governing body the powers as to capital mentioned in paragraph (*a*) of this subsection shall state specifically the maximum amount of the capital that may be applied by virtue of the powers, the purposes for which it may be so applied and the purposes for which it could have been applied apart from the provisions of the Order in Council or order; and, where such an Order in Council or order is proposed to be made, a draft of the Order shall not be presented to His Majesty in Council, or the order shall not be made, as the case may be, until a copy thereof has lain before each House of Parliament for a period of forty days, and, if either House within that period resolves that the draft be not so presented, or that the order be not made, as the case may be, no further proceedings shall be taken thereon; and

(B) any Order in Council or order conferring on a governing body the powers as to income mentioned in paragraph (*a*) or the powers mentioned in paragraph (*b*) of this subsection shall provide that those powers shall not be exercised—

(i) in the case of an Order in Council, without the consent of the Lord President of the Council; or

(ii) in the case of an order, without the consent of the Board of Education.

(4) In reckoning for the purposes of proviso (A) of the last foregoing subsection the period of forty days therein mentioned, 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.

(5) Before making an application under this section for an Order in Council or order affecting property held in trust for any school by trustees other than the governing body thereof, the governing body shall consult those trustees; and any representations in writing made by those trustees with respect to the application shall be submitted together with the application.

(6) Any Order in Council or order made under this section as respects any school may contain such incidental or consequential provisions as appear to His Majesty, in the case of an Order in Council, or to the Board of Education, in the case of an order, to be expedient, and shall have effect notwithstanding any instrument or thing whatsoever (including an Act of Parliament) regulating the constitution, endowments or functions of the school.

(7) Any such Order in Council or order may provide that all or any of the provisions thereof shall be deemed to have come into operation on such date before the making thereof (whether before or after the commencement of this Act) as may be specified therein, and may be varied or revoked by a subsequent Order in Council or order made in like manner.

(8) For the purposes of this section—

(*a*) the expression "endowment", in relation to any school, includes any fund held for the benefit of the school or of past or present members thereof or teachers thereat;

(*b*) the expression "governing body", in relation to any school mentioned in subsection (1) of this section, means such body as His Majesty in Council determines to be the body charged with the government of the school, and in relation to any other school, being a school mentioned in subsection (2) of this section, such body as the Board of Education determines to be the body so charged;

(*c*) the expression "war period" means the period beginning with the second day of September, nineteen hundred and thirty nine, and ending with the date on which the Emergency Powers (Defence) Act, 1939, expires. 2 & 3 Geo. 6. c. 62.

2. This Act in its application to Scotland shall have effect as if— Application to Scotland.

(*a*) subsection (1) of section one were omitted;

(*b*) for subsection (2) of section one the following subsection were substituted—

"As respects any school with respect to the endowments of which the Secretary of State has power to frame schemes under the Educational Endowments (Scotland) Acts, 1928 to 1935, the Secretary of State may by order, upon the application of the governing body of the school, make such provision as appears to him to be necessary or expedient for the purpose of securing economy or efficiency in the carrying on of the work of the school under war conditions." ;

(*c*) for the proviso to subsection (3) of section one there were substituted the following—

"Provided that—

(A) any order conferring on a governing body the powers as to capital mentioned in paragraph (*a*) of this subsection shall state specifically the maximum amount of the capital that may be applied by virtue of the powers, the purposes for which it may be so applied and the purposes for which it could have been applied apart from the provisions of the order ; and no such order shall be made until a copy thereof has lain before each House of Parliament for a period of forty days, and, if either House within that period resolves that the order be not made, no further proceedings shall be taken thereon ; and

(B) any order conferring on a governing body the powers as to income mentioned in paragraph (*a*) or the powers mentioned in paragraph (*b*) of this subsection shall provide that these powers shall not be exercised without the consent of the Secretary of State." ;

(*d*) for any reference to the Board of Education a reference to the Secretary of State were substituted.

Short title and extent.

3.—(1) This Act may be cited as the Public and Other Schools (War Conditions) Act, 1941.

(2) This Act shall not extend to Northern Ireland.

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