



Education Act 1976

1976 CHAPTER 81

An Act to amend the law relating to education.

[22nd November 1976]

BE IT ENACTED by the Queen'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:—

Comprehensive schools

1 The comprehensive principle

- (1) Subject to subsection (2) below, local education authorities shall, in the exercise and performance of their powers and duties relating to secondary education, have regard to the general principle that such education is to be provided only in schools where the arrangements for the admission of pupils are not based (wholly or partly) on selection by reference to ability or aptitude.
- (2) Subsection (1) above shall not be construed as affecting—
 - (a) the provision, whether in special schools or otherwise, of special educational treatment as mentioned in section 8(2)(c) of the Education Act 1944 (provision for pupils suffering from disability of mind or body); or
 - (b) the provision of education in any school where arrangements for the admission of pupils to the school are based on selection wholly or mainly by reference to ability or aptitude for music or dancing.

2 Submission of proposals for giving effect to comprehensive principle

- (1) If at any time it appears to the Secretary of State that progress or further progress in giving effect to the principle stated in section 1 above is required in the area or any part of the area of any local education authority, he may require the authority to prepare and submit to him, within such time as he may specify, proposals for the purpose of giving effect to that principle in the area of the authority or in any part of that area specified by him.

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- (2) Before submitting any proposals under this section a local education authority shall consult the managers or governors, or persons representing the managers or governors, of every voluntary school (whether or not in their area) which is in the authority's opinion affected by the proposals; and, if the managers or governors of any voluntary school in their area so request, the authority shall transmit to the Secretary of State with their own proposals any proposals made by the managers or governors for the purpose mentioned in subsection (1) above.
- (3) If it appears to the Secretary of State—
- (a) that, having regard to any proposals submitted to him under this section by a local education authority, a significant change in the character, or a significant enlargement of the premises, of a voluntary school in their area is required ; and
 - (b) that no satisfactory proposals for that purpose have been transmitted to him under subsection (2) above,
- the Secretary of State may require the managers or governors of the school to prepare and submit to him, within such time as he may specify, proposals for that purpose.
- (4) Without prejudice to the foregoing provisions, the Secretary of State may require a local education authority or the managers or governors of a voluntary school to prepare and submit to him, within such time as he may specify, further proposals in substitution for any proposals previously submitted by them under this section which appear to him to be unsatisfactory; and any such requirement—
- (a) shall be accompanied by a statement of the matters in relation to which the previous proposals are in his opinion unsatisfactory and of the reasons for his opinion; and
 - (b) may specify conditions to be fulfilled by the further proposals with respect to any of those matters.
- (5) Proposals prepared and submitted under this section shall be in such form as the Secretary of State may direct and shall indicate the times when they are respectively to be carried into effect.
- (6) Where at the passing of this Act the arrangements for the admission of pupils to schools in, or in any part of, the area of a local education authority are based partly on selection by reference to ability or aptitude, the Secretary of State shall not, for such period as he thinks fit, require the authority to prepare and submit proposals under this section in relation to those schools if it appears to him that the purpose of the arrangements is to secure the even distribution between the schools of pupils of different degrees of ability or aptitude.

3 Approval and implementation of proposals submitted under s. 2

- (1) Where any of the proposals submitted or transmitted to the Secretary of State under section 2 above are—
- (a) proposals by a local education authority for any such action as is mentioned in subsection (1) of section 13 of the Education Act 1944 (establishing, maintaining, changing character of or enlarging county school or ceasing to maintain county school or voluntary school); or
 - (b) proposals by the managers or governors of a voluntary school for any such action as is mentioned in subsection (2) of that section (maintaining, changing character of or enlarging voluntary school),

being proposals to be wholly or partly carried into effect within five years after the date on which they are submitted or transmitted, the Secretary of State may direct that those proposals (or any of them) shall be treated as if they had been submitted to him by the local education authority under subsection (1), or by the managers or governors under subsection (2), of that section, as the case may be.

- (2) Where the Secretary of State gives a direction under this section in relation to any proposals submitted to him under section 2(3) or (4) above by the managers or governors of an aided or special agreement school, he shall not approve the proposals under the said section 13 if the managers or governors satisfy him that, notwithstanding the maintenance contributions payable by him under section 102 of the said Act of 1944, they will be unable to defray the expenses of giving effect to the proposals.
- (3) In relation to proposals treated by virtue of this section as submitted under subsection (1) or (2) of the said section 13, subsection (6) of that section shall have effect as if the words " unless they do not intend to give effect to the proposals " were omitted.

Miscellaneous

4 Duty to implement approved proposals as to maintenance or change in character of school

- (1) Section 13 of the Education Act 1944 shall have effect with the following amendments (being amendments requiring the implementation of approved proposals as to the maintenance of a school or as to changes in its character).
- (2) For subsection (8) there shall be substituted—
 - “(8) When proposals for the maintenance of a school or proposals that a local education authority should cease to maintain a school have been approved by the Secretary of State under this section, it shall be the duty of the local education authority to maintain or, as the case may be, to cease to maintain the school in accordance with the proposals.”
- (3) After subsection (9) there shall be inserted—

“(9A) When proposals for the making of any change in the character of a school have been approved by the Secretary of State under this section, it shall be the duty of the local education authority or, in the case of a voluntary school, the managers or governors to give effect to the proposals.”

5 Approval of arrangements with non-maintained schools

- (1) The power of the Secretary of State to give his approval to arrangements under section 9(1) of the Education Act 1944 (arrangements for assisting non-maintained schools) or section 6(1) of the Education (Miscellaneous Provisions) Act 1953 (arrangements for provision of education at non-maintained schools) shall include power to revoke any approval previously given under that section.
- (2) Regulations under section 81(b) of the said Act of 1944 (power of local education authorities to pay fees and expenses in respect of children attending fee-paying schools) may include provision requiring local education authorities to exercise their

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powers under the regulations in accordance with arrangements approved by the Secretary of State and for enabling him to revoke any approval given by him in respect of any such arrangements.

- (3) A local education authority shall discontinue any arrangements made by them in pursuance of any approval which is revoked by virtue of subsection (1) above or of any such provision as is mentioned in subsection (2) above.

6 Remuneration of members of Independent Schools Tribunals

- (1) The Secretary of State may, out of moneys provided by Parliament, pay to the members of Independent Schools Tribunals such remuneration and allowances as he may with the consent of the Minister for the Civil Service determine.
- (2) In section 75(1) of the Education Act 1944 the words from " and as to the payment" onwards (which provide for the remuneration and allowances of members of the Tribunals to be fixed by rules under that section) are hereby repealed.

7 Awards for higher diploma courses

- (1) Section 1 of the Education Act 1962 (local education authority awards for certain courses) shall apply also to such courses at universities, colleges or other institutions in Great Britain and Northern Ireland as may for the time being be designated by or under regulations made for the purposes of that section as being full-time courses for the higher diploma of the Technician Education Council or the Business Education Council.
- (2) Section 4(2) and (3) of the said Act of 1962 (regulations under sections 1 to 3 of that Act) shall apply also in relation to subsection (1) above.

8 Ordinary residence for award purposes

For paragraph 4 of Schedule 1 to the Education Act 1962 (ordinary residence for award purposes) there shall be substituted—

- “4 (1) Regulations made under this Act may make provision whereby a person who under paragraph 2 of this Schedule would fall to be treated for the purposes of section 1 of this Act as not being ordinarily resident in any area is to be treated for those purposes as being ordinarily resident in the area of such local education authority as may be specified by or under the regulations.
- (2) Subsections (2) and (3) of section 4 of this Act shall have effect in relation to this paragraph as they have effect in relation to section 1 of this Act.”.

9 School milk

- (1) In section 1(2) of the Education (Milk) Act 1971 (which makes provision for enabling education authorities to provide milk but for the expense to be defrayed by the pupils or their parents) the words from " but" onwards are hereby repealed.
- (2) Section 3(1) of the said Act of 1971 (which contains spent provisions dealing with the effect of section 1 on rate support grant) is hereby repealed.

10 Pupils requiring special educational treatment

- (1) For section 33(2) of the Education Act 1944 there shall be substituted—
- “(2) The arrangements made by a local education authority for the special educational treatment of pupils of any such category shall, subject to subsection (2A) of this section, provide for the education of the pupils in county or voluntary schools.
- (2A) Where the education of the pupils in such schools as aforesaid—
- (a) is impracticable or incompatible with the provision of efficient instruction in the schools; or
- (b) would involve unreasonable public expenditure,
- the arrangements may provide for the education of the pupils in special schools appropriate to the category to which the pupils belong or in schools not maintained by a local education authority and for the time being notified by the Secretary of State to the authority as in his opinion suitable for the purpose.”
- (2) The entry relating to the said section 33(2) in Schedule 1 to the Education (Miscellaneous Provisions) Act 1953 is hereby repealed.
- (3) This section shall not come into force until such day as may be appointed by the Secretary of State by order made by statutory instrument.

Supplementary

11 Expenses

There shall be paid out of moneys provided by Parliament any increase attributable to this Act in the sums payable out of such moneys under any other Act.

12 Citation, construction and extent

- (1) This Act may be cited as the Education Act 1976.
- (2) This Act shall be included in the Acts that may be cited as the Education Acts 1944 to 1976.
- (3) This Act shall be construed as one with the Education Act 1944.
- (4) This Act does not extend to Scotland or Northern Ireland.