



Education (Scotland) Act 1980

1980 CHAPTER 44

PART III

ADMINISTRATION AND FINANCE

Central administration

66 Inspection of educational establishments

- (1) The Secretary of State shall have power 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 Her 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 £20 or in the case of a second or subsequent conviction to a fine not exceeding £50 or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

67 Local inquiries

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 Schedule 1 to this Act shall have effect with regard to any such inquiry.

68 Power to require submission to medical examination

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 on the pupil himself if he is enrolled at a junior college or other educational establishment, require the parent to submit him, or require the pupil 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 £10.

69 Approval and carrying out of schemes

- (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 67 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 scheme (in this section referred to as " the scheme ") submitted to him under this Act by an education authority; 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 67 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.

70 Powers to enforce duty of education authorities and other persons

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 or of any other enactment relating to education, 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.

Advisory councils

71 Advisory councils

- (1) It shall be lawful for Her Majesty by Order in Council 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.

Finance

72 Expenses of Secretary of State

- (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 under section 1(2) of the Reorganisation of Offices (Scotland) Act 1939, be defrayed out of money provided by Parliament.
- (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 48 of this Act on education authorities shall be defrayed out of money provided by Parliament.

73 Power of Secretary of State to make grants to education authorities and others

The Secretary of State may out of money provided by Parliament apply, in accordance with regulations made by him, such sums as he thinks necessary or expedient for any or all of the following purposes:—

- (a) the payment of grants to education authorities;
- (b) the payment of grants to universities ;
- (c) the payment of grants to the managers of educational establishments;
- (d) the payment of grants to any other persons providing education or educational services ;

Status: This is the original version (as it was originally enacted).

- (e) the payment of grants to persons to assist the carrying out of educational research ;
- (f) the payment of allowances to or in respect of persons attending courses of education ;
- (g) providing for any other educational expenditure approved by him.

74 Payment of grants to be subject to conditions

- (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, except section 76 of 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.
- (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.

75 Examination of accounts

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 to the Secretary of State.

76 Industrial scholarships

- (1) The Secretary of State may award industrial scholarships or make payments to any other person in respect of the award of such scholarships by that person.
- (2) In this section " industrial scholarships" means scholarships (however described) tenable by persons undertaking full-time courses of higher education provided by a university, college or other institution in the United Kingdom, being courses which appears to the Secretary of State or, as the case may be, the person awarding the scholarships to be relevant to a career in industry.
- (3) In subsection (2) above the reference to a full-time course includes a reference to a course consisting of alternate periods of—
 - (a) full-time study in the university, college or institution in question; and
 - (b) associated industrial, professional or commercial experience ;and the reference in that subsection to a course provided by a university, college or institution in the United Kingdom includes a reference to a course provided by such

a university, college or institution in conjunction with a university, college or other institution in another country.

Grant-aided colleges

77 Power of Secretary of State to make regulations with respect to certain institutions providing further education

- (1) The Secretary of State may make regulations with respect to grant-aided colleges, and such regulations may—
- (a) make provision with regard to the constitution of the governing bodies of such colleges, and in particular provide that the governing bodies shall be bodies corporate having a common seal;
 - (b) prescribe the general functions to be discharged by the governing bodies, and confer on the governing bodies such powers as the Secretary of State may consider necessary or expedient for the efficient discharge of those functions;
- and without prejudice to the generality of the foregoing provisions of this subsection, such regulations may—
- (i) prescribe the administrative and other arrangements to be adopted by the governing bodies for the purpose of discharging their functions and, in particular, provide for the delegation by the governing bodies of such of their functions as may be prescribed in the regulations to persons or bodies of persons to be appointed in such manner as may be so prescribed;
 - (ii) provide for the appointment, remuneration, discipline and dismissal by the governing bodies of administrative, teaching and other staff, and for the payment by the governing bodies of pensions, allowances or gratuities to or in respect of members of such staff on their death or retirement;
 - (iii) make provision with regard to fees and other payments to be made by students in attendance at such colleges ;
 - (iv) provide for the constitution of bodies representative of students in attendance at such colleges and confer on any such bodies such functions as may be prescribed in the regulations;
 - (v) prescribe the procedure to be followed in cases of alleged breaches of discipline by students in attendance at such colleges;
 - (vi) provide that the governing body of such a college shall comply with any direction given by the Secretary of State, after consultation with them, as to the discontinuance of any course of instruction provided in the college or the number of students of different categories to be admitted to the college in any period.
- (2) The Secretary of State may by regulations establish institutions for the provision of any form of further education, and such regulations may make such provision and prescribe such matters with respect to such institutions as may be provided or prescribed with respect to grant-aided colleges in regulations made under subsection (1) above; and where any institution established by regulations under this subsection becomes a grant-aided college, those regulations shall continue to apply to that institution until varied or revoked by regulations made under subsection (1) above or subsection (3) below; and regulations under this subsection may make different provision in relation to different classes of institution or different institutions.

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- (3) The Secretary of State may by regulations dissolve any grant-aided college and such regulations may provide—
- (a) for the transfer of the staff of such a college to, and
 - (b) that the property, rights, liabilities and obligations of the college shall be transferred to and vest in,
- such institution established by regulations under subsection (2) above or grant-aided college as may be specified in the regulations on such conditions as to the use and disposal of the property so transferred as may be so specified:
- Provided that any property transferred by virtue of such regulations shall remain subject to any trust or condition (whether contained in a scheme made or approved under Part VI of this Act or otherwise) to which it was subject immediately before such transfer.
- (4) Regulations made under subsection (1) or (3) above may—
- (a) apply to all grant-aided colleges, or to certain grant-aided colleges only, or to a single grant-aided college only;
 - (b) make different provision in respect of different classes of grant-aided college or in respect of different grant-aided colleges;
 - (c) vary or revoke the provisions of any enactment (including any regulations made under subsection (2) above), scheme, articles of association, trust deed or other instrument relating to any grant-aided college to which the regulations apply, in so far as those provisions are, in the opinion of the Secretary of State, inconsistent with the regulations;
- and regulations under any of the foregoing provisions of this section may contain such incidental, supplementary and consequential provisions as appear to the Secretary of State to be necessary or expedient.
- (5) In this section 'grant-aided college' means a central institution, a college of education or an institution established under subsection (2) above, the managers of which are for the time being receiving grant in respect of that institution or college under section 73(c) of this Act.

Appointment of director of education

78 Appointment of director of education

The education authority shall employ a director of education, who shall be the chief education officer of the authority and shall hold office on such reasonable terms and conditions, including conditions as to remuneration, as the authority appointing him think fit.

Local administration

79 Education authorities may receive and administer bequests 80. Funds for behoof of public schools etc., to be transferred to education authorities

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 benefitted.

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

- (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.

81 Trust funds to be kept separate

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

82 Reports by education authorities

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.

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

Every registrar of births, deaths, and marriages shall make to an education authority on a form to be provided by the 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.

84 Certificates of birth

- (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 £1.25, 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 section.

85 Presumption of age

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, then, unless the contrary is proved, the court may presume that person to be under, of, or over, the age alleged.

86 Admissibility of documents

In any legal proceedings any document purporting to be—

- (a) a document issued by an education authority, and to be signed by the proper officer of that authority or by the director of education of that authority ;
- (b) an extract from the minutes of the proceedings of an education authority or of any committee or subcommittee 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 a Health Board, and to be signed by such 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 proper officer of the authority or by the director of education; or
- (f) a certificate, in the prescribed form, of exemption from attendance at 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) above shall, in the absence of evidence to the contrary, be sufficient evidence of the matters therein stated.