



# Education (Scotland) Act 1980

## 1980 CHAPTER 44

### PART VII

#### MISCELLANEOUS PROVISIONS

##### *Employment*

#### **123 Work experience in last year of compulsory schooling.**

- (1) Subject to subsection (2) below, the enactments relating to the prohibition or regulation of the employment of children shall not apply to the employment of a child [<sup>F1</sup>to whom this subsection applies] where the employment is in pursuance of arrangements made or approved by the education authority [<sup>F2</sup>(where the child is in attendance at a school under the management of that authority) or by the board of management of a self-governing school (where the child is in attendance at that self-governing school)] with a view to providing him with work experience as part of his education.
- (2) Subsection (1) above shall not be taken to permit the employment of any person in any way contrary to—
  - (a) an enactment which in terms applies to persons of less than, or not over, a specified age expressed as a number of years; or
  - (b) section 1(2) of the <sup>M1</sup>Employment of Women, Young Persons and Children Act 1920 or (when it comes into force) section 51(1) of the <sup>M2</sup>Merchant Shipping Act 1970 (prohibition of employment of children in ships).
- (3) No arrangements shall be made under subsection (1) above for a child to be employed in any way which would be contrary to an enactment prohibiting or regulating the employment of young persons if he were a young person (within the meaning of that enactment) and not a child; and where a child is employed in pursuance of arrangements so made, then so much of any enactment as regulates the employment of young persons (whether by excluding them from any description of work, or prescribing the conditions under which they may be permitted to do it, or otherwise howsoever) and would apply in relation to him if he were of an age to be treated as a young person for the purposes of that enactment shall apply in relation to him, in

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and in respect of the employment arranged for him, in all respects as if he were of an age to be so treated.

[<sup>F3</sup>(4) subsection (1) above applies to a child undergoing compulsory education during the period between 1st May in the calendar year before the calendar year in which he attains the upper limit of school age and the end of the latter year.]

#### Textual Amendments

- F1** Words substituted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(21)(a)(i)**
- F2** Words inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c.39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(21)(a)(ii)**
- F3** S. 123(4) substituted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(21)(b)**

#### Marginal Citations

- M1** 1920 c. 65.
- M2** 1970 c. 36.

124 .....<sup>F4</sup>

#### Textual Amendments

- F4** S. 124 repealed by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(2), **Sch. 11**

### 125 **Adaptation of enactments relating to employment of children and young persons.**

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.

*[<sup>F5</sup> Children and young persons in accommodation]*

#### Textual Amendments

- F5** Crossheading inserted (1.11.1995) by 1995 c. 36, s. 35 (with ss. 90, 103(1)); S.I. 1995/2787, art. 3, **Sch.**

### 125A [<sup>F6</sup> **Welfare of children and young persons in accommodation provided for purposes of school attendance.**]

Where, for the purposes of his being in attendance at a school, a child or young person is provided with residential accommodation, in a place in or outwith that school, by—

- (a) an education authority, the board of management of a self-governing school or the managers of a grant-aided or independent school; or

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(b) by any other person in pursuance of arrangements made by any such authority, board of management or managers,

the authority, board of management or managers in question shall have the duty to safeguard and promote the welfare of the child or young person while he is so accommodated; and the powers of inspection exercisable by virtue of section 66(1) of this Act shall include the power to inspect the place to determine whether his welfare is adequately safeguarded and promoted there.

**Textual Amendments**

**F6** S. 125A inserted (1.11.1995) by 1995 c. 36, s. 35 (with ss. 90, 103(1)); S.I. 1995/2787, art. 3, **Sch.**

*Careers services of education authorities*

**F7** **126** .....

**Textual Amendments**

**F7** Ss. 126-128 repealed (1.4.1994) by 1993 c. 19, s. 51, **Sch.10**; S.I. 1993/2503, art. 2(3), **Sch.3**

**F8** **127** .....

**Textual Amendments**

**F8** Ss. 126-128 repealed (1.4.1994) by 1993 c. 19, s. 51, **Sch.10**; S.I. 1993/2503, art. 2(3), **Sch.3**

**F9** **128** **Control of education authorities by Secretary of State.**

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**Textual Amendments**

**F9** Ss. 126-128 repealed (1.4.1994) by 1993 c. 19, s. 51, **Sch.10**; S.I. 1993/2503, art. 2(3), **Sch.3**

*Examinations Board*

**129** **Establishment of Board to conduct examinations, etc.**

(1) There shall be a board (hereafter in this section referred to as “the Board”) for the following purposes, that is to say—

- (a) conducting examinations for the award of certificates relating to secondary education and awarding such certificates;
- (b) advising the Secretary of State on matters relating to examinations for pupils receiving secondary education;

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- [<sup>F10</sup>(bb) subject to any regulations made by the Secretary of State under section 2 of this Act or section 69(2) of the Self-Governing Schools etc. (Scotland) Act 1989 (comparable regulations in respect of self-governing schools), preparing, distributing and monitoring tests for the assessment of pupils in primary schools;]
  - (c) such other purposes relating to examinations [<sup>F11</sup>or tests] as may be specified in regulations under this section.
- (2) Regulations shall be made under this section by the Secretary of State, and such regulations shall confer on the Board such powers, and impose on them such duties, as appear to the Secretary of State to be necessary or desirable for the purposes referred to in subsection (1) above and may empower the Secretary of State [<sup>F12</sup>, after consultation with the Board, to give to them] such directions as to the discharge by them of their functions as appear to him to be expedient.
- (3) Regulations under this section shall make provision with respect to the membership of the Board and shall ensure that not less than four-fifths of the members of the Board are appointed by the Secretary of State from amongst persons nominated by, or by bodies appearing to the Secretary of State to represent the interests of, the universities of Scotland, education authorities, [<sup>F13</sup>institutions of further education,] central institutions, <sup>F14</sup> colleges of education, directors of education [<sup>F15</sup>, educational advisers,] teachers employed in educational establishments [<sup>F16</sup>and grant aided and independent schools.]
- (4) Regulations under this section may—
- (a) provide that the Board shall be a body corporate with perpetual succession and a common seal;
  - (b) make provision with respect to the procedure of the Board and the conduct of their business;
  - [<sup>F17</sup>(bb) make provision with respect to the determination by the Board of charges in respect of presentations for examinations conducted by them, being presentations by education authorities, the managers of educational establishments not under the management of education authorities or such other presenting authorities as may be recognised by the Board for the purpose of presentation of candidates for examination, the payment by those authorities, managers and others to the Board of such charges and the application towards meeting the Board's expenses of sums received by them in respect of such charges;]
  - (c) make provision with respect to the financial transactions of the Board, including provision for the keeping by the Board of proper accounts and for the auditing of such accounts [<sup>F18</sup>, for requiring the Board to ensure that adequate financial provision is made by them for such purposes as may be specified in a direction made by the Secretary of State after consultation with the Board, for requiring the submission by the Board of estimates of their income and expenditure to such body as the Secretary of State may determine (and notify to the Board) as appearing to him to be representative of local authority interests and for enabling that body to approve these estimates and for requiring the Board to obtain the prior approval of the Secretary of State to the incurring of expenditure by them in respect of the acquisition of land];
  - (d) provide for the payment by the Board to the members of the Board or of any committee or sub-committee thereof of travelling, subsistence and other allowances;

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- (e)
  - <sup>F19</sup>(f) provide that the Board shall make an annual report to the Secretary of State on the exercise by them of their functions, and that the Secretary of State shall lay a copy of the report before each House of Parliament;
  - (g) contain such consequential, ancillary and incidental provisions as appear to the Secretary of State to be necessary or desirable for the purposes of the regulations.
- <sup>F20</sup>(4A) The Board may appoint such officers, servants and agents as the Board may determine and they shall be appointed at such remuneration and on such other terms and conditions as the Board may, with the prior approval of such body as may have been determined by the Secretary of State for the purposes of subsection (4)(c) above, determine.
- (4B) The Board may pay such pensions, allowances or gratuities as they may determine to or in respect of any of their officers and servants, make such payments as they may determine towards the provision of pensions, allowances or gratuities to or in respect of any of their officers and servants or provide and maintain such schemes as they may determine (whether contributory or not) for the payment of pensions, allowances or gratuities to or in respect of any of their officers and servants.
- A determination for the purposes of this subsection is ineffective unless made with the approval of the Secretary of State.
- (4C) The reference in subsection (4B) above to pensions, allowances or gratuities to or in respect of the Board's officers and servants includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any of the Board's officers and servants who suffer loss of office or employment.]
- (5) ..... <sup>F21</sup>
- <sup>F22</sup>(4D) The Secretary of State may, from time to time and subject to such conditions as he considers appropriate, make grants to the Board which shall be applied by them towards meeting their expenses in carrying out their duties in relation to the tests mentioned in subsection (1)(bb) and (c) above.]

#### Textual Amendments

- F10** S. 129(1)(bb) inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 69(3)(a)
- F11** Words inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 69(3)(b)
- F12** Words substituted by Education (Scotland) Act 1981 (c. 58), s. 13(2), Sch. 8
- F13** Words inserted by Education (Scotland) Act 1981 (c. 58), s. 13(3)(a)
- F14** Words repealed by Education (Scotland) Act 1981 (c. 58), Sch. 9
- F15** Words inserted by Education (Scotland) Act 1981 (c. 58), s. 13(3)(c)
- F16** Words inserted by Education (Scotland) Act 1981 (c. 58), s. 13(3)(e)
- F17** S. 129(4)(bb) inserted by Education (Scotland) Act 1981 (c. 58), s. 13(4)(a)
- F18** Words inserted by Education (Scotland) Act 1981 (c. 58), s. 13(4)(b)
- F19** S. 129(4)(e) repealed with saving by Education (Scotland) Act 1981 (c. 58), s. 13(4)(c), Sch. 8 para. 6, Sch. 9
- F20** S. 129(4A)–(4C) inserted by Education (Scotland) Act 1981 (c. 58), s. 13(5)
- F21** Ss. 5, 28(2), 59, 66(2), 111(4)(5), 129(5)(6), 132(1), Sch. 2 paras. 1, 3 repealed by Education (Scotland) Act 1981 (c. 58), Sch. 9
- F22** S. 129(4D) inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 69(3)(c)

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

C1 S. 129(1) extended by S.I. 1981/1562, reg. 4

*Savings and exceptions*

**130 Saving as to persons in the service of the Crown.**

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.

**131 Saving as to persons suffering from mental disorder and persons detained by order.**

- (1) Unless the context otherwise requires, 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 to whom this section applies:

Provided that nothing in this section shall prevent an education authority from providing or securing the provision of education for any such person if he is in their opinion capable of deriving benefit therefrom.

- (2) The persons to whom this section applies are—
- (a) any person who is detained in pursuance of an order made by any court or of an order of recall made by the Secretary of State;
  - (b) any child subject to a supervision requirement requiring him to reside in a residential establishment where education is provided.

VALID FROM 13/10/2000

**[<sup>F23</sup>131A Consent of child to medical procedures**

- (1) Nothing in this Act shall prejudice any capacity of a child enjoyed by virtue of section 2(4) of the Age of Legal Capacity (Scotland) Act 1991 (c.50) (capacity of child with sufficient understanding to consent to surgical, medical or dental procedure or treatment); and without prejudice to that generality, where under or by virtue of this Act a child is required to submit, or to be submitted, to any medical or dental examination, inspection or treatment but the child has the capacity mentioned in the said section 2(4), the examination, inspection or treatment shall only be carried out if the child consents.
- (2) In subsection (1) above, without prejudice to the generality of the expression in question, “medical examination” includes an examination under section 58 of this Act and “medical treatment” includes cleansing under that section.]

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### Textual Amendments

**F23** S. 131A inserted (13.10.2000) by 2000 asp 6, s. 57; S.S.I. 2000/361, art. 3(1)(2), Sch. Pt. I

## General

### 132 Amendment of enactments.

- (1) <sup>F24</sup> . . . . .
- (2) Any reference in an enactment passed before 2nd July 1945 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.

### Textual Amendments

**F24** Ss. 5, 28(2), 59, 66(2), 111(4)(5), 129(5)(6), 132(1), Sch. 2 paras. 1, 3 repealed by Education (Scotland) Act 1981 (c. 58), Sch. 9

### 133 Regulations, etc.

- (1) Any power conferred by this Act on the Secretary of State to make regulations shall be exercisable by statutory instrument.
- (2) Any statutory instrument containing regulations made by the Secretary of State under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any 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 direction given by the Secretary of State or that authority, as the case may be:

Provided that where the power to give any such 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 direction 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.

- (4) If it appears to the Secretary of State, on an application in that behalf made to him—
  - (a) in relation to regulations made under section 2 or section 19(1) of this Act, by an education authority;
  - (b) in relation to regulations made under section 74(1) of this Act, by any education authority or other person to whom any grant is payable under this Act;

that it is unreasonable that any provision of those regulations should apply in relation to that authority or person or to such educational establishment under the management of that authority or person as may be specified in the application, or should so apply without modification, he may, subject to subsection (5) below, direct that the said provision shall not apply in relation to that authority or person or that educational

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establishment or, as the case may be, shall so apply subject to such modification as may be specified in the direction.

- (5) A direction under subsection (4) above—
- (a) may be given either unconditionally or subject to such conditions as may be specified in the direction;
  - (b) shall not be given in respect of any provision of any regulations which is described in those regulations as not being subject to the giving of a direction under this section;
  - (c) may be varied or revoked by a subsequent direction given by the Secretary of State either of his own accord or on the application of the education authority or other person on whose application the original direction was given.

### 134 Notices.

- (1) Subject to the provisions of this section, any notice required or authorised by this Act to be served or given to any person may be served or given by delivering it to him, or by leaving it at his proper address, or by sending it to him by post.
- (2) For the purposes of this section and of section 7 of the <sup>M3</sup>Interpretation Act 1978 (service by post) in its application to this section, the proper address of a person on or to whom any such notice as aforesaid is to be served or given shall, in the case of an education authority, be the address of any office of that authority and, in any other case, be the last known address of the person on or to whom the notice is to be served or given.
- (3) Any notice which, in accordance with the provisions of subsection (1) above, is left for a person at his proper address shall, unless the contrary is proved, be presumed to have been received by him on the day on which it was left there.

#### Marginal Citations

M3 1978 c. 30.

### 135 Interpretation.

- (1) In this Act, unless the context otherwise requires,—
  - “the <sup>M4</sup>Act of 1882” means the Educational Endowments (Scotland) Act 1882;
  - “the <sup>M5</sup>Act of 1918” means the Education (Scotland) Act 1918;
  - “the Acts of 1928 to 1935” means the Educational Endowments (Scotland) Acts 1928 to 1935;
  - “the Act of 1937” means the <sup>M6</sup>Children and Young Persons (Scotland) Act 1937;
  - “the <sup>M7</sup>Act of 1946” means the Education (Scotland) Act 1946;
  - “the <sup>M8</sup>Act of 1962” means the Education (Scotland) Act 1962;
  - “attendance order” has the meaning assigned to it by section 38 of this Act;
  - [<sup>F25</sup>“board of management”, in relation to a self-governing school means a board incorporated under section 19(2) of the Self-Governing Schools etc. (Scotland) Act 1989;]



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“central institution” means an educational establishment for the provision of further education recognised as a central institution by regulations made by the Secretary of State;

“child” means a person who is not over school age;

“clothing” includes boots and other footwear;

<sup>F26</sup> . . .

“dental examination” means examination by a registered dentist, so however that in conducting an examination of any such class as may be prescribed, such dentist may be assisted by other persons having such special qualifications or experience as may be prescribed;

“dental inspection” and “dental supervision” mean, respectively, inspection and supervision by a registered dentist;

“dental treatment” includes prevention and treatment of dental diseases by or (so far as permitted by law) under the direction of any registered dentist, and the supply of appliances on the recommendation of such dentist, but does not, in relation to any pupil other than a pupil receiving school education elsewhere than at a school under arrangements made by an education authority under section 14 of this Act, include treatment in that pupil’s home;

“education authority” means a regional or islands council, and “area” in relation to an education authority shall be construed accordingly;

“educational establishment” —

- (i) means a school <sup>F27</sup> and any <sup>F28</sup> institution for the provision of any form of further education and the premises of such school, <sup>F27</sup> or institution, and
- (ii) without prejudice to the foregoing generality, includes [<sup>F29</sup>a designated institution within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992,] a central institution, <sup>F30</sup> . . . a hostel used mainly by pupils attending such schools <sup>F27</sup> or institutions, and a residential institution conducted under a scheme under the Acts of 1928 to 1935, Part VI of the Act of 1946, Part VI of the Act of 1962 or Part VI of this Act, but
- (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 for social, cultural or recreative activities or for physical education or training 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 have obtained the consent of the Secretary of State to the club or centre being 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;

“enactment” includes an order, regulation, rule or other instrument having effect by virtue of an Act;

“functions” includes powers and duties;

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“further education” includes the forms of instruction, occupation and teaching described in section 1(5)(b) 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 [<sup>F31</sup>(a)] grants in aid of the employers’ contributions provided for in Teachers (Superannuation) Regulations, [<sup>F32</sup>and (b) sums paid under a scheme under section 75A of this Act, or by virtue of section 75B of this Act,] but does not include a public school [<sup>F33</sup>, a self-governing school or a technology academy (within the meaning of the Self-Governing Schools etc. (Scotland) Act 1989)];

“Health Board” means a Health Board constituted under section 2 of the <sup>M9</sup>National Health Service (Scotland) Act 1978;

“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 [<sup>F34</sup>, a grant-aided school or a self-governing school];

“Her Majesty’s inspectors” means the inspectors of schools appointed by Her Majesty on the recommendation of the Secretary of State;

<sup>F35</sup>“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 but does not include an education authority;

“medical examination” means examination by a registered 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 registered medical practitioner;

“medical treatment” includes prevention and treatment of diseases by any registered medical practitioner, and the supply of appliances on the recommendation of such practitioner, but does not, in relation to any pupil other than a pupil receiving school education elsewhere than at school under arrangements made by an education authority under section 14 of this Act, include treatment in that pupil’s home;

“nursery school” and “nursery class” have the respective meanings assigned to them by section 1(5)(a)(i) 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;

[<sup>F36</sup>“placing request” has the meaning assigned to it by section 28A(1) of this Act;]

“premises” in relation to any educational establishment includes the site of such establishment, any building in which pupils attending such establishments are boarded whether managed by the managers of such establishment or by 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” means prescribed by the Secretary of State;

“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

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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;

“psychological examination” means an examination by an educational or clinical psychologist appointed by an education authority for the purpose;

“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; and a pupil shall be deemed to be attending or in attendance at a school if he is shown by the register of admission and withdrawal kept at the school in accordance with regulations made under this Act, or by any other register approved by the Secretary of State and kept for a similar purpose, to have been admitted to, but not to have been withdrawn from, or to have been readmitted to, and not thereafter to have been withdrawn from, the school; and similar expressions, whether relating to schools or to other educational establishments, shall be similarly interpreted;

[<sup>F37</sup>“Record”, and “recorded” and other cognate expressions have the same respective meanings as in section 60 of this Act;]

“registered school” means an independent school the registration of which in the register of independent schools is final;

“registered teacher” means a teacher registered under the <sup>M10</sup>Teaching Council (Scotland) Act 1965;

“reporter of the appropriate local authority” means the reporter of the appropriate local authority for the purposes of the <sup>M11</sup>Social Work (Scotland) Act 1968;

“residential establishment” has the same meaning as in the <sup>M12</sup>Social Work (Scotland) Act 1968;

“school” means an institution for the provision of primary or secondary education or both primary and secondary education being a public school, a grant-aided school [<sup>F38</sup>, a self-governing 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 <sup>F39</sup>;

“school age” shall be construed in accordance with section 31 of this Act;

[<sup>F40</sup>“school board” has the meaning assigned to it by section 1 of the School Boards (Scotland) Act 1988;]

“school education” has the meaning assigned to it by section 1(5)(a) of this Act;

[<sup>F41</sup>“self-governing school” has the meaning given by section 1(3) of the Self-Governing Schools etc. (Scotland) Act 1989;]

[<sup>F42</sup>“special educational needs” has the meaning assigned to it by section 1(5)(d) of this Act;]

[<sup>F43F44</sup>“special school” means a school making provision wholly or mainly for recorded children, and includes special classes forming part of primary schools or secondary schools and child guidance clinics;]

[<sup>F36</sup>“specified school” has the meaning assigned to it by section 28A(1) and (2) of this Act;]

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“supervision requirement” has the same meaning as in the <sup>M13</sup>Social Work (Scotland) Act 1968;

“teachers’ superannuation regulations” means regulations made under section 9 of the <sup>M14</sup>Superannuation Act 1972;

“young person” means a person over school age who has not attained the age of eighteen years.

(2) Any reference in any enactment or other instrument (including this Act and, unless the contrary intention appears, any enactment or other instrument passed or made after the commencement of this Act) to—

(a) primary education shall be construed as a reference to school education of a kind [<sup>F45</sup>(i)] which is appropriate in the ordinary case to the requirements of pupils who have not attained the age of twelve years; [<sup>F46</sup>; and (ii) which is, in the case of a pupil with special educational needs, within the provision made for the purpose of meeting his special educational needs until he is transferred to the stage of secondary education;]

(b) secondary education shall be construed as a reference to school education of a kind [<sup>F47</sup>(i)] which is appropriate in the ordinary case to the requirements of pupils who have attained that age; [<sup>F48</sup>; and (ii) which is, in the case of a pupil with special educational needs, within the provision made for the purpose of meeting his special educational needs until he ceases to be of school age or to receive school education, whichever is the later.]

and any reference in any such enactment or other instrument as aforesaid to primary or secondary schools or departments or classes shall be construed accordingly.

#### Textual Amendments

- F25** Definition inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(22)(a)**
- F26** In s. 135(1) definition of 'college of education' repealed (16.5.1992) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(3), **Sch.10**: S.I. 1992/817, art. 3(2), **Sch.1**
- F27** Words repealed by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(2), **Sch. 11**
- F28** Word repealed by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(2), **Sch. 11**
- F29** In s. 135(1) words in definition of 'educational establishment' inserted (16.5.1992) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(2), **Sch. 9 para. 7(7)**; S.I. 1992/817, art. 3(2), **Sch.1**
- F30** In s. 135(1) words in definition of 'educational establishment' repealed (16.5.1992) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(3), **Sch.10**; S.I. 1992/817, art. 3(2), **Sch.1**
- F31** “(a)” inserted by Education (Scotland) Act 1981 (c. 58), s. 5(2)(a)
- F32** Words inserted by Education (Scotland) Act 1981 (c. 58), s. 5(2)(b)
- F33** Words inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(22)(b)**
- F34** Words substituted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(22)(c)**
- F35** Definition repealed by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(2), **Sch. 11**
- F36** Definition inserted by Education (Scotland) Act 1981 (c. 58), s. 1(4)
- F37** Definition inserted by Education (Scotland) Act 1981 (c. 58), Sch. 2 Pt. II para. 8, **Sch. 8**
- F38** Words inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(22)(d)**
- F39** Words repealed by Registered Establishments (Scotland) Act 1987 (c. 40, SIF 81:3), s. 2(2)

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- F40** Definition inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(22)(e)**
- F41** Definition inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(22)(f)**
- F42** Definition inserted by Education (Scotland) Act 1981 (c. 58), Sch. 2 Pt. I para. 4(a)(ii), **Sch. 8**
- F43** Definition substituted by Education (Scotland) Act 1981 (c. 58), Sch. 2 Pt. I para. 4(a)(iii), **Sch. 8**
- F44** Definition repealed by Education (Scotland) Act 1981 (c. 58), **Sch. 9**
- F45** “(i)” inserted by Education (Scotland) Act 1981 (c. 58), **Sch. 2 Pt. I para. 4(b)(i)**
- F46** Words inserted by Education (Scotland) Act 1981 (c. 58), Sch. 2 Pt. I para. 4(b)(ii), **Sch. 8**
- F47** “(i)” inserted by Education (Scotland) Act 1981 (c. 58), **Sch. 2 Pt. I para. 4(b)(iii)**
- F48** Words inserted by Education (Scotland) Act 1981 (c. 58), Sch. 2 Pt. I para. 4(b)(iv), **Sch. 8 para. 1**

#### Marginal Citations

- M4** 1882 c. 59.
- M5** 1918 c. 48.
- M6** 1937 (1 Edw. 8 & 1 Geo. 6 c. 37).
- M7** 1946 c. 72.
- M8** 1962 c. 47.
- M9** 1978 c. 29.
- M10** 1965 c. 19.
- M11** 1968 c. 49.
- M12** 1968 c. 49.
- M13** 1968 c. 49.
- M14** 1972 c. 11.

### 136 Transitional and savings provisions, amendments and repeals.

- (1) The transitional and savings provisions set out in Schedule 3 to this Act shall have effect.
- <sup>X1</sup>(2) The enactments specified in Schedule 4 to this Act shall have effect subject to the amendments specified in that Schedule, being amendments consequential on the consolidation under this Act.
- <sup>X1</sup>(3) The enactments set out in Schedule 5 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

#### Editorial Information

- X1** The text of s. 136(2)(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### 137 Short title, commencement and extent.

- (1) This Act may be cited as the Education (Scotland) Act 1980.
- (2) Subject to subsections (3) and (4) below, this Act shall come into force on the expiry of the period of one month beginning with the date on which it is passed.

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- (3) The provisions of this Act set out in Schedule 6 shall, to the extent there specified, come into force on such day as the Secretary of State may by order made by statutory instrument appoint.
- (4) Subsections (5) to (7) of section 23 of this Act shall come into force on such date as the Secretary of State may by order appoint.
- (5) Any order under subsection (4) above may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into force, including such adaptations of those provisions, or of any other provision mentioned in that subsection then in force, as appear to him to be necessary or expedient for the purpose or in consequence of the operation of any such provision before the coming into force of any other such provision.
- (5) This Act extends to Scotland only.

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#### Subordinate Legislation Made

- P1** Power of appointment conferred by s. 137(3) not exercised  
**P2** 1.9.1980 appointed under s. 137(4) by [S.I. 1980/1287](#), [art. 2](#)

**Status:**

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**Changes to legislation:**

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