



Education (Scotland) Act 1980

1980 CHAPTER 44

PART VII

MISCELLANEOUS PROVISIONS

General

132 Amendment of enactments

- (1) In relation to any young person punishable under this Act, section 58 of the Act of 1937 (which relates 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 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.

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 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 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.

135 Interpretation

- (1) in this Act, unless the context otherwise requires,—
 - " the Act of 1882 " means the Educational Endowments (Scotland) Act 1882;
 - "the Act of 1918 " means the Education (Scotland) Act 1918;
 - " the Acts of 1928 to 1935 " means the Educational Endowments (Scotland) Acts 1928 to 1935 ;

Status: This is the original version (as it was originally enacted).

" the Act of 1937 " means the Children and Young Persons (Scotland) Act 1937;

"the Act of 1946 " means the Education (Scotland) Act 1946;

"the Act of 1962 " means the Education (Scotland) Act 1962;

" attendance order " has the meaning assigned to it by section 38 of this Act;

" 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 ;

" college of education " means an educational establishment in which further education is provided and the primary purpose of which is the education and training of teachers;

" 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 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, 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 college of education, a hostel used mainly by pupils attending such schools or junior colleges 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

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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;

" 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 grants in aid of the employers' contributions provided for in Teachers (Superannuation) Regulations, but does not include a public school;

" Health Board " means a Health Board constituted under section 2 of the 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 or a grant-aided school;

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

" junior college " has the meaning assigned to it by section 1(5)(b)(i) 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 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;

" premises " in relation to any educational establishment includes the site of such establishment, any building in which pupils attending such establishment 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 ;

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" 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 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;

" 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 Teaching Council (Scotland) Act 1965 ;

" reporter of the appropriate local authority " means the reporter of the appropriate local authority for the purposes of the Social Work (Scotland) Act 1968;

" residential establishment " has the same meaning as in the 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 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 establishment or residential establishment within the meaning of the Social Work (Scotland) Act 1968;

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

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

" special education " has the meaning assigned to it by section 1(5)(c) of this Act;

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

" supervision requirement " has the same meaning as in the Social Work (Scotland) Act 1968 ;

" teachers' superannuation regulations " means regulations made under section 9 of the Superannuation Act 1972 ;

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" 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 which is appropriate in the ordinary case to the requirements of pupils who have not attained the age of twelve years;
- (b) secondary education shall be construed as a reference to school education of a kind which is appropriate in the ordinary case to the requirements of pupils who have attained that age ;

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.

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.
- (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.
- (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.

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.
- (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.