



Education (Miscellaneous Provisions) Act 1948

1948 CHAPTER 40

6 Recoupment to local education authority of cost of providing education for persons not belonging to their area

- (1) Where any provision for primary or secondary education is made by a local education authority in respect of a pupil who does not belong to their area, they shall be entitled to recoupment of an amount equal to the cost to them of the provision—
- (a) if the pupil belongs to the area of another such authority, from that authority, the amount in that case being determined by agreement between the authorities, or, in default of agreement, by the Minister, or
 - (b) if the pupil is one not belonging to the area of any local education authority, in accordance with regulations to be made by the Minister for securing that the cost of such provision in such cases is apportioned amongst all local education authorities, the amount in that case being determined in accordance with the regulations,

subject in either case to the providing authority's making a claim in that behalf within the prescribed period :

Provided that in a case falling within paragraph (a) of this subsection, if the Minister is satisfied that the other authority ought not to be required to make recoupment in respect of the provision having regard to availability of provision of the kind in question under arrangements made by them and to all other circumstances of the case, he may, on their application, direct that the providing authority shall not be entitled to recoupment in respect thereof.

- (2) For the purposes of this Act, a pupil shall be treated as belonging to the area of a particular local education authority, or as not belonging to the area of any such authority, in accordance with the following rule, namely—
- (a) in the normal case, that is to say, where there is a person ordinarily resident in England or Wales with whom the pupil habitually resides, either both during terms and during holidays or, if he is being educated as a boarder, during holidays, being a person who has the actual charge of him whilst he is resident

with that person, the pupil shall be treated as belonging to the area of the local education authority in whose area that person ordinarily resides ; and

- (b) in a case in which there is no such person, the pupil shall be treated as not belonging to the area of any local education authority ;

subject however to the provisions of the next succeeding subsection.

- (3) The general rule specified in the last preceding subsection shall be subject to the following exceptions, that is to say.—

- (a) a pupil for whom a local education authority is for the time being appointed as a fit person under the Children and Young Persons Act, 1933, shall be treated as belonging to the area of that authority ;

- (b) a pupil for whom a person other than a local education authority is for the time being appointed as a fit person as aforesaid, or for whom a guardian is for the time being appointed under the Guardianship (Refugee Children) Act, 1944, shall be treated as belonging to the area of such local education authority as may be prescribed, or, if none is prescribed, as not belonging to the area of any such authority ;

- (c) where immediately before the date of the commencement of Part II of the principal Act a former authority had been required under the Education (Institution Children) Act, 1923, to make payments in respect of a pupil to another former authority and were liable to make such payments, then, so long as the first-mentioned former authority would have remained so liable if the said Act of 1923 had not been repealed, the pupil shall be treated as belonging to the area of the local education authority responsible for the liabilities of the first-mentioned former authority ; and

- (d) in such other cases as may be prescribed a pupil shall be treated in accordance with the regulations either as belonging to the area of a prescribed local education authority or as not belonging to the area of any such authority.

- (4) Any question whether a pupil ought to be treated as belonging to the area of any particular local education authority, or as not belonging to the area of any such authority, shall, in case of dispute, be determined by the Minister.

- (5) A local education authority may make a payment by way of recoupment to another such authority of cost incurred by the other authority in making any provision—

- (a) for primary or secondary education in respect of a pupil belonging to the area of the paying authority, or

- (b) for further education in respect of a person ordinarily resident in the area of the paying authority,

notwithstanding that the paying authority are not under a legal obligation to make the payment.

- (6) References in this section to provision for education include references to provision of any benefits or services for which provision is made by or under the enactments relating to education.

- (7) This section shall have effect, as respects any provision for education, in substitution for section one hundred and six of the principal Act, in so far as the cost of the provision is attributable to any period after the thirty-first day of March, nineteen hundred and forty-eight, and regulations for the purposes of this section may accordingly be made so as to extend to any such provision made before the coming into operation of the regulations in so far as the cost of the provision is attributable to any such period.