



Education (Scotland) Act 1981

1981 CHAPTER 58

Miscellaneous

6 Consultation on, and consent for, changes in certain educational matters.

After Section 22 of the principal Act there shall be inserted the following sections—

“ Consultation on, and consent for, changes in certain educational matters

22A Consultation on certain changes in educational matters.

- (1) Where an education authority make a proposal of a prescribed kind, they shall, in such manner as may be prescribed, publish it or otherwise make it available and consult such persons as may be prescribed and shall not reach a decision on it without having regard to any representations made to them on it by those persons.
- (2) In this section “prescribed” means prescribed for the purposes of this section by the Secretary of State by regulations and in so prescribing kinds of proposals the Secretary of State shall include proposals to discontinue or change the site of any school under the management of an education authority.

22B Consent for certain changes in educational matters.

- (1) An education authority shall submit to the Secretary of State for his consent any proposal of theirs of a prescribed kind and shall not implement such a proposal without his consent.
- (2) In this section “prescribed” means prescribed for the purposes of this section by the Secretary of State by regulations and the Secretary of State may prescribe different kinds of proposals in relation to different education authorities.

Changes to legislation: There are currently no known outstanding effects for the Education (Scotland) Act 1981, Cross Heading: Miscellaneous. (See end of Document for details)

22C Consent for certain changes affecting denominational schools.

- (1) An education authority shall submit to the Secretary of State for his consent any proposal of theirs to which this section applies and shall not implement such a proposal without his consent.
- (2) A proposal to which this section applies is one which—
 - (a) relates to a school transferred to an education authority under section 16(1) or provided by them under section 17(2) of this Act; and
 - (b) will, if implemented, have the effect that all or some of the pupils who attend the school will no longer receive school education in a school of the kind referred to in paragraph (a) above or that all or some of the children who would, but for the implementation of the proposal, have been likely to attend it will not be likely to receive such education in a school of that kind.
- (3) The Secretary of State shall not grant consent under this section unless he is satisfied that adequate arrangements have been made for the religious instruction of pupils and children who would, as a result of implementation of the proposal, no longer receive or be likely to receive school education in a school of the kind referred to in paragraph (a) of subsection (2) above.
- (4) In granting consent under this section the Secretary of State may impose such conditions as he thinks fit with regard to the religious instruction of the pupils and children referred to in paragraph (b) of subsection (2) above and to related matters and conditions imposed by the Secretary of State under this section may be revoked or amended by him at any time.
- (5) Any question which may arise—
 - (a) whether a proposal is one to which this section applies;
 - (b) as to the implementation of a proposal to which the Secretary of State has consented under this section;
 - (c) as to the fulfilment or observation of any conditions upon his consent imposed under subsection (4) above
 shall be determined by the Secretary of State and the education authority shall perform their duties under this Act in accordance with any such determination.
- (6) In this section, the reference to section 16(1) or 17(2) of this Act shall include a reference to the corresponding provision of the Act of 1918, the Act of 1946 and the Act of 1962.

22D Further provisions relating to denominational schools.

- (1) An education authority shall submit to the Secretary of State for his consent any proposal of theirs to which this section applies and shall not implement such a proposal without his consent.
- (2) A proposal to which this section applies is one—
 - (a) which relates to a school transferred to the education authority under section 16(1) or provided by them under section 17(2) of this Act;
 - (b) to—
 - (i) discontinue the school or a part of it;

Changes to legislation: *There are currently no known outstanding effects for the Education (Scotland) Act 1981, Cross Heading: Miscellaneous. (See end of Document for details)*

- (ii) amalgamate the school or a part of it with another school;
 - (iii) change the site of the school;
 - (iv) change the arrangements for admission to the school; or
 - (v) disapply to the school the conditions prescribed in subsections (1) to (4) of section 21 of this Act or in the said subsections so far as applicable and having effect by virtue of subsection (5) of that section; and
 - (c) in relation to which the Secretary of State, having consulted the education authority, is satisfied, upon written representations made, in the case of any church or denominational body in whose interest the school is conducted other than the Roman Catholic Church, by a person authorised for that purpose by that church or denominational body and, in the case of the Roman Catholic Church, by the Scottish Hierarchy of that Church, that—
 - (i) if implemented, it will have the result specified in subsection (3) below; and
 - (ii) the education authority and the church, denominational body or Hierarchy, as the case may be, have, after discussion, failed to reach agreement that it should be implemented.
- (3) The result referred to in subsection (2)(c)(i) above is a significant deterioration in the position, as regards either of the matters specified in subsection (4) below, of schools of the kind referred to in subsection (2)(a) above compared with that of other schools managed by the education authority.
- (4) The matters referred to in subsection (3) above are the distribution and provision of school education (including the provision of accommodation).
- (5) The Secretary of State shall not grant consent under this section in relation to a school unless he is satisfied that adequate arrangements have been made for the religious instruction of the children who will no longer receive or be likely to receive school education in a school of the kind referred to in subsection (2) (a) above.
- (6) In granting consent under this section in relation to a school the Secretary of State may impose such conditions as he thinks fit with regard to the religious instruction of the children who will no longer receive or be likely to receive school education in a school of the kind referred to in subsection (2)(a) above and to related matters and, in doing so, he shall have regard to the duties imposed by section 21 of this Act on education authorities in relation to schools of that kind, and conditions imposed by the Secretary of State under this section may be revoked or amended by him at any time.
- (7) Any question which may arise—
- (a) whether a proposal is one to which this section applies;
 - (b) as to the implementation of a proposal to which the Secretary of State has consented under this section;
 - (c) as to the fulfilment or observation of any conditions upon his consent imposed under subsection (6) above
- shall be determined by the Secretary of State and the education authority shall perform their duties under this Act in accordance with any such determination.

Changes to legislation: There are currently no known outstanding effects for the Education (Scotland) Act 1981, Cross Heading: Miscellaneous. (See end of Document for details)

- (8) In this section the reference to section 16(1) or 17(2) of this Act shall include a reference to the corresponding provision of the Act of 1918, the Act of 1946 and the Act of 1962.”.

Modifications etc. (not altering text)

- C1** The text of ss. 1–7, 8(1)(2), 9–17, 18(2), 21(1)(3), Schs. 1–7, 9 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

7 Removal of certain controls in connection with denominational schools.

- (1) For subsection (2) of section 17 of the principal Act (power of education authority to provide new denominational school when Secretary of State is satisfied that one is required) there shall be substituted the following subsection—

“(2) In any case where an education authority are satisfied, whether upon representations made to them by any church or denominational body acting on behalf of the parents of children belonging to such church or body or otherwise, that a new school is required for the accommodation of children whose parents are resident within the area of the authority, regard being had to the religious belief of such parents, it shall be lawful for the education authority to provide a new school.”.

- (2) In section 22 of that Act—

- (a) in subsection (4) (power to discontinue denominational school or to make it a non-denominational school)—
- (i) the words from “the authority” to “signifies” shall cease to have effect; and
 - (ii) after the word “shall” there shall be inserted the words “subject to sections 22A, 22B, 22C and 22D of this Act”; and
- (b) in proviso (ii) to that subsection—
- (i) for the words “Secretary of State”, where first occurring, there shall be substituted the word “authority”;
 - (ii) the words from “if”, where secondly occurring, to “signifies” shall be omitted; and
 - (iii) after the word “shall” there shall be substituted the words “subject to sections 22A, 22B, 22C and 22D of this Act”.

Modifications etc. (not altering text)

- C2** The text of ss. 1–7, 8(1)(2), 9–17, 18(2), 21(1)(3), Schs. 1–7, 9 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

8 Restriction and abolition of educational schemes.

- (1) In section 7 of the principal Act (provision of educational facilities to be in accordance with schemes) subsections (1) to (3) and (8) shall cease to apply in relation to school education and, accordingly—

Changes to legislation: There are currently no known outstanding effects for the Education (Scotland) Act 1981, Cross Heading: Miscellaneous. (See end of Document for details)

- (a) in that section—
- (i) after subsection (1)(b), there shall be inserted the following paragraph—
 - “(bb) school education;”;
 - (ii) subsection (1)(c) shall cease to have effect;
 - (iii) in subsection (2), for the words “their powers and duties under the foregoing provisions of this Act” there shall be substituted the words “those of their functions which fall under subsection (1) above to be performed in accordance with schemes”;
 - (iv) in subsection (4), for the words “any scheme for” there shall be substituted the words “their functions under the foregoing provisions of this Act in relation to”;
 - (v) in subsection (6), for the words “In the preparation of any scheme for” there shall be substituted the words “In the performance of their functions under the foregoing provisions of this Act in relation to”;
 - (vi) in subsection (8), the words “school or” shall cease to have effect; and
- (b) in section 17 of that Act—
- (i) in subsection (1), after the word “authority” there shall be inserted the words “, in the performance of their functions under sections 1 to 6 of this Act,”; the words from “in accordance” to “the area” shall cease to have effect; and for the words from “carry” to the end there shall be substituted the words “perform their said functions”;
 - (ii) in subsection (3), for the words from “carry” to the end there shall be substituted the words “enable them to perform their functions under sections 1 to 6 of this Act.”.
- (2) Section 29 of the principal Act (transfer schemes) shall cease to have effect.
- (3) Notwithstanding subsections (1) and (2) above, any provision of any scheme made under section 7 of the principal Act in relation to school education or under section 29 of that Act and approved by the Secretary of State under section 69 of that Act shall, to the extent that it relates to a matter in respect of which arrangements may be made by the authority in the exercise of their functions under that Act, continue to have effect as if it had been made as part of those arrangements.

Modifications etc. (not altering text)

- C3** The text of ss. 1–7, 8(1)(2), 9–17, 18(2), 21(1)(3), Schs. 1–7, 9 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

9 Registration of independent schools: former grant-aided schools.

In section 98 of the principal Act (registration of independent schools)—

- (a) in subsection (1)—
- (i) the word “and” at the end of paragraph (a) shall be omitted;
 - (ii) at the end of paragraph (b) there shall be inserted—

“and

Changes to legislation: There are currently no known outstanding effects for the Education (Scotland) Act 1981, Cross Heading: Miscellaneous. (See end of Document for details)

- (c) where a school has ceased to be a grant-aided school, such of the particulars prescribed by regulations made under this section as the Secretary of State may direct.”;
- (iii) the word “and” at the end of proviso (i) shall be omitted;
- (iv) at the beginning of proviso (ii) there shall be inserted the words “Subject to subsection (1A) below,”; and
- (b) after subsection (1) there shall be inserted the following subsection—
 - “(1A) Proviso (ii) to subsection (1) above shall not apply to the registration of any school referred to in paragraph (c) of that subsection unless the Registrar gives notice in writing to the proprietor of the school that the said proviso applies to that registration.”.

Modifications etc. (not altering text)

- C4** The text of ss. 1–7, 8(1)(2), 9–17, 18(2), 21(1)(3), Schs. 1–7, 9 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

10 Registration of independent schools: offences.

After subsection (2) of section 98 of the principal Act (offences relating to registration of independent schools) there shall be inserted the following subsection—

- “(2A) A person shall not be guilty of an offence under subsection (2)(a) above by reason of conducting a school at any time within the period of one month from the date on which it was first conducted (whether by that person or another) if an application for the registration of that school has been duly made within that period.”.

Modifications etc. (not altering text)

- C5** The text of ss. 1–7, 8(1)(2), 9–17, 18(2), 21(1)(3), Schs. 1–7, 9 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

11 Constitution of Independent Schools Tribunals.

In Schedule 2 to the principal Act (constitution of independent schools tribunals)—

- (a) paragraphs 1 and 3 shall cease to have effect;
- (b) in paragraph 2 for the words “the educational panel” there shall be substituted the words “an Independent Schools Tribunal by the Secretary of State under paragraph 4 below”; and
- (c) in paragraph 4 the words “from the educational panel” and the words from “of whom” to the end of the paragraph shall cease to have effect.

Changes to legislation: There are currently no known outstanding effects for the Education (Scotland) Act 1981, Cross Heading: Miscellaneous. (See end of Document for details)

Modifications etc. (not altering text)

- C6** The text of ss. 1–7, 8(1)(2), 9–17, 18(2), 21(1)(3), Schs. 1–7, 9 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

12 Education in social work establishments.

After section 14 of the principal Act there shall be inserted the following section—

“14A Education in social work establishments.

- (1) An education authority may, in accordance with this section, provide for their area school education in any establishment provided by a local authority under section 59(1) or (2) of the Social Work (Scotland) Act 1968 which is provided wholly or mainly for children under school age (other than any establishment whose provision is secured by them under paragraph (c) of the said section 59(2)).
- (2) The provision of school education referred to in subsection (1) above shall consist of the making available by the education authority, in accordance with arrangements made by them in that behalf with the local authority providing the establishment, of the services of any teacher who is employed by them.
- (3) Arrangements under subsection (2) above may make provision for—
 - (a) the supply of equipment for use in connection with the provision of school education made available under the arrangements;
 - (b) any supplementary or incidental matters connected with the arrangements.
- (4) A teacher whose services are made available by an education authority in pursuance of arrangements under subsection (2) above shall, during the period in which his services are made available, be deemed to be in a post in a primary department of a school under the management of the education authority.”

Modifications etc. (not altering text)

- C7** The text of ss. 1–7, 8(1)(2), 9–17, 18(2), 21(1)(3), Schs. 1–7, 9 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

13 Provision relating to Examination Board.

- (1) Section 129 of the principal Act (establishment of Board to conduct examinations, etc) shall be amended in accordance with this section.
- (2) In subsection (2) of the said section 129, for the words “to give to the Board” there shall be substituted the words “,after consultation with the Board, to give to them”.
- (3) In subsection (3) of the said section 129—

Changes to legislation: There are currently no known outstanding effects for the Education (Scotland) Act 1981, Cross Heading: Miscellaneous. (See end of Document for details)

- (a) after the word “authorities” there shall be inserted the words “institutions of further education,”;
 - (b) the words “governing bodies of”, in both places where they occur, shall be omitted;
 - (c) after the words “directors of education” there shall be inserted the words “, educational advisers,”;
 - (d) the word “and”, where secondly occurring, shall be omitted; and
 - (e) there shall be inserted at the end the words “and grant-aided and independent schools.”.
- (4) In subsection (4) of the said section 129—
- (a) after paragraph (b) there shall be inserted the following paragraph—
 - “(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;”;
 - (b) in paragraph (c) there shall be inserted at the end the words “, 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”; and
 - (c) paragraph (e) shall be omitted.
- (5) After subsection (4) of the said section 129 there shall be inserted the following subsections—
- “(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.

Changes to legislation: There are currently no known outstanding effects for the Education (Scotland) Act 1981, Cross Heading: Miscellaneous. (See end of Document for details)

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."

(6) Subsection (5) of the said section 129 shall cease to have effect.

(7) Subsection (6) of the said section 129 shall, until its repeal under subsection (8) below, have effect and shall be deemed always to have had effect as if at the end there were inserted the words "and he may make these grants subject to such conditions as he thinks fit and may, with the consent of the Board, vary any condition of a grant made by him under this section or, if he thinks fit, revoke it."

(8) Subsection (6) of the said section 129 shall cease to have effect.

Modifications etc. (not altering text)

C8 The text of ss. 1–7, 8(1)(2), 9–17, 18(2), 21(1)(3), Schs. 1–7, 9 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

^{F1}14 Remuneration of teaching staff.

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Textual Amendments

F1 [S. 14](#) repealed (31.12.2004) by [Standards in Scotland's Schools etc. Act 2000 \(asp 6\)](#), [Sch. 3](#); [S.S.I. 2004/528](#), art. 2(b)

15 Educational endowments.

Schedule 6 to this Act (which contains amendments of the principal Act relating to educational endowments) shall have effect.

Modifications etc. (not altering text)

C9 The text of ss. 1–7, 8(1)(2), 9–17, 18(2), 21(1)(3), Schs. 1–7, 9 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

16 Inspection of religious instruction.

Subsection (2) of section 66 of the principal Act (exclusion of religious instruction from inspection under section 66(1)) shall cease to have effect.

Changes to legislation: There are currently no known outstanding effects for the Education (Scotland) Act 1981, Cross Heading: Miscellaneous. (See end of Document for details)

Modifications etc. (not altering text)

- C10** The text of ss. 1–7, 8(1)(2), 9–17, 18(2), 21(1)(3), Schs. 1–7, 9 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

F²17 Extension of power to make conditions as to qualifications for admission to teacher training courses and for recommendations for registration.

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Textual Amendments

- F2** S. 17 repealed (2.4.2012) by [The Public Services Reform \(General Teaching Council for Scotland\) Order 2011 \(S.S.I. 2011/215\)](#), art. 2, [Sch. 7](#)

18 Transfer to University Courts of certain Universities of power to appoint Principals.

- (1) The power of appointing the Principal of each of the Universities of St. Andrews, Glasgow and Aberdeen shall be transferred from Her Majesty to the respective University Courts of those Universities.
- (2) In Part III of Schedule 2 to the Universities (Scotland) Act 1966 (powers of University Court exercisable in accordance with procedure prescribed by those Courts) there shall be inserted, after paragraph 3, the following paragraph—

“3A The power of appointing the principals of the Universities of St. Andrews, Glasgow and Aberdeen.”.

- (3) Nothing in this section affects any appointment made before this section has come into force.

Modifications etc. (not altering text)

- C11** The text of ss. 1–7, 8(1)(2), 9–17, 18(2), 21(1)(3), Schs. 1–7, 9 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

19 Expenses.

There shall be defrayed out of moneys provided by Parliament—

- (a) any expenses incurred by the Secretary of State under this Act; and
- (b) any increase attributable to this Act in the sums payable out of such moneys under any other Act.

20 Meaning of “principal Act”.

In this Act, “the principal Act” means the ^{M1}Education (Scotland) Act 1980.

Changes to legislation: There are currently no known outstanding effects for the Education (Scotland) Act 1981, Cross Heading: Miscellaneous. (See end of Document for details)

Marginal Citations

M1 1980 c. 44.

21 Amendment of enactments, transitional provisions and repeals.

- (1) The enactments specified in Schedule 7 to this Act shall have effect subject to the amendments there specified being minor amendments and amendments consequential upon the provisions of this Act.
- (2) The transitional provisions set out in Schedule 8 to this Act shall have effect.
- (3) The enactments specified in Schedule 9 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

Modifications etc. (not altering text)

C12 The text of ss. 1–7, 8(1)(2), 9–17, 18(2), 21(1)(3), Schs. 1–7, 9 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

22 Short title, commencement and extent.

- (1) This Act may be cited as the Education (Scotland) Act 1981.
- (2) This Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint and different days may be so appointed for different provisions and for different purposes.
- (3) An order under subsection (2) above may contain such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into force.
- (4) This Act applies to Scotland only.

Modifications etc. (not altering text)

C13 Power of appointment conferred by s. 22(2) fully exercised: [S.I. 1981/557](#); 1982/951, 1737; 1983/371

Changes to legislation:

There are currently no known outstanding effects for the Education (Scotland) Act 1981, Cross
Heading: Miscellaneous.