

Changes to legislation: There are currently no known outstanding effects for the Education (Scotland) Act 1981, Paragraph 11. (See end of Document for details)

SCHEDULES

SCHEDULE 6

EDUCATIONAL ENDOWMENTS

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- C1** The text of ss. 1–7, 8(1)(2), 9–17, 18(2), 21(1)(3), Schs. 1–7, 9 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

- 11 In section 112 (procedure in preparation of reorganisation schemes)—
- (a) in subsection (1)—
- (i) for the words “the Secretary of State”, where first occurring, there shall be substituted the words “an education authority”;
- (ii) for paragraph (b) and the word “and” immediately preceding it there shall be substituted the following paragraphs—
- “(b) give notice of the draft scheme in accordance with subsection (1A) below and cause it to be published in such other manner, if any, as they think fit; and
- (c) permit public inspection of the draft scheme at such places and during such times as may be specified in the notice given by them under paragraph (b) above;”;
- (iii) for the words from “from” to “scheme” there shall be substituted the words “the first notice of the draft scheme given by the authority under paragraph (b) above”; and
- (iv) for the words “Secretary of State”, where secondly occurring, there shall be substituted the words “education authority”;
- (b) after subsection (1) there shall be inserted the following subsections—
- “(1A) The notice to be given under subsection (1)(b) above—
- (a) shall be by way of advertisement in a newspaper circulating in the area in which each educational establishment to which the endowment relates is situated or, where the endowment relates to no particular educational establishment, the area in which the beneficiaries of the endowment are required under its governing instrument to reside or with which they are so required to have some other connection;
- (b) shall state that written objections to and proposed amendments of the scheme may be made in the manner specified in subsection (1) above; and
- (c) shall state the places and times at which the draft scheme may be examined under subsection (1)(c) above.

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- (1B) The requirement under subsection (1A) above to give notice of the draft scheme by way of newspaper advertisement shall not apply in relation to an educational endowment of less annual value than £500 if, by giving notice in another manner, the education authority incur less expense.”;
- (c) in subsection (2)—
- (i) for the words from “him” to “statutory instrument” there shall be substituted the words “them, the education authority may, by resolution of the authority authorising their proper officer to sign the scheme on their behalf.”;
 - (ii) for the word “published” there shall be substituted the words “of which notice has been given”; and
 - (iii) at the end there shall be inserted the words “and on doing so shall notify the date of commencement of the scheme to the governing body of the endowment.”;
- (d) in subsection (3)—
- (i) for the words “him, the Secretary of State” there shall be substituted the words “them, the education authority ”;
 - (ii) after the word “amendments” there shall be inserted the words “, shall if any of them were sent by any of the persons mentioned in subsection (7) below, hold a public local inquiry into such of them as are not withdrawn”;
 - (iii) for the words “he thinks”, where twice occurring, there shall be substituted the words “they think ”; and
 - (iv) for the words “frame a” there shall be substituted the words “, by resolution of the authority authorising their proper officer to sign the scheme on their behalf, make the”;
- (e) after subsection (3) there shall be inserted the following subsections—
- “(3A) Schedule 10 to the Local Government (Scotland) Act 1973 shall not apply to the making of a scheme by an education authority under subsection (2) or (3) above.
- (3B) The person appointed by the education authority to hold a public local inquiry under subsection (3) above shall not be a member or officer of the authority or a member or employee of the governing body of the endowment to which the scheme relates.
- (3C) Without prejudice to their duty to hold a public local inquiry in the circumstances mentioned in subsection (3) above, an education authority may, if they consider it appropriate, hold a public local inquiry into any matter to which they may properly address themselves in the exercise of their functions under this Part of this Act.”;
- (f) in subsection (4)—
- (i) for the words “the Secretary of State frames” there shall be substituted the words “an education authority make”.
 - (ii) for the word “he”, where first occurring, there shall be substituted the word “they ”;
 - (iii) for the word “his”, where twice occurring, there shall be substituted the word “their ”;

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- (iv) for paragraphs (c) and (d) there shall be substituted the following paragraph—
- “(c) cause notice of the scheme to be given in accordance with subsection (1A)(a) and (c) above, containing a statement that, unless not later than the expiry of the period of one month from the first such notice a petition or appeal is presented to the Court of Session in accordance with the following provisions of this section, the scheme will come into operation on such date as the notice may specify, being not less than one month after the date of the first such notice.”;
- (g) for subsection (5) there shall be substituted the following subsections—
- “(5) If no petition or appeal is presented to the Court of Session in accordance with the following provisions of this section, the scheme shall come into operation on the date specified in the notice under subsection (4)(c) above.
- (5A) If a petition or appeal is presented to the Court of Session in accordance with the following provisions of this section and is refused by the Court, the Court shall make such order as it thinks fit as respects the commencement of the scheme.”;
- (h) subsection (6) shall be omitted;
- (i) for subsection (7), there shall be substituted the following subsection—
- “(7) If within the period of one month from the date of the notice given under subsection (4) above a petition or appeal is presented to the Court of Session by any of the persons mentioned below, the scheme referred to in that notice shall thereby be suspended and the Court may amend the scheme and make it as so amended or may make a new scheme and for those purposes the Court—
- (a) shall have the like powers as are conferred by this Part of this Act on an education authority regarding schemes for the future government and management of educational endowments, and
- (b) may make such orders as it thinks fit as respects notification and commencement of the amended or new scheme.
- The persons referred to above are—
- (i) the governing body of the endowment to which the scheme relates,
- (ii) the council of any district directly affected by the scheme,
- (iii) any education authority directly affected by the scheme,
- (iv) any ratepayers (not being less than twenty) of any district or place directly affected by the scheme,
- (v) any person having a vested interest in the said endowment or any part of it.”;
- (j) in subsection (8)—

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- (i) for the words from “Secretary of State” to “he thinks”, where secondly occurring, there shall be substituted the words “education authority shall rescind their decision to make the scheme but may, if they think fit, make an amended scheme in such form as they think ”; and
 - (ii) for the word “framed”, where twice occurring, there shall be substituted the word “made”; and
- (k) in subsection (9)—
- (i) for the words “the Secretary of State causes” there shall be substituted the words “an education authority cause”;
 - (ii) for the word “published” there shall be substituted the word “publicised”; and
 - (iii) for the words “he” and “his” there shall be substituted respectively the words “they ” and “their ”.

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