
Changes to legislation: There are currently no known outstanding effects for the Education (Scotland) Act 1981, Paragraph 4. (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- C1** The text of ss. 1–7, 8(1)(2), 9–17, 18(2), 21(1)(3), Schs. 1–7, 9 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

- 4 In section 105 (schemes for reorganisation of educational endowments)—
- (a) in subsection (1) for the words “the Secretary of State shall have power to” there shall be substituted the words “an education authority, whether upon an application made to them or not, may, if they think fit.”;
 - (b) in subsection (1)(b) for the words “Secretary of State thinks” there shall be substituted the words “education authority think”;
 - (c) for the words “Secretary of State”, where subsequently occurring, there shall be substituted the words “education authority”;
 - (d) at the end of subsection (1) there shall be inserted the following—

“Provided that in considering whether to exercise, in relation to any endowment, the power conferred upon them by this subsection an education authority may have regard to whether the exercise of the power would prejudice the proper discharge by them of their functions under this Act apart from this section or their functions as local authority under any enactment.”;
 - (e) in subsection (4), after paragraph (d) there shall be inserted the following—

“, or

 - (e) to an endowment which relates in whole or in part to an educational establishment not managed by the education authority who would, but for this paragraph, be empowered under this section to exercise in relation to that endowment the functions conferred by this section, or
 - (f) to an educational endowment having no limitation either as to the area in which any educational establishment to which it relates is situated or as to the area in which any of its beneficiaries are required under its governing instrument to reside or with which they are so required to have some other connection.”;
 - (f) for the proviso to subsection (4) there shall be substituted the following—

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“Provided that this subsection shall not apply to an endowment which falls within paragraph (e) above solely by reason of the inclusion among its purposes of the award of prizes, bursaries or similar benefits to persons who attend or have attended educational establishments or other institutions not managed by an education authority.”;

(g) after subsection (4) there shall be inserted the following subsections—

“(4A) The Court of Session shall have power, on the petition of—

- (a) the governing body of any endowment to which subsection (4) above applies or, in the case of the Carnegie Trust, the Trustees;
- (b) in relation to an endowment to which paragraph (e) of that subsection applies and which relates only in part to an educational establishment not managed by the education authority referred to in that paragraph, the education authority, in respect of the part of the endowment in relation to which they would, but for the said paragraph (e), be empowered under this section to exercise the functions conferred by this section,

to give effect to draft schemes for the future government and management of the endowment or, as the case may be, the Trust, which schemes may provide for any of the purposes set out in paragraphs (a) to (e) of subsection (1) above and, in exercising the power conferred on it under this subsection, the Court shall have special regard to the matters specified in paragraphs (a) to (d) of subsection (2) above.

(4B) Where a petition under subsection (4A) above relates to an endowment to which paragraph (e) of subsection (4) above applies and which relates only in part to an educational establishment not managed by the education authority referred to in that paragraph the Court of Session shall, before making an order under the said subsection (4A)—

- (a) where the petition was presented by any body referred to in paragraph (a) of the said subsection (4A), cause the petition to be served on the education authority;
- (b) where the petition was presented by an education authority under paragraph (b) of the said subsection (4A), cause the petition to be served on the governing body of the endowment to which the petition relates.

(4C) The governing body of an endowment in relation to which an education authority are empowered under this section to exercise the functions conferred by this section may, if the authority refuse to exercise their power under subsection (1) above in relation to the endowment on the ground that such exercise would prejudice the proper discharge by them of their functions under this Act apart from this section or their functions as local authority under any enactment, present a petition to the Court of Session, and subsections (4A), (4B) and (4D) of this section shall apply to such a petition.

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- (4D) Nothing in the Trustee Investments Act 1961 shall affect the power of the Court under subsection (4A) above to confer wider powers of investment than those conferred by that Act or affect the extent to which the power of the Court under that subsection is to be exercised.”;
- (h) subsection (5) shall be omitted; and
- (i) after subsection (6) there shall be inserted the following subsection—
- “(7) In this section, “education authority” means, in relation to an educational endowment, the education authority for the area in which any educational establishment to which the endowment relates is situated or, where the endowment relates to no particular such establishment, the education authority for 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.”.

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