



Self-Governing Schools etc. (Scotland) Act 1989

1989 CHAPTER 39

PART I

SELF-GOVERNING SCHOOLS

Government

2 Scheme of government

- (1) For every self-governing school there shall be an instrument (to be known as the scheme of government), one part of which (to be known as the articles of constitution) shall make provision for the constitution of the board of management of the school and the other part of which (to be known as the articles of management) shall make provision as regards the exercise of the board's functions in respect of the school.
- (2) A scheme of government—
 - (a) shall be made; and
 - (b) may be varied,by order of the Secretary of State; but any variation involving a change in the characteristics of the school shall only be made by virtue of subsection (10) of section 30 of this Act ("change in characteristics" being construed in accordance with subsection (13) of that section).
- (3) Before making any order under subsection (2) above, other than by virtue of section 30(10) of this Act, the Secretary of State shall consult—
 - (a) the board of management or, before the incorporation date, the school board of the school in question; and
 - (b) where the school is a denominational school, the church or other denominational body in whose interest the school is managed.
- (4) The first scheme of government required by subsection (1) above for a school—

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- (a) shall be made before the incorporation date to come into force on that date; and
- (b) shall accord, in so far as is practicable, with the proposals, as approved under section 19(1)(b) of this Act, for acquisition of self-governing status for the school.

3 The board of management and the articles of constitution

- (1) Without prejudice to section 19(3) of, and Schedule 4 to, this Act and subject to paragraphs 1 to 5 of Part I of Schedule 1 to this Act, the board of management of a self-governing school shall comprise—
 - (a) parent members (being persons elected to the board of management under this paragraph by parents of pupils in attendance at the school from such parents);
 - (b) staff members (being persons elected to the board of management under this paragraph by members of staff of the school from such staff);
 - (c) appointed members (being persons appointed under this paragraph to and by the board of management); and
 - (d) the person who is for the time being the head teacher of the school.
- (2) Part I of Schedule 1 to this Act, which makes further provision as regards the articles of constitution, shall have effect.
- (3) Subject to subsections (4) and (5) below it shall be the duty of the board of management to ensure that any vacancy in the membership of the board is duly filled as soon as is reasonably practicable and in any event within three months of the vacancy's arising.
- (4) Where a person ceases, for whatever reason, to be a parent member or staff member within six months before the date of expiry of his term of office, the duty under subsection (3) above does not require the vacancy to be filled before that date.
- (5) The duty, under subsection (3) above, of an interim board of management shall be construed as a duty to ensure that the election of the parent and staff members who are to succeed them on the board of management takes place as soon as is reasonably practicable and in any event within three months after the incorporation date.

4 Members' tenure of office

- (1) Subject to subsections (2) and (3) below, a member of a board of management shall hold office for a term of four years.
- (2) Where the parent members first elected to a board of management constitute—
 - (a) an even number, half;
 - (b) an odd number, the next whole number less than half,shall hold office for a term of two years only, the individuals whose term of office is affected by this subsection being determined (in the absence of the agreement of all such members as to who those individuals shall be) by the drawing of lots.
- (3) A person elected under section 3(1) of this Act to fill a vacancy which has occurred on the death, resignation or removal of a member shall serve only for the remainder of the term of office of the person whose place is filled.

5 Qualification for and disqualification from membership of a board of management

- (1) A person subject to legal incapacity shall be disqualified from election to, or membership of, a board of management.
- (2) A person disqualified—
 - (a) under paragraph (b) or (c) of section 31(1) of the 1973 Act for being elected, or for being, a member of a local authority shall be disqualified from election to, or membership of, a board of management;
 - (b) under paragraph (d) of that section for holding the office of councillor of a local authority shall be disqualified from election to, or membership of, a board of management of any school situated within the area of that authority.

6 Proceedings of board of management

- (1) The proceedings of the board of management of a self-governing school shall not be invalidated by—
 - (a) any vacancy among their number; or
 - (b) any defect in the election or appointment of any member.
- (2) Subject to the provisions of this Part and any instrument made under this Part, boards of management may regulate their own procedure.

7 Powers and duties of board of management

- (1) The board of management of a self-governing school shall manage the school, shall provide suitable and efficient school education at the school and shall, subject to subsection (2) below, to any regulations under subsection (7) below, to sections 11(1) and 12 of this Act and to any provision made by the articles of management of the school, have power to do anything which appears to them to be necessary or expedient for their exercise of those functions in respect of the school, including in particular power—
 - (a) to assume the management as from the incorporation date of the school, and for that purpose to receive any land, moveable property, liabilities and obligations transferred to them under section 36 or 49 of this Act;
 - (b) subject to subsection (2) below and to section 37 of this Act, to acquire and dispose of land and other property;
 - (c) to enter into contracts, including in particular contracts for the employment of teachers and other staff;
 - (d) to invest any sums not immediately required for the purposes of meeting the expenses of managing the school or any liability or obligation transferred to the board of management under section 36 or 49 of this Act; and
 - (e) to raise funds by any means other than borrowing, to accept gifts of money, land or other property and to apply, or hold and administer on trust, such funds and gifts for any purpose connected with such exercise by them.
- (2) Subsection (1) above does not confer power to borrow money; and the power under paragraph (b) of that subsection to dispose of land—
 - (a) does not include any power to grant any security in respect of land; and

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- (b) may only be exercised with the written consent of the Secretary of State, the consent not being given without his having consulted the education authority as regards the proposed disposal.
- (3) Without prejudice to subsection (1) above, but subject to any provision made by the scheme of government of the school, the board of management of a self-governing school shall also have power to provide education other than school education at the school.
- (4) The board of management of a self-governing school shall promote contact between the school, parents of pupils at the school and the community and shall in particular—
 - (a) encourage the formation of a parent-teacher association or parents' association at the school; and
 - (b) subject to their duty under subsection (1) above to provide suitable and efficient school education, promote the use of the school premises and facilities by the community.
- (5) The board of management of a self-governing school shall, as part of the provision by them of school education, provide adequate facilities for pupils in attendance at the school for social, cultural and recreative activities and for physical education and training; and they may additionally provide such facilities (whether or not for those pupils) other than as part of the provision of school education.
- (6) The board of management of a self-governing school shall, in the exercise of their functions, have regard to a need to make improvements in the provision which the school makes for pupils with special educational needs.
- (7) Standards and general requirements may be prescribed to which every board of management shall conform in discharging their functions under this Act.
- (8) Section 70 of the 1980 Act (enforcement of duties) applies as regards a board of management in respect of any duty imposed on them for the purposes of this Act (or of any other enactment relating to education).
- (9) Part II of Schedule 1 to this Act, which makes provision as regards articles of management, shall have effect.

8 Execution of documents

- (1) A document is validly executed by a board of management if it is subscribed on their behalf by one of their members or by any other person duly authorised to do so.
- (2) A document is to be presumed, unless the contrary is shown, to have been so executed if it bears to be so subscribed and to have been sealed with the board's common seal (whether attested by witnesses or not).

9 Reports and parents' meetings

- (1) The board of management of a self-governing school shall make such reports and returns and give such information to the Secretary of State as he may from time to time require as respects the school.
- (2) Subsection (2) of section 12 of the 1988 Act (reports to parents) and section 13 of that Act (parents' meetings) shall apply in relation to the board of management of a self-governing school as they apply in relation to the school board of a public school;

but for the purposes of this subsection the reference in paragraph (a)(i) of the said subsection (2) to the establishment of the school board shall be construed as a reference to the incorporation date in relation to the self-governing school.