

SCHEDULES

SCHEDULE 1

Section 1.

(TO BE INSERTED IN THE PRINCIPAL ACT AS SCHEDULE A1) - APPEAL COMMITTEES

- 1 An appeal committee set up under section 28D(1) of this Act shall be constituted in accordance with this Schedule.
- 2 An appeal committee shall consist of 3, 5 or 7 members nominated by the authority from among persons appointed by the authority under this Schedule ; and sufficient persons may be appointed to enable 2 or more appeal committees to sit at the same time.
- 3 The persons appointed shall comprise—
 - (a) members of the authority or of the education committee of the authority ; and
 - (b) persons who are not members of the authority or of the education committee of the authority but are—
 - (i) parents of children of school age ;
 - (ii) persons who in the opinion of the authority have experience in education ; or
 - (iii) persons who in the opinion of the authority are acquainted with the educational conditions in the area of the authority ;but shall not include any person employed by the authority as director of education or as an educational adviser or, in the offices of such director or such an adviser, as an assistant (in any capacity) to such director or, as the case may be, such an adviser.
- 4 The members of an appeal committee who are members of the authority or of the education committee of the authority shall not outnumber the other members of the appeal committee by more than one.
- 5 A person who is a member of the education committee of the authority shall not be chairman of an appeal committee.
- 6 A person shall not be a member of an appeal committee for the consideration of a reference of a decision if he was among those who made the decision or took part in or was present at discussions as to whether the decision should be made.
- 7 A person who is—
 - (a) a teacher at a relevant school (within the meaning of paragraph 8 below);
 - (b) a pupil at such a school;
 - (c) a parent of a pupil at such a school; or
 - (d) a member of a school council having functions in relation to such a schoolshall not be a member of an appeal committee for consideration of a reference involving a question whether a child is to be placed in the specified school or excluded from the relevant school.
- 8 For the purposes of paragraph 7 above, "relevant school" means in relation to a reference to the appeal committee—

Status: This is the original version (as it was originally enacted).

- (a) the school which the child to whom the placing request relates attends;
 - (b) the specified school;
 - (c) the school which the education authority propose that the child to whom the placing request relates should attend;
 - (d) a school from which pupils are normally transferred to the school referred to in sub-paragraph (b) or (c) above ; or
 - (e) the school from which the pupil has been excluded.
- 9 An appeal committee constituted in accordance with this Schedule shall be included in the bodies to which sections 45(4) and 46 of the Local Government (Scotland) Act 1973 (allowances) apply.

SCHEDULE 2

Sections 3 and 4.

AMENDMENTS OF THE EDUCATION (SCOTLAND) ACT 1980

- 1 The principal Act shall be amended in accordance with the following provisions of this Schedule.

PART I

SPECIAL EDUCATIONAL NEEDS

- 2 In section 4 (duty of education authorities to provide child guidance service)—
- (a) for paragraph (a) there shall be substituted the following—
 - “(a) the study of children with special educational needs;”;
 - (b) in paragraph (b) the words " and training " shall be omitted ; and
 - (c) in paragraph (c) the word " the " shall be omitted and for the words " of special education for " there shall be substituted the words " for the special educational needs of ".
- 3 Sections 5 (special education for children with certain disabilities) and 59 (classification and educational arrangements for pupils requiring special education) shall cease to have effect.
- 4 In section 135 (interpretation)—
- (a) in subsection (1)—
 - (i) the definition of " special education" shall be omitted ;
 - (ii) after the definition of " school education " there shall be inserted the following—
 - “" special educational needs " has the meaning assigned to it by section 1(5)(d) of this Act;”;
 - (iii) for the definition of " special school" there shall be substituted the following—
 - “" special school " means a school making provision wholly or mainly for recorded children, and includes special classes forming part of primary schools or secondary schools and child guidance clinics ;”and
 - (b) in subsection (2)—

Status: This is the original version (as it was originally enacted).

- (i) in paragraph (a), after the word " kind " there shall be inserted " (i) " ;
- (ii) after paragraph (a) there shall be inserted the following—
 - “; and
 - (ii) which is, in the case of a pupil with special educational needs, within the provision made for the purpose of meeting his special educational needs until he is transferred to the stage of secondary education;”;
- (iii) in paragraph (b), after the word " kind " there shall be inserted " (i) " ; and
- (iv) after paragraph (b) there shall be inserted the following—
 - “; and
 - (ii) which is, in the case of a pupil with special educational needs, within the provision made for the purpose of meeting his special educational needs until he ceases to be of school age or to receive school education, whichever is the later.”.

PART II

RECORDING OF CHILDREN AND YOUNG PERSONS

- 5 In section 38 (attendance orders) for paragraph (b) of subsection (2) there shall be substituted the following—
 - “(b) a special school shall not be named unless the child is a recorded child.”.
- 6 In section 40 (period of operation of attendance orders) for the proviso there shall be substituted the following—
 - “Provided that if the Record in relation to a recorded child is or falls to be discontinued by virtue of any enactment any attendance order requiring the attendance of that child at a special school shall be deemed to be annulled.”.
- 7 In section 54(4)(b) (provision of clothing for pupils at public schools) for the words from " a pupil " to " special education " there shall be substituted the words " a recorded child or recorded young person in respect of whom an education authority are, under section 62(3) of this Act, under a duty " .
- 8 In section 135(1), at the appropriate place in alphabetical order, there shall be inserted the following—
 - “Record " , and " recorded " and other cognate expressions have the same respective meanings as in section 60 of this Act;”.
- 9 In paragraph 3 of Schedule 3 for the words " special education " there shall be substituted the words " provision for recorded children " .

Status: This is the original version (as it was originally enacted).

- 10 In paragraph 4 of Schedule 3 for the words from " paragraph (i) " to the end of the paragraph there shall be substituted the words " subsection (2) of that section) to record the child. "

SCHEDULE 3

Section 4.

(TO BE INSERTED IN THE PRINCIPAL ACT AS SCHEDULE A2) - APPLICATION OF
 CERTAIN PROVISIONS OF THIS ACT TO RECORDED CHILDREN AND YOUNG PERSONS

- 1 Sections 28B and 28D of this Act and Schedule A1 to this Act shall apply in relation to a recorded child.
- 2 Sections 28C, 28E(1) to (6) and 28F(1) and (5) to (7) of this Act shall not apply in relation to a recorded child (corresponding provision being made in sections 63 to 65 of this Act).
- 3 In relation to a recorded child, for section 28A of this Act there shall be substituted the following section—

“**28A**(1) Where the parent of a recorded child makes a written request to an education authority to place his child in the school specified in the request, being a school under their management, it shall be the duty of the authority, subject to subsections (2) and (3) below, to place the child accordingly; and where the parent of a recorded child makes a written request to the education authority for the area to which the child belongs (in accordance with section 23(3) of this Act) to place his child in the school specified in the request, not being a public school but being a special school the managers of which are willing to admit the child, it shall be the duty of the authority, subject to subsections (2) and (3) below, to meet the fees and other necessary costs of the child's attendance at the specified school.

Such a request so made is referred to in this Act as a " placing request" and the school specified in it is referred to in this Act as the " specified school ".

- (2) Where a placing request relates to two or more schools being schools under the management of the education authority to whom it is made or special schools (other than public schools) the managers of which are willing to admit the child in respect of whom the request is made, the duty imposed by subsection (1) above shall apply in relation to the first mentioned such school, which shall be treated for the purposes of this Act as the specified school.
- (3) The duty imposed by subsection (1) above does not apply—
- (a) if placing the child in the specified school would—
- (i) make it necessary for the authority to take an additional teacher into employment;
- (ii) give rise to significant expenditure on extending or otherwise altering the accommodation at or facilities provided in connection with the school;
- (iii) be seriously detrimental to the continuity of the child's education; or

- (iv) be likely to be seriously detrimental to order and discipline in the school or the educational well-being of the pupils there ;
 - (b) if the education normally provided at the specified school is not suited to the age, ability or aptitude of the child ;
 - (c) if the education authority have already required the child to discontinue his attendance at the specified school;
 - (d) if, where the specified school is a special school, the child does not have special educational needs requiring the education or special facilities normally provided at that school;
 - (e) if the specified school is a single sex school (within the meaning given to that expression by section 26 of the Sex Discrimination Act 1975) and the child is not of the sex admitted or taken (under that section) to be admitted to the school; or
 - (f) if—
 - (i) the specified school is not a public school;
 - (ii) the authority are able to make at less cost adequate provision for the special educational needs of the child in a school under their management; and
 - (iii) the authority have offered to place the child in the school referred to in sub-paragraph (ii) above,
 but an education authority may place a child in the specified school notwithstanding paragraphs (a) to (f) above.
- (4) An education authority shall inform a parent in writing of their decision on his placing request and, where they decide to refuse it, shall give him written reasons for their decision and inform him of his right to refer it under section 63 of this Act to an appeal committee.
- (5) On complying with a placing request an education authority shall modify accordingly the nomination in the child's Record of a school to be attended by him.
- (6) The Secretary of State may, by regulations, make provision for deeming an education authority to have refused a placing request in the event of their not having informed the parent in writing of their decision on it in accordance with subsection (4) above within such period or before such date as may be prescribed in the regulations and different periods or dates may be so prescribed for different purposes."."
- 4 (1) Sections 28A, 28B and 28D of this Act and Schedule A1 to this Act shall, subject to the provisions of this paragraph, apply in relation to a recorded young person as they apply in relation to a recorded child.
- (2) For the purposes of the application of those provisions to recorded young persons, references therein to the parent of a recorded child as well as references to the child himself shall, subject to sub-paragraph (3) below, be construed as references to the recorded young person.
- (3) Sub-paragraph (2) above does not apply in a case where, for the purposes of section 61(7) of this Act, the education authority were satisfied that the young person was not capable of expressing his views for the purposes of that section.

- 5 Sections 28C, 28E(1) to (6) and 28F(1) and (5) to (7) of this Act shall not apply in relation to a recorded young person (corresponding provision being made in sections 63 to 65 of this Act).
- 6 Section 28G of this Act shall not apply in relation to a recorded young person (corresponding provision being made in paragraph 4 of this Schedule).

SCHEDULE 4

Section 5.

(TO BE INSERTED IN THE PRINCIPAL ACT AS SCHEDULE 1A) - REVOCATION OF DETERMINATIONS FOR THE PURPOSES OF THE ASSISTED PLACES SCHEME

- 1 The proprietors or managers of a participating school may request the Secretary of State to revoke the determination by giving him three years written notice or such shorter notice as he may in any particular case accept.
- 2 On the expiry of the period of notice referred to in paragraph 1 above the Secretary of State shall revoke the determination.
- 3 Subject to paragraph 4 below, the Secretary of State may revoke a determination in respect of a school by giving three years written notice to the proprietors or managers of the school.
- 4 (1) If the Secretary of State—
- (a) is not satisfied that appropriate educational standards are being maintained at a participating school; or
 - (b) is satisfied that any condition applying to the school by virtue of a determination or regulations made under section 75A or 75B of this Act has been contravened, or that any obligation applying to the school by virtue of such regulations has not been complied with,
- he may at any time revoke the determination by written notice to the proprietors or managers of the school.
- (2) A notice of revocation of a determination given under this paragraph may provide that it shall be treated as of no effect if the proprietors or managers of the school satisfy the Secretary of State within such time as may be specified in the notice that they have complied with any condition specified therein.
- 5 A notice of revocation of a determination given under paragraph 3 or 4 above shall contain a statement of the reasons for which it is given.
- 6 Revocation of a determination shall not affect the operation of—
- (a) the determination;
 - (b) the scheme in relation to which the determination was made ; or
 - (c) any regulations made under section 75A or 75B of this Act,
- in relation to any pupil holding an assisted place at the school on the date of the revocation.

SCHEDULE 5

Section 14.

(TO BE INSERTED IN THE PRINCIPAL ACT AS SCHEDULE 1B) - REMUNERATION OF TEACHING STAFF : THE COMMITTEE

Procedure

- 1 The committee may, from time to time—
- (a) appoint from among its own members, a sub-committee—
 - (i) to discharge such of the functions of the committee as the committee may specify ; or
 - (ii) to advise the committee on any matter relating to the discharge of the functions of the committee:

Provided that any person so appointed shall, upon ceasing to be a member of the committee, cease also to be a member of the sub-committee ;
 - (b) appoint a chairman from among its own members and revoke the appointment of his predecessor, if any;
 - (c) subject to the provisions of this Act, make, vary or revoke standing orders—
 - (i) regulating the quorum, procedure and place of meeting of the committee or of any of its sub-committees ; or
 - (ii) regulating the manner in which any dispute relating to procedure, or the interpretation of standing orders made under this sub-paragraph or the following paragraph, is to be resolved ;

but subject to any such standing orders and to the provisions of this Act the quorum, procedure and place of meeting of the committee or of any of its sub-committees shall be such as the committee, or in respect of itself the subcommittee, may determine.
- 2 Subject to any standing orders made under paragraph 1(c) above by the committee, a sub-committee appointed under paragraph 1(a) above may from time to time do anything in respect of itself that the committee may, under paragraph 1(b) or (c)(i) above, do in respect of the committee ; but the power which the committee has under paragraph 1(c) above to vary or revoke standing orders shall include the power to vary or revoke standing orders made by any of its sub-committees.

General powers

- 3 Subject to the provisions of this Act, the committee or any of its sub-committees shall have power to do anything (whether or not involving the expenditure or borrowing of money) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.
- 4 Without prejudice to the generality of paragraph 3 above, the powers conferred by that paragraph shall, in relation to the committee, include the power to—
- (a) employ servants or agents ;
 - (b) acquire or dispose of any property or rights ;
 - (c) sell, at such price as the committee may consider appropriate, to any person or body anything published, under the provisions of sections 91 to 97D of this Act, by the committee ;

Status: This is the original version (as it was originally enacted).

Provided that nothing in this sub-paragraph shall authorise any charge to be made in respect of any copy the transmission of which is required under the said provisions ; and

- (d) make provision for the resolution of any dispute between teaching staff and their employers as to the meaning or application of—
- (i) any settlement which the committee may formulate ; or
 - (ii) any award which under section 97B(8) or (9) of this Act has the same effect as such a settlement,

and shall, in relation to any sub-committee of the committee, include the powers mentioned in sub-paragraph (d) of this paragraph.

Recovery of expenditure

5 Expenditure incurred by the committee shall be recoverable so far as possible from income received by the committee in the exercise of the power specified in paragraph 4(c) of this Schedule.

6 In so far as such expenditure is not defrayed from income received as aforesaid, it shall be recoverable in such manner and in such proportions as the committee may determine from the bodies, other than the Secretary of State, which nominated the persons who are for the time being the members of the committee.

SCHEDULE 6

Section 15.

EDUCATIONAL ENDOWMENTS

1 The principal Act shall be amended in accordance with the following provisions of this Schedule.

2 In section 77 (regulations with respect to certain institutions providing further education)—

- (a) in subsection (1)—
 - (i) after paragraph (b) there shall be inserted the following paragraph—
 - “(c) without prejudice to any power contained in Part VI of this Act, revoke, amend or re-enact any provision of any endowment relating to any grant-aided college ;”;
 - (ii) after sub-paragraph (vi) there shall be inserted the following sub-paragraph—
 - “(vii) provide for any of the purposes specified in paragraphs (a) to (e) of section 105(1) of this Act”.

3 In section 104 (register of educational endowments)—

- (a) in subsection (1), for the words from the beginning to " Registrar ", where secondly occurring, there shall be substituted the words " It shall be the duty of the Secretary of State "; and
- (b) in subsection (2)—
 - (i) the words from " within " to " operation," shall be omitted ;

Status: This is the original version (as it was originally enacted).

- (ii) for the word " Registrar " there shall be substituted the words " Secretary of State "; and
- (iii) at the end there shall be inserted the words " in such manner as may be so prescribed ".

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—

“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

Status: This is the original version (as it was originally enacted).

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.
- (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

Status: This is the original version (as it was originally enacted).

- governing instrument to reside or with which they are so required to have some other connection.”.
- 5 In section 106 (sale of land belonging to educational endowments)—
- (a) in subsection (1)—
 - (i) for the words " Secretary of State ", where first occurring, there shall be substituted the words " Court of Session "; and
 - (ii) for the words " he may by order direct" there shall be substituted the words " the Court may order "; and
 - (b) in the proviso to subsection (1)—
 - (i) for the words " direction shall be given " there shall be substituted the words " order shall be made "; and
 - (ii) for the words " Secretary of State " there shall be substituted the word " Court ".
- 6 In section 107 (educational endowments applicable in part to non-educational purposes)—
- (a) in subsection (1), for the words " within the meaning of this Part of this Act" there shall be substituted the words " to which the powers conferred by section 105 of this Act extend ";
 - (b) in subsection (2)—
 - (i) for the words " Secretary of State " there shall be substituted the words " education authority having power to exercise, in relation to that endowment, the functions conferred by section 105 of this Act "; and
 - (ii) for paragraphs (ii) to (iv) there shall be substituted the following paragraph—
 - “(ii) the purposes of such part of the endowment have become obsolete or useless.”;
 - (c) in subsection (3)—
 - (i) for the words " Secretary of State", where first occurring, there shall be substituted the words " education authority "; and
 - (ii) for the words "such number of years as the Secretary of State shall determine " there shall be substituted the words " the five most recent years for which accounts are available "; and
 - (d) in subsections (5), (6) and (7), for the words " Secretary of of State ", wherever occurring, there shall be substituted the words " education authority ".
- 7 In section 108 (reorganisation of non-educational endowments)—
- (a) in subsection (1)—
 - (i) for the words " dealt with by the Secretary of State " there shall be substituted the word " reorganised "; and
 - (ii) for the words from " intimate " to the end there shall be substituted the words " present a petition to the Court of Session to give effect to a draft scheme for the future government and management of the endowment and thereafter such endowment may be dealt with in all respects as if it were included amongst those specified in section 105(4) of this Act. "; and

Status: This is the original version (as it was originally enacted).

- (b) subsection (2) shall be renumbered section 108A (Court's power to give effect to reorganisation scheme on petition of Lord Advocate) and in that section—
- (i) for the words " subsection (1) above " there shall be substituted the words " section 108 of this Act ";
 - (ii) for the words " framed " and " frame " there shall be substituted respectively the words " made " and " make " ; and
 - (iii) the words from " which is not" to " Act " shall be omitted.
- 8 In section 109 (provisions regarding interests of individuals), in subsection (1) for the words " the Secretary of State " there shall be substituted the words " made under this Part of this Act, the education authority or, as the case may be, the Court ".
- 9 In section 110 (provisions as to beneficiaries of endowments and teachers)—
- (a) for the words " Secretary of State ", wherever occurring, there shall be substituted the words " education authority ";
 - (b) in subsection (1)—
 - (i) for the words " framing a " there shall be substituted the words " preparing a draft ";
 - (ii) in paragraph (a) after the word " to " there shall be inserted the words " educational need " ; and
 - (iii) in paragraph (b), for the words "where he considers it expedient to do so " there shall be substituted the words " unless in any particular case they consider it inexpedient to do so, " ;
 - (c) for the words from the beginning of subsection (2) to "the scheme " where occurring in the proviso to that subsection there shall be substituted the words " Every scheme for an educational endowment " ;
 - (d) subsection (3) shall be omitted ; and
 - (e) in subsection (4), after the word " scheme " there shall be inserted the words—
 - “(a) given effect to by the Court of Session ; or
 - (b) prepared by an education authority with respect to a school other than one which has been transferred to them under section 16 or provided under section 17(2) of this Act.”.
- 10 In section 111 (accounts and audit of educational endowments)—
- (a) in subsection (1), the words "in such manner as the Secretary of State may prescribe ", in subsection (2), the words from "in such form" to the end, in subsection (3), the words from " with the approval " to " Privy Council" and subsections (4) and (5) shall be omitted ; and
 - (b) in subsection (6), for the words from the beginning to " applies" there shall be substituted the words " The governing body of each endowment to which this section applies shall make the audited accounts of that endowment " .
- 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—

Status: This is the original version (as it was originally enacted).

- (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 ";
 - (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 ;

Status: This is the original version (as it was originally enacted).

- (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 s6 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)—
- (i) for the words from " Secretary of State " to " he minks", 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 ".

12 Section 113 (procedure in preparation of certain re-organisation schemes) shall be omitted.

13 In section 114 (effect of schemes)—

- (a) in subsection (1)—
- (i) for the word " approved " there shall be substituted the words " given effect to ";
- (ii) the words from " come" to " shall", where secondly occurring, shall be omitted ; and

Status: This is the original version (as it was originally enacted).

- (iii) for the words " said date " there shall be substituted the words " date of commencement of the scheme ";
 - (b) in subsection (2)—
 - (i) for the words from the beginning to " approving " there shall be substituted the words " An instrument containing or giving effect to ";
 - (ii) after the word " shall ", where first occurring, there shall be inserted the words " , from the date of commencement of the scheme, " ; and
 - (iii) after the word " not " there shall be inserted the words " , from the said date, " ; and
 - (c) after subsection (2) there shall be inserted the following subsection—
 - “(3) Each of the powers to make schemes conferred by this Part of this Act implies power exercisable in the same manner and subject to the same conditions or limitations to revoke, amend or re-enact any scheme made under that power.”.
- 14 Sections 115 (schemes for small endowments) and 116 (amending schemes) shall be omitted.
- 15 In section 117 (costs of publishing scheme etc.)—
- (a) for the word " publishing " there shall be substituted the word " publicising " ; and
 - (b) the proviso shall be omitted.
- 16 For section 118 (reports by governing bodies) there shall be substituted the following section—

“118 Information by governing bodies.

Every governing body of an endowment to which section 105 of this Act extends shall give such information to the education authority having power under that section to prepare a scheme for the future government and management of the endowment as the authority may from time to time require.”.

- 17 After section 118 there shall be inserted the following section—

“118A Income plans under schemes.

- (1) Any provision of a scheme referred to in subsection (2) below which (however expressed) empowers or requires the governing body of the endowment to which the scheme relates—
 - (a) to prepare and submit for the approval of the Secretary of State a plan, a revised plan or an amendment of a plan for the exercise by the governing body of their functions in relation to the application of the income of the endowment ; or
 - (b) to give effect to such a plan or amendment as approved by the Secretary of State,
 shall be of no effect.
- (2) This section applies to any scheme made or approved under the Acts of 1928 to 1935, Part VI of the Act of 1946, Part VI of the Act of 1962, or this Part of this Act.”.

Status: This is the original version (as it was originally enacted).

- 18 In section 120 (default by governing body)—
- (a) at the beginning there shall be inserted " (1) ";
 - (b) after the word " endowment" there shall be inserted the words " to which section 105 of this Act does not extend ";
 - (c) after the words " Part of this Act" there shall be inserted the words " prior to the commencement of section 15 of the Education (Scotland) Act 1981 "; and
 - (d) at the end there shall be inserted the following subsection—
 - “(2) In relation to any educational endowment to which section 105 of this Act extends, subsection (1) above shall apply—
 - (a) with the omission of the words " to which section 105 of this Act does not extend " and the words " prior to the commencement of section 15 of the Education (Scotland) Act 1981 " and
 - (b) with the substitution for the words " Secretary of State after such inquiry as he " of the words " education authority having power under section 105 of this Act to prepare a draft scheme for the future government and management of the endowment, after such inquiry as they ".
- 19 In section 121 (judgment of Court of Session final)—
- (a) in paragraph (a), after the word " Court" there shall be inserted " other than one giving effect under section 105(4) of this Act to a draft scheme for the future government and management of an endowment or the Carnegie Trust "; and
 - (b) the words "(including the expenses of the Secretary of State)" in paragraph (b) and the proviso to that paragraph shall be omitted.
- 20 In section 122 (interpretation) for the words " Secretary of State " in subsection (2) there shall be substituted the words " Court of Session ".

SCHEDULE 7

Section 21.

MINOR AND CONSEQUENTIAL AMENDMENTS

The Teaching Council (Scotland) Act 1965

- 1 In section 2(2) of the Teaching Council (Scotland) Act 1965, after the word " under " there shall be inserted the words " , or determined by virtue of, ".
- 2 In section 7(2) of that Act, after the word " under " there shall be inserted the words " or determined by virtue of ".

The Education (Scotland) Act 1980

- 3 In section 16(2) of the principal Act (conveyance of transferred denominational school)—
- (a) after the word " effected " there shall be inserted the word " (a) ",
 - (b) after the word " sasines " there shall be inserted the words—

Status: This is the original version (as it was originally enacted).

“; or

(b) where—

(i) the interest in the land to be transferred is registrable under the Land Registration (Scotland) Act 1979 ; or

(ii) the transference itself is so registrable, by registration under that Act”; and

(c) at the end there shall be inserted the words " or, as the case may be, registration ".

4 In section 22(1) of that Act (discontinuance and moves of educational establishments) the words from " and to " to " thereto " and the words " with the sanction of the Secretary of State " shall cease to have effect.

5 In section 23(1) of that Act (power to provide education for pupils belonging to areas of other authorities) there shall be inserted at the end the words " or of a local education authority in England and Wales ".

6 In section 23(3) of that Act (areas to which classes of pupils are deemed to belong) after the words "this section" there shall be inserted the words " and sections 1(5) (c) and (d), 28A(1) (as it has effect under Schedule A2 to this Act), 50, 51 and 60 to 65F of this Act. ".

7 After section 23(6) of that Act, there shall be inserted the following subsection—

“(6A) Nothing in this section affects the duty under section 28A of this Act or that section as it has effect under Schedule A2 to this Act of an education authority to place a child in accordance with a placing request or authorises them to decline to make for the pupil to whom the placing request relates such provision of school education as is mentioned in subsection (1) above.”.

SCHEDULE 8

Section 21.

TRANSITIONAL PROVISIONS

1 Any reference in any enactment or other instrument passed or made before the commencement of section 4 of this Act to special education shall be construed as a reference to provision for special educational needs made in special schools.

2 During any period—

(a) after the date of the coming into force of the provision of section 1(1) of this Act inserting into the principal Act the provision which becomes paragraph (d) of section 28A(3) of that Act; but

(b) before the date when section 4 of this Act comes into force, there shall be substituted for the said paragraph (d) the following paragraph—

“(d) if the specified school is a special school and the child has not been ascertained as requiring special education ;”.

3 During any period—

(a) after the date of the coming into force of the provision of section 1(1) of this Act inserting into the principal Act the provisions which become sections 28C and 28E of that Act; but

Status: This is the original version (as it was originally enacted).

- (b) before the date when section 4 of this Act comes into force, the said sections 28C and 28E shall not apply in respect of a decision of an education authority refusing a placing request made in respect of a child who has been ascertained as requiring special education.
- 4 During the period of three years beginning with the date when section 4 of this Act comes into force—
- (a) a child who has before that date been ascertained under the principal Act as originally enacted as requiring special education or to whom a decision referred to in paragraph 4 of Schedule 3 to that Act (transitional provisions) relates shall be deemed for the purposes of the provisions of that Act substituted by this Act to be a recorded child until the education authority shall have, in compliance with sub-paragraph (b) below, reached a decision on whether or not to record him ;
 - (b) notwithstanding that a child is deemed under sub-paragraph (a) above to be a recorded child, the education authority shall perform their duties under sections 60 to 62 of the principal Act as substituted by section 4 of this Act in relation to him as if he were not a recorded child ;
 - (c) sections 63 and 64 of the principal Act and section 61 of that Act as applied by section 63 thereof, all as originally enacted, shall have effect subject to such modifications as the Secretary of State may prescribe by regulations made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament;
 - (d) sections 28C, 28E and 28F of the principal Act and sections 63 to 65 of the principal Act as substituted by this Act shall not apply in relation to a child who is deemed under sub-paragraph (a) above to be recorded.
- 5 Any consultation made or other thing done by an education authority for the purposes of their functions under Part I of the principal Act before the making of regulations under section 22A(2) of the principal Act which would if made or done after the making of those regulations be consultation for the purposes of section 22A(1) of the principal Act or part of the process of such consultation shall be deemed to be such consultation or, as the case may be, a part of the process of such consultation.
- 6 Any—
- (a) appointment made under paragraph (e) of subsection (4) of section 129 of the principal Act;
 - (b) other thing done under that paragraph
- which could be made or done under a provision of that section as amended by this Act shall, notwithstanding the repeal of that paragraph by this Act, be as valid as if made or done under that provision.
- 7 Any expression used in this Schedule and in the principal Act shall in this Schedule have the same meaning as it has in that Act.

Status: This is the original version (as it was originally enacted).

SCHEDULE 9

Section 21.

REPEALS

Chapter	Short Title	Extent of Repeal
1980 c. 44.	The Education (Scotland) Act 1980.	<p>In section 4, in paragraph (b), the words " and training ", and in paragraph (c) the word " the ".</p> <p>Section 5.</p> <p>Section 7(1)(c).</p> <p>In section 7(8), the words " school or ".</p> <p>In section 17(1), the words from " in accordance" to " the area ".</p> <p>In section 22, in subsection (1), the words from " and to " to " thereto " and the words " with the sanction of the Secretary of State " and, in subsection (4), the words from "the authority" to "signifies", and in proviso (ii) the words from "if", where secondly occurring, to "signifies ".</p> <p>In section 23, in subsection (2), the words from " or the managers of" to "that authority", the words " or the managers, as the case may be," and "or by the authority and the managers concerned, as the case may be " and the proviso to that subsection.</p> <p>Section 28(2).</p> <p>Section 29.</p> <p>Section 59.</p> <p>Section 66(2).</p> <p>In section 98(1), the word " and " at the end of paragraph (a) and at the end of proviso (i).</p>

Status: This is the original version (as it was originally enacted).

Chapter	Short Title	Extent of Repeal
		<p>In section 104(2), the words from " within " to " operation,".</p> <p>Section 105(5).</p> <p>In section 108(2), the words from " which is not" to " Act".</p> <p>Section 110(3).</p> <p>In section 111, in subsection (1) the words "in such manner as the Secretary of State may prescribe "; in subsection (2) the words from "in such form " to the end; in subsection (3) the words from " with the approval" to "Privy Council"; and subsections (4) and (5).</p> <p>Section 112(6).</p> <p>Section 113.</p> <p>In section 114(1), the words from " come " to " shall ", where secondly occurring.</p> <p>Sections 115 and 116.</p> <p>In section 117, the proviso.</p> <p>In section 121(b) the words " (including the expenses of the Secretary of State)" and the proviso to that paragraph.</p> <p>In section 129, in subsection (3), the words " governing bodies ", in both places where they occur and the word " and " where secondly occurring; in subsection (4), paragraph (e); and subsections (5) and (6).</p> <p>Section 132(1).</p> <p>In section 135(1), the definition of " special education ".</p> <p>In Schedule 2, paragraphs 1 and 3 and in paragraph 4 the words " from the educational</p>

Status: This is the original version (as it was originally enacted).

Chapter	Short Title	Extent of Repeal
		panel" and the words from "of whom " to the end of the paragraph.