



# Education (Scotland) Act 1980

## 1980 CHAPTER 44

### PART III

#### ADMINISTRATION AND FINANCE

##### *Central administration*

#### **66 Inspection of educational establishments.**

- (1) The Secretary of State shall have power to cause inspection to be made of every [<sup>F1</sup>school] at such intervals as appear to him to be appropriate, and to cause a special inspection of any [<sup>F2</sup>school] to be made whenever he considers such an inspection to be desirable, and he may from time to time cause inspection to be made of any other educational establishment [<sup>F3</sup>(other than a designated institution within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992)], and such inspections shall be made by Her Majesty's Inspectors or [<sup>F4</sup>any person appointed by the Scottish Ministers for the purposes of this section (or Her Majesty's Inspectors and any such person)].

[<sup>F5</sup>(1AA) If requested to do so by the Scottish Ministers—

- (a) Her Majesty's Inspectors or any person appointed by the Scottish Ministers for the purposes of this section shall give advice to the Scottish Ministers on such matter as may be specified in the request;
- (b) Her Majesty's Inspectors or any such person (or Her Majesty's Inspectors and any such person) may, as respects a matter so specified, inspect and report on a school (including any establishment in which school education is provided in pursuance of arrangements entered into under section 35 of this Act), or class of schools, so specified.]

[<sup>F6</sup>(1A) Without prejudice to subsection (1) above, the Scottish Ministers shall have power to cause inspection to be made at any establishment in which school education is provided in pursuance of arrangements entered into under section 35 of the Standards in Scotland's Schools etc. Act 2000 (asp 6); and such inspections shall be made by

*Status: Point in time view as at 31/01/2005.*

*Changes to legislation: Education (Scotland) Act 1980, Cross Heading: Central administration is up to date with all changes known to be in force on or before 05 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Her Majesty's Inspectors or any person appointed by the Scottish Ministers for the purposes of this section (or Her Majesty's Inspectors and any such person).]

<sup>F7</sup>[(1B) Notwithstanding subsection (1) above, the Secretary of State shall have power to cause inspection to be made of the education and training, wherever it is carried out, provided by institutions within the higher education and training, wherever it is carried out, provided by institutions within the higher education sector (within the meaning of the <sup>M1</sup>Further and Higher Education (Scotland) Act 1992) wholly or mainly for persons preparing to be, or persons who are, teachers in schools, and such inspections shall be made by Her Majesty's Inspectors or other persons appointed by the Secretary of State for the purpose.]

(2) ..... <sup>F8</sup>

(3) If any person [<sup>F9</sup>wilfully]obstructs any person authorised to make an inspection in pursuance of this section in the execution of his duty, he shall be liable on summary conviction to a fine not exceeding [<sup>F10</sup>level 4 on the standard scale] or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

#### Textual Amendments

- F1** Word substituted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(14)(a)**
- F2** Word substituted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(14)(b)**
- F3** Words in s. 66(1) inserted (1.4.1993) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(2), **Sch. 9 para. 7(5)**; S.I. 1992/817, art. 3(2), **Sch. 4**
- F4** Words in s. 66(1) substituted (13.10.2000) by 2000 asp 6, s. 11(a); S.S.I. 2000/361, art. 3(1)(2), **Sch. Pt. I**
- F5** S. 66(1AA) inserted (13.10.2000) by 2000 asp 6, s. 11(b); S.S.I. 2000/361, art. 3(1)(2), **Sch. Pt. I**
- F6** S. 66(1A) substituted (4.3.2002) by 2000 asp 6, s. 36; S.S.I. 2002/72, **art. 2(1)(e)**
- F7** S. 66(1B) inserted (1.10.1998) by 1998 c. 30, s. 21 (with s. 42(8)); S.I. 1998/2215, **art. 2**.
- F8** Ss. 5, 28(2), 59, 66(2), 111(4)(5), 129(5)(6), 132(1), Sch. 2 paras. 1, 3 repealed by Education (Scotland) Act 1981 (c. 58), **Sch. 9**
- F9** Word in s. 66(3) inserted (13.10.2000) by 2000 asp 6, s. 60(1), **Sch. 2 para. 3(7)**; S.S.I. 2000/361, art. 3(1)(2), **Sch. Pt. I**
- F10** Words in s. 66(3) substituted (1.4.1996) by 1995 c. 40, ss. 3, 7(2), Sch. 1 para. 10, **Sch. 2 Pt. III**.

#### Marginal Citations

- M1** 1992 c. 37.

#### <sup>F11</sup>66A Code of practice as regards inspections under section 66

- (1) Subject to subsection (2) below, the Scottish Ministers may, for the purposes of—
- (a) giving practical guidance on matters relating to inspections under section 66 of this Act (including, without prejudice to that generality, such matters as the making and publishing of reports on those inspections); and
  - (b) promoting what appear to them to be desirable practices with respect to these matters,
- from time to time prepare, approve and issue such codes of practice as in their opinion are suitable for those purposes.

*Status: Point in time view as at 31/01/2005.*

*Changes to legislation: Education (Scotland) Act 1980, Cross Heading: Central administration is up to date with all changes known to be in force on or before 05 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) Subsection (1) above does not apply in relation to inspections of educational establishments which are institutions for the provision of any form of further education.]

#### Textual Amendments

**F11** S. 66A inserted (13.10.2000) by 2000 asp 6, s. 12; S.S.I. 2000/361, art. 3(1)(2), Sch. Pt. I

### [<sup>F12</sup>66B Duty of Her Majesty’s Inspectors to make reference to Scottish Ministers

- (1) This section applies where, after an inspection under subsection (1) or (1AA) of section 66 of this Act of—

- (a) a public school; or
- (b) a grant-aided school,

Her Majesty’s Inspectors identify that a relevant person requires to take action to secure improvement in a matter relating to the school or the school education provided in it.

- (2) If it appears to Her Majesty’s Inspectors that—

- (a) having been given sufficient opportunity to secure improvement in a matter identified under subsection (1) above, the relevant person is failing or has failed to take satisfactory action to do so; and
- (b) having regard to the seriousness of that failure, an enforcement direction is justified,

they shall make a reference to the Scottish Ministers.

- (3) A reference under subsection (2) above shall—

- (a) be in writing;
- (b) specify the failure mentioned in subsection (2)(a) above; and
- (c) include recommendations as to the action which, in the opinion of Her Majesty’s Inspectors, the relevant person requires to take to remedy or prevent the recurrence of that failure.

- (4) Where Her Majesty’s Inspectors make a reference under subsection (2) above, they shall inform the relevant person of the making of that reference.

- (5) In this section and in sections 66C and 66D of this Act, “relevant person” means—

- (a) in relation to a public school, the education authority; and
- (b) in relation to a grant-aided school, the managers of the school.

#### Textual Amendments

**F12** Ss. 66B-66D inserted (31.1.2005) by School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004 (asp 12), ss. 1, 9(2); S.S.I. 2005/10, art. 3(a)

### 66C Preliminary notice

- (1) Where, on a reference under section 66B(2) of this Act, it appears to the Scottish Ministers that—

*Status: Point in time view as at 31/01/2005.*

*Changes to legislation: Education (Scotland) Act 1980, Cross Heading: Central administration is up to date with all changes known to be in force on or before 05 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) the relevant person is failing or has failed to take satisfactory action to secure improvement in the matter mentioned in section 66B(2)(a) of this Act; and
  - (b) an enforcement direction is justified,
- they may serve a preliminary notice on the relevant person.
- (2) A preliminary notice is a notice which—
- (a) informs the relevant person of the apparent failure mentioned in subsection (1)(a) above; and
  - (b) requires the relevant person to submit to the Scottish Ministers, within such time as is specified in the notice, a written response which—
    - (i) states that the person has not so failed and gives reasons supporting that statement; or
    - (ii) states that the person has so failed but gives reasons why an enforcement direction should not be given to that person.

#### Textual Amendments

**F12** Ss. 66B-66D inserted (31.1.2005) by School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004 (asp 12), ss. 1, 9(2); S.S.I. 2005/10, art. 3(a)

## 66D Enforcement direction

- (1) Where, following service under section 66C(1) of this Act of a preliminary notice and the expiry of the time specified in it, it still appears to the Scottish Ministers that—
  - (a) the relevant person is failing or has failed to take satisfactory action to secure improvement in the matter mentioned in section 66B(2)(a) of this Act; and
  - (b) having regard to the seriousness of that failure, action under this section is justified,
 they may give the relevant person an enforcement direction.
- (2) An enforcement direction is a direction in writing by the Scottish Ministers requiring the relevant person to whom it is given to take, within such time as is specified in the direction, such action as is so specified, being action calculated to remedy or prevent the recurrence of the failure mentioned in subsection (1)(a) above.
- (3) Where two or more courses of action are specified in an enforcement direction, the Scottish Ministers may specify for each a different time within which it is to be taken.
- (4) An enforcement direction may place such conditions as the Scottish Ministers may specify in it upon the carrying out of such functions of the relevant person in relation to the school and the school education provided in it as are so specified.
- (5) The Scottish Ministers may vary an enforcement direction by giving a further such direction.
- (6) A further such direction need not proceed upon a further preliminary notice under section 66C(1) of this Act.
- (7) An enforcement direction may be revoked by the Scottish Ministers.
- (8) Before giving, varying or revoking an enforcement direction, the Scottish Ministers shall consult Her Majesty's Inspectors.

*Status: Point in time view as at 31/01/2005.*

*Changes to legislation: Education (Scotland) Act 1980, Cross Heading: Central administration is up to date with all changes known to be in force on or before 05 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (9) A relevant person to whom an enforcement direction is given shall comply with it.
- (10) The Scottish Ministers may, instead of or as well as giving an enforcement direction, make such recommendations to the relevant person as they think appropriate.
- (11) If the Scottish Ministers exercise their power to give, vary or revoke an enforcement direction they shall—
- (a) prepare a report on their exercise of that power; and
  - (b) lay that report before the Scottish Parliament.]

#### Textual Amendments

- F12** Ss. 66B-66D inserted (31.1.2005) by [School Education \(Ministerial Powers and Independent Schools\) \(Scotland\) Act 2004 \(asp 12\)](#), ss. 1, 9(2); S.S.I. 2005/10, art. 3(a)

### 67 Local inquiries.

The Secretary of State may cause a local inquiry to be held for the purpose of the exercise of any of his functions under this Act [<sup>F13</sup>or any other enactment relating to education], and the provisions of Schedule 1 to this Act shall have effect with regard to any such inquiry.

#### Textual Amendments

- F13** Words inserted by [Self-Governing Schools etc. \(Scotland\) Act 1989 \(c. 39, SIF 41:2\)](#), s. 82(2), [Sch. 10 para. 8\(15\)](#)

### 68 Power to require submission to medical examination.

Where any question is to be decided by the Secretary of State under this Act or under any rule, regulation or order made thereunder, then, if in the opinion of the Secretary of State the medical examination of any pupil [<sup>F14</sup>or other person enrolled at an educational establishment] would assist the determination of the question, the Secretary of State may by notice in writing served on the parent of that pupil, if the pupil is enrolled at a school, or on the pupil [<sup>F14</sup>or other person] himself if he is enrolled at [<sup>F15</sup>another] educational establishment, require the parent to submit him, or require the pupil [<sup>F14</sup>or other person] to submit himself, as the case may be, for such examination; and if any person on whom such a notice is served fails without reasonable excuse to comply with the requirements thereof, he shall be liable on summary conviction to a fine not exceeding [<sup>F16</sup>level 1 on the standard scale].

#### Textual Amendments

- F14** Words in s. 68 inserted (1.4.1993) by [Further and Higher Education \(Scotland\) Act 1992 \(c. 37\)](#), s. 62(2), [Sch. 9 para. 7\(6\)\(a\)\(b\)](#); S.I. 1992/817, art. 3(2), [Sch. 4](#)
- F15** Word substituted by [Self-Governing Schools etc. \(Scotland\) Act 1989 \(c. 39, SIF 41:2\)](#), s. 82(2), [Sch. 10 para. 8\(16\)](#)
- F16** Words in s. 68 substituted (11.4.1983) by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), ss. 289F, 289G (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), s. 54)

*Status: Point in time view as at 31/01/2005.*

*Changes to legislation: Education (Scotland) Act 1980, Cross Heading: Central administration is up to date with all changes known to be in force on or before 05 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 69 Approval and carrying out of schemes.

- (1) The Secretary of State may, after considering any representations made to him on the subject and the report of any local inquiry which may have been held under section 67 of this Act, approve, either as submitted or with such modifications and amendments as he thinks proper, any scheme or revised scheme or modification of an existing scheme (in this section referred to as “the scheme”) submitted to him under this Act by an education authority; and thereupon it shall be the duty of the education authority to carry the scheme into effect as so approved.
- (2) If an education authority inform the Secretary of State that they are aggrieved by his approval with modifications or amendments of the scheme, the Secretary of State shall cause the scheme as so approved to be laid before Parliament as soon as may be thereafter together with the report of any local inquiry which may have been held under section 67 of this Act. If either House of Parliament within the period of forty days beginning with the day on which the scheme is laid before it resolves that the approval of the scheme be annulled, the scheme as so approved shall cease to have effect, but without prejudice to anything previously done thereunder or to the submission and approval with or without modifications and amendments of any new scheme, revised scheme or modification of an existing scheme.
- (3) In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

## 70 Powers to enforce duty of education authorities and other persons.

- [<sup>F17</sup>(1)] If the Secretary of State is satisfied, either on complaint by any person interested or otherwise, that an education authority, [<sup>F18</sup>a School Board,] the managers of a school or educational establishment, or other persons have failed to discharge any duty imposed on them by or for the purposes of this Act or of any other enactment relating to education, the Secretary of State may make an order declaring them to be in default in respect of that duty and requiring them before a date stated in the order to discharge that duty. If by the said date the education authority, [<sup>F18</sup>a School Board,] managers or other persons have not discharged the duty, one or other of the following steps may be taken to secure the discharge thereof—
- (a) the Secretary of State may make such arrangements as he thinks fit for the discharge of the duty, and all expenses incurred by the Secretary of State in so doing shall be recoverable as a debt due by the authority, managers or other persons to the Secretary of State; or
  - (b) the Court of Session may, on the application of the Lord Advocate, order specific performance of the duty.
- [<sup>F19</sup>(2)] Without prejudice to the generality of subsection (1) above, in that subsection the expression “enactment” includes—
- (a) an Act of the Scottish Parliament but only in so far as it is an Act which relates to school education; and
  - (b) an order, regulation, rule or other instrument which has effect by virtue of an Act of the Scottish Parliament but only in so far as it is an instrument which so relates.]

*Status: Point in time view as at 31/01/2005.*

*Changes to legislation: Education (Scotland) Act 1980, Cross Heading: Central administration is up to date with all changes known to be in force on or before 05 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### **Textual Amendments**

- F17** S. 70 renumbered as s. 70(1) (13.10.2000) by 2000 asp 6, s. 60(1), **Sch. 2 para. 3(8)**; S.S.I. 2000/361, art. 3(1)(2), **Sch. Pt. I**
- F18** Words inserted by School Boards (Scotland) Act 1988 (c. 47, SIF 41:2), s. 23(3), **Sch. 4 para. 6**
- F19** S. 70(2) added (13.10.2000) by 2000 asp 6, s. 60(1), **Sch. 2 para. 3(8)**; S.S.I. 2000/361, art. 3(1)(2), **Sch. Pt. I**

#### **Modifications etc. (not altering text)**

- C1** S. 70 applied by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), **s.7(8)**
- C2** S. 70: functions transferred (*temp.* 20.5.1999 to 1.7.1999) by S.I. 1999/901, art. 5, **Sch.** ; S.I. 1998/3178, **art. 3**
- s. 70: functions transferred (1.7.1999) by S.I. 1999/1750, arts. 1(1), 2, **Sch. 1**; S.I. 1998/3178, **art. 3**

**Status:**

Point in time view as at 31/01/2005.

**Changes to legislation:**

Education (Scotland) Act 1980, Cross Heading: Central administration is up to date with all changes known to be in force on or before 05 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.