

*Status: Point in time view as at 01/12/2008.*

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## SCHEDULES

### [<sup>F1</sup>SCHEDULE A1 **S**

#### APPEAL COMMITTEES

##### Textual Amendments

**F1** Sch. A1 inserted by [Education \(Scotland\) Act 1981 \(c. 58\), s. 1\(2\)](#), [Sch. 1](#)

- 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 [<sup>F2</sup>any committee appointed by the authority whose purposes include advising the authority on any matter relating to the discharge of any of their functions as education authority or discharging any of those functions on behalf of such authority]; and
  - (b) persons who are not members of the authority or of [<sup>F3</sup>any such committee] 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 [<sup>F4</sup>in an administrative or advisory capacity as respects the discharge of their education functions.].

##### Textual Amendments

- F2** Words in [Sch. A1 para. 3\(a\)](#) substituted (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 118\(10\)\(a\)\(i\)](#); [S.I. 1996/323](#), [art. 4\(1\)\(c\)](#).
- F3** Words in [Sch. A1 para. 3\(b\)](#) substituted (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 118\(10\)\(a\)\(ii\)](#); [S.I. 1996/323](#), [art. 4\(1\)\(c\)](#).
- F4** Words in [Sch. A1 para. 3](#) substituted (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 118\(10\)\(a\)\(iii\)](#); [S.I. 1996/323](#), [art. 4\(1\)\(c\)](#).

- 4 The members of an appeal committee who are members of the authority or of [<sup>F5</sup>any committee such as is mentioned in paragraph 3 above] shall not outnumber the other members of the appeal committee by more than one.

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#### Textual Amendments

**F5** Words in [Sch. A1 para. 4](#) substituted (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 118\(10\)\(b\)](#); [S.I. 1996/323, art. 4\(1\)\(c\)](#).

5 A person who is a member of [<sup>F6</sup>any committee such as is mentioned in paragraph 3 above] shall not be chairman of an appeal committee.

#### Textual Amendments

**F6** Words in [Sch. A1 para. 5](#) substituted (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 118\(10\)\(c\)](#); [S.I. 1996/323, art. 4\(1\)\(c\)](#).

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 [<sup>F7</sup>Parent Council or Combined Parent Council] having functions in relation to such a school

shall 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.

#### Textual Amendments

**F7** Words in [Sch. A1 para. 7](#) substituted (1.8.2007) by [Scottish Schools \(Parental Involvement\) Act 2006 \(asp 8\), ss. 18\(4\), 24\(2\)](#); [S.S.I. 2007/31, art. 2\(b\), sch. 2](#)

8 For the purposes of paragraph 7 above, “relevant school” means in relation to a reference to the appeal committee—

- (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 <sup>M1</sup>Local Government (Scotland) Act 1973 (allowances) apply.]

#### Marginal Citations

**M1** [1973 c. 65](#).

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## F8 SCHEDULE A2 S

### Textual Amendments

- F8 Sch. A2 repealed (14.11.2005) by Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4), s. 35(1), sch. 3 para. 3(14); S.S.I. 2005/564, art. 2

## SCHEDULE 1 S

Section 67.

### LOCAL INQUIRIES

- 1 The Secretary of State shall appoint a person to hold the inquiry and to report thereon to him.
  - 2 The person appointed shall notify the bodies and persons appearing to him to be interested of the time when and the place where the inquiry is to be held.
  - 3 The person appointed may by notice in writing require any person—
    - (a) to attend at the time and place set forth in the notice to give evidence or to produce any books or documents in his custody or under his control which relate to any matter in question at the inquiry; or
    - (b) to furnish within such reasonable period as is specified in the notice such information relating to any matter in question at the inquiry as the person appointed may think fit and as the person so required is able to furnish:
- Provided that—
- (i) no person shall be required in obedience to such a notice to attend at any place which is more than ten miles from the place where he resides unless the necessary expenses are paid or tendered to him; and
  - (ii) nothing in this paragraph shall empower the person appointed to hold the inquiry to require any person to produce any book or document or to answer any question which he would be entitled, on the ground of privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.
- 4 The person appointed to hold the inquiry may administer oaths and examine witnesses on oath and may accept, in lieu of evidence on oath by any person, a statement in writing by that person supported by a declaration of the truth thereof in such form as the person appointed may require.
  - 5 The inquiry shall unless the Secretary of State otherwise directs be held in public.
  - 6 Any person who refuses or wilfully neglects to attend in obedience to a notice issued under paragraph 3 above, or who wilfully alters, suppresses, conceals, destroys or refuses to produce any book or document which he may be required to produce by any such notice, or who refuses or wilfully neglects to comply with any requirement of the person appointed to hold the inquiry under paragraph 3 above, shall be liable on summary conviction to a fine not exceeding £20 or to imprisonment for a period not exceeding three months.

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- 7 The Secretary of State may make orders as to the expenses incurred by the parties appearing at the inquiry and as to the parties by whom such expenses shall be paid.
- 8 Any order by the Secretary of State under paragraph 7 above requiring any party to pay expenses may be enforced in like manner as [F9 an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.]

#### Textual Amendments

**F9** Words substituted by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), s. 108(1), **Sch. 6 para. 22**

[F10 SCHEDULE 1A] S

#### Textual Amendments

**F10** Sch. 1A repealed (1.12.1997) by 1997 c. 59, ss. 5(2)(b), 6(3), **Sch. Pt. II** (with s. 1(3)); S.I. 1997/2774, **art. 2**.

[F11 SCHEDULE 1B] S

#### Textual Amendments

**F11** Sch. 1B repealed (23.3.2001) by 2000 asp 6, **s. 55**; S.S.I. 2001/102, **art. 2**

F12 SCHEDULE 2 S

Section 100(1).

#### Textual Amendments

**F12** Sch. 2 repealed (31.12.2005) by School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004 (asp 12), s. 9(2), **sch. 2**; S.S.I. 2005/10, art. 3(d) (with art. 3(2))

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## SCHEDULE 3 **S**

Section 136(1).

### TRANSITIONAL AND SAVINGS PROVISIONS

#### *General*

- 1 Where any document refers expressly or by implication to an enactment repealed by this Act, the reference shall, except where the context otherwise requires, be construed as, or as including, a reference to the corresponding provision of this Act.
- 2 Any reference in any provision of this Act (whether expressed or implied) to a thing done or falling to be done under a provision of this Act shall, in so far as the context permits, be construed as including, in relation to times, circumstances and purposes in relation to which a corresponding provision of an enactment repealed by this Act had effect, a reference to a thing done or falling to be done under that corresponding provision.

#### *Children Requiring Special Education*

- 3 Any reference in any enactment or other instrument passed or made before the commencement of the <sup>M2</sup>Education (Scotland) Act 1969 to special educational treatment shall be construed as a reference to [<sup>F13</sup>provision for recorded children].

#### **Textual Amendments**

**F13** Words substituted by [Education \(Scotland\) Act 1981 \(c. 58\), Sch. 2 Pt. II para. 9, Sch. 8](#)

#### **Marginal Citations**

**M2** [1969 c. 49.](#)

- 4 Any decision, made under the Act of 1962 before the commencement of the said Act of 1969 by an education authority to the effect that a child requires special educational treatment, which is in force at such commencement, shall continue in force and be deemed to be a decision under section 62 of this Act (duly notified to the parents of a child under [<sup>F14</sup>subsection (2) of that section] to record the child.]

#### **Textual Amendments**

**F14** Words substituted by [Education \(Scotland\) Act 1981 \(c. 58\), Sch. 2 Pt. II para. 10, Sch. 8](#)

#### *Savings*

- 5 The repeal by the said Act of 1969 of sections 84 and 87 of the Act of 1962 shall not affect the payment after the commencement of this Act of any pension, gratuity or retiring allowance which was payable by virtue of paragraph 11 of Schedule 4 to the said Act of 1969 immediately before the commencement of this Act.
- 6 The repeal by the said Act of 1969 of section 94 of the Act of 1962 shall not affect the application of that section to any part of the annual revenue of any scheme, being a part to which that section applied immediately before the commencement of the said Act of 1969.

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## X<sup>1</sup>SCHEDULE 4 **S**

Section 136(2).

### AMENDMENT OF ENACTMENTS

#### Editorial Information

**X1** The text of Sch. 4 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

1 ..... F15

#### Textual Amendments

**F15** Sch. 4 para. 1 repealed by Foster Children (Scotland) Act 1984 (c. 56, SIF 20), s. 22(3), Sch. 3

2 ..... F16

#### Textual Amendments

**F16** Sch. 4 para. 2 repealed by Mental Health (Scotland) Act 1984 (c. 36, SIF 85), s. 127(2), Sch. 5

#### *The Factories Act 1961 (c. 34)*

3 In section 176(1) (interpretation), in the definition of “child” for the word “1962” there shall be substituted the word “1980”.

#### *The Public Expenditure and Receipts Act 1968 (c. 14)*

4 In Schedule 3 (variation of fees), in paragraph 1(b) for the words “1962 (c. 47) section 99(1)” there shall be substituted the words “1980 (c. 44) section 84(1)”.

#### *The Social Work (Scotland) Act 1968 (c. 49)*

5 In section 94(1) (interpretation), in the definition of “school age” for the words “32 of the Education (Scotland) Act 1962” there shall be substituted the words “31 of the Education (Scotland) Act 1980”.

#### *The Sex Discrimination Act 1975 (c. 65)*

6 In section 22 (discrimination by bodies in charge of educational establishments), in paragraph 7 of the Table for the words “75(c) or (d) of the Education (Scotland) Act 1962” there shall be substituted the words “73(c) or (d) of the Education (Scotland) Act 1980”.

7 In section 23(2) (other discrimination by education authorities), for the words “Acts 1939 to 1980” there shall be substituted the words “Act 1980”.

8 In section 25 (general duty in public sector of education)—

- (a) in subsection (3) for the words “71 of the Education (Scotland) Act 1962” and “said section 71” there shall be substituted respectively the words “70 of the Education (Scotland) Act 1980” and “said section 70”;

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- (b) in subsection (5) for the words “68 of the Education (Scotland) Act 1962” there shall be substituted the words “67 of the Education (Scotland) Act 1980”.
- 9 In section 79 (educational endowments to which Part VI of the Education (Scotland) Act 1962 applies)—
- (a) for any reference to Part VI of the Act of 1962 there shall be substituted a reference to Part VI of this Act.
  - (b) in subsections (1)(b) and (4) for the references to sections 121(1) and 68 of the Act of 1962 there shall be substituted respectively references to sections 108(1) and 67 of this Act.
- 10 In section 81(3)(b) (orders), for the words “128 of the Education (Scotland) Act 1962” there shall be substituted the words “115 of the Education (Scotland) Act 1980”.
- 11 In section 82(1) (interpretation), in the definition of “education authority”, “educational establishment”, “further education”, “independent school”, “managers”, “proprietor”, “school” and “school education” for the respective references to subsections (16), (17), (21), (23), (26), (37), (42) and (43A) of section 145 of the Education (Scotland) Act 1962 there shall be substituted references to section 135(1) of the Education (Scotland) Act 1980.

*The Race Relations Act 1976 (c. 74)*

- 12 In section 17 (discrimination by bodies in charge of educational establishments), in paragraph 7 of the Table for the words “75(c) or (d) of the Education (Scotland) Act 1962” there shall be substituted the words “73(c) or (d) of the Education (Scotland) Act 1980”.
- 13 In section 18(2) (discrimination by education authorities), for the words “Acts 1939 to 1980” there shall be substituted the words “Act 1980”.

F17 14 .....

**Textual Amendments**

F17 Sch. 4 para. 14 repealed (2.4.2001) by 2000 c. 34, s. 9(2), Sch. 3 (with s. 10(5)); S.I. 2001/566, art. 2(1)

- 15 In section 78(1) (interpretation), in the definitions of “education authority”, “educational establishment”, “further education”, “independent school”, “managers”, “proprietor”, “school” and “school education” for the respective references to subsections (16), (17), (21), (23), (26), (37), (42) and (43A) of section 145 of the Education (Scotland) Act 1962 there shall be substituted references to section 135(1) of the Education (Scotland) Act 1980.

*The National Health Service (Scotland) Act 1978 (c. 29)*

- 16 In section 15(1)(f) (supply of goods and services to local authorities etc.), for the words “5 of the Education (Scotland) Act 1962” there shall be substituted the words “1(5)(c) of the Education (Scotland) Act 1980”.
- 17 In section 39(5) (medical and dental health inspection, supervision and treatment of pupils and young persons), for “1962” there shall be substituted “1980”.

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- 18 In section 108(1) in the definitions of “education authority” and “full-time education in a school” for “1962” there shall be substituted “1980”.
- 19 In paragraph 10(b) of Schedule 15 (saving of amendments), for “154” there shall be substituted “155”.

## <sup>x2</sup>SCHEDULE 5 **S**

Section 136(3).

### ENACTMENTS REPEALED

#### Editorial Information

- X2** The text of Sch. 5 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

Chapter	Short title	Extent of repeal
10 & 11 Eliz. 2. c. 47.	The Education (Scotland) Act 1962.	The whole Act except sections 136 and 137, subsections (7), (16), (18), (19), (33) and (42) of section 145, section 149(1) and (2) and section 148(2) and Schedule 9 so far as they relate to section 136.
1963 c. 21.	The Education (Scotland) Act 1963.	The whole Act.
1964 c. 16.	The Industrial Training Act 1964.	Section 16.
1964 c. 82.	The Education Act 1964.	Section 5.
1967 c. 36.	The Remuneration of Teachers (Scotland) Act 1967.	The whole Act.
1967 c. 80.	The Criminal Justice Act 1967.	Part I of Schedule 3 so far as relating to amendments of the Education (Scotland) Act 1962.
1968 c. 49.	The Social Work (Scotland) Act 1968.	Schedule 8 so far as relating to the Education (Scotland) Act 1962.
1969 c. 49.	The Education (Scotland) Act 1969.	The whole Act.
1970 c. 44.	The Chronically Sick and Disabled Persons Act 1970.	Sections 25 to 27.
1971 c. 42.	The Education (Scotland) Act 1971.	The whole Act.



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1972 c. 11.	The Superannuation Act 1972.	In Schedule 6, paragraph 42.
1973 c. 23.	The Education (Work Experience) Act 1973.	The whole Act.
1973 c. 50.	The Employment and Training Act 1973.	Sections 8, 9 and 10.
1973 c. 59.	The Education (Scotland) Act 1973.	The whole Act.
1973 c. 65.	The Local Government (Scotland) Act 1973.	Section 129. Schedule 11.
1975 c. 65.	The Sex Discrimination Act 1975.	Section 79(6).
1975 c. 71.	The Employment Protection Act 1975.	In Schedule 16, in Part IV, paragraphs 9 and 12.
1976 c. 20.	The Education (Scotland) Act 1976.	The whole Act.
1976 c. 65.	The Retirement of Teachers (Scotland) Act 1976.	The whole Act.
1977 c. 45.	The Criminal Law Act 1977.	Schedule 6 so far as relating to the Education (Scotland) Act 1962.
1978 c. 29.	The National Health Service (Scotland) Act 1978.	In Schedule 15, in paragraph 10(b) the words “126, 127”. In Schedule 16, paragraphs 15 to 18.
1980 c. 20.	The Education Act 1980.	Section 20. Section 23. Section 25. Section 31(5)-(6). Section 33(2). Sections 35, 37 and 38.

SCHEDULE 6 **S**

Section 137(3).

POSTPONEMENT OF THE COMMENCEMENT OF CERTAIN PROVISIONS

1—15. .... F18

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#### Textual Amendments

**F18** Sch. 6 paras.1–15 repealed by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(2), **Sch. 11**

[<sup>F19</sup>16 Section 127(3) and (4).]

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#### Textual Amendments

**F19** Para. 16 added retrospectively by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), s. **38**

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