



# Education (Scotland) Act 1981

## 1981 CHAPTER 58

### *Miscellaneous*

#### **6 Consultation on, and consent for, changes in certain educational matters.**

After Section 22 of the principal Act there shall be inserted the following sections—

*“ Consultation on, and consent for, changes in certain educational matters*

#### **22A Consultation on certain changes in educational matters.**

- (1) Where an education authority make a proposal of a prescribed kind, they shall, in such manner as may be prescribed, publish it or otherwise make it available and consult such persons as may be prescribed and shall not reach a decision on it without having regard to any representations made to them on it by those persons.
- (2) In this section “prescribed” means prescribed for the purposes of this section by the Secretary of State by regulations and in so prescribing kinds of proposals the Secretary of State shall include proposals to discontinue or change the site of any school under the management of an education authority.

#### **22B Consent for certain changes in educational matters.**

- (1) An education authority shall submit to the Secretary of State for his consent any proposal of theirs of a prescribed kind and shall not implement such a proposal without his consent.
- (2) In this section “prescribed” means prescribed for the purposes of this section by the Secretary of State by regulations and the Secretary of State may prescribe different kinds of proposals in relation to different education authorities.

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*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Education (Scotland) Act 1981, Section 6. (See end of Document for details)*

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### **22C Consent for certain changes affecting denominational schools.**

- (1) An education authority shall submit to the Secretary of State for his consent any proposal of theirs to which this section applies and shall not implement such a proposal without his consent.
- (2) A proposal to which this section applies is one which—
  - (a) relates to a school transferred to an education authority under section 16(1) or provided by them under section 17(2) of this Act; and
  - (b) will, if implemented, have the effect that all or some of the pupils who attend the school will no longer receive school education in a school of the kind referred to in paragraph (a) above or that all or some of the children who would, but for the implementation of the proposal, have been likely to attend it will not be likely to receive such education in a school of that kind.
- (3) The Secretary of State shall not grant consent under this section unless he is satisfied that adequate arrangements have been made for the religious instruction of pupils and children who would, as a result of implementation of the proposal, no longer receive or be likely to receive school education in a school of the kind referred to in paragraph (a) of subsection (2) above.
- (4) In granting consent under this section the Secretary of State may impose such conditions as he thinks fit with regard to the religious instruction of the pupils and children referred to in paragraph (b) of subsection (2) above and to related matters and conditions imposed by the Secretary of State under this section may be revoked or amended by him at any time.
- (5) Any question which may arise—
  - (a) whether a proposal is one to which this section applies;
  - (b) as to the implementation of a proposal to which the Secretary of State has consented under this section;
  - (c) as to the fulfilment or observation of any conditions upon his consent imposed under subsection (4) above
 shall be determined by the Secretary of State and the education authority shall perform their duties under this Act in accordance with any such determination.
- (6) In this section, the reference to section 16(1) or 17(2) of this Act shall include a reference to the corresponding provision of the Act of 1918, the Act of 1946 and the Act of 1962.

### **22D Further provisions relating to denominational schools.**

- (1) An education authority shall submit to the Secretary of State for his consent any proposal of theirs to which this section applies and shall not implement such a proposal without his consent.
- (2) A proposal to which this section applies is one—
  - (a) which relates to a school transferred to the education authority under section 16(1) or provided by them under section 17(2) of this Act;
  - (b) to—
    - (i) discontinue the school or a part of it;

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- (ii) amalgamate the school or a part of it with another school;
  - (iii) change the site of the school;
  - (iv) change the arrangements for admission to the school; or
  - (v) disapply to the school the conditions prescribed in subsections (1) to (4) of section 21 of this Act or in the said subsections so far as applicable and having effect by virtue of subsection (5) of that section; and
- (c) in relation to which the Secretary of State, having consulted the education authority, is satisfied, upon written representations made, in the case of any church or denominational body in whose interest the school is conducted other than the Roman Catholic Church, by a person authorised for that purpose by that church or denominational body and, in the case of the Roman Catholic Church, by the Scottish Hierarchy of that Church, that—
- (i) if implemented, it will have the result specified in subsection (3) below; and
  - (ii) the education authority and the church, denominational body or Hierarchy, as the case may be, have, after discussion, failed to reach agreement that it should be implemented.
- (3) The result referred to in subsection (2)(c)(i) above is a significant deterioration in the position, as regards either of the matters specified in subsection (4) below, of schools of the kind referred to in subsection (2)(a) above compared with that of other schools managed by the education authority.
- (4) The matters referred to in subsection (3) above are the distribution and provision of school education (including the provision of accommodation).
- (5) The Secretary of State shall not grant consent under this section in relation to a school unless he is satisfied that adequate arrangements have been made for the religious instruction of the children who will no longer receive or be likely to receive school education in a school of the kind referred to in subsection (2)(a) above.
- (6) In granting consent under this section in relation to a school the Secretary of State may impose such conditions as he thinks fit with regard to the religious instruction of the children who will no longer receive or be likely to receive school education in a school of the kind referred to in subsection (2)(a) above and to related matters and, in doing so, he shall have regard to the duties imposed by section 21 of this Act on education authorities in relation to schools of that kind, and conditions imposed by the Secretary of State under this section may be revoked or amended by him at any time.
- (7) Any question which may arise—
- (a) whether a proposal is one to which this section applies;
  - (b) as to the implementation of a proposal to which the Secretary of State has consented under this section;
  - (c) as to the fulfilment or observation of any conditions upon his consent imposed under subsection (6) above

shall be determined by the Secretary of State and the education authority shall perform their duties under this Act in accordance with any such determination.

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(8) In this section the reference to section 16(1) or 17(2) of this Act shall include a reference to the corresponding provision of the Act of 1918, the Act of 1946 and the Act of 1962.”.

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

**C1** The text of ss. 1–7, 8(1)(2), 9–17, 18(2), 21(1)(3), Schs. 1–7, 9 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**Status:**

Point in time view as at 01/02/1991.

**Changes to legislation:**

There are currently no known outstanding effects for the Education (Scotland) Act 1981, Section 6.