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SCHEDULES

SCHEDULE 1

Section 2.

ELECTORAL PROCEDURE

- 1 Every education authority shall make arrangements for the holding of elections under this Act for School Boards in their area, and for that purpose shall draw up a scheme of arrangements for such elections in accordance with—
 - (a) this Schedule; and
 - (b) such guidance as to the form and content of such schemes as the Secretary of State may from time to time issue.
- 2 A scheme may make different provision for different schools or classes of school.
- 3 Every scheme shall include provision for the appointment by the education authority of a returning officer to ensure the proper conduct of the elections.
- 4 In the case of an election of a parent member, the arrangements under paragraph 1 above shall provide for every parent of a pupil in attendance at the school to have an opportunity to vote by post.
- 5 Subject to this Schedule and to any scheme made under paragraph 1 above, the education authority for the area in which a school is situated shall determine all matters relating to any election of members of the School Board for that school, and in particular all matters relating to eligibility to be a candidate or to vote including the date at which such eligibility is to be determined in respect of any particular election.
- 6 For the purposes of paragraph 5 above, the education authority shall, in respect of each school in their area, establish and maintain a list of the names of the parents of pupils in attendance at that school, and unless a parent's name appears on the list on the date determined by an authority under paragraph 5 above for the purposes of any election he shall not be eligible to be a candidate or to vote in that election.
- 7 Elections under this Act shall be held by secret ballot.
- 8 All practicable steps shall be taken to ensure that every person known to be a parent of a pupil in attendance at a school in their area—
 - (a) is informed of any forthcoming election under this Act of a parent member of the School Board for that school, and of his right to be a candidate and to vote; and
 - (b) has an opportunity to be a candidate and to vote at any such election.
- 9 Every education authority shall, for the purposes of any election of parent members of a School Board for a school in their area, send to every parent eligible to vote in that election—
 - (a) a ballot paper;
 - (b) a copy of a statement not exceeding 250 words by any candidate who has provided the authority with such a statement by such date as the authority shall have specified,

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- and the authority shall not issue any statements or material designed to influence the election other than the statement referred to in (b) above.
- 10 An education authority may arrange for any of their functions under this Schedule in relation to elections, apart from the making or variation of schemes, to be carried out in accordance with their directions by the School Board for the school.
- 11 For the purposes of this Schedule “election” includes a by-election.

SCHEDULE 2

Section 11.

APPOINTMENT OF HEADTEACHERS, DEPUTIES AND ASSISTANTS

- 1 Where an education authority intend to fill a post, other than on an acting basis, of headteacher, deputy headteacher or assistant headteacher of a school, they shall—
- (a) advertise the post in such publications circulating throughout Scotland as they consider appropriate; and
 - (b) if they decide to proceed further with the appointment, set up a committee (to be known as an “appointment committee”) for the purpose of considering a short list of candidates provided by the education authority and making recommendations to the authority for the appointment of persons to fill posts in accordance with this Act.
- 2 Except where paragraph 4 below applies, an appointment committee shall consist—
- (a) where the appointment of a headteacher is being considered, of equal numbers of persons nominated by the education authority (one of whose nominees shall be the chairman of the committee) and by the School Board;
 - (b) in any other case, of an equal number of persons nominated by the education authority and by the School Board; and the headteacher of the school, who shall be chairman of the committee,
- but pupils of the school and members of the staff of the school other than the headteacher may not be members of an appointment committee.
- 3 Any vacancy occurring in the membership of an appointment committee (other than a vacancy resulting from lack of a headteacher, in whose absence an appointment committee to which paragraph 2(b) above applies may not be constituted or sit) shall be filled by a further nomination by the body which nominated the person whose place has become vacant.
- 4 Where for any reason no School Board are for the time being established for a school, an appointment committee shall consist of persons nominated by the education authority, together with, where paragraph (2)(b) above applies, the headteacher of the school (who shall be the chairman).

VALID FROM 18/09/1996

^{F1}4A (1) Subject to sub-paragraph (2) below, any reference in paragraphs 2 to 4 above to the headteacher of a school shall include a reference to any person appointed to act

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for the time being as the headteacher of that school if that person is not, himself, a candidate for the post.

- (2) Where an education authority has reasonable grounds for considering a person acting as headteacher would not be a suitable person to be a member of and chair a committee under this Schedule, the authority may exclude him from so acting.]

Textual Amendments

F1 Sch. 2 para. 4A inserted (18.9.1996) by 1996 c. 43, s. 31, Sch. 4 para. 9(c); S.I. 1996/2250, art.2

VALID FROM 18/09/1996

[^{F2}4B Where it appears to an education authority that an appointment committee cannot be constituted as mentioned in paragraphs 2 to 4A above, the authority may, after consultation with the Board, constitute an appointment committee made up of equal numbers of persons nominated by the authority and the Board with such other person as appears to the authority to be suitable as chairman.]

Textual Amendments

F2 Sch. 2 para. 4B inserted (18.9.1996) by 1996 c. 43, s. 31, Sch. 4 para. 9(c); S.I. 1996/2250, art.2

Application of 1973 Act to appointment committees

- 5 The ^{M1}1973 Act shall apply to appointment committees as it applies to sub-committees of an education authority appointed under Schedule 10 to that Act, but—
- (a) sections 56 and 57 of and Schedule 10 to that Act shall not apply to appointment committees;
- [^{F3}(aa) in respect of the performance of his duties as a member of an appointment committee, a person—
- (i) shall not, under or by virtue of that Act, be entitled to receive any allowance or expenses;
- (ii) shall be entitled to receive under this sub-paragraph from the education authority such allowances and expenses as may be determined by the Secretary of State;]
- (b) members of appointment committees shall not require to be members of the education authority; and
- (c) nothing in that Act shall—
- (i) enable functions of an appointment committee to be discharged by the education authority or by any other person or body;
- (ii) enable the education authority to control the exercise of functions by an appointment committee; or
- (iii) prevent an employee of the education authority being a member of an appointment committee.

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Textual Amendments

- F3** Sch. 2 para.5(aa) inserted (*prosp.*) by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), ss. 81(2), 82(1), **Sch. 10 para. 10**

Marginal Citations

- M1** 1973 c. 65.

VALID FROM 18/09/1996

[^{F4} Conflict of interest]

Textual Amendments

- F4** Sch. 2 para. 5A and the crossheading immediately preceding it inserted (18.9.1996) by 1996 c. 43, s. 31, **Sch. 4 para. 9(d)**; S.I. 1996/2250, **art.2**

- [^{F5}5A (1) Subject to sub-paragraph (2) below, where, whether before or during any meeting of the appointment committee, any member of the appointment committee becomes aware that he or any person connected with him has (whether directly or indirectly) a material interest in or relating to any matter to be or being considered by the appointment committee, he shall declare such interest and withdraw from the meeting during such consideration and shall not vote on any question relating to the matter.
- (2) Nothing in sub-paragraph (1) above shall—
- (a) require a member of the appointment committee to declare an interest or withdraw; or
 - (b) prohibit him from voting,
- in relation to any matter where his interest exists by reason only of his being the headteacher of the school or a parent of a pupil in attendance at the school.
- (3) Section 346(2) of the ^{M2}Companies Act 1985 (meaning of “connected person”) shall apply for the purpose of determining whether a person is connected with a member of the appointment committee as it applies for the purpose of determining whether a person is connected with a director of a company; and for such purpose references in that section to a director of a company shall be construed as if they were references to such a member.
- (4) The validity of any proceedings of the appointment committee shall not be affected by any failure to comply with this paragraph.]

Textual Amendments

- F5** Sch. 2 para. 5A and the crossheading immediately preceding it inserted (18.9.1996) by 1996 c. 43, s. 31, **Sch. 4 para. 9(d)**; S.I. 1996/2250, **art.2**

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Marginal Citations

M2 1985 c. 6.

Short leet

- 6 Subject to paragraphs 7 and 8 below, a short leet shall consist of not less than 3 persons who have applied for the post and are eligible for it (in terms of any requirements by or under any enactment relating to eligibility for the post or for the class of post).
- 7 Where there are fewer than 4 applicants who are eligible for the post, the education authority may, if they think fit, re-advertise.
- 8 Where the education authority do not re-advertise the post or where, following such re-advertisement, there are fewer than 4 applicants eligible for the post, the short leet shall consist of all those who have applied.

Appointment of headteacher, where School Board established

- 9 In the case of the appointment of a headteacher of a school for which a School Board have been established the education authority shall submit the short leet to the School Board, and for the purposes of consideration of the short leet and of reaching any decision in accordance with paragraph 11 or 12 of this Schedule the Board shall meet without their staff or any pupil members.
- 10 For the purpose of enabling the Board to carry out their functions under paragraphs 9, 11 and 12 of this Schedule, the authority shall supply to the Board such information relating to the applicants for the post as—
- (a) the authority have in their possession or can readily obtain; and
 - (b) the Board may reasonably request.
- 11 After considering the short leet, the Board may, except where paragraph 12 below applies, make such additions to and deletions from the leet as they think fit, but—
- (a) they may not add to the leet the name of any person who has not applied or who is not eligible, in terms of paragraph 6 above, for the post; and
 - (b) they may not reduce the leet to less than 3 names,
- and they shall thereafter send the leet to the appointment committee, who shall consider the leet and make their recommendation under paragraph 16 below.
- 12 Where the short leet consists of fewer than 4 names, the Board may not make any alterations thereto, but may submit comments to the appointment committee, who shall take those comments into consideration.

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*Appointments of deputy or assistant headteacher, or
of headteacher where no School Board established*

- 13 In every other case the authority shall prepare the short leet (in the case of the appointment of a deputy or assistant headteacher, in consultation with the headteacher) and shall send the short leet to the appointment committee, who shall consider it and make their recommendation under paragraph 16 below.

Procedure of committee

- 14 The appointment committee and (where appropriate) the School Board shall—
- (a) inform the Director of Education in advance of any meeting to be held by either of them in connection with appointment to any post;
 - (b) consider any advice given by him or his nominee in relation to the appointment.
- 15 The Director of Education or any officer of the education authority nominated by him for the purpose shall—
- (a) be entitled to attend any proceedings of the appointment committee or a School Board; and
 - (b) give the committee or, as the case may be, the Board such advice as he considers appropriate,
- in relation to an appointment to which this Schedule applies.
- 16 The appointment committee shall, unless they consider that no person on the short leet is suitable for the post, recommend one candidate for appointment.
- 17 Where an appointment committee recommend the appointment of any person to a post to which this Schedule applies the education authority shall appoint that person accordingly, unless it appears to them that the candidate is not eligible for the post in which case they may refuse to appoint him.
- 18 Where an education authority refuse, under paragraph 17 above, to appoint the person recommended by the appointment committee, the authority shall, if they intend to fill the post, undertake fresh procedure under paragraph 1 above.
- 19 It shall not be competent for a deputy or assistant headteacher to exercise any of the functions of a headteacher under this Schedule.

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SCHEDULE 3

Section 15.

DELEGATION ORDERS

Delegation on education authority's initiative

- 1 Where an education authority propose making a delegation order under section 15 of this Act on their own initiative, they shall provide a draft of the order to the School Board and seek the agreement of the Board to the terms of the proposed order, without which agreement the order may not be made.

Request by School Board for delegation

- 2 Where a School Board request their education authority in writing to make a delegation order under section 15 of this Act, the authority shall consider the request and inform the Board in writing as soon as is practicable (and in any event within 6 months) in respect of each of the functions requested to be delegated whether or not they agree to make a delegation order, and of their reasons for any refusal.

Refusal by authority

- 3 In the event of a refusal under paragraph 2 above to delegate any function, the School Board may call for a ballot of all parents of pupils in attendance at the school to determine whether a majority of the parents voting in the ballot are in support of the request for delegation of that function.
- 4 Where a School Board call for a ballot under paragraph 3 above, their education authority shall carry out the ballot by providing to all parents of pupils in attendance at the school—
- (a) a ballot paper;
 - (b) a statement of the School Board's proposals and of any reasons for them given to the authority by the Board;
 - (c) the reasons given by the authority under paragraph 2 above for refusing the request, and any reply thereto made by the Board,
- and the parents shall be invited to vote “yes” or “no” to the proposals.
- 5 Schedule 1 to this Act shall apply (with the exception of paragraph 9 and of references to candidates) to a ballot under paragraph 3 above as it applies to an election of parent members held under that Schedule.
- 6 Where, following a refusal under paragraph 2 above to delegate a function to a School Board, a majority of parents voting in a ballot under paragraph 3 above have expressed support for the delegation of a function, the education authority may agree or again refuse to delegate the function.

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7 Where an education authority refuse to delegate a function under paragraph 6 above, the School Board may refer the matter to the Secretary of State for a decision under paragraph 8 below.

8 Where a request for delegation of a function is referred to the Secretary of State under paragraph 7 above he shall, after considering the views of the education authority and of the School Board, unless he is satisfied that the delegation requested would prejudice the good running of the school, direct the education authority concerned to make a delegation order in such terms and including such conditions of delegation and ancillary provisions as he considers appropriate.

Agreement by authority

9 Where an education authority agree under paragraph 2 or 6 above to make a delegation order, they shall as soon as is practicable provide a draft of the order to the School Board, and seek to reach agreement with the Board on the terms of the order.

10 If agreement is reached under paragraph 9 above, the education authority shall make the delegation order forthwith.

Disagreement on terms of the order

11 Where, after the elapse of 2 months from the date when the first draft of any proposed delegation order was provided to a School Board under paragraph 9 above, the Board and their authority have been unable to reach agreement on the terms of the proposed order, the authority shall, if so requested by the Board, send the current draft to the Secretary of State for decision under paragraph 12 below.

12 Where a draft delegation order is referred to the Secretary of State under paragraph 11 above he shall, after considering the views of the education authority and of the School Board, unless he is satisfied that the delegation requested would prejudice the good running of the school, direct the education authority concerned to make forthwith a delegation order in such terms as he considers appropriate, including such conditions of delegation and ancillary provisions as he considers appropriate.

Secretary of State's power to require information

13 In connection with any reference to him under paragraph 7 or 11 above or 15 below, the Secretary of State may require the education authority and the Board to provide him with such information and documents as he requires in order to make his decision.

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Amendment

- 14 An education authority may, with the consent of the School Board concerned, amend a delegation order by making a further order (which may include revocation of the delegation of a function, or of the whole delegation order).
- 15 Where an education authority has been unable to obtain the consent of the School Board to an order under paragraph 14 above, the authority may send a draft of the order to the Secretary of State who shall consider the views of the education authority and of the School Board, and—
- (a) may, if he is satisfied that continued delegation of any function would prejudice the good running of the school, consent to the revocation of the delegation of that function;
 - (b) may, as he thinks fit, consent to an amendment which does not in his view amount to the revocation of the delegation of a function; and
 - (c) in either case, may direct such alterations of the draft order as he thinks fit, and the authority, if they decide to proceed to make an order, shall do so in accordance with his directions.

SCHEDULE 4

Section 23.

MINOR AND CONSEQUENTIAL AMENDMENTS

The Local Government (Scotland) Act 1973 (c. 65)

- 1 In section 125(1) of the 1973 Act, before “educational” in both places where it occurs, insert ““further””.
- 2 In section 125(2) of the 1973 Act, omit from “(a)” to “case” where it occurs in paragraph (b) of that subsection.
- 3 In section 125(3) of the 1973 Act, omit paragraph (a) and, in paragraph (b), “(a) or”.
- 4 In section 125 and 126 of and Schedule 10 to the 1973 Act, omit “school or” wherever it occurs.
- 5 In section 125(4) of the 1973 Act, omit “school and”.

The Education (Scotland) Act 1980 (c. 44)

- 6 In section 70 of the Education (Scotland) Act 1980 (which relates to the enforcement of duties imposed under that Act and other enactments), after the words “education authority,” in both places where they occur, insert ““a School Board,””.
- 7 In Schedule A1 to the Education (Scotland) Act 1980, in paragraph 7(d), omit “school council” and substitute ““School Board””.

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