
Status: Point in time view as at 01/11/1996.

Changes to legislation: There are currently no known outstanding effects for the Self-Governing Schools etc. (Scotland) Act 1989, Cross Heading: Appeals. (See end of Document for details)

SCHEDULES

SCHEDULE 2

RIGHTS OF PARENTS IN RELATION TO INDIVIDUAL PUPILS

Appeals

- 3 (1) Subject to sub-paragraph (2) below, a parent who has made an application under paragraph 2(1) above may refer a decision of a board refusing the application to the appeal committee constituted for the school under the articles of management.
- (2) Where a reference under this paragraph has been made in respect of a child, no further such reference in respect of the child shall be competent during the period of twelve months beginning with the day on which the immediately preceding such reference was lodged.
- (3) A reference under this paragraph shall be lodged with the appeal committee within 28 days after the receipt by the parent of the decision of the board (which, if posted, shall, unless the contrary is proved, be presumed to have been received on the day after the date on which it was posted except that a decision posted on a Friday or Saturday shall, unless the contrary is proved, be presumed to have been received on the Monday next following); but the committee shall, on good cause being shown, have power to hear such a reference notwithstanding that it was not lodged within that time.
- 4 An appeal committee shall be constituted, in accordance with the articles of management, for each self-governing school and shall consist both of persons who are, and of persons who are not, members of the board of management.
- 5 (1) An appeal committee may, on a reference under paragraph 3 of this Schedule, confirm the decision of a board of management if satisfied—
- (a) that one or more of the grounds of refusal specified in paragraph 2(2) of this Schedule exists or exist; and
 - (b) that, in all the circumstances, it is appropriate to do so,
- but otherwise shall refuse to confirm the board's decision and shall, where they so refuse, require the board to admit the child.
- (2) An appeal committee shall notify their decision under this paragraph, and the reasons for the decision, in writing to the parent who made the reference and to the board; and, where they confirm the board's decision, they shall inform the parent of his right of appeal to the sheriff under paragraph 6 of this Schedule.
- (3) Where a decision of an appeal committee under this paragraph is inconsistent with any decision of the board refusing an application for admission in respect of another child at the same time, the other child being at the same yearly stage of school education, the board shall review their decision as regards the other child and shall inform the parent of that child, in writing, of their decision upon that review and the reasons for such decision.

Status: Point in time view as at 01/11/1996.

Changes to legislation: There are currently no known outstanding effects for the Self-Governing Schools etc. (Scotland) Act 1989, Cross Heading: Appeals. (See end of Document for details)

- (4) The decision of a board upon a review under sub-paragraph (3) above not to reverse their decision to refuse the application in respect of the other child may be referred to an appeal committee by the parent of the other child as if the decision upon the review were a decision to refuse the application; and the provisions of this Schedule relating to references of decisions upon such applications, and appeals from such decisions, shall apply accordingly.
- 6 (1) A parent who has made a reference under paragraph 3 of this Schedule may appeal to the sheriff having jurisdiction where the school is situated against the decision of an appeal committee on that reference.
- (2) The board of management may, but the appeal committee shall not, be a party to an appeal under this paragraph.
- (3) An appeal under this paragraph—
- (a) shall be made by way of summary application;
 - (b) shall be lodged with the sheriff clerk within 28 days after the date of receipt of the decision of the appeal committee (which, if posted, shall, unless the contrary is proved, be presumed to have been received on the day after the date on which it was posted, except that a decision posted on a Friday or Saturday shall, unless the contrary is proved, be presumed to have been received on the Monday next following); and
 - (c) shall be heard in chambers.
- (4) On good cause being shown, the sheriff may hear an appeal under this paragraph notwithstanding that it was not lodged within the time mentioned in sub-paragraph (3) above.
- (5) The sheriff may on an appeal under this paragraph confirm the board's decision if he is satisfied—
- (a) that one or more of the grounds of refusal specified in paragraph 2(2) of this Schedule exists or exist; and
 - (b) that, in all the circumstances, it is appropriate to do so,
- but shall otherwise refuse to confirm their decision and shall, where he so refuses, require the board to admit the child.
- (6) Sub-paragraphs (3) and (4) of paragraph 5 of this Schedule shall apply in relation to a judgment on an appeal under this paragraph as they apply in relation to a decision under that paragraph.
- (7) The sheriff may make such order as to the expenses of an appeal under this paragraph as he thinks proper.
- (8) The judgment of the sheriff on an appeal under this paragraph shall be final.
- 7 (1) Where the board of management of a self-governing school decide to exclude a pupil from the school (whether or not until stipulated conditions are complied with), the parent of the pupil may refer the decision to the appeal committee constituted by virtue of paragraph 4 of this Schedule.
- (2) An appeal committee may, on a reference under this paragraph, confirm or annul the decision of the board and, in confirming a decision to exclude a pupil until conditions are complied with, the committee may modify the conditions.

Status: Point in time view as at 01/11/1996.

Changes to legislation: *There are currently no known outstanding effects for the Self-Governing Schools etc. (Scotland) Act 1989, Cross Heading: Appeals. (See end of Document for details)*

- (3) The decision of an appeal committee on a reference under this paragraph, and the reasons for that decision, shall be notified by the committee in writing to the parent and to the board.
- (4) A decision of an appeal committee, on a reference under this paragraph, annulling a decision of a board or modifying the conditions subject to which the board have excluded a pupil from a school shall be complied with by the board.
- (5) The decision of an appeal committee confirming a board's decision to exclude a pupil or modifying conditions under sub-paragraph (2) above may be appealed against by the parent of the pupil to the sheriff having jurisdiction where the school from which the pupil has been excluded is situated; and sub-paragraphs (2), (3), (4), (7) and (8) of paragraph 6 of this Schedule shall apply to an appeal under this sub-paragraph as they apply to an appeal under that paragraph.
- (6) The sheriff may, on an appeal under sub-paragraph (5) above, confirm or annul the decision of the board excluding the pupil and, in confirming a decision excluding the pupil until certain stipulated conditions are complied with, he may modify the conditions.

Status:

Point in time view as at 01/11/1996.

Changes to legislation:

There are currently no known outstanding effects for the Self-Governing Schools etc. (Scotland) Act 1989, Cross Heading: Appeals.