



# Standards in Scotland's Schools etc. Act 2000

2000 asp 6

*Provision of school education: right of child and duty of education authority*

## **1 Right of child to school education**

It shall be the right of every child of school age to be provided with school education by, or by virtue of arrangements made, or entered into, by, an education authority.

## **2 Duty of education authority in providing school education**

- (1) Where school education is provided to a child or young person by, or by virtue of arrangements made, or entered into, by, an education authority it shall be the duty of the authority to secure that the education is directed to the development of the personality, talents and mental and physical abilities of the child or young person to their fullest potential.
- (2) In carrying out their duty under this section, an education authority shall have due regard, so far as is reasonably practicable, to the views (if there is a wish to express them) of the child or young person in decisions that significantly affect that child or young person, taking account of the child or young person's age and maturity.

*Raising standards*

## **3 Raising standards**

- (1) The Scottish Ministers shall endeavour to secure improvement in the quality of school education which is provided for Scotland; and they shall exercise their powers in relation to such provision with a view to raising standards of education.
- (2) An education authority shall endeavour to secure improvement in the quality of school education which is provided in the schools managed by them; and they shall exercise their functions in relation to such provision with a view to raising standards of education.

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- (3) The duties under subsection (2) above shall apply also in relation to school education which is provided in pursuance of any arrangements made, or entered into, by an education authority under—
- (a) section 14 of the 1980 Act; or
  - (b) section 35 of this Act.
- (4) In subsections (1) to (3) above, “school education” means school education directed as is described in section 2 of this Act.

#### **4 National priorities in education**

- (1) From time to time the Scottish Ministers, after consulting the education authorities and giving such persons as appear to the Scottish Ministers to have an interest in the matter an opportunity to make their views known—
- (a) shall define, by order made by statutory instrument, priorities in educational objectives for school education provided for Scotland; and
  - (b) may define and publish measures of performance in respect of the priorities; and the priorities which for the time being are the most recently so defined shall be known as the “national priorities in education”.
- (2) A statutory instrument containing an order under subsection (1)(a) above shall not be made unless a draft of the instrument has been—
- (a) laid before; and
  - (b) approved by a resolution of, the Scottish Parliament.

#### **5 Education authority's annual statement of improvement objectives**

- (1) For the purposes of their duty under section 3(2) of this Act, an education authority, after consulting such bodies as appear to the authority to be representative of teachers and parents within their area and of persons, other than teachers, who are employed in schools within that area and after giving children, young persons and such other persons within that area as appear to the authority to have an interest in the matter an opportunity to make their views known, shall, by such date in 2001 as the Scottish Ministers may, after consulting the education authorities, determine (one date being so determined for all the authorities) and thereafter by that date annually, prepare and publish a statement setting objectives.
- (2) The statement so prepared and published shall be known as the authority's “annual statement of education improvement objectives” and shall include an account—
- (a) of the ways in which the authority will seek to involve parents in promoting the education of their children;
  - (b) of the ways in which they will, in providing school education, encourage equal opportunities and in particular the observance of the equal opportunity requirements; and
  - (c) of—
    - (i) the ways in which; or
    - (ii) the circumstances in which,

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they will provide Gaelic medium education and, where they do provide Gaelic medium education, of the ways in which they will seek to develop their provision of such education.

- (3) In paragraph (b) of subsection (2) above, “equal opportunities” and “equal opportunity requirements” have the same meanings as in the exceptions to section L2 of Schedule 5 to the Scotland Act 1998 (c.46); in paragraph (c) of that subsection, “Gaelic medium education” is teaching by means of the Gaelic language as spoken in Scotland; and the references in those paragraphs to providing education shall be construed as including providing it in pursuance of such arrangements as are mentioned in section 3(3) of this Act.
- (4) The objectives shall be set—
  - (a) in respect of each of the national priorities in education and by reference to such measures of performance as are published under paragraph (b) of section 4(1) of this Act; and
  - (b) in respect of such other matters and by reference to such other measures of performance, if any, as the authority consider appropriate.
- (5) If, during the twelve months following the date of publication of an annual statement of education improvement objectives, there is a change of circumstances relevant to the statement and that change is of such significance that the education authority conclude that the objectives should be revised, they shall prepare and publish a supplementary statement revising the objectives accordingly.
- (6) An education authority shall, by such date in 2002 or in 2003 as the Scottish Ministers may, after consulting the education authorities, determine (one date being so determined for all the authorities) and thereafter by that date annually, prepare and publish a report as to their success—
  - (a) in meeting the objectives set in the annual statement of education improvement objectives most recently published by them; or
  - (b) if there has been published under subsection (5) above a supplementary statement revising those objectives, in meeting the objectives as so revised.

## **6 School development plans**

- (1) For the purpose of securing improvement in the quality of education which a school managed by them provides, an education authority shall, subject to subsection (6) below, ensure that there is prepared for the school, by such date in 2001 as the Scottish Ministers may, after consulting the education authorities, determine (one date being so determined for all the authorities) and thereafter by that date annually, after consultation with the persons mentioned in subsection (2) below and after the pupils in attendance at the school have been given an opportunity to make their views known—
  - (a) a development plan which takes account of the objectives in the authority's annual statement of education improvement objectives published by that date in the year in question and sets objectives for the school; and
  - (b) a summary of the development plan.
- (2) The persons are—
  - (a) any School Board established for the school;
  - (b) the teachers employed in the school;
  - (c) such persons so employed or working in the school on an unpaid basis as are not teachers; and

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- (d) such local bodies as appear to the authority to be representative of—
  - (i) such teachers;
  - (ii) such persons; or
  - (iii) parents of pupils in attendance at the school.
- (3) The development plan shall include an account of the ways in which, and extent to which, the headteacher of the school will—
  - (a) consult the pupils in attendance at the school; and
  - (b) seek to involve them, when decisions require to be made concerning the everyday running of the school.
- (4) The education authority shall ensure that there is prepared, without unreasonable delay after the expiry of the period of twelve months immediately following the preparation, in any year, of the development plan—
  - (a) a report as to what was done, during those twelve months, in implementation of the plan; and
  - (b) a summary of that report.
- (5) The education authority shall ensure that the parents of the pupils in attendance at the school have access without cost to the development plan and the report upon request and receive copies of the summaries prepared by virtue of subsections (1)(b) and (4) (b) above; and any other person shall be entitled to have access to those summaries on request.
- (6) The development plan prepared in any year after the first year in which such a plan is prepared for the school may be in the same terms as, or be a revised version of, that prepared in a preceding year or may be prepared anew; but the education authority shall from time to time review the implementation of the plan and if there is in any year a change of circumstances relevant to the plan and of such significance that they conclude that the plan should be revised or prepared anew then they shall ensure that the development plan next prepared is prepared accordingly.

## **7 Review of school performance**

- (1) An education authority shall from time to time, after consulting such bodies as appear to the authority to be representative of teachers and parents within their area and giving such persons within that area as appear to the authority to have an interest in the matter an opportunity to make their views known, define and publish, as respects quality of education provided, measures and standards of performance for the schools managed by them; and different measures and standards may be so defined for different categories of such schools.
- (2) An education authority shall, as respects each school managed by them, from time to time review the quality of education which the school provides; and if, having regard to the measures and standards of performance for the time being defined by them under subsection (1) above and relevant to the school, they conclude in any such review that the school is not performing satisfactorily they shall take such steps as appear to them to be requisite to remedy the matter.

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### *Delegation schemes*

## **8 Delegation schemes**

- (1) An education authority shall have a scheme for delegating to the headteacher of a school—
  - (a) managed by them; and
  - (b) of a category of school which is stated in the scheme to be covered by the scheme,management of that share of the authority's budget for a financial year which is available for allocation to individual schools and is appropriated for the school; or management of part of that share.
- (2) The scheme—
  - (a) shall delegate to the headteacher the preparation of the school development plan; and
  - (b) may also so delegate such other management functions in relation to the school as the authority think fit.
- (3) The scheme shall require that the headteacher exercise the delegated functions in a manner consistent with the education authority's duties under section 3(2) of this Act.

### *Inspections*

## **9 Inspection of education authority**

- (1) On any occasion on which they are requested to do so by the Scottish Ministers, or at such intervals as appear to the Scottish Ministers to be appropriate, 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), shall inspect an education authority so as to review the way in which the authority are exercising their functions in relation to the provision of school education.
- (2) A request under subsection (1) above may relate to those functions generally or to such matters in relation to those functions as may be specified in the request.
- (3) The education authority shall give all assistance which they are reasonably able to give to whomever is carrying out the inspection.

## **10 Code of practice as regards inspection of education authority**

The Scottish Ministers may, for the purposes of—

- (a) giving practical guidance on matters relating to inspections under section 9 of this Act (including, without prejudice to that generality, such matters as the making and publishing of reports on the matters reviewed); and
- (b) promoting what appear to them to be desirable practices with respect to those matters,

from time to time prepare, approve and issue such codes of practice as in their opinion are suitable for those purposes.

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## 11 Inspection of educational establishment

In section 66 of the 1980 Act (which makes provision for the inspection of educational establishments)—

- (a) in subsection (1), for the words from “other persons” to the end there shall be substituted “ any person appointed by the Scottish Ministers for the purposes of this section (or Her Majesty’s Inspectors and any such person) ”; and
- (b) after that subsection there shall be inserted—

“(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.”.

## 12 Code of practice as regards inspection of educational establishment

After section 66 of the 1980 Act there shall be inserted—

### “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.
- (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.”.

### *Guidance*

## 13 Guidance to education authorities: raising standards and delegation schemes

The Scottish Ministers may issue guidance to education authorities in relation to the functions of those authorities under sections 3 to 8 of this Act; and education authorities shall, in discharging those functions, have regard to any such guidance.

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## **14 Guidance to education authorities as to home education**

The Scottish Ministers may issue guidance as to the circumstances in which parents may choose to educate their children at home; and education authorities shall have regard to any such guidance.

### *Requirement for mainstream education*

## **15 Requirement that education be provided in mainstream schools**

- (1) Where an education authority, in carrying out their duty to provide school education to a child of school age, provide that education in a school, they shall unless one of the circumstances mentioned in subsection (3) below arises in relation to the child provide it in a school other than a special school.
- (2) If a child is under school age, then unless one of the circumstances mentioned in subsection (3) below arises in relation to the child, an education authority shall, where they—
  - (a) provide school education in a school to the child, provide it in; or
  - (b) under section 35 of this Act, enter into arrangements for the provision of school education in a school to the child, ensure that the arrangements are such that the education is provided in, a school other than a special school.
- (3) The circumstances are, that to provide education for the child in a school other than a special school—
  - (a) would not be suited to the ability or aptitude of the child;
  - (b) would be incompatible with the provision of efficient education for the children with whom the child would be educated; or
  - (c) would result in unreasonable public expenditure being incurred which would not ordinarily be incurred,and it shall be presumed that those circumstances arise only exceptionally.
- (4) If one of the circumstances mentioned in subsection (3) above arises, the authority may provide education for the child in question in a school other than a special school; but they shall not do so without taking into account the views of the child and of the child's parents in that regard.

### **Commencement Information**

**II** S. 15 in force at 1.8.2003 by S.S.I. 2003/84, art. 2

### *Ending of corporal punishment in schools*

## **16 No justification for corporal punishment**

- (1) Corporal punishment given by, or on the authority of, a member of staff to a pupil—
  - (a) for whom school education is provided by an education authority (whether or not at a school);

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- (b) for whom school education is provided, at a school other than a nursery school, by a person other than an education authority; or
- (c) for whom school education is provided—
  - (i) by a person to whom any payment is made under section 23 of the Education (Scotland) Act 1996 (c.43) (which provides for grants for the education of children under school age); or
  - (ii) at a nursery school, or other establishment, by a person other than an education authority, in pursuance of arrangements entered into under section 35 of this Act,
 cannot be justified in any proceedings on the ground that it was so given in pursuance of a right exercisable by virtue of having a position as a member of staff.
- (2) Subsection (1) above applies to corporal punishment given at any time and whether or not given at the place where education is provided.
- (3) Subject to subsection (4) below, references in this section to giving corporal punishment are references to doing anything for the purposes of punishing the pupil concerned (whether or not there are other reasons for doing it) which, apart from any justification, would constitute physical assault upon that pupil.
- (4) Corporal punishment shall not be taken to be given to a pupil by virtue of anything done for reasons which include averting—
  - (a) an immediate danger of personal injury to; or
  - (b) an immediate danger to the property of,
 any person (including the pupil concerned).
- (5) In subsection (1) above, “member of staff”, in relation to the pupil concerned, means—
  - (a) any person who works as a teacher at the school or other place at which education is provided for the pupil; or
  - (b) any other person who (whether in connection with the provision of education for the pupil or otherwise)—
    - (i) works at that school or place; or
    - (ii) otherwise provides services there (whether or not for payment), and has lawful control or charge of the pupil.
- (6) Section 48A of the 1980 Act (which makes provision with regard to corporal punishment in schools etc.) is repealed.

*Ending of self-governing status of schools*

**17 Ending of self-governing status of school**

- (1) The Scottish Ministers may by order provide that, on such date as may be specified in the order, a self-governing school so specified shall cease to be under the management of its board of management and that it shall, in consequence, cease to be a school which is a self-governing school; and the board shall, on that date, cease to exist.
- (2) On and after that date, the education authority in whose area the school is situated shall manage the school.
- (3) On that date—



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- (a) all—
    - (i) land and other property (including corporeal and incorporeal moveable property); and
    - (ii) rights and obligations,which immediately before that date were vested in that board shall transfer to and vest in that authority; and
  - (b) all persons in the employment of that board shall transfer to the employment of that authority.
- (4) The vesting of property, rights and obligations under this section shall have effect notwithstanding any rule of law, any obligation or any provision made in or under any enactment (other than this Act or an enactment made under this Act).

## **18 Order supplementary to ending of self-governing status**

- (1) Where an order has been made under section 17 of this Act as respects a school the Scottish Ministers may, after consultation with the education authority which is to manage the school, by order under this section make incidental, supplementary, transitional or ancillary provision as respects the change in status of the school.
- (2) Without prejudice to the generality of subsection (1) above, an order under this section may—
- (a) stipulate a timetable for any steps that may be specified in the order as necessary or expedient in relation to that change in status;
  - (b) provide for the payment of the expenses attributable to that change in status;
  - (c) confer such additional powers and impose such additional duties on the board of management of the school as appear to the Scottish Ministers to be appropriate in relation to that change in status;
  - (d) provide for the ingathering of any land or moveable property owned by—
    - (i) the board; or
    - (ii) trustees for the purposes of the school; or
  - (e) require the board to comply with any directions given by the Scottish Ministers in relation to that change in status.
- (3) Where land or moveable property purchased, or as the case may be refurbished, for the school out of (or partly out of) funds provided by way of a capital grant—
- (a) is transferred to the education authority by virtue of section 17 of this Act; and
  - (b) subsequently is sold by that authority to a third party,
- the Scottish Ministers may, after consultation with the education authority, require that authority to pay them the amount of the funds so provided (or if the amount received by the authority in respect of the sale was less than the amount of those funds, to pay them the amount so received).
- (4) Without prejudice to subsection (2)(b) above, the Scottish Ministers may make grants to the board of management for the purpose of enabling the board to defray such expenses incurred by the board as are attributable to that change in status.
- (5) The Scottish Ministers may make the payment of a grant in pursuance of subsection (4) above subject to such conditions and requirements (including a requirement that the whole or any part of a grant be repaid) as they think fit.

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## **19 Transfer of staff of self-governing school**

- (1) This subsection and subsections (2) to (4) below apply to any person who, immediately before the date specified in an order under section 17 of this Act as respects a self-governing school, is employed by the board of management of the school.
- (2) The contract of employment between the person and the board shall have effect from that date as if originally made between the person and the education authority which is to manage the school.
- (3) Without prejudice to subsection (2) above—
  - (a) all the board's rights, powers, duties and liabilities under or in connection with the contract shall by virtue of this paragraph transfer to the authority on that date; and
  - (b) anything done before that date by or in relation to the board in respect of that contract or of the employee shall be deemed as from that date to have been done by or in relation to the authority.
- (4) Subsections (2) and (3) above are without prejudice to any right of the person to terminate the contract of employment if the terms and conditions of employment are changed substantially to the detriment of the person; but such change shall not be taken to have occurred by reason only of the fact that the employer is changed by virtue of section 17(3)(b) of this Act.
- (5) Where a person—
  - (a) has, prior to the date so specified, entered into a contract of employment with the board of management of the school and that contract is to come into effect on or after that date; and
  - (b) would, if the contract had come into effect before that date, have been a person to whom subsections (1) to (4) above apply,
 the person shall be treated as one to whom those subsections do apply.

## **20 Provision of information in relation to self-governing school**

Where the Scottish Ministers have made an order under section 17 of this Act as respects a school, the board of management of the school shall—

- (a) on or before the date specified in the order, provide the education authority which is to manage the school with all the information held by the board in respect of the school including, without prejudice to that generality, information in respect of—
  - (i) the administration and finances of the school;
  - (ii) the fabric of the school;
  - (iii) the staff transferred to the employment of the authority by virtue of section 17(3)(b) of this Act; and
  - (iv) the pupils in attendance at the school; and
- (b) provide the Scottish Ministers, without undue delay, with such information and documents as they may require from the board for the purposes of their determining what supplementary provision to make by order under section 18 of this Act.

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## **21 Educational endowments in relation to self-governing school**

Where, immediately before the date specified in an order under section 17 of this Act in relation to a school, an educational endowment (within the meaning of Part VI of the 1980 Act) is, solely for the purposes of the school, to any extent vested in the board of management, the endowment shall, on that date and to that extent, transfer to and vest for the same purposes in the education authority which are to manage the school.

## **22 Interruption of process of transition to self-governing status**

Where, in the case of any school, proposals for the acquisition of self-governing status have been published under section 16 of the Self-Governing Schools etc. (Scotland) Act 1989 (c.30) by the School Board and approved by the Secretary of State, or as the case may be the Scottish Ministers, but as at the coming into force of this section responsibility for the conduct of the school has not transferred to a board of management, the school's transition to self-governing status shall be treated as never having commenced.

## **23 Purported disposal of property of self-governing school**

- (1) The board of management of a self-governing school shall obtain the consent of the Scottish Ministers to any transfer of moveable property owned by the board which is intended to take place on or after the date on which this section comes into force; and any purported transfer of such property on or after that date is void if such consent has not first been obtained.
- (2) The Scottish Ministers shall give consent under subsection (1) above only after they have consulted in the matter the education authority which are to manage the school.

### *Independent schools*

## **24 Registration of independent school**

- (1) In section 98 of the 1980 Act—
  - (a) in subsection (1) (which provides for there being kept a register of independent schools), after paragraph (i) of the proviso there shall be inserted—

“(ia) no independent school shall be registered if the Registrar has been given notice by the Scottish Ministers that they are satisfied, on such grounds as they shall specify in the notice, that the proprietor is not a proper person to be the proprietor of any school, that a teacher to be employed in the school is not a proper person to be a teacher in any school or that the school premises, or any parts of those premises, are unsuitable for a school;”;
  - and
  - (b) subsection (2A) (which provides that at any time within an independent school's first month a person will not be guilty of the offence of conducting it as an independent school while it is not registered, or is not provisionally registered, if in that month an application for registration is duly made) is repealed.

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(2) After that section there shall be inserted—

**“98A Refusal of registration: referral to Independent Schools Tribunal**

- (1) When, such notice as is mentioned in paragraph (ia) of the proviso to section 98(1) of this Act having been given, registration of a school is refused, the Registrar shall so notify the proprietor (and, if the notice related to a teacher, the teacher also) setting out the grounds which were specified by the Scottish Ministers.
- (2) Every notification given under subsection (1) above shall limit the time, not being less than one month after it is so given, within which the refusal of registration may be referred to an Independent Schools Tribunal constituted as is mentioned in section 100 of this Act; and the proprietor or teacher in question may within that time, in such manner as is mentioned in that section, so refer the refusal.
- (3) Upon a refusal being so referred the tribunal shall, after affording to all parties concerned an opportunity of being heard, and after considering such evidence as may be tendered by those parties or on their behalf, have power—
  - (a) to uphold the refusal; or
  - (b) without prejudice to paragraph (ii) of the proviso mentioned in subsection (1) above, to order the Registrar to register the school.
- (4) If the tribunal uphold the refusal then (according to what the grounds were which were specified by the Scottish Ministers) the tribunal may disqualify the proprietor from being the proprietor of any independent school, disqualify the teacher from being a teacher in any school or disqualify the premises, or parts of premises, from being used as a school or as part of a school.”.

**25 Welfare of pupil attending independent school**

In section 99 of the 1980 Act (which sets out grounds on which a complaint may be served upon the proprietor of an independent school), after paragraph (a) there shall be inserted—

“(aa) that the welfare of a pupil attending the school is not adequately safeguarded and promoted there;”.

*School Boards*

**26 Role of School Board in raising standards and improving quality of education**

In section 1(2) of the 1988 Act (which assigns functions to a School Board established in accordance with that Act), at the end there shall be added “ and they shall exercise those functions with a view to raising standards of education in the school and shall support the endeavours of those managing the school to secure improvement in the quality of education which the school provides. ”.

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## **27 Election to School Board after school ceases to be self-governing**

In section 2A of the 1988 Act (which makes provision as respects elections for members of School Boards), after subsection (3) there shall be inserted—

“(3A) In the case of a school which, by virtue of section 17 of the Standards in Scotland's Schools etc. Act 2000 (asp 6), ceases to be a school which is a self-governing school, the first election for members of the School Board shall be held as soon as practicable after pupils first attend the school following that change in status of the school.”.

## **28 Vacancies for parent members of School Board**

- (1) In the event of a vacancy arising for a parent member of a School Board—
  - (a) a by-election shall not be held to fill the place unless, within two months after the vacancy occurs, the education authority receive a request in writing for such a by-election from whichever is the lesser of—
    - (i) thirty parents of pupils in attendance at the school; or
    - (ii) a number of such parents equal to at least a quarter of those who were entitled to vote at the most recently held regular election of parent members; and
  - (b) the education authority shall, as soon as practicable, take such steps as appear to the authority to be reasonable to inform the parents of the pupils in attendance at the school—
    - (i) that the vacancy has arisen; and
    - (ii) of what paragraph (a) above provides.
- (2) In the event of a lesser number of parent members being elected than is necessary to make up the number for the time being prescribed for the purposes of section 2(1)(a) of the 1988 Act (which relates to the composition of a School Board), a by-election shall not be held to fill the place.
- (3) Schedule 1 to this Act (which contains amendments to that Act consequential on subsections (1) and (2) above) shall have effect.

## **29 Restriction on councillor's membership of School Board**

- (1) For subsection (2) of section 5 of the 1988 Act (which prevents councillors from being members of certain School Boards) there shall be substituted—

“(2) A councillor for an electoral ward which falls wholly or partly within the catchment area of a school shall be entitled to attend, and to speak at, any meeting of a School Board for the time being established for that school; but no councillor shall be a member of a School Board for the time being established for a school situated within the area of the council.”.
- (2) The amendment made by subsection (1) above shall have no effect as respects a councillor whose election was held before this section came into force.

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*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: There are currently no known outstanding effects for the Standards in Scotland's Schools etc. Act 2000. (See end of Document for details)*

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### **30 Involvement of School Board in preparing short leet for appointment of headteacher etc.**

In Schedule 2 to the 1988 Act (which relates to the appointment of headteachers, deputy headteachers and assistant headteachers), for paragraphs 9 to 13 (and their headings) there shall be substituted—

#### **“Preparation of short leet**

- 9 Subject to paragraph 10 below, the authority shall prepare the short leet and send it to the appointment committee; and the committee shall consider it and make their recommendation under paragraph 16 below.
- 10 The authority shall prepare the short leet in consultation with, and taking account of the views of—
- (a) the School Board, if the post to which the short leet relates is that of headteacher of a school for which such a Board is established; and
  - (b) the headteacher, if the post is that of deputy headteacher or assistant headteacher.”.

### **31 Delegation of education authority's functions to School Board**

In Schedule 3 to the 1988 Act, paragraphs 2 to 13 (which relate to the delegation of an education authority's functions to a School Board on the Board's initiative) are repealed.

#### *Pre-school children*

### **32 Provision of education for pre-school children etc.**

- (1) Section 1 of the 1980 Act (which imposes a duty on education authorities to secure the provision of education) shall be amended in accordance with this section.
- (2) In subsection (1), for the word “(2)” there shall be substituted “ (1A) ”.
- (3) After subsection (1) there shall be inserted—
  - “(1A) The duty imposed on education authorities by subsection (1) above shall, in relation to children who are under school age, be exercisable only as respects children of such description or descriptions as may be prescribed by order.
  - (1B) Where an order is made under subsection (1A) above, the amount of school education with which children of a description prescribed in that order are to be provided shall also be prescribed in the order.
  - (1C) An education authority shall have power in relation to pre-school children to secure for their area the provision of such school education, other than that which they are required by subsection (1) above to secure, as they think fit.”.
- (4) Subsection (2) is repealed.
- (5) After subsection (4) there shall be inserted—

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“(4A) The power to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the Scottish Parliament.

(4B) In this section “pre-school children” means—

- (a) children who are under school age and have not commenced attendance at a primary school (other than a nursery class in such a school); and
- (b) children who have attained school age but have not commenced attendance at such a school.”.

### **33 Fees**

(1) School education provided by virtue of subsections (1) and (1A) of section 1 of the 1980 Act shall be provided without payment of fees.

(2) An education authority may charge fees for school education provided by virtue of subsection (1C) of that section.

(3) For the purposes of subsections (1) and (2) above, the school education may be provided—

- (a) in a nursery school;
- (b) in a nursery class in a school; or
- (c) in pursuance of arrangements entered into under section 35 of this Act, in some other establishment.

(4) In section 3 of the 1980 Act (which relates to the charging of fees, in certain cases, for the provision of school education etc.), after subsection (6) there shall be added—

“(7) This section does not apply as respects the provision of school education by virtue of subsections (1) and (1A), or as the case may be subsection (1C), of section 1 of this Act.”.

### **34 Guidance to education authorities as respects discharge of certain functions**

The Scottish Ministers may from time to time give guidance to education authorities as respects the discharge by authorities of—

- (a) their functions under the 1980 Act in relation to the provision of school education for pre-school children;
- (b) in so far as relating to the functions mentioned in paragraph (a) above, any other functions of education authorities under that Act; and
- (c) the power conferred by section 33(2) of this Act;

and education authorities shall, in discharging those functions and exercising that power, have regard to any such guidance.

### **35 Provision of school education by persons other than education authorities**

An education authority may, for the purposes of—

- (a) fulfilling the duty imposed on them by subsections (1) and (1A) of section 1 of the 1980 Act; or
- (b) exercising the power conferred on them by subsection (1C) of that section,

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enter into arrangements with any person for the provision by that person of school education for children who are under school age or, as the case may be, for pre-school children.

### **36 Inspection of establishments other than schools**

In section 66 of the 1980 Act (which makes provision for the inspection of educational establishments), for subsection (1A) there shall be substituted—

“(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 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).”.

### **37 Provision of transport etc. by education authority**

(1) Where, by virtue of subsections (1) and (1A), or as the case may be subsection (1C), of section 1 of the 1980 Act, children are attending—

- (a) a nursery school;
- (b) a nursery class in a school; or
- (c) any establishment which, though not a school, provides school education in pursuance of arrangements made under section 35 of this Act,

an education authority may make such arrangements in relation to those children as the authority think fit for the provision of any of the facilities mentioned in subsection (2) below; and any such arrangements may, in respect of any child, make provision for more than one of those facilities.

(2) The facilities are—

- (a) the conveyance of children without charge for the whole or part of the journey between their homes and the schools or other establishments which they are attending;
- (b) the making available (on such terms as may be agreed) of bicycles or other suitable means of transport to parents of children for the purpose of conveying the children between their homes and the schools or other establishments which they are attending, or, instead, the payment of money allowances;
- (c) the payment of the whole or any part, as the authority think fit, of the reasonable travelling expenses of children.

(3) In section 51 of the 1980 Act (which relates to the provision of transport and other facilities by education authorities), after subsection (3) there shall be added—

“(4) In this section “school” does not include a nursery school or a nursery class in a school.”.

### **38 Admission of children under school age to primary school**

(1) Where a parent of a child who is under school age requests the education authority for the area in which the parent is ordinarily resident to admit the child to a class, other than a nursery class, in a primary school under the management of that authority, the



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authority shall, if the school education normally provided in such a class is suited to the ability and aptitude of the child, admit the child to such a class.

- (2) Subsection (1) above is without prejudice to any other power or duty of the education authority.

### **39 Repeal of Part II of Education (Scotland) Act 1996**

Part II of the Education (Scotland) Act 1996 (c.43) (which makes provision as respects the funding of education for children who are under school age etc.) is repealed.

#### *Education outwith school*

### **40 Education outwith school**

For section 14 of the 1980 Act there shall be substituted—

#### **“14 Education for children unable to attend school etc.**

- (1) If an education authority are satisfied that, by reason of—
- (a) any extraordinary circumstances (not being circumstances mentioned in paragraph (b), or subsection (2) or (3), below)—
    - (i) a pupil is unable; or
    - (ii) it would be unreasonable to expect a pupil, to attend a suitable educational establishment for the purpose of receiving education, they may;
  - (b) a pupil's prolonged ill-health—
    - (i) the pupil is unable; or
    - (ii) it would be unreasonable to expect the pupil, to attend such an establishment for that purpose, they shall, without undue delay after those circumstances become apparent to them, make special arrangements for the pupil to receive education elsewhere than at an educational establishment.
- (2) If an education authority have, under section 34(1) of this Act, granted a pupil exemption from the obligation to attend school, the exemption being to enable the pupil to give assistance at home in circumstances arising out of the illness or infirmity of a member of the pupil's family, they shall in so far as is practicable and without undue delay make such special arrangements as are mentioned in subsection (1) above.
- (3) If a pupil withdraws, excluded by the education authority (or with the consent of the authority in circumstances where he would have been so excluded but for his withdrawal), from a public school in their area they shall, without undue delay—
- (a) provide school education for him in a school managed by them;
  - (b) make arrangements for him to receive such education in any other school the managers of which are willing to receive him; or
  - (c) make such special arrangements as are mentioned in subsection (1) above.”.

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### *Exclusion from school*

#### **41 Rights of appeal against exclusion from school**

A pupil with legal capacity in terms of subsections (4A) and (4B) of section 2 of the Age of Legal Capacity (Scotland) Act 1991 (c.50) shall have the same rights of appeal under section 28H of the 1980 Act as—

- (a) the parent of the pupil; or
- (b) the pupil, where the pupil is a young person.

### *Grants*

#### **42 Grants in respect of activities relating to school education**

- (1) The Scottish Ministers may make grants to persons who, to any extent, undertake, or engage in, activities relating to school education (or propose to undertake or engage in such activities).
- (2) The Scottish Ministers may make the payment of a grant in pursuance of subsection (1) above subject to such conditions and requirements (including a requirement that the whole or any part of a grant be repaid) as they think fit.

### *Placing requests*

#### **43 Placing requests: extent of education authority's duty**

- (1) The 1980 Act shall be amended in accordance with this section.
- (2) In section 28A(1) (which relates to the duty to comply with a placing request), after “school”, where it secondly occurs, there shall be inserted “ (other than a nursery school or a nursery class in a school) ”.
- (3) In section 28C (which relates to the reference to an appeal committee of a refusal of a placing request), subsection (2) is repealed.
- (4) Subsection (2) above does not apply in relation to the said section 28A as substituted, in relation to a recorded child, by Schedule A2 to the 1980 Act.

#### **44 Further provision as respects placing requests**

- (1) Section 28A of the 1980 Act shall be further amended in accordance with this section.
- (2) In subsection (1), after the words “parent of a child” there shall be inserted “ of school age ”.
- (3) After subsection (1) there shall be inserted—
  - “(1A) The education authorities shall—
    - (a) in carrying out the duty imposed on them by subsection (1) above; and
    - (b) in deciding when that duty does not apply,
 have regard to such guidance as the Scottish Ministers may give in that respect.”.

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- (4) In subsection (3)(a) (which sets out certain exceptions to the duty of an education authority to accede to a parent's request that a child be placed in a specified school under their management), after sub-paragraph (v) there shall be added—
- “(vi) assuming that pupil numbers remain constant, make it necessary, at the commencement of a future stage of the child's primary education, for the authority to elect either to create an additional class (or an additional composite class) in the specified school or to take an additional teacher into employment at that school; or
  - (vii) though neither of the tests set out in sub-paragraphs (i) and (ii) above is satisfied, have the consequence that the capacity of the school would be exceeded in terms of pupil numbers;”.
- (5) In subsection (3A), the words “Subject to subsection (3B) below,” are repealed.
- (6) Subsections (3B) and (3E) (which restrict an education authority's entitlement, where they would be prevented from retaining reserved places at a specified school, to refuse a placing request) are repealed.
- (7) Subsections (3) to (6) above apply also in relation to the said section 28A substituted as is mentioned in subsection (4) of section 43 of this Act; and in subsection (1) of section 28A as so substituted, after paragraph (b) there shall be inserted “; or
- (c) a school at which education is provided—
    - (i) by a person to whom any payment is made under section 23 of the Education (Scotland) Act 1996 (c.43); or
    - (ii) in pursuance of arrangements entered into under section 35 of the Standards in Scotland's Schools etc. Act 2000 (asp 6).”.

#### **Commencement Information**

**I2** S. 44(1)-(3)(5)-(7) wholly in force and s. 44(4) in force for specified purposes at 13.10.2000 by [S.S.I. 2000/361](#), [art. 3\(1\)](#), [Sch. Pt. I](#) (subject to transitional provisions in [art. 4](#))

### *The General Teaching Council*

#### **45 Functions of the Council**

- (1) In section 1 of the 1965 Act (which makes provision for the establishment of the General Teaching Council for Scotland)—
- (a) after subsection (2) there shall be inserted—
    - “(2A) The principal aims of the Council in exercising their functions shall be—
      - (a) to contribute to improving the quality of teaching and learning; and
      - (b) to maintain and improve teachers' standards of professional competence.”;
- and
- (b) after subsection (3) there shall be added—

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“(4) In exercising their functions the Council shall have regard to the interests of the public.”.

- (2) In section 2(3) of that Act (which imposes on the Council the duty of considering certain matters relating to the education, training and fitness to teach of teachers and of making recommendations), after the word “training” there shall be inserted “, career development”.
- (3) After section 4 of that Act there shall be inserted—

**“4A Additional functions**

- (1) The Scottish Ministers may by order confer or impose on the Council such additional functions as the Scottish Ministers consider it would be appropriate for the Council to discharge in connection with any of the Council’s functions under this Act.
- (2) Before making an order under subsection (1) above, the Scottish Ministers shall—
- (a) consult the Council; and
  - (b) carry out such other consultation as appears to them to be appropriate.”.
- (4) After section 5 of that Act there shall be inserted—

**“5A General advice and publication of advice and recommendations**

The Council may give advice of a general nature, on any matter relevant to their functions (whether or not it is a matter as respects which they may make recommendations under any other provision of this Act), to any person or body; and they may publish any such advice or recommendations.

**5B Supply of information relating to teachers**

- (1) The Council shall supply to the General Teaching Council for England and the General Teaching Council for Wales such information as it is necessary or desirable for the Council in question to have for the purpose of carrying out any of the functions conferred on them by or under the Teaching and Higher Education Act 1998 (c.30).
- (2) Once the General Teaching Council for Northern Ireland is established, subsection (1) above shall apply in relation to that Council and to the functions conferred on them by or under the Education (Northern Ireland) Order 1998 (S.I. 1998/1759 (N.I. 13)) as that subsection applies in relation to, and to the functions of, the General Teaching Council for England and the General Teaching Council for Wales.
- (3) Subsections (1) and (2) above do not limit the circumstances in which information may be supplied other than by virtue of this section and are without prejudice to section 9A of this Act.”.

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*Changes to legislation: There are currently no known outstanding effects for the Standards in Scotland's Schools etc. Act 2000. (See end of Document for details)*

## 46 Constitution of the Council

(1) Part I of Schedule 1 to the 1965 Act (which relates to the constitution of the Council) shall be amended in accordance with the following subsections.

(2) In paragraph 1—

(a) in sub-paragraph (1)—

(i) in head (a), for the word “30” there shall be substituted “twenty-six”;

(ii) in head (b), for the word “15” there shall be substituted “eighteen” and for sub-heads (iv) to (viii) there shall be substituted—

“(iv) one by the boards of management of colleges of further education;

(v) one by the Scottish Council of Independent Schools;

(vi) four by the governing bodies of relevant institutions;

(vii) three by the universities of Scotland and by the governing bodies of other institutions in the higher education sector (other than relevant institutions);

(viii) one by the Education Committee of the General Assembly of the Church of Scotland;

(ix) one by the Scottish Hierarchy of the Roman Catholic Church; and

(x) one by the Association of Directors of Social Work in Scotland;”;

and

(iii) for head (c) there shall be substituted—

“(c) six persons (in this Schedule referred to as “nominated members”) nominated by the Scottish Ministers.”;

(b) for sub-paragraph (2) there shall be substituted—

“(2) The twenty-six elected members shall be registered teachers and shall comprise—

(a) four employed as headteachers in primary schools or nursery schools;

(b) seven employed in primary schools or nursery schools other than as headteachers;

(c) three employed as headteachers in secondary schools;

(d) eight employed in secondary schools other than as headteachers;

(e) one employed as a teacher of pre-school children elsewhere than in a primary school or nursery school (“pre-school children” having the meaning given by section 58(1) of the Standards in Scotland's Schools etc. Act 2000 (asp 6));

(f) two employed in further education centres; and

(g) one employed in a relevant institution.”;

(c) in sub-paragraph (3)—

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- (i) for the words “the central institutions” there shall be substituted “relevant institutions ”; and
  - (ii) for head (a) there shall be substituted—
    - “(a) a reference to a person “employed” is to a person who, as at such date as may be prescribed by the Council in the scheme made under sub-paragraph (6) below, is employed full-time in the position in question or who, in the period of twelve months which ends with that date, has been employed in that position for not less than one-fifth of the hours which would have fallen to be worked had the employment been full-time;”;
  - (d) sub-paragraph (4) is repealed;
  - (e) in sub-paragraph (5)—
    - (i) the words “other than principals of relevant institutions” are repealed; and
    - (ii) for the words “the next following sub-paragraph” there shall be substituted “ this paragraph ”;
  - (f) in sub-paragraph (6), in head (b), after the words “making up” there shall be inserted “ , subject to sub-paragraph (6A) below, ”;
  - (g) after sub-paragraph (6) there shall be inserted—
    - “(6A) The roll of electors made up as provided for in a scheme made under this paragraph shall show that, in respect of the category of elected members which comprises persons employed as is mentioned in—
      - (a) head (a) of sub-paragraph (2) above, only persons so employed;
      - (b) head (c) of that sub-paragraph, only persons so employed, are entitled to vote.”;
  - (h) in sub-paragraph (7), for the words “the last foregoing sub-paragraph” and “that sub-paragraph” there shall in each case be substituted “ this paragraph ”; and
  - (i) for sub-paragraph (9) there shall be substituted—
    - “(9) In nominating members of the Council under sub-paragraph (1)(c) above, the Scottish Ministers shall—
      - (a) ensure that at least one nominee represents the interests of parents of pupils;
      - (b) ensure that at least one nominee is engaged in, or represents the interests of persons engaged in, commerce or industry;
      - (c) ensure that at least one nominee is engaged in, or represents the interests of persons engaged in, the teaching of children or young persons with special educational needs (as defined in section 1(5)(d) of the Education (Scotland) Act 1980 (c.44)); and
      - (d) have regard to the desirability of the membership of the Council reflecting the interests of the public.”.
- (3) Paragraph 3 is repealed.
- (4) In paragraph 4—

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- (a) in sub-paragraph (2), for head (d) there shall be substituted—
- “(d) where, being an elected member—
- (i) employed otherwise than as mentioned in head (e) of paragraph 2(2) above, he ceases to be employed in the category of educational establishment in respect of which he was elected; or
  - (ii) employed as mentioned in that head, he ceases to be so employed; or
- (e) where, being an elected member who is employed part-time, he has, as at any anniversary of his election, not been employed as a teacher, in the period of twelve months which ends with that anniversary, for one-fifth of, or more than one-fifth of, the hours which would have fallen to be worked had the employment been full-time,”;

and

- (b) after that sub-paragraph there shall be added—
- “(2A) For the purposes of sub-paragraph (2)(e) above, an elected member who is employed part-time shall in each year, on or immediately before the anniversary of his election, provide the Council with evidence, in such form as they may require, as to the hours which he has worked during the period mentioned in that sub-paragraph.”.

- (5) For paragraph 5A there shall be substituted—

“5A  
A person holding office as a member of the Council on the date on which section 46 of the Standards in Scotland's Schools etc. Act 2000 (asp 6) comes into force shall go out of office on such date as the Scottish Ministers may, after consultation with the Council, determine; but that date shall not be later than 31st October, 2001.”.

- (6) In the proviso to paragraph 6(1), the words “(other than principals of relevant institutions)” are repealed.

- (7) Paragraph 6A is repealed.

#### **Commencement Information**

**I3** S. 46 partly in force; s. 46 not in force at Royal Assent see s. 61(2); s. 46(3)(5) wholly in force and s. 46(1)(2) in force for specified purposes at 13.10.2000 by S.S.I. 2000/361, art. 3(1), **Sch. Pt. I** (subject to transitional provisions in art. 4); s. 46 in force for all other purposes at 1.11.2001 by S.S.I. 2000/361, art. 3(2), **Sch. Pt. II** (subject to transitional provisions in art. 4)

#### **47 Further provision as to keeping of register of teachers**

- (1) After section 6 of the 1965 Act there shall be inserted—

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### **“6A Further provision as to keeping of register**

- (1) After consultation with the Council, the Scottish Ministers may, by statutory instrument subject to annulment in pursuance of a resolution of the Scottish Parliament, make regulations requiring rules under section 6(4) of this Act—
- (a) to make such provision as to the form and manner in which the register is to be kept as shall be specified in the regulations; and
  - (b) to prescribe matters (being matters specified in the regulations) which are to be recorded in the register.
- (2) The Council shall, within one month after any regulations made under subsection (1) above come into force, make and publish such rules, revocations or amendments as the regulations make requisite.”.
- (2) In the said section 6—
- (a) in subsection (4), for paragraph (c) there shall be substituted—
 

“(c) provide for the removal of a name from the register on a failure—

    - (i) to pay a prescribed fee and for its re-registration in the register on the making of the prescribed application in that behalf and on payment of that fee and any additional fee;
    - (ii) to supply information, or details of a change in information, within such reasonable period as may be intimated to the person by the Council provided that such intimation was given after the person had already failed to supply timeously, under subsection (5C) below, the information or details and for its re-registration in the register on the making of the prescribed application in that behalf, the supplying of the information or details and the payment of a fee,

prescribed in respect of the re-registration;”;
- and
- (b) after subsection (5B) there shall be inserted—
 

“(5C) A person whose name is contained in the register shall, within such period as may be prescribed, supply the Council with—

    - (a) details of any change in the information recorded against that name in the register if it is a change of such kind as may be prescribed;
    - (b) such information as may be prescribed, being information of a kind not already so recorded.”.

### **48 Provision of information by Council**

After section 9 of the 1965 Act there shall be inserted—



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#### **“9A Provision of information contained in register**

The Council shall, after consultation with the Scottish Ministers, with the education authorities and with such bodies as appear to the Council to represent other employers of registered teachers, make rules with respect to there being made available for inspection (by such means, in such form and within such time as may be prescribed in the rules) information contained in the register; and such rules may make—

- (a) provision as to the circumstances and form in which and the conditions subject to which that information may be made so available; and
- (b) different provision for different classes of information, for different classes of person to whom information is made so available and for different classes of case.”.

#### **49 Provision of information to Council**

After section 9A of the 1965 Act (which is inserted in that Act by section 48 of this Act) there shall be inserted—

#### **“9B Notification of dismissal etc. to Council**

The employer of a registered teacher shall—

- (a) on dismissing the teacher on grounds of—
  - (i) misconduct; or
  - (ii) incompetence;
- (b) on the teacher resigning, or abandoning his position, in circumstances where, but for the resignation or abandonment—
  - (i) he would have been dismissed on grounds of misconduct; or
  - (ii) his dismissal on grounds of misconduct would have been considered by the employer; or
- (c) on the teacher resigning, or abandoning his position, after being informed by the employer that a disciplinary hearing is to be held by the employer as respects the teacher’s alleged incompetence,

forthwith notify the Council of the dismissal, resignation or abandonment; and the employer shall in so doing provide the Council with an account of the circumstances which led to the dismissal or which were present when the resignation or abandonment took place.

#### **9C Provision of other information to Council by employer**

The employer of a registered teacher shall, when requested to do so by the Council, provide the Council with such information as respects that teacher as the Council may reasonably require in connection with the exercise of the functions assigned to them under this Act.”.

#### **Commencement Information**

- I4** S. 49 in force for specified purposes at 13.10.2000 by [S.S.I. 2000/361](#), [art. 3\(1\)](#), [Sch. Pt. I](#) (subject to transitional provisions in [art. 4](#))

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## 50 Professional Conduct Committee and Investigating and Disciplinary Sub-committees

For sections 10 and 11 of the 1965 Act there shall be substituted—

### **“10 Constitution of Professional Conduct Committee and Investigating and Disciplinary Sub-committees**

- (1) The Council shall set up from their own number a committee, to be known as the Professional Conduct Committee; and that committee shall have two sub-committees, to be known respectively as the Investigating Sub-committee and the Disciplinary Sub-committee.
- (2) The members of either sub-committee may include persons who, though members of the Council, are not members of the Professional Conduct Committee.
- (3) A majority of the members of the Council appointed to—
  - (a) the Professional Conduct Committee;
  - (b) each of the sub-committees, shall be registered teachers.
- (4) No member of the Council shall be a member of both sub-committees in their consideration of any one case.
- (5) The Council shall make rules regulating—
  - (a) subject to the provisions of this section, the membership of the committee and of each of the sub-committees; and
  - (b) the times and places of meetings, the quorum and the method of summoning the members of the Disciplinary Sub-committee.
- (6) The provisions of Schedule 2 to this Act shall have effect with regard to the procedure of the Disciplinary Sub-committee.

### **10A The Professional Conduct Committee**

- (1) Without prejudice to subsections (2) and (3) below, the Professional Conduct Committee shall have the functions of—
  - (a) formulating and keeping under review the policy of the Council as respects the professional conduct of teachers; and
  - (b) overseeing the actings of its own sub-committees.
- (2) Where the Professional Conduct Committee has been notified by—
  - (a) a person's employer (or former employer if the person is for the time being unemployed); or
  - (b) the Scottish Ministers,
 that the person has an illness or some other medical condition and after due inquiry the committee is satisfied that that is so and that the nature of the illness, or condition, and its effect on the person are such as to warrant a direction that the person's name be removed from the register, the committee may so direct.
- (3) The Professional Conduct Committee shall be charged with the duty of considering and determining any application for re-registration of a name in the register where the name was removed by virtue of subsection (2) above.

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- (4) Schedule 2 to this Act shall apply in relation to proceedings under subsection (2) above before the Professional Conduct Committee as it applies in relation to any proceedings before the Disciplinary Sub-committee; except that in so applying paragraph 2 of that Schedule that paragraph shall be modified as follows—
- (a) in sub-paragraph (1)—
    - (i) in head (a), the words “under section 10B(2) of this Act” shall be disregarded; and
    - (ii) head (g) shall be disregarded; and
  - (b) in sub-paragraph (2), heads (b) and (c) shall be disregarded,
- and such rules as are, for the purposes of that application, made under the said paragraph 2 shall include rules relating to any need for the person to submit himself for examination by an appropriately qualified practitioner appointed by the committee and permitting the attendance at any such examination of a qualified medical practitioner appointed for that purpose by the person.
- (5) When the Professional Conduct Committee directs—
- (a) that a person's name be removed from the register; or
  - (b) that an application for re-registration be refused,
- the committee shall serve on the person notice of the direction; and any such notice shall include a statement of the reasons for the direction.

### **10B The Investigating Sub-committee**

- (1) The Investigating Sub-committee shall be charged with the duty of conducting a preliminary investigation into any case where it appears—
- (a) that a registered person may be liable, under or by virtue of any of the provisions of this Act (other than section 10A(2)), to have his name removed from the register; or
  - (b) that a person who—
    - (i) has been duly recommended for registration;
    - (ii) fulfils requirements prescribed under paragraph (ba) of subsection (2) of section 6 of this Act; or
    - (iii) in the opinion of the Council is a person whose registration is warranted in terms of paragraph (c) of that subsection,and has applied to be registered may have been convicted of a relevant offence or may otherwise have been guilty of relevant misconduct (irrespective of whether the offence or misconduct took place in Scotland).
- (2) If, after fulfilling its duty under subsection (1) above, the Investigating Sub-committee considers it just to do so it shall refer the case to the Disciplinary Sub-committee.
- (3) In subsection (1)(b) above—
- “relevant misconduct” means conduct which falls short of the standard expected of a registered teacher; and
  - “relevant offence” means an offence other than one having no material relevance to the fitness of the perpetrator to be a registered teacher.

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### **10C The Disciplinary Sub-committee**

- (1) The Disciplinary Sub-committee shall be charged with the duty of considering and determining—
  - (a) any case referred to it by the Investigating Sub-committee;
  - (b) any application for re-registration of a name in the register;
  - (c) any second or subsequent application for registration by a person whose original application has been refused in pursuance of its direction under section 11(8) of this Act; and
  - (d) any application for registration by any person who has been a certificated teacher but whose certificate has been withdrawn on the ground of misconduct, or suspended on that ground, and not restored under any enactment in force before the commencement of this Act.
- (2) Subsection (1)(b) above does not apply in respect of—
  - (a) an application made by virtue of section 6(4)(c) of this Act; or
  - (b) a name removed by virtue of section 10A(2) of this Act.

### **11 Decisions of the Disciplinary Sub-committee**

- (1) Where a registered person—
  - (a) has been convicted (whether in Scotland or elsewhere and irrespective of whether the person was a registered person at the time of conviction) of a relevant offence; or
  - (b) is judged by the Disciplinary Sub-committee to have been guilty of relevant misconduct,
 or where the Disciplinary Sub-committee is satisfied that the name of such a person has been registered in error in consequence of any false or fraudulent declaration or representation then the sub-committee may, if it thinks fit, direct that—
  - (i) the person's name be removed from the register;
  - (ii) the person shall be subject to a conditional registration order; or
  - (iii) a reprimand shall be recorded against the person's name in the register.
- (2) Where a registered person of whom the Council have received notification under section 9B(a)(ii) or (c) of this Act is judged by the Disciplinary Sub-committee to have been guilty of serious professional incompetence and the Sub-committee is satisfied that the nature of the incompetence is such as to warrant the removal of that person's name from the register, the Sub-committee may direct that it be removed accordingly.
- (3) In subsection (1)(ii) above, the reference to a conditional registration order is to an order of the Disciplinary Sub-committee that the person shall continue to be eligible for registration under section 6(2) of this Act but, for such period as may be specified in the order or for an unlimited time, shall comply with such conditions as to employment as a teacher as may be so specified; and if there is a failure so to comply, the Disciplinary Sub-committee may direct that the person's name be removed from the register.
- (4) A person in relation to whom a conditional registration order has been made may apply to the Professional Conduct Committee for variation or revocation

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of a condition specified in the order; and the committee shall, in determining that application, cause notice of its determination to be served on the person and in relation to any such application no person who was a member of the Disciplinary Sub-committee at the time the condition was imposed shall be entitled to take part in the proceedings of the Professional Conduct Committee.

- (5) A notice under subsection (4) above shall include a statement of the sub-committee's reasons for its determination.
- (6) Schedule 2 to this Act shall apply in relation to proceedings under subsection (4) above before the Professional Conduct Committee as it applies to any proceedings before the Disciplinary Sub-committee; except that in so applying paragraph 2 of that Schedule the provisions of that paragraph shall be modified as follows—
- (a) in sub-paragraph (1)—
    - (i) in head (a), the words “under section 10B(2) of this Act” shall be disregarded; and
    - (ii) head (g) shall be disregarded; and
  - (b) sub-paragraph (2) shall be disregarded.
- (7) Where, in the five years which immediately follow the recording, under subsection (1)(iii) above, of a reprimand against a person's name no further direction is made under this section by the Disciplinary Sub-committee in respect of that person, the reprimand shall be removed from the register; but the sub-committee may have regard to any past reprimand in fulfilling its duty under section 10C(1) of this Act even though the reprimand has been so removed.
- (8) Where a person such as is mentioned in any of sub-paragraphs (i) to (iii) of section 10B(1)(b) of this Act has applied to be registered but is as described in paragraph (a) or (b) of subsection (1) above and, in the opinion of the sub-committee, is in consequence unfit to be registered, the sub-committee may direct that the person's application be refused.
- (9) A person whose—
- (a) application for registration has been refused in compliance with a direction—
    - (i) given by virtue of a determination under section 10C(1)(d) of this Act; or
    - (ii) under subsection (8) above; or
  - (b) name is removed from the register in compliance with a direction under subsection (1)(i) or (2) above,
- shall not be entitled to be registered, or as the case may be re-registered, except in compliance with a direction of the Disciplinary Sub-committee.
- (10) The Disciplinary Sub-committee, in directing that a person's application for registration, or re-registration, be refused or that a person's name be removed from the register, may in the direction prohibit the person from applying or, as the case may be, applying again, for a direction under subsection (9) above until the expiration of such period, not exceeding twelve months from the date of the direction, as may be specified in the prohibition.
- (11) When the Disciplinary Sub-committee directs that a person's application for registration or re-registration be refused, or that a person's name be removed

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from the register, the sub-committee shall serve on the person notice of the direction; and any such notice shall include a statement of—

- (a) the facts found proven in the proceedings before the sub-committee; and
- (b) the reasons for the direction.

### **11A Temporary suspension**

- (1) Where, as respects a registered person—
  - (a) a preliminary investigation under section 10B(1) of this Act is pending, the Investigating Sub-committee; or
  - (b) proceedings under section 10C of this Act are pending, the Disciplinary Sub-committee,

may, if it is satisfied that there is prima facie evidence of circumstances on the basis of which the person's name might come to be removed from the register, direct that, until the date on which the case is finally disposed of, the entry for the person's name shall be marked on the register as suspended; but if in determining the case the Disciplinary Sub-committee makes no direction for the removal of the name from the register, it shall direct that the suspension be cancelled and the mark on the register removed accordingly.

- (2) When the Investigating Sub-committee or the Disciplinary Sub-committee makes a direction under subsection (1) above, it shall serve notice of the direction—
  - (a) on the person; and
  - (b) if the person is in employment as a teacher, on the employer.
- (3) Subsections (1) and (2) above shall apply in relation to proceedings under section 10A(2) of this Act and to the Professional Conduct Committee as they apply in relation to proceedings under section 10C of this Act and to the Disciplinary Sub-committee.

### **11B Notification to employer of outcome of disciplinary proceedings**

When proceedings in a case such as is mentioned in section 10A(2) or 10C(1) (a) of this Act against a person employed as a teacher are finally disposed of, the Council shall forthwith advise the person's employers of the outcome of those proceedings.”.

#### **Commencement Information**

- I5** S. 50 in force for specified purposes at 1.11.2001 by [S.S.I. 2000/361](#), [art. 3\(2\)](#), [Sch. Pt. II](#) (subject to transitional provisions in [art. 4](#))

## **51 Appeals**

- (1) In section 12 of the 1965 Act (which makes provision as respects appeals), for subsection (1) there shall be substituted—

“(1) Any—

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- (a) such person as is mentioned in section 10A(2) or in paragraph (a) or (b) of section 11(9) of this Act;
- (b) person whose application for re-registration has been refused in compliance with a direction under this Act; or
- (c) person whose application for registration has been refused in compliance with a direction of the committee appointed under paragraph 16(1) of Part II of Schedule 1 to this Act,

may, within twenty-eight days after the service on him of notice of the direction in question, appeal against—

- (i) that direction; or
- (ii) in the case of a direction by the Disciplinary Sub-committee, any prohibition imposed by virtue of section 11(10) of this Act,

to the Court of Session in accordance with such rules as may be made by Act of Sederunt for the purposes of this subsection; and on any such appeal the Court may give such directions in the matter as it thinks proper, including directions as to the expenses of the appeal.

(1A) Any person—

- (a) in respect of whom a direction has been made by the Disciplinary Sub-committee, the Investigating Sub-committee or the Professional Conduct Committee and who does not have a right of appeal under subsection (1) above; or
- (b) whose application for variation or revocation of a condition specified in a conditional registration order has been refused by the Professional Conduct Committee,

may, within the prescribed number of days after the service on him of notice of the direction or refusal in question, require the Council to review the direction or refusal; and in relation to any such review no person who was a member of the Disciplinary Sub-committee, or as the case may be of the Investigating Sub-committee or the Professional Conduct Committee, at the time the direction, or the decision to refuse the application, was made shall be entitled to take part in the proceedings of the Council.”

(2) In each of subsections (2) and (3) of that section, for the words “this section” there shall be substituted “ subsection (1) above ”; and for subsection (4) there shall be substituted—

“(4) No direction under section 10A(2), 11(1) or (2) or 11A(1) of this Act (or section 11A(1) as applied in relation to proceedings under section 10A(2) of this Act) shall take effect until—

- (a) where, in accordance with this section, the person concerned—
  - (i) appeals against the direction, the appeal has been withdrawn or dismissed; or
  - (ii) requires the Council to review the direction or refusal, the requirement has been withdrawn or the direction or refusal has been upheld; or
- (b) in any other case, the twenty-eight days mentioned in subsection (1), or as the case may be the prescribed number of days mentioned in subsection (1A), above have elapsed.

(5) The Council shall make rules as respects the procedure to be followed and the rules of evidence to be observed in proceedings in any review required under

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subsection (1A) above; but such rules shall not come into force until approved by the Lord President of the Court of Session.

- (6) In subsection (1A) above, “the prescribed number of days” means such number of days as may be prescribed by the Council in rules made under this subsection; and different numbers may be so prescribed for different categories of review.
- (7) For the purposes of advising the Council on questions of law arising in proceedings in any review required under subsection (1A) above, there shall in all such proceedings be an assessor to the Council who shall be an advocate or solicitor of not less than ten years’ standing appointed by them; and subparagraph (2) of paragraph 3 of Schedule 2 to this Act shall apply in relation to such proceedings and to the Council as that sub-paragraph applies in relation to proceedings before the Disciplinary Sub-committee and to that sub-committee.
- (8) An assessor may be appointed under this section either generally or for any particular proceedings or class of proceedings and shall hold and vacate office in accordance with the terms of the instrument under which he is appointed.
- (9) The Council shall pay to an assessor appointed under this section remuneration at such rates as may be determined by them with the consent of the Lord President of the Court of Session.”.

#### Commencement Information

- I6** S. 51 wholly in force; s. 51 not in force at Royal Assent see s. 61(2); s. 51 in force for specified purposes at 13.10.2000 by S.S.I. 2000/361, art. 3(1), **Sch. Pt. I** (subject to transitional provisions in art. 4); s. 51 in force for all other purposes at 1.11.2001 by S.S.I. 2000/361, art. 3(2), **Sch. Pt. II** (subject to transitional provisions in art. 4)

## 52 Amendment of section 17 of 1965 Act

In section 17(1) of the 1965 Act (which makes provision as respects the interpretation of that Act)—

- (a) for the definition of “register” there shall be substituted—  
““the register” means the register kept under section 6(1) of this Act (analogous expressions being construed accordingly) and “registered” includes conditionally or provisionally registered;”;
- and
- (b) after that definition there shall be inserted—  
““relevant misconduct” and “relevant offence” have the meanings given by section 10B(3) of this Act;”.

#### Commencement Information

- I7** S. 52 wholly in force; s. 52 not in force at Royal Assent see s. 61(2); s. 52 in force for specified purposes at 13.10.2000 by S.S.I. 2000/361, art. 3(1), **Sch. Pt. I** (subject to transitional provisions in art. 4); s. 52 in force for all other purposes at 1.11.2001 by S.S.I. 2000/361, art. 3(2), **Sch. Pt. II** (subject to transitional provisions in art. 4)



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### **53 Power of Council to borrow money**

In Part II of Schedule 1 to the 1965 Act (which makes supplementary provision in relation to the Council), for paragraph 8 there shall be substituted—

#### **“Powers**

- 8 (1) In addition to the powers conferred on the Council by the other provisions of this Act, the Council shall have power—
- (a) to acquire, dispose of and otherwise intromit with rights in land; and
  - (b) to borrow money.
- (2) The consent of the Scottish Ministers is required for the exercise of the power conferred by sub-paragraph (1)(b) above.”.

### **54 Power of Scottish Ministers to require Council to establish committees**

In the Part amended by section 53 of this Act, after paragraph 16 (and the heading “*Other committees*” which immediately follows that paragraph) there shall be inserted—

- “16A The Scottish Ministers may, by statutory instrument subject to annulment in pursuance of a resolution of the Scottish Parliament, make regulations—
- (a) requiring the Council to establish such committees, for such purposes, as are specified in the regulations; and
  - (b) providing for the membership of any committee so established.”.

#### *Abolition of SJNC*

### **55 Abolition of Scottish Joint Negotiating Committee for School Education**

- (1) The committee established under section 91 of the 1980 Act (committee to consider pay and conditions of teaching staff employed in providing school education) is abolished; and accordingly sections 91 to 97D of, and Schedule 1B to, that Act are repealed.
- (2) Where—
- (a) a settlement formulated under section 91(1) of that Act;
  - (b) a determination which, under subsection (8) of section 97B of that Act, has the same effect as a settlement so formulated; or
  - (c) an award which, under subsection (9) of the said section 97B, has that effect,
- is still in force on the date on which this section comes into force, the order, settlement, determination or award shall, notwithstanding subsection (1) above, remain in force until superseded.

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### *Sex education and medical matters*

#### **56 Guidance to education authorities as to manner of conducting sex education**

The Scottish Ministers may, as respects education about sexual matters which is provided by education authorities in the schools managed by them, issue guidance to those authorities as to the manner in which such education should be conducted; and education authorities shall, in discharging their functions as respects the provision of such education in those schools, have regard to such guidance.

#### **57 Consent of child to medical procedures**

After section 131 of the 1980 Act there shall be inserted—

##### **“131A Consent of child to medical procedures**

- (1) Nothing in this Act shall prejudice any capacity of a child enjoyed by virtue of section 2(4) of the Age of Legal Capacity (Scotland) Act 1991 (c.50) (capacity of child with sufficient understanding to consent to surgical, medical or dental procedure or treatment); and without prejudice to that generality, where under or by virtue of this Act a child is required to submit, or to be submitted, to any medical or dental examination, inspection or treatment but the child has the capacity mentioned in the said section 2(4), the examination, inspection or treatment shall only be carried out if the child consents.
- (2) In subsection (1) above, without prejudice to the generality of the expression in question, “medical examination” includes an examination under section 58 of this Act and “medical treatment” includes cleansing under that section.”.

### *General*

#### **58 Interpretation**

(1) In this Act—

- “the 1965 Act” means the Teaching Council (Scotland) Act 1965 (c.19);
- “the 1980 Act” means the Education (Scotland) Act 1980 (c.44);
- “the 1988 Act” means the School Boards (Scotland) Act 1988 (c.47);
- “annual statement of education improvement objectives” has the meaning given by section 5(2) of this Act;
- “land” includes buildings and other structures, interests in land (within the meaning of the Land Registration (Scotland) Act 1979 (c.33)), [F1title conditions, within the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9)] and any other rights in, or liabilities relating to, land;
- “moveable property” includes moveables heritable by accession;
- “national priorities in education” has the meaning given by section 4 of this Act;
- “pre-school children” means—
  - (a) children who are under school age and have not commenced attendance at a primary school (other than a nursery class in such a school); and
  - (b) children who have attained school age but have not commenced attendance at such a school; and

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“school development plan” means a development plan prepared under section 6(1)(a) of this Act for a school.

- (2) Any expression used in this Act and in the 1980 Act has the same meaning in this Act as in that Act.

#### Textual Amendments

- F1** Words in s. 58(1) substituted (28.11.2004) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), ss. 122(1), 129(2), [Sch. 14 para. 12](#) (with ss. 119, 121) (see [S.S.I. 2003/456](#), art. 2)

### 59 Regulations

- (1) The Scottish Ministers may, by statutory instrument, make regulations prescribing standards and requirements to which an education authority shall conform in discharging the authority's functions under this Act.
- (2) Regulations under this section may make different provision as to different cases or circumstances.
- (3) A statutory instrument made in the exercise of the powers conferred by this section shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.

### 60 Amendments and repeals

- (1) The enactments specified in schedule 2 to this Act shall have effect subject to the amendments and repeals specified in that schedule, being amendments and repeals which are either minor or are consequential upon the provisions of this Act.
- (2) There are also repealed, to the extent specified in the second column of schedule 3 to this Act, the enactments mentioned in that schedule.

#### Commencement Information

- I8** S. 60(2) in force for specified purposes at Royal Assent (see s. 61(2)(c));  
s. 60(1) in force for specified purposes at 23.8.2000 by [S.S.I. 2000/298](#), [art. 3](#), [Sch.](#) (with transitional provisions in [art. 4](#));  
s. 60 in force for specified purposes at 13.10.2000 by [S.S.I. 2000/361](#), [art. 3\(1\)](#), [Sch. Pt. I](#) (subject to transitional provisions in [art. 4](#));  
s. 60 in force for specified purposes at 1.11.2001 by [S.S.I. 2000/361](#), [art. 3\(2\)](#), [Sch. Pt. II](#) (subject to transitional provisions in [art. 4](#))

### 61 Short title, commencement, transitional provisions and savings

- (1) This Act may be cited as the Standards in Scotland's Schools etc. Act 2000.
- (2) There shall come into force on Royal Assent—
- this section;
  - section 23 of this Act; and
  - in so far as relating to sections 13 to 22 and 24 of, and Schedules 3 to 5 to, the Self-Governing Schools etc. (Scotland) Act 1989 (c.39), section 60(2) of, and schedule 3 to, this Act;

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and the other provisions of this Act shall come into force on such day as the Scottish Ministers may by order made by statutory instrument appoint.

- (3) Different days may be so appointed for different provisions and for different purposes.
- (4) An order under subsection (2) above may contain such transitional provisions and savings as the Scottish Ministers think fit.

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#### **Subordinate Legislation Made**

- P1** S. 61(2) power partly exercised: 28.7.2000 appointed for specified provisions by [S.S.I. 2000/258](#), [art. 2](#)
- S. 61(2) power partly exercised: 23.8.2000 appointed for specified provisions by [S.S.I. 2000/298](#), [art. 3](#), [Sch.](#) (with transitional provisions in [art. 4](#))
- S. 61(2) power partly exercised: different dates appointed for specified provisions by [S.S.I. 2000/361](#), [art. 3](#), [Sch.](#) (subject to transitional provisions in [art. 4](#))
- S. 61(2) power partly exercised: 23.3.2001 appointed for specified provisions by [S.S.I. 2001/102](#), [art. 2](#)
- S. 61(2) power partly exercised: different dates appointed for specified provisions by [S.S.I. 2002/72](#), [art. 2\(1\)\(2\)](#)

**Status:**

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**Changes to legislation:**

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