



# School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004

## 2004 asp 12

### PART 2

#### INDEPENDENT SCHOOLS

#### 6 Appeals

(1) In section 102 of the 1980 Act (removal of disqualifications), after subsection (1) insert—

“(1A) The Scottish Ministers shall, as soon as reasonably practicable after making a decision under subsection (1) above, give notice to—

- (a) the applicant;
- (b) the Registrar; and
- (c) any other person or body the Scottish Ministers think fit, of that decision.”.

(2) For section 103 of the 1980 Act substitute—

#### “103 Appeals under this Part

(1) An appeal—

- (a) made under—
  - (i) section 98C(6) of this Act;
  - (ii) section 98C(7) against an order made under section 98B(2) or (3) of this Act;
  - (iii) section 98E(5) of this Act;
  - (iv) section 99(3) of this Act;
  - (v) section 100(3A) against an order made under section 100(2) (a) to (d) of this Act; or
  - (vi) section 102(2) of this Act against a refusal to remove a disqualification relating to school premises or accommodation provided at such premises,

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shall be to the sheriff principal of the sheriffdom in which the school to which the appeal relates is situated; and

- (b) made under—
- (i) section 98C(7) against an order made under section 98B(4) of this Act;
  - (ii) section 98C(8) of this Act;
  - (iii) section 100(3A) against an order made under section 100(2)(e) of this Act disqualifying a proprietor;
  - (iv) section 100(3B) of this Act; or
  - (v) section 102(2) of this Act against a refusal to remove a disqualification relating to a proprietor or a teacher,

shall be to the sheriff principal of the sheriffdom in which the appellant resides or, if the appellant resides outwith Scotland, the sheriff principal of Lothian and Borders at Edinburgh.

- (2) Where the sheriff principal allows an appeal under section 98C(6)(a) of this Act, the sheriff principal—
- (a) shall make an order directing the Registrar to register the school; and
  - (b) may make an order imposing such conditions on the carrying on of the school as the sheriff principal thinks fit.
- (3) On an appeal under section 98C(6)(b) or 98E(5) of this Act, the sheriff principal may, whether or not the sheriff principal allows or refuses the appeal, make an order—
- (a) imposing any condition on the carrying on of the school; or
  - (b) varying or revoking any such condition imposed by virtue of this Part of this Act,
- as the sheriff principal thinks fit.
- (4) On an appeal under section 99(3) of this Act—
- (a) where the sheriff principal allows the appeal, the sheriff principal shall make an order annulling the notice of complaint; and
  - (b) where the Scottish Ministers have, pending the determination of the appeal, made an order under section 100(2) of this Act, the sheriff principal may make an order—
    - (i) directing the Registrar to register the school;
    - (ii) imposing such conditions on the carrying on of the school as the sheriff principal thinks fit;
    - (iii) varying or revoking such conditions imposed by virtue of this Part of this Act as the sheriff principal thinks fit; or
    - (iv) removing any disqualification imposed under section 100(2)(b), (c) or (e) of this Act.
- (5) Where, on an appeal under section 100(3A) of this Act—
- (a) the sheriff principal allows the appeal, the sheriff principal may make an order—
    - (i) directing the Registrar to register the school;
    - (ii) imposing such conditions on the carrying on of the school as the sheriff principal thinks fit;

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- (iii) varying or revoking such conditions imposed by virtue of this Part of this Act as the sheriff principal thinks fit; or
  - (iv) removing any disqualification imposed under section 100(2) (b), (c) or (e) of this Act; or
- (b) the sheriff principal refuses the appeal, the sheriff principal may make any order—
  - (i) imposing such conditions on the carrying on of the school as the sheriff principal thinks fit; or
  - (ii) varying or revoking such conditions imposed by virtue of this Part of this Act as the sheriff principal thinks fit.
- (6) Where the sheriff principal allows an appeal under section 98C(7) or (8), 100(3B) or 102(2) of this Act, the sheriff principal shall make an order removing the disqualification.
- (7) A person to whom an order made by the sheriff principal under subsections (2) to (6) above relates may, before the expiry of the period of 28 days beginning with the day on which the order is made, appeal on point of law only to the Court of Session.”.

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**Commencement Information**

**II** S. 6 in force at 31.12.2005 by [S.S.I. 2005/570](#), **art. 2(a)** (with [art. 3](#))

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