

# STANDARDS IN SCOTLAND'S SCHOOLS ETC. ACT 2000

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## EXPLANATORY NOTES

### THE ACT

#### *General*

#### *Section 59 – Regulations*

142. The regulation-making power conferred by section 59 is similar to that contained in section 2 of the Education (Scotland) Act 1980, in relation to authorities' functions under that Act.

#### *Section 61 – Short title and commencement*

143. Subsection (2) of this section provides that section 23 (disposal of moveable property owned by a self-governing school) and the repeals of those sections of the Self-Governing Schools etc. (Scotland) Act 1989 under which self-governing status is acquired, come into force on Royal Assent. That subsection also provides a power to bring the other provisions of the Act into force by order.

#### *Schedule 1 – Amendments of 1988 Act consequential on ending of by-elections for parent members of School Boards*

144. The necessary amendments to the School Boards legislation to give effect to section 28 are included in Schedule 1.
145. Sub-paragraph (a) of paragraph 3 amends section 2A of the 1988 Act (which deals with elections) so as to remove the requirement to hold a by-election following a failed regular election of parent members or in order to fill a casual parental vacancy arising during a member's term of office. It also replaces subsection (4) with a new subsection which allows up to two parent members to be co-opted should the Board have an insufficient number of parent members elected at a regular election. Such co-options have to be made within three months of the election.
146. That sub-paragraph also replaces subsection (5) of section 2A with a new subsection which requires the authority to hold a by-election to fill a casual vacancy, where one is requested under section 28(1) of the Act, within three months of that request.
147. Sub-paragraph (b) of paragraph 3 makes a consequential amendment of section 2A(8), under which it is not necessary to hold a by-election if a parent member resigns within 6 months of the end of his or her term of office.
148. Paragraph 4 makes consequential amendments of section 2B of the 1988 Act dealing with co-option of Board members and removes references to the by-election process. New subsection (3) will allow Boards to co-opt a parent member of the Board in the event of a casual vacancy within three months of the vacancy arising, where no by-election falls to be held. Where a by-election does fall to be held, but it does not produce

a new parent member, the Board has three months from the date of the by-election to co-opt instead.

149. **Paragraph 5(a)** amends section 3 of the 1988 Act (which deals with terms of office of members). It inserts into that section a new subsection (4A) which provides that the term of office of parent members who are co-opted after a regular election will run to the end of the second regular election after the election which gave rise to the co-option (which would be for four years). It also inserts a new section 4B which provides that the term of office of a member co-opted as a result of a casual vacancy shall expire at the end of the next regular election period, i.e. the person co-opted would be a member for up to two years.
150. **Paragraph 6(a)** repeals section 20(5) of the 1988 Act which provides for a by-election should the regular election process produce insufficient numbers. It also replaces subsection (6) with a new subsection dealing with the circumstances in which a Board is not established, or in the case of an existing Board, is disestablished following an unsuccessful by-election, where held, and a failure of the Board to co-opt.

### ***Schedule 2 – Minor and consequential amendments and repeals***

151. Most of the amendments in paragraph 1 to the Teaching Council (Scotland) Act 1965 are consequential on the changes to the GTC's committee structure made by section 46 of the Act. The amendments in paragraph 2 to the Sex Discrimination Act 1975 and in paragraphs 3(3), (4), (6)(a) and (8) to the Education (Scotland) Act 1980 are consequential on the abolition of self-governing schools.
152. **Paragraph 3(6)(b)** amends section 57(3) of the 1980 Act which makes it a criminal offence for a person, without reasonable excuse, not to comply with a requirement made by an education authority for the medical or dental inspection of a pupil or young person. The amendment restricts the application of this offence to parents of pupils, to take account of the fact that a young person aged 16 or 17 is entitled to refuse his consent to the inspection and should not therefore be subject to any criminal penalty for doing so. In the case of a pupil whose parent is obliged to submit him for inspection, it would be a reasonable excuse for the parent not to do so where the child was capable of giving his own consent to the inspection but refused to give it.
153. The amendment to section 66(3) of the 1980 Act made by paragraph 3(7) makes it an offence for anyone wilfully to obstruct a person carrying out an inspection of an educational establishment under this section. Unintentional obstruction is no longer an offence.
154. The amendment to section 70 of the 1980 Act by paragraph 3(7A) ensures that the powers available to the Scottish Ministers to enforce education authorities' statutory duties apply also in relation to authorities' duties under or by virtue of Acts of the Scottish Parliament dealing with school education.

### ***Schedule 3 – Further repeals***

155. Most of the repeals in schedule 3 relate to the abolition of self-governing schools.
156. Section 7(2)(c) of the Teaching Council (Scotland) Act 1965 enables the Scottish Ministers to confer functions on the GTC in connection with the provision of education and training for teachers. This provision is repealed as no longer necessary, being superseded by a more general power to confer functions on the GTC under new section 4A of the 1965 Act, inserted by section 45(3) of the Act.