



Local Government (Scotland) Act 1973

1973 CHAPTER 65

PART VIII

FUNCTIONS

Education

123 Education authorities

The education authority for the purposes of the Education (Scotland) Acts 1939 to 1973 shall be a regional or islands council.

124 Education committees

- (1) Every education authority shall appoint a committee, which shall be known as the education committee, to which (subject to any arrangement under section 127 of this Act, as read with section 56 of this Act, for the discharge by the education committee of any function) all their functions as such authority shall stand referred.

In this subsection, "referred" means remitted to the committee for consideration and report to the authority but without power to the committee to discharge any function on behalf of the authority.

- (2) Subject to the provisions of section 59 of this Act, an education authority shall appoint to their education committee persons who are not members of the authority, but at least half of the members appointed to the committee shall be members of the authority.
- (3) The persons appointed under subsection (2) above who are not members of the education authority shall include—
- (a) at least three persons interested in the promotion of religious education, and the persons appointed in terms of this paragraph shall include—
 - (i) one representative of the Church of Scotland, nominated in such manner as may be determined by the General Assembly of the Church; and

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- (ii) in the case of the education authority for the area of a region, one representative of the Roman Catholic Church, nominated in such manner as may be determined by the Scottish Hierarchy of the Church;
 - (iii) one person, or, in the case of the education authority for an islands area, two persons, in the selection of whom the authority shall have regard (taking account of the representation of churches under subparagraphs (i) and (ii) above) to the comparative strength within their area of all the churches and denominational bodies having duly constituted charges or other regularly appointed places of worship there;
- (b) at least two teachers employed in educational establishments under the management of the authority, nominated in such manner as may be determined by the authority.
- (4) The number of members of an education committee and their term of office shall be fixed by the appointing authority.
- (5) Every member of an education committee who at the time of his appointment was a member of the appointing authority shall, upon ceasing to be a member of that authority, also cease to be a member of the committee and of any sub-committee thereof; but for the purposes of this subsection a member of an education authority shall not be deemed to have ceased to be a member of the authority by reason of retirement if he has been re-elected a member thereof not later than the day of his retirement.
- (6) Paragraphs 2, 8, 9 and 10 of Schedule 10 to this Act shall, subject to any necessary modifications, apply in relation to an education committee and to the standing reference of functions to that committee under subsection (1) above as they apply in relation to the discharge of functions by arrangements made in accordance with that Schedule.

125 School and college councils

- (1) Every education authority shall appoint bodies to discharge, subject to any directions given by the authority, such of the functions of management and supervision of educational establishments or groups of educational establishments under the control of the authority (including functions relating to attendance thereat) as the authority shall determine.
- (2) A body appointed under subsection (1) above shall be called—
- (a) in the case of such a body having only a school or schools under their management, a school council;
 - (b) in any other case, a college council.
- (3) An education authority, in appointing a school or college council under this section, shall secure that the membership thereof includes—
- (a) in the case of any such council having any school under their management,
 - (i) due representation of the parents of the pupils attending such school or schools;
 - (ii) at least one person interested in the promotion of religious education;
 - (b) in the case of any such council having under their management any of the educational establishments mentioned in paragraph (a) or (c) of this

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subsection, on the nomination of the teachers and other educational staff employed in those establishments under the management of the said council, or, failing such nomination, by direct appointment, at least one such teacher or member of such other educational staff;

- (c) in the case of any such council having under their management any educational establishment used wholly or partly for any form of further education other than that described in section 4(c) of the Education (Scotland) Act 1962 (social, cultural and recreative activities, etc.), due representation of persons concerned or engaged in crafts, industries, commerce or other employments in the locality;
 - (d) in the case of any such council having under their management any educational establishment used wholly or partly for any form of further education described in the said section 4(c), due representation of persons resident in the locality and otherwise qualified to represent local interests in the management of such establishment or establishments.
- (4) Paragraphs 9 and 12 of Schedule 10 to this Act and section 62 of this Act shall, subject to any necessary modifications, apply in relation to school and college councils and, except where the context otherwise requires, references in sections 59 and 60 of this Act to a sub-committee shall include references to a school or college council.
- (5) Any reference in any enactment, scheme or document to a sub-committee appointed under section 109 of the 1947 Act shall be construed as a reference to a council appointed under this section.

126 Disqualification for membership of education committees, etc.

Notwithstanding the provisions of section 59 of this Act (as read with section 127(2) of this Act)—

- (a) a person shall not, by reason of his being a teacher employed in an educational establishment under the management of an education authority, be disqualified for being a member of the education committee of that authority, of any sub-committee of that committee or of any school or college council appointed by that authority, or for being a representative of that authority on a joint committee relating to their functions as an education authority;
- (b) a person shall not, by reason of his being employed (otherwise than as specified in paragraph (a) above) by a local authority, be disqualified for being a member of any school or college council appointed by that authority, unless the duties of that person relate to any of the functions of that council:

Provided that nothing in this paragraph shall prevent a person mentioned in paragraph (b) of section 125(3) of this Act from being a member of a school or college council by virtue of the last mentioned paragraph.

127 Discharge of education authority functions

- (1) In relation to the discharge by a local authority of their functions as an education authority, Schedule 10 to this Act shall have effect in place of subsections (1) to (5) of section 56 and section 57 of this Act, and references in the remaining provisions of section 56 to that section shall include references to that Schedule.

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- (2) Sections 58 and 68 of this Act shall apply in relation to a joint committee appointed under this section as they apply in relation to a joint committee appointed under Part V of this Act.

128 Educational endowments

- (1) Where, immediately before 16th May 1975, any educational endowment is to any extent vested in the existing local authority for an area specified in the first column of Table A below, that endowment shall on that day to that extent be transferred to and vest for the same purposes in the appropriate new local authority for the area specified in relation thereto in the second column of that Table.

TABLE A

Existing area	New area
County	} Region or islands area
County of a city	
Large burgh	} District or islands area
Small burgh.	
District	

- (2) Where, immediately before 16th May 1975, any educational endowment is to any extent to be vested, by virtue of his office, in the holder of any office connected with an existing local authority specified in the first column of Table B below, that endowment shall on that day to that extent be transferred to and vest for the same purposes in the holder of the office, specified in relation thereto in the second column of that Table, of the appropriate new local authority as determined by reference to subsection (1) above.

TABLE B

Existing office-holder	New office-holder
Lord Provost	} Chairman of council.
Provost	
Convener of county	
Chairman of district council	} Councillor, or any other person nominated by the council.
Magistrate	
Councillor	
Chairman of or member of a committee	The corresponding officer or (if there is no such officer) the proper officer.
Any specified officer	

- (3) Where, immediately before 16th May 1975, any power with respect to an educational endowment is vested in an existing local authority, or (by virtue of his office) in the holder of an office connected with such an authority, that power shall on that day be transferred to and vest in the appropriate new local authority or (as the case may be)

in the new office-holder of that authority, as ascertained by reference to subsections (1) and (2) above.

- (4) Subject to the provisions of the governing instrument of an educational endowment, where, as the result of the election of a local authority occurring after 16th May 1975, it is necessary for a person to be nominated by the authority or by a committee thereof to be vested (to any extent) with the endowment, in terms of subsection (2) above, or to be vested with any power, in terms of subsection (3) above, that person shall be so nominated at the first meeting of the authority or committee held after it has been elected or appointed ; and in such a case the person who (to the said extent) was last vested with the endowment or, as the case may be, who was last vested with the power, before the meeting shall continue therein until the date of the meeting.
- (5) In this section, unless the context otherwise requires, expressions used in Part VI of the Education (Scotland) Act 1962 have the same meaning as in that Part, and " the appropriate new local authority" means, in relation to an existing local authority, the new authority whose area comprises the whole or the greater part of the area of the existing authority: and if, in any case, there is a dispute as to such appropriate authority, or as to the person or persons corresponding to an existing officeholder or officeholders for the purposes of this section, it shall be taken to be such new local authority or, as the case may be, person or persons as the Secretary of State may direct.
- (6) Nothing in this section shall affect any other power to reorganise any educational endowment or otherwise to alter the provisions of any trust.

129 Amendment of Education (Scotland) Act 1962

The Education (Scotland) Act 1962 shall have effect subject to the modifications and amendments set out in Schedule 11 to this Act.