



Education (Scotland) Act 1981

1981 CHAPTER 58

Miscellaneous

6 Consultation on, and consent for, charges in certain educational matters

After Section 22 of the principal Act there shall be inserted the following sections—

“Consultation on, and consent for, changes in certain educational matters

22A Consultation on certain changes in educational matters.

- (1) Where an education authority make a proposal of a prescribed kind, they shall, in such manner as may be prescribed, publish it or otherwise make it available and consult such persons as may be prescribed and shall not reach a decision on it without having regard to any representations made to them on it by those persons.
- (2) In this section "prescribed" means prescribed for the purposes of this section by the Secretary of State by regulations and in so prescribing kinds of proposals the Secretary of State shall include proposals to discontinue or change the site of any school under the management of an education authority.

22B Consent for certain changes in educational matters.

- (1) An education authority shall submit to the Secretary of State for his consent any proposal of theirs of a prescribed kind and shall not implement such a proposal without his consent.
- (2) In this section "prescribed" means prescribed for the purposes of this section by the Secretary of State by regulations and the Secretary of State may prescribe different kinds of proposals in relation to different education authorities.

22C Consent for certain changes affecting denominational schools.

- (1) An education authority shall submit to the Secretary of State for his consent any proposal of theirs to which this section applies and shall not implement such a proposal without his consent.
- (2) A proposal to which this section applies is one which—
 - (a) relates to a school transferred to an education authority under section 16(1) or provided by them under section 17(2) of this Act; and
 - (b) will, if implemented, have the effect that all or some of the pupils who attend the school will no longer receive school education in a school of the kind referred to in paragraph (a) above or that all or some of the children who would, but for the implementation of the proposal, have been likely to attend it will not be likely to receive such education in a school of that kind.
- (3) The Secretary of State shall not grant consent under this section unless he is satisfied that adequate arrangements have been made for the religious instruction of pupils and children who would, as a result of implementation of the proposal, no longer receive or be likely to receive school education in a school of the kind referred to in paragraph (a) of subsection (2) above.
- (4) In granting consent under this section the Secretary of State may impose such conditions as he thinks fit with regard to the religious instruction of the pupils and children referred to in paragraph (b) of subsection (2) above and to related matters and conditions imposed by the Secretary of State under this section may be revoked or amended by him at any time.
- (5) Any question which may arise—
 - (a) whether a proposal is one to which this section applies;
 - (b) as to the implementation of a proposal to which the Secretary of State has consented under this section;
 - (c) as to the fulfilment or observation of any conditions upon his consent imposed under subsection (4) above
 shall be determined by the Secretary of State and the education authority shall perform their duties under this Act in accordance with any such determination.
- (6) In this section, the reference to section 16(1) or 17(2) of this Act shall include a reference to the corresponding provision of the Act of 1918, the Act of 1946 and the Act of 1962.

22D Further provisions relating to denominational schools.

- (1) An education authority shall submit to the Secretary of State for his consent any proposal of theirs to which this section applies and shall not implement such a proposal without his consent.
- (2) A proposal to which this section applies is one—
 - (a) which relates to a school transferred to the education authority under section 16(1) or provided by them under section 17(2) of this Act;
 - (b) to—
 - (i) discontinue the school or a part of it;

- (ii) amalgamate the school or a part of it with another school;
 - (iii) change the site of the school;
 - (iv) change the arrangements for admission to the school; or
 - (v) disapply to the school the conditions prescribed in subsections (1) to (4) of section 21 of this Act or in the said subsections so far as applicable and having effect by virtue of subsection (5) of that section; and
- (c) in relation to which the Secretary of State, having consulted the education authority, is satisfied, upon written representations made, in the case of any church or denominational body in whose interest the school is conducted other than the Roman Catholic Church, by a person authorised for that purpose by that church or denominational body and, in the case of the Roman Catholic Church, by the Scottish Hierarchy of that Church, that—
- (i) if implemented, it will have the result specified in subsection (3) below; and
 - (ii) the education authority and the church, denominational body or Hierarchy, as the case may be, have, after discussion, failed to reach agreement that it should be implemented.
- (3) The result referred to in subsection (2)(c)(i) above is a significant deterioration in the position, as regards either of the matters specified in subsection (4) below, of schools of the kind referred to in subsection (2)(a) above compared with that of other schools managed by the education authority.
- (4) The matters referred to in subsection (3) above are the distribution and provision of school education (including the provision of accommodation).
- (5) The Secretary of State shall not grant consent under this section in relation to a school unless he is satisfied that adequate arrangements have been made for the religious instruction of the children who will no longer receive or be likely to receive school education in a school of the kind referred to in subsection (2)(a) above.
- (6) In granting consent under this section in relation to a school the Secretary of State may impose such conditions as he thinks fit with regard to the religious instruction of the children who will no longer receive or be likely to receive school education in a school of the kind referred to in subsection (2)(a) above and to related matters and, in doing so, he shall have regard to the duties imposed by section 21 of this Act on education authorities in relation to schools of that kind, and conditions imposed by the Secretary of State under this section may be revoked or amended by him at any time.
- (7) Any question which may arise—
- (a) whether a proposal is one to which this section applies;
 - (b) as to the implementation of a proposal to which the Secretary of State has consented under this section;
 - (c) as to the fulfilment or observation of any conditions upon his consent imposed under subsection (6) above

shall be determined by the Secretary of State and the education authority shall perform their duties under this Act in accordance with any such determination.

- (8) In this section the reference to section 16(1) or 17(2) of this Act shall include a reference to the corresponding provision of the Act of 1918, the Act of 1946 and the Act of 1962.”.

7 Removal of certain controls in connection with denominational schools

- (1) For subsection (2) of section 17 of the principal Act (power of education authority to provide new denominational school when Secretary of State is satisfied that one is required) there shall be substituted the following subsection—

“(2) In any case where an education authority are satisfied, whether upon representations made to them by any church or denominational body acting on behalf of the parents of children belonging to such church or body or otherwise, that a new school is required for the accommodation of children whose parents are resident within the area of the authority, regard being had to the religious belief of such parents, it shall be lawful for the education authority to provide a new school.”.

- (2) In section 22 of that Act—

- (a) in subsection (4) (power to discontinue denominational school or to make it a non-denominational school)—
- (i) the words from " the authority " to " signifies " shall cease to have effect; and
 - (ii) after the word " shall" there shall be inserted the words " subject to sections 22A, 22B, 22C and 22D of this Act "; and
- (b) in proviso (ii) to that subsection—
- (i) for the words " Secretary of State ", where first occurring, there shall be substituted the word " authority ";
 - (ii) the words from " if ", where secondly occurring, to " signifies " shall be omitted ; and
 - (iii) after the word "shall" there shall be substituted the words " subject to sections 22A, 22B, 22C and 22D of this Act ".

8 Restriction and abolition of educational schemes

- (1) In section 7 of the principal Act (provision of educational facilities to be in accordance with schemes) subsections (1) to (3) and (8) shall cease to apply in relation to school education and, accordingly—

- (a) in that section—
- (i) after subsection (1)(b), there shall be inserted the following paragraph—
 - “(bb) school education;”;
 - (ii) subsection (1)(c) shall cease to have effect;
 - (iii) in subsection (2), for the words " their powers and duties under the foregoing provisions of this Act " there shall be substituted the words " those of their functions which fall under subsection (1) above to be performed in accordance with schemes ";
 - (iv) in subsection (4), for the words " any scheme for" there shall be substituted the words " their functions under the foregoing provisions of this Act in relation to ";

- (v) in subsection (6), for the words "In the preparation of any scheme for" there shall be substituted the words " In the performance of their functions under the foregoing provisions of this Act in relation to ";
 - (vi) in subsection (8), the words " school or " shall cease to have effect; and
- (b) in section 17 of that Act—
- (i) in subsection (1), after the word "authority" there shall be inserted the words " , in the performance of their functions under sections 1 to 6 of this Act, ";
the words from "in accordance" to " the area " shall cease to have effect; and for the words from " carry " to the end there shall be substituted the words " perform their said functions ";
 - (ii) in subsection (3), for the words from " carry " to the end there shall be substituted the words " enable them to perform their functions under sections 1 to 6 of this Act. ".
- (2) Section 29 of the principal Act (transfer schemes) shall cease to have effect.
- (3) Notwithstanding subsections (1) and (2) above, any provision of any scheme made under section 7 of the principal Act in relation to school education or under section 29 of that Act and approved by the Secretary of State under section 69 of that Act shall, to the extent that it relates to a matter in respect of which arrangements may be made by the authority in the exercise of their functions under that Act, continue to have effect as if it had been made as part of those arrangements.

9 Registration of independent schools: former grant-aided schools

In section 98 of the principal Act (registration of independent schools)—

- (a) in subsection (1)—
 - (i) the word " and " at the end of paragraph (a) shall be omitted;
 - (ii) at the end of paragraph (b) there shall be inserted—

“and
 - (c) where a school has ceased to be a grant-aided school, such of the particulars prescribed by regulations made under this section as the Secretary of State may direct.”;
 - (iii) the word "and" at the end of proviso (i) shall be omitted;
 - (iv) at the beginning of proviso (ii) there shall be inserted the words " Subject to subsection (1A) below, "; and
- (b) after subsection (1) there shall be inserted the following subsection—

“(1A) Proviso (ii) to subsection (1) above shall not apply to the registration of any school referred to in paragraph (c) of that subsection unless the Registrar gives notice in writing to the proprietor of the school that the said proviso applies to that registration.”.

10 Registration of independent schools: offences

After subsection (2) of section 98 of the principal Act (offences relating to registration of independent schools) there shall be inserted the following subsection—

“(2A) A person shall not be guilty of an offence under subsection (2)(a) above by reason of conducting a school at any time within the period of one month from the date on which it was first conducted (whether by that person or another) if an application for the registration of that school has been duly made within that period.”.

11 Constitution of Independent Schools Tribunals

In Schedule 2 to the principal Act (constitution of independent schools tribunals)—

- (a) paragraphs 1 and 3 shall cease to have effect;
- (b) in paragraph 2 for the words " the educational panel" there shall be substituted the words " an Independent Schools Tribunal by the Secretary of State under paragraph 4 below "; and
- (c) in paragraph 4 the words " from the educational panel" and the words from "of whom" to the end of the paragraph shall cease to have effect.

12 Education in social work establishments

After section 14 of the principal Act there shall be inserted the following section—

“14A Education in social work establishments.

- (1) An education authority may, in accordance with this section, provide for their area school education in any establishment provided by a local authority under section 59(1) or (2) of the Social Work (Scotland) Act 1968 which is provided wholly or mainly for children under school age (other than any establishment whose provision is secured by them under paragraph (c) of the said section 59(2)).
- (2) The provision of school education referred to in subsection (1) above shall consist of the making available by the education authority, in accordance with arrangements made by them in that behalf with the local authority providing the establishment, of the services of any teacher who is employed by them.
- (3) Arrangements under subsection (2) above may make provision for—
 - (a) the supply of equipment for use in connection with the provision of school education made available under the arrangements ;
 - (b) any supplementary or incidental matters connected with the arrangements.
- (4) A teacher whose services are made available by an education authority in pursuance of arrangements under subsection (2) above shall, during the period in which his services are made available, be deemed to be in a post in a primary department of a school under the management of the education authority.”.

13 Provisions relating to Examination Board

- (1) Section 129 of the principal Act (establishment of Board to conduct examinations, etc) shall be amended in accordance with this section.
- (2) In subsection (2) of the said section 129, for the words " to give to the Board" there shall be substituted the words " , after consultation with the Board, to give to them ".

- (3) In subsection (3) of the said section 129—
- (a) after the word " authorities " there shall be inserted the words " institutions of further education, ";
 - (b) the words " governing bodies of ", in both places where they occur, shall be omitted ;
 - (c) after the words " directors of education " there shall be inserted the words " , educational advisers, ";
 - (d) the word " and ", where secondly occurring, shall be omitted; and
 - (e) there shall be inserted at the end the words " and grant aided and independent schools. ".
- (4) In subsection (4) of the said section 129—
- (a) after paragraph (b) there shall be inserted the following paragraph—
 - “(bb) make provision with respect to the determination by the Board of charges in respect of presentations for examinations conducted by them, being presentations by education authorities, the managers of educational establishments not under the management of education authorities or such other presenting authorities as may be recognised by the Board for the purpose of presentation of candidates for examination, the payment by those authorities, managers and others to the Board of such charges and the application towards meeting the Board's expenses of sums received by them in respect of such charges ;”;
 - (b) in paragraph (c) there shall be inserted at the end the words " , for requiring the Board to ensure that adequate financial provision is made by them for such purposes as may be specified in a direction made by the Secretary of State after consultation with the Board, for requiring the submission by the Board of estimates of their income and expenditure to such body as the Secretary of State may determine (and notify to the Board) as appearing to him to be representative of local authority interests and for enabling that body to approve these estimates and for requiring the Board to obtain the prior approval of the Secretary of State to the incurring of expenditure by them in respect of the acquisition of land " ; and
 - (c) paragraph (e) shall be omitted.
- (5) After subsection (4) of the said section 129 there shall be inserted the following subsections—
- “(4A) The Board may appoint such officers, servants and agents as the Board may determine and they shall be appointed at such remuneration and on such other terms and conditions as the Board may, with the prior approval of such body as may have been determined by the Secretary of State for the purposes of subsection (4)(c) above, determine.
 - (4B) The Board may pay such pensions, allowances or gratuities as they may determine to or in respect of any of their officers and servants, make such payments as they may determine towards the provision of pensions, allowances or gratuities to or in respect of any of their officers and servants or provide and maintain such schemes as they may determine (whether contributory or not) for the payment of pensions, allowances or gratuities to or in respect of any of their officers and servants.

Status: This is the original version (as it was originally enacted).

A determination for the purposes of this subsection is ineffective unless made with the approval of the Secretary of State.

(4C) The reference in subsection (4B) above to pensions, allowances or gratuities to or in respect of the Board's officers and servants includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any of the Board's officers and servants who suffer loss of office or employment."

- (6) Subsection (5) of the said section 129 shall cease to have effect.
- (7) Subsection (6) of the said section 129 shall, until its repeal under subsection (8) below, have effect and shall be deemed always to have had effect as if at the end there were inserted the words " and he may make these grants subject to such conditions as he thinks fit and may, with the consent of the Board, vary any condition of a grant made by him under this section or, if he thinks fit, revoke it. ".
- (8) Subsection (6) of the said section 129 shall cease to have effect.

14 Remuneration of teaching staff

- (1) For sections 91 to 97 of the principal Act there shall be substituted the following sections—

“Pay and conditions of teaching staff employed in providing school education

91 Committee to consider pay and conditions of teaching staff employed in providing school education.

- (1) There shall be a committee (in this section and in sections 92 and 93 of this Act referred to as " the committee ") the functions of which shall be—
- (a) whenever so required by the Secretary of State, or (in the absence of such requirement) whenever it thinks fit, to consider; and
 - (b) whenever it thinks fit to formulate a settlement as to what shall be, the remuneration payable to, and the terms and conditions of employment of, teaching staff employed by education authorities in Scotland in, or in connection with, the provision of school education.
- (2) The Secretary of State may by order prescribe the maximum number of persons by whom, respectively, he, teaching staff and education authorities may be represented on the committee.
- (3) Any order made under subsection (2) above may be varied or revoked by a subsequent order made by the Secretary of State.
- (4) The committee shall itself determine the name by which it shall be known.

92 Composition of committee established under m 4 section 91.

- (1) Subject to any order made under section 91(2) of this Act, the Secretary of State may, for the purpose of setting up the committee, invite any body which appears to him to be representative of teaching staff or education authorities to nominate a person, or such number of persons as may be specified in the

invitation, to membership of the committee ; and the initial members of the committee shall be such persons as are so nominated together with such person or persons as the Secretary of State may first nominate, under subsection (3) (b) below, to represent him.

- (2) At the request, or with the consent, of a member of the committee the body which nominated the member, or the Secretary of State where he nominated the member, may depute a person to attend a meeting of the committee, or of a sub-committee of the committee, in place of the member; and the person shall, for the purposes of that meeting—
- (a) be deemed to be a member of the committee (or of the sub-committee as the case may be); and
 - (b) have the like powers and duties as the member in place of whom he has been deputed to attend.
- (3) Subject to the provisions of this section and to any order made under section 91(2) of this Act—
- (a) the members of the committee for the time being representing—
 - (i) teaching staff may from time to time, if a majority of those members so agree, invite a body (whether or not a body by which one or more of those members was nominated) which appears to them to be representative of teaching staff;
 - (ii) education authorities may from time to time, if a majority of those members so agree, invite a body (whether or not a body by which one or more of those members was nominated) which appears to them to be representative of education authorities, to nominate a person to membership of the committee;
 - (b) the Secretary of State may from time to time nominate a person or persons to membership of the committee to represent him;
 - (c) a body which has by virtue of subsection (1) above, or paragraph (a) of this subsection, or under this paragraph of this subsection, nominated a person to membership of the committee may if and when, for any reason other than a determination under subsection (6) below, that person ceases to be a member of the committee nominate a person to membership of the committee in place of that former member;
- and any person so nominated shall thereby be a member of the committee.
- (4) A nomination shall not be invited under subsection (3)(a) above unless and until such invitation is approved by the Secretary of State.
- (5) At any time, a nomination made—
- (a) under paragraph (b) of subsection (3) above may be revoked by the Secretary of State;
 - (b) by virtue of subsection (1), or paragraph (a) of subsection (3), above or under paragraph (c) of the said subsection (3) may be revoked by the body which made that nomination ;
- and a person whose nomination is so revoked shall thereby cease to be a member of the committee.
- (6) Where a maximum prescribed under section 91(2) of this Act would otherwise be exceeded, the members inviting a nomination under subsection (3)(a)

above may, if the Secretary of State and a majority of those members so agree, determine that one of them, whom they shall specify in the determination, shall on the making of the nomination cease to be a member of the committee.

93 Publication of settlements and awards in relation to teaching staff employed in providing school education.

- (1) As soon as practicable after—
- (a) the committee has, in the exercise of its functions under section 91(1) of this Act, formulated a settlement; or
 - (b) the coming into effect of an award which, under section 97B(8) or (9) of this Act, is to have the same effect as a settlement formulated by the committee,
- the committee shall—
- (i) publish ; and
 - (ii) transmit to the Secretary of State and to each education authority in Scotland a published copy of,
- the settlement or, as the case may be, award.
- (2) The committee shall, from time to time, publish a consolidated collection of all the settlements and awards which it has published under subsection (1) above, and which are currently in force ; and it shall transmit a copy of that collection to the Secretary of State and to each education authority in Scotland.

Pay and conditions of teaching staff employed in providing further education

94 Committee to consider pay and conditions of teaching staff employed in providing further education.

- (1) There shall be a committee (in this section and in sections 95 and 96 of this Act referred to as " the committee ") the functions of which shall be—
- (a) whenever so required by the Secretary of State, or (in the absence of such requirement) whenever it thinks fit, to consider; and
 - (b) whenever it thinks fit, to formulate a settlement as to what shall be, the remuneration payable to, and the terms and conditions of employment of, teaching staff employed by—
- (i) education authorities in Scotland ; and
 - (ii) governing bodies of colleges of education, or of central institutions, in Scotland,
- in, or in connection with, the provision of further education.
- (2) The Secretary of State may by order prescribe the maximum number of persons by whom, respectively, he, teaching staff, education authorities, governing bodies of colleges of education and governing bodies of central institutions may be represented on the committee.
- (3) Any order made under subsection (2) above may be varied or revoked by a subsequent order made by the Secretary of State.
- (4) The committee shall itself determine the name by which it shall be known.

95 Composition of committee established under section 94.

- (1) Subject to any order made under section 94(2) of this Act, the Secretary of State may, for the purpose of setting up the committee, invite any body which appears to him to be representative of teaching staff, education authorities, or governing bodies of colleges of education or of central institutions to nominate a person, or such number of persons as may be specified in the invitation, to membership of the committee; and the initial members of the committee shall be such persons as are so nominated together with such person or persons as the Secretary of State may first nominate, under subsection (3)(b) below, to represent him.
- (2) At the request, or with the consent, of a member of the committee the body which nominated the member, or the Secretary of State where he nominated the member, may depute a person to attend a meeting of the committee, or of a subcommittee of the committee, in place of the member; and the person shall, for the purposes of that meeting—
 - (a) be deemed to be a member of the committee (or of the sub-committee as the case may be); and
 - (b) have the like powers and duties as the member in place of whom he has been deputed to attend.
- (3) Subject to the provisions of this section and to any order made under section 94(2) of this Act—
 - (a) the members of the committee for the time being representing—
 - (i) teaching staff may from time to time, if a majority of those members so agree, invite a body (whether or not a body by which one or more of those members was nominated) which appears to them to be representative of teaching staff;
 - (ii) education authorities and governing bodies of colleges of education and of central institutions may from time to time, if a majority of those members so agree, invite a body (whether or not a body by which one or more of those members was nominated) which appear* to them to be representative of education authorities, or governing bodies of colleges of education or of central institutions,
to nominate a person to membership of the committee;
 - (b) the Secretary of State may from time to time nominate a person or persons to membership of the committee to represent him;
 - (c) a body which has by virtue of subsection (1) above, or paragraph (a) of this subsection, or under this paragraph of this subsection, nominated a person to membership of the committee may if and when, for any reason other than a determination under subsection (6) below, that person ceases to be a member of the committee nominate a person to membership of the committee in place of that former member;
and any person so nominated shall thereby be a member of the committee.
- (4) A nomination shall not be invited under subsection (3)(a) above unless and until such invitation is approved by the Secretary of State.
- (5) At any time, a nomination made—

- (a) under paragraph (b) of subsection (3) above may be revoked by the Secretary of State;
- (b) by virtue of subsection (1), or paragraph (a) of subsection (3), above or under paragraph (c) of the said subsection (3) may be revoked by the body which made that nomination;

and a person whose nomination is so revoked shall thereby cease to be a member of the committee.

- (6) Where a maximum prescribed under section 94(2) of this Act would otherwise be exceeded, the members inviting a nomination under subsection (3)(a) above may, if the Secretary of State and a majority of those members so agree, determine that one of them, whom they shall specify in the determination, shall on the making of the nomination cease to be a member of the committee.

96 Publication of settlements and awards in relation to teaching staff employed in providing further education.

- (1) As soon as practicable after—
- (a) the committee has, in the exercise of its functions under section 94(1) of this Act, formulated a settlement; or
 - (b) the coming into effect of an award which, under section 97B(8) or (9) of this Act, is to have the same effect as a settlement formulated by the committee,
- the committee shall—
- (i) publish; and
 - (ii) transmit to each education authority in Scotland and to the governing body of each college of education or central institution in Scotland a published copy of,
- the settlement or, as the case may be, award.
- (2) The committee shall, from time to time, publish a consolidated collection of all the settlements and awards which it has published under subsection (1) above and which are currently in force; and it shall transmit a copy of that collection to the Secretary of State and to each of the authorities and bodies mentioned in paragraph (ii) of subsection (1) above.

Provisions common to the two committees

97 Effect and interpretation of sections 97 to 97B and Schedule 1B.

The provisions of this section and sections 97A and 97B of this Act and of Schedule 1B to this Act shall have effect with regard to each of the committees established under sections 91 and 94 of this Act; and in this section and the said sections 97A and 97B, in the said Schedule and in section 97C of this Act, unless the context otherwise requires, references to " the committee " shall be construed as references either to the committee established under the said section 91 or to that established under the said section 94, as the case may be.

97A Effect of settlement.

- (1) A settlement formulated by the committee shall specify the date (which may be a date prior to the said formulation) as from which the settlement shall have effect; and the settlement shall remain in effect unless and until superseded by a subsequent such settlement;

Provided that nothing in sections 91 to 97D of this Act shall authorise the retrospective—

- (i) reduction of the remuneration of a member of teaching staff ; or
 - (ii) alteration of the terms and conditions of employment of such a member if that alteration would be to his detriment.
- (2) In the case of a settlement formulated by the committee established under—
- (a) section 91 of this Act, every education authority shall give effect to the settlement in so far as it relates to any member of the teaching staff employed by the authority in the provision of school education ;
 - (b) section 94 of this Act, every education authority and every governing body of a college of education or of a central institution shall give effect to the settlement in so far as it relates to any member of the teaching staff employed by the authority, or as the case may be body, in the provision of further education,

and, without prejudice to subsections (4) and (5) of section 18 of the Trade Union and Labour Relations Act 1974 (which make provision in relation to the right of workers to engage in industrial action), while the settlement is in effect—

- (i) the provisions of the settlement shall be deemed to be incorporated in any contract of employment which that member has or may enter into with the employing authority or body; and
 - (ii) that contract shall have effect only in so far as consistent with those provisions.
- (3) Subsections (1) to (3) of section 18 of the said Act of 1974 (which relate to the enforceability of collective agreements) shall not apply to a settlement formulated by the committee.
- (4) The remuneration payable to, and the terms and conditions of employment of, any person to whom this subsection applies may, subject to the provisions of any other enactment and to that person's contract of employment, be such as his employer thinks fit.
- (5) Subsection (4) above applies to teaching staff in relation to whom there is in effect neither a settlement formulated under the provisions of this Act nor an order made prior to the commencement of this section under section 92 of this Act (as originally enacted and not as substituted by the Education (Scotland) Act 1981) or that section as applied by section 94 of this Act (as so enacted and not as so substituted).

97B Provision for arbitration.

- (1) The Secretary of State shall make arrangements whereby, in such circumstances and subject to such exceptions as may be provided by the

Status: This is the original version (as it was originally enacted).

arrangements, matters in respect of which the committee has failed to reach agreement or to formulate a settlement may be referred to arbitration in such manner as may be so provided.

- (2) Before making any arrangements under subsection (1) above in relation to the committee, the Secretary of State shall consult the bodies referred to in section 92(1) or, as the case may be, section 95(1) of this Act.
- (3) Any such arrangements may include provision for the appointment of arbiters by the Advisory, Conciliation and Arbitration Service for the purposes of any reference under this section.
- (4) The Secretary of State may vary or revoke any arrangements made by him under subsection (1) above by new arrangements which shall be subject to subsection (2) above.
- (5) The award of an arbiter in relation to any referral, in pursuance of arrangements under subsection (1) above, in respect of a failure to formulate a settlement shall—
 - (a) be intimated forthwith to the Secretary of State by the committee ; and
 - (b) specify the date (which may be a date prior to the award) as from which the provisions of the award should have effect.
- (6) Within 21 days of receiving, under subsection (5)(a) above, intimation of an award the Secretary of State shall inform the committee either—
 - (a) that he accepts the award ; or
 - (b) that he does not accept the award ;and where he so informs the committee that he does not accept the award he may within 35 days of receiving the said intimation make an order preventing the award from having effect.
- (7) Any order under subsection (6) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) Where the Secretary of State has made an order under subsection (6) above he shall, after consultation with the committee, determine what changes (if any) in the remuneration of teaching staff as it then exists are appropriate in the circumstances, and such determination shall have effect as if it were a settlement formulated by the committee and sections 97A and 97D of this Act shall be construed accordingly.
- (9) Where in respect of an award the Secretary of State—
 - (a) informs the committee, under subsection (6)(a) above, that he accepts the award;
 - (b) does not so inform the committee but does not make an order under subsection (6) above; or
 - (c) makes an order under subsection (6) above but either House resolves, within the period specified in section 5(1) of the Statutory Instruments Act 1946, that an Address be presented to Her Majesty praying that the instrument laid before Parliament be annulled,

the award shall have the same effect, as from the date which under subsection (5)(b) above it specifies, as a settlement formulated by the

committee; and sections 97A and 97D of this Act shall be construed accordingly.

- (10) Subsections (1) to (4) above shall not apply in respect of any matter relating to procedure only.

97C Interpretation of sections 91 to 97B.

In sections 91 to 97B of this Act, unless the context otherwise requires—

- (a) "teaching staff" means such teachers and such other persons as the Secretary of State, after consultation—
- (i) with the committee ; or
 - (ii) where the committee is not yet set up, with such bodies as he considers appropriate,
- may by order determine; and
- (b) "terms and conditions of employment" does not include—
- (i) pensions, gratuities or allowances payable on retirement or death ;
 - (ii) compensation for loss of office or employment or for loss or diminution of emoluments; or
 - (iii) provision for such benefits.

97D Remuneration of teaching staff: transitional provisions.

Any order made under section 92 of this Act (as originally enacted and not as substituted by the Education (Scotland) Act 1981) or that section as applied by section 94 of this Act (as so enacted and not as so substituted) prior to the commencement of this section and presently in force shall remain in force unless and until the scales and other provisions set out in the memorandum referred to in that order are superseded by the provisions of a settlement formulated under this Act.”

- (2) After Schedule 1 to the principal Act there shall be inserted the Schedule set out in Schedule 5 to this Act which shall form Schedule 1B to that Act.

15 Educational endowments

Schedule 6 to this Act (which contains amendments of the principal Act relating to educational endowments) shall have effect.

16 Inspection of religious instruction

Subsection (2) of section 66 of the principal Act (exclusion of religious instruction from inspection under section 66(1)) shall cease to have effect.

17 Extension of power to make conditions as to qualifications for admission to teacher training courses and for recommendations for registration

- (1) In section 5(1) of the Teaching Council (Scotland) Act 1965 (duties of General Teaching Council in relation to colleges of education) after the words " Act of 1962 " there shall be inserted the words " or section 7 of this Act ",

and after the words " section 81 " where secondly occurring there shall be inserted the words " or the said section 7 ".

- (2) Subsection (1) of section 7 of the said Act of 1965 (conditions as to qualifications for admission to teacher training courses and for recommendations for registration under that Act) shall have effect as if—
- (a) after the word "prescribing" there were inserted the words " or providing for the determination of " , and shall be deemed to have had effect thus since it came into force; and
 - (b) after the word " regulations" there were inserted " (a) " and at the end there were inserted the words " (b) prescribing or providing for the determination of the content of courses of training to be a teacher. and shall be deemed to have had effect thus since the substitution of section 81(3) of the Education (Scotland) Act 1962 by the Education (Scotland) Act 1969.

18 Transfer to University Courts of certain Universities of power to appoint Principals

- (1) The power of appointing the Principal of each of the Universities of St. Andrews, Glasgow and Aberdeen shall be transferred from Her Majesty to the respective University Courts of those Universities.
- (2) In Part III of Schedule 2 to the Universities (Scotland) Act 1966 (powers of University Court exercisable in accordance with procedure prescribed by those Courts) there shall be inserted, after paragraph 3, the following paragraph—

“3A The power of appointing the principals of the Universities of St. Andrews, Glasgow and Aberdeen.”.
- (3) Nothing in this section affects any appointment made before this section has come into force.

19 Expenses

There shall be defrayed out of moneys provided by Parliament—

- (a) any expenses incurred by the Secretary of State under this Act; and
- (b) any increase attributable to this Act in the sums payable out of such moneys under any other Act.

20 Meaning of " principal Act"

In this Act, "the principal Act" means the Education (Scotland) Act 1980.

21 Amendment of enactments, transitional provisions and repeals

- (1) The enactments specified in Schedule 7 to this Act shall have effect subject to the amendments there specified being minor amendments and amendments consequential upon the provisions of this Act.
- (2) The transitional provisions set out in Schedule 8 to this Act shall have effect.
- (3) The enactments specified in Schedule 9 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

22 Short title, commencement and extent

- (1) This Act may be cited as the Education (Scotland) Act 1981.
- (2) This Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint and different days may be so appointed for different provisions and for different purposes.
- (3) An order under subsection (2) above may contain such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into force.
- (4) This Act applies to Scotland only.