



Self-Governing Schools etc. (Scotland) Act 1989

1989 CHAPTER 39

PART III

MISCELLANEOUS AND GENERAL

Miscellaneous

68 Technology academies.

- (1) The Secretary of State may enter into an agreement with any person under which—
 - (a) that person undertakes to establish and maintain, and to carry on, or provide for the carrying on of, an independent school, to be known as a “technology academy”, having such characteristics as are specified in the agreement and in subsection (2) below; and
 - (b) the Secretary of State agrees to make payments to that person in consideration of those undertakings.
- (2) The characteristics mentioned above are that the school—
 - (a) provides secondary education; and
 - (b) has a broad curriculum with an emphasis on science and technology.
- (3) An agreement under this section shall make any payments by the Secretary of State dependent on the fulfilment of—
 - (a) conditions and requirements imposed for the purpose of securing that no fees are payable in respect of school education provided at the school; and
 - (b) such other conditions and requirements with respect to the school as are specified in the agreement.
- (4) Payments under an agreement under this section may be in respect of capital or current expenditure and, in so far as they relate to the latter, the agreement shall provide for their continuance, subject to the fulfilment of the conditions and requirements

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mentioned in subsection (3) above, for a period of not less than seven years or for an indefinite period terminable by the Secretary of State by not less than seven years written notice.

- (5) Where such payments relate to capital expenditure, the agreement shall provide for the repayment to the Secretary of State, in the event at any time of the school being discontinued or ceasing to have the characteristics specified in the agreement and in subsection (2) above, of sums determined by reference to—
 - (a) the value at that time of the school premises and other assets held for the purposes of the school; and
 - (b) the extent to which expenditure incurred in providing those assets was met by payments under the agreement.
- (6) Without prejudice to subsection (4) above, an agreement under this section may provide for indemnifying a person, in the event of the agreement being terminated by the Secretary of State, for expenditure—
 - (a) incurred by that person in carrying out the undertaking mentioned in subsection (1) above; or
 - (b) incurred by that person (otherwise than by virtue of subsection (5) above) in consequence of the termination of the agreement.
- (7) Where the Secretary of State is satisfied that a person intends to enter into an agreement with him under this section as respects a technology academy he may, in advance of such agreement, and subject to such conditions and requirements as he considers appropriate, make payments to that or any other person in respect of expenditure incurred, or to be incurred, in establishing the academy.

69 Testing in primary schools.

- (1) At the end of section 2 of the 1980 Act (power of Secretary of State to prescribe standards etc. for education authorities) there shall be added the words “and, without prejudice to the generality of the foregoing, such regulations may include provision as to the testing of pupils in primary schools.”.

^{F1}(2)

^{F2}(3)

Textual Amendments	
F1	S. 69(2) repealed (31.12.2004) by Standards in Scotland’s Schools etc. Act 2000 (asp 6) , s. 61(2), sch. 3 ; S.S.I. 2004/528 , art. 2(b)
F2	S. 69(3) repealed (18.9.1996) by 1996 c. 43 , s. 36, Sch.6 ; S.I. 1996/2250 , art.2

70 Appraisal of teachers.

- (1) The Secretary of State may by regulations require—
 - (a) education authorities;
 - ^{F3}(b)
 - (c) managers of grant-aided schools; and
 - ^{F4}(d) the boards of management of colleges of further education within the meaning of Part I of the Further and Higher Education (Scotland) Act 1992,]

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- (in this section referred to as the “employers”) to secure that the performance of members of their teaching staff in carrying out their duties is regularly appraised in accordance with such requirements as may be prescribed.
- (2) Regulations under this section may require the employers to make schemes for the appraisal of the performance of such members of their teaching staff as may be prescribed; and different schemes may be required to be made in respect of different classes of teachers or of teachers in different establishments.
- (3) Subject to regulations made under this section, an employer may at any time vary or replace a scheme made in accordance with those regulations and, if such regulations so require, he shall—
- (a) before making, varying or replacing any such scheme, consult any body representing teaching staff who are to be affected by the scheme as proposed to be made, varied or replaced;
 - (b) before proceeding with appraisal under any such scheme as so made, varied or replaced, submit it to the Secretary of State.
- (4) When a scheme is submitted to him under subsection (3) above, the Secretary of State may—
- (a) approve it; or
 - (b) after consulting the employer concerned, amend it; or
 - (c) reject it, and require the employer to prepare and submit a fresh scheme.
- (5) Before making regulations under this section the Secretary of State shall consult—
- (a) such bodies representing education authorities or teaching staff as appear to him to be concerned; and
 - (b) any other persons with whom consultation appears to him to be desirable.
- (6) With effect from such date as may be prescribed—
- (a) there shall be deemed to be incorporated into the contract of employment of each member of the employers’ teaching staff a provision requiring such a member to participate in any arrangements for the appraisal of staff made in accordance with regulations made under this section; and
 - (b) that contract shall have effect only in so far as consistent with that provision.

Textual Amendments

- F3** S. 70(1)(b) repealed (31.12.2004) by [Standards in Scotland’s Schools etc. Act 2000 \(asp 6\)](#), s. 61(2), [sch. 3](#); S.S.I. 2004/528, art. 2(b)
- F4** S. 70(1)(d) substituted (1. 4. 1993) by [Further and Higher Education \(Scotland\) Act 1992 \(c. 37\)](#), s. 62(2), [Sch. 9 para.11](#); S.I. 1992/817, art. 3(2), [Sch.4](#).

F571 Placing of recorded and other children and young persons in schools outwith Scotland etc.

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Textual Amendments

- F5** S. 71 repealed (14.11.2005) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2004 \(asp 4\)](#), s. 35(1), [sch. 3 para. 6\(a\)](#); S.S.I. 2005/564, art. 2

F⁶72 Further amendment of 1980 Act in respect of recorded children.

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Textual Amendments

- F6** S. 72 repealed (14.11.2005) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2004 \(asp 4\)](#), s. 35(1), [sch. 3 para. 6\(b\)](#); S.S.I. 2005/564, art. 2

73 Educational services: extension of power of Secretary of State to make grants.

In section 73(d) of the 1980 Act (power of Secretary of State to make grants to persons providing education or educational services other than education authorities, universities and managers of educational establishments)—

- (a) the word “for” shall be inserted before the words “ providing education or educational services ” and shall with those words constitute sub-paragraph (i); and
- (b) after that sub-paragraph there shall be inserted the word “ or ” and the following sub-paragraph—
 - “(ii) in respect of expenditure incurred or to be incurred by them for the purposes of, or in connection with the provision (or proposed provision) of, education or educational services.”.

74 Appointment of teachers.

After section 87 of the 1980 Act there shall be inserted the following sections—

“87A Appointment of principal teachers.

Where an education authority intend to fill a post, other than on an acting basis, of a principal teacher in a school, they shall advertise the post in such publications circulating throughout Scotland as they consider appropriate.

87B Selection of teachers.

Without prejudice to section 7 of the Local Government and Housing Act 1989 (which provides for the appointment of staff of local authorities to be made on merit) and to any requirement in any other enactment as to the considerations to which they may or may not have regard in making appointments, an education authority who are considering an appointment of a teacher shall not exclude any person from consideration for such an appointment on the ground that—

- (a) he is not employed by that education authority; or

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- (b) he is or is not employed by a particular employer or class of employer;
or
- (c) he is not currently employed as a teacher.”.

75 Dismissal of teachers.

Section 88 of the 1980 Act (which makes provision as to the procedure to be carried out by an education authority in dismissing certain registered teachers) shall cease to have effect.

^{F7}76 Remuneration of certain persons employed in providing school education.

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Textual Amendments

- F7** S. 76 repealed (31.12.2004) by [Standards in Scotland’s Schools etc. Act 2000 \(asp 6\)](#), s. 61(2), [sch. 3](#); [S.S.I. 2004/528](#), art. 2(b)

77 Extensions of functions of Commission for Local Authority Accounts in Scotland.

- (1) If a governing body so requests, the Commission for Local Authority Accounts in Scotland (“the Commission”) may—
 - (a) promote or undertake studies designed to improve the economy, the efficiency, or the effectiveness, of the management or operations of that body;
 - (b) in relation to that body’s accounts in respect of any financial year—
 - (i) give advice as to the appointment of suitable persons; or
 - (ii) arrange for members of the Commission’s staff acceptable to that body,to audit those accounts.
- (2) For the purposes of this section “governing body” means—
 - ^{F8}(a)
 - (b) a college council established under section 54 of this Act; or
 - (c) the board of directors of a company formed by an education authority by virtue of section 65 of this Act.
- (3) Where the Commission provide services to a governing body under subsection (1) above they shall charge that governing body such fees as will enable the Commission to recover the whole cost of providing those services.
- (4) The provisions of section 97(3) of the 1973 Act (power of the Secretary of State to give directions to the Commission in relation to the discharge of their functions) shall apply in relation to the functions conferred on the Commission by subsection (1) of this section as they apply in relation to the functions conferred on the Commission by subsection (2) of that section.

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Textual Amendments

- F8** S. 77(2)(a) repealed (31.12.2004) by [Standards in Scotland's Schools etc. Act 2000 \(asp 6\), s. 61\(2\), sch. 3](#); S.S.I. 2004/528, art. 2(b)

General

78 Orders and regulations.

- (1) Any power of the Secretary of State to make orders or regulations under this Act (other than under any of the excepted provisions) shall be made by statutory instrument.
- (2) For the purposes of subsection (1) above, the excepted provisions are sections 2(2) and 50(1) and paragraph 1 of Schedule 5.
- (3) A statutory instrument containing any order or regulations made by the Secretary of State under this Act, other than an order under section 81, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Orders or regulations under this Act may make different provision for different cases or circumstances and may contain such incidental, supplemental or transitional provision as the Secretary of State thinks fit.

79 Expenses.

There shall be defrayed out of money 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 under any other Act out of money so provided.

80 Interpretation.

- (1) In this Act, unless the context otherwise requires—
 - “the 1973 Act” means the ^{M1}Local Government (Scotland) Act 1973;
 - “the 1980 Act” means the ^{M2}Education (Scotland) Act 1980;
 - “the 1988 Act” means the ^{M3}School Boards (Scotland) Act 1988;
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 - “education authority”, in relation to a school or college of further education, means the education authority within whose area the school or, as the case may be, the college is situated;
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“prescribed” means prescribed by regulations made by the Secretary of State;

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“technology academy” has the meaning given by section 68(1) of this Act.

- (2) Subject to subsection (1) above, expressions used in this Act and in either the 1980 Act or the 1988 Act (or in both) shall, unless the context otherwise requires, have the same meaning in this Act as in that Act (or those Acts).

Textual Amendments

- F9** Words in s. 80(1) repealed (31.12.2004) by [Standards in Scotland’s Schools etc. Act 2000 \(asp 6\)](#), s. 61(2), [sch. 3](#); S.S.I. 2004/528, art. 2(b)
- F10** Definition of “college of further education” in s. 80(1) repealed (1. 4. 1993) by [Further and Higher Education \(Scotland\) Act 1992 \(c. 37\)](#), s. 62(3), [Sch. 10](#); S.I. 1992/817, art. 3(2), [Sch. 4](#).
- F11** Words in s. 80(1) repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Marginal Citations

- M1** 1973 c. 65.
M2 1980 c. 44.
M3 1988 c. 47.
M4 1979 c. 33.
M5 1970 c. 35.

81 Commencement.

- (1) The following provisions of this Act shall come into force on the passing of this Act—
Part I;
Part II except section 67;
Part III except sections 69(1) and (2), 70, 72 to 76, and 82(2);
Schedules 1 to 9; and
Schedule 10 except paragraphs 1, 2, 8(7), (9) to (11) and (13) to (21) and 10.
- (2) Schedule 11 and the provisions of Parts II and III and Schedule 10 which are excepted by subsection (1) above shall come into force on such date as the Secretary of State may by order appoint.
- (3) Under subsection (2) above different dates may be appointed in relation to different provisions and for different purposes of the same provision.

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Modifications etc. (not altering text)

- C1 Power of appointment conferred by s. 81(2) partly exercised: [S.I. 1990/86, art. 2](#), 1990/1108, art. 2; [S.I. 1997/391, art.2](#)

82 Minor and consequential amendments and repeals.

- (1) The enactments mentioned in Schedule 10 to this Act shall have effect subject to the amendments specified in that Schedule, being minor amendments and amendments consequential upon the provisions of this Act.
- (2) The enactments mentioned in Schedule 11 to this Act are repealed to the extent specified in the third column of that Schedule.

83 Citation and extent.

This Act—

- (a) may be cited as the Self-Governing Schools etc. (Scotland) Act 1989; and
- (b) extends to Scotland only.

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