



# Education (Scotland) Act 1945

## 1945 CHAPTER 37

### PART IV

#### INDEPENDENT SCHOOLS.

#### 66 Registration of independent schools.

- (1) The Secretary of State shall appoint one of his officers to be the Registrar of Independent Schools in Scotland (hereafter in this Part of this Act referred to as " the Registrar "), and it shall be the duty of the Registrar to keep a register of independent schools, which shall be open to public inspection at all reasonable times, and the Registrar shall register therein—
- (a) the prescribed particulars relating to any independent school the proprietor of which makes application for the purpose and furnishes the information required by regulations made under this section, and
  - (b) every order of an Independent Schools Tribunal or of the Secretary of State imposing or removing any disqualification under this Part of this Act:

Provided that—

- (a) no independent school shall be registered if, by virtue of an order made under the provisions hereinafter contained, the proprietor is disqualified from being the proprietor of an independent school or if the school premises are disqualified from being used as a school or if the school premises are used or proposed to be used for any purpose for which they are disqualified by virtue of any such order ; and
  - (b) the registration of any school shall be provisional only until the Secretary of State, after the school has been inspected on his behalf under section fifty-three of this Act, gives notice to the proprietor that the registration is final.
- (2) If after the expiration of six months from the appointed day any person—
- (a) conducts an independent school (whether established before or after the appointed day) which is not a registered school or a provisionally registered school, or

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- (b) being the proprietor of an independent school does any act calculated to lead to the belief that the school is a registered school while it is a provisionally registered school,

he shall be liable on summary Conviction to a fine not exceeding twenty pounds or in the case of a second or subsequent conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

- (3) The Secretary of State shall make regulations—
  - (a) prescribing the particulars information as to which is to be furnished to the Registrar by the proprietors of independent schools and the manner in which it shall be so furnished;
  - (b) requiring the notification to the Registrar of any changes in such particulars;
  - (c) prescribing the circumstances in which the name of a school may be deleted from the register if the Registrar is unable to obtain sufficient information of such changes; and
  - (d) dealing with such incidental matters as the Secretary of State may deem expedient.

## 67 **Complaints.**

- (1) If at any time the Secretary of State is satisfied that any registered or provisionally registered school is objectionable upon all or any of the following grounds-
  - (a) that efficient and suitable instruction is not being provided at the school, having regard to the ages and sex of the pupils attending thereat;
  - (b) that the school premises or any parts thereof are unsuitable for a school;
  - (c) that the accommodation provided at the school premises is inadequate or unsuitable, having regard to the number, ages and sex of the pupils attending the school;
  - (d) that the proprietor of the school or any teacher employed therein is not a proper person to be the proprietor of an independent school or to be a teacher in any school, as the case may be,

the Secretary of State shall serve upon the proprietor of the school a notice of complaint stating the grounds of complaint together with full particulars of the matters complained of, and, except in so far as any of such matters are stated in the notice to be in the opinion of the Secretary of State irremediable, the notice shall specify the measures necessary in the opinion of the Secretary of State to remedy the matters complained of, and shall specify the time, not being less than six months after the service of the notice, within which such measures are thereby required to be taken.

- (2) If it is alleged by any notice of complaint served under this section that any person employed as a teacher at the school is not a proper person to be a teacher in any school, that person shall be named in the notice and the particulars contained in the notice shall specify the grounds of the allegation, and a copy of the notice shall be served upon him at the same time as the notice is served.
- (3) Every notice of complaint served under this section shall limit the time, not being less than One month after the service of the notice, within which the complaint may be referred to an Independent Schools Tribunal under the provisions hereinafter contained.

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## 68 Determination of complaints.

- (1) Any person upon whom a notice of complaint or a copy of such a notice is served under the last foregoing section may, within the time limited by the notice, appeal therefrom by referring the complaint, in such manner as may be provided by rules made under this Part of this Act, to an Independent Schools Tribunal constituted in accordance with the provisions of the Third Schedule to this Act.
- (2) Upon a complaint being referred to an Independent Schools Tribunal the tribunal shall, after affording to all parties concerned an opportunity of being heard, and after considering such evidence as may be tendered by them or on their behalf, have power—
  - (a) to order that the complaint be annulled ;
  - (b) to order that the school in respect of which the notice of complaint was served be struck off the register;
  - (c) to order that the school be so struck off unless the requirements of the notice, with such modifications, if any, as may be specified in the order, are complied with to the satisfaction of the Secretary of State before the expiration of such time as may be specified in the order:

Provided that where the Secretary of State intimates that he is not satisfied that such requirements are complied with, the person upon whom the notice of complaint or a copy thereof has been served may, within fourteen days after such intimation, refer the matter to the tribunal, who shall have power to dispose of the reference in such manner as shall appear to them to be just;

- (d) if satisfied that the premises alleged by the notice of complaint to be unsuitable for use as a school or any part of such premises are in fact unsuitable for such use, by order to disqualify the premises or part from being so used, or if satisfied that the accommodation provided at the school premises or any part thereof is inadequate or unsuitable having regard to the number, ages and sex of the pupils attending the school, by order to disqualify the premises or the said part as the case may be from being used as a school or part of a school for pupils exceeding such number or of such age or sex as may be specified in the order ;
  - (e) if satisfied that any person alleged by the notice of complaint to be a person who is not proper to be the proprietor of an independent school or to be a teacher in any school is in fact such a person, by order to disqualify that person from being the proprietor of any-independent school or from being a teacher in any school, as the case may be.
- (3) Where a notice of complaint has been served under this Part of this Act on the proprietor of any school and the complaint is not referred by him to an Independent Schools Tribunal within the time limited in that behalf by the notice, the Secretary of State shall have power to make any order which such a tribunal would have had power to make if the complaint had been so referred :

Provided that if the Secretary of State makes any such order as is mentioned in paragraph (c) of the last foregoing subsection, the proviso to the said paragraph shall apply in like manner as if the order had been made by the tribunal:

Provided also that, if it was alleged by the notice of complaint that any person employed as a teacher at the school is not a proper person to be a teacher in any school and that person has, within the time limited in that behalf by the copy of the notice served upon him, referred the complaint to an Independent Schools Tribunal,

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the Secretary of State shall not have power to make an order requiring his dismissal or disqualifying him from being a teacher in any school.

- (4) Where by virtue of an order made by an Independent Schools Tribunal or by the Secretary of State any person is disqualified either from being the proprietor of an independent school or from being a teacher in any school, then, unless the order otherwise directs, that person shall, by virtue of the order, be disqualified both from being the proprietor of an independent school and from being a teacher in any school.

## **69 Enforcement of orders.**

- (1) Where an order is made by the Secretary of State or by an Independent Schools Tribunal, directing that any school be struck off the register, the Registrar shall as from the date on which the direction takes effect strike the school off the register.
- (2) If any person uses any premises for purposes for which they are disqualified by virtue of any order made under this Part of this Act, that person shall be liable on summary conviction to a fine not exceeding twenty pounds or in the case of a second or subsequent conviction, whether in respect of the same or of other premises, to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.
- (3) If any person acts as the proprietor of an independent school, or accepts or endeavours to obtain employment as a teacher in any school, while he is disqualified from so acting or from being so employed by any such order as aforesaid, he shall be liable on summary conviction to a fine not exceeding twenty pounds, or in the case of a second or subsequent conviction to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.
- (4) For the purposes of the foregoing provisions of this Part of this Act, a person who is disqualified by an order made under Part III of the Education Act, 1944, from being the proprietor of an independent school, or from being a teacher in any school shall be deemed to be so disqualified by an order made under this Part of this Act.

## **70 Removal of disqualifications.**

- (1) If on the application of any person the Secretary of State is satisfied that any disqualification imposed by an order made under this Part of this Act is, by reason of any change of circumstances, no longer necessary, the Secretary of State shall by order remove the disqualification.
- (2) Any person who is aggrieved by the refusal of the Secretary of State to remove a disqualification so imposed may, within such time after the refusal, has been communicated to him as may be limited by rules made under this Part of this Act, appeal to an Independent Schools Tribunal, who may or may not order the removal of the disqualification as they think fit.

## **71 Proceedings before Independent Schools Tribunals and matters relating thereto.**

- (1) The Lord President of the Court of Session may, with the concurrence of the Secretary of State, make rules as to the manner of making appeals to Independent Schools Tribunals and as to proceedings before such tribunals and matters incidental to or consequential on such proceedings; and, in particular, such rules may make provision requiring any such tribunal to sit at such places as may be directed in accordance with

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the rules, and may make provision as to appearance before such tribunals by counsel or solicitor and as to the payment to members of such tribunals, as part of the expenses of the Secretary of State under this Act, of such remuneration and allowances as may, with the consent of the Treasury, be provided by the rules.

- (2) Rules under the last foregoing subsection may make provision for reference to the Court of Session, by way of stated case, of any question of law arising in such proceedings.
- (3) An Independent Schools Tribunal shall have power to make such orders as to expenses, and as to such other consequential or incidental matters as appear to the tribunal to be necessary for giving effect to any order made by the tribunal, as the tribunal considers to be just, and any such order as to expenses may be enforced as if it were a recorded decree arbitral.