

EDUCATION (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Miscellaneous

Section 28: Head teachers: education and training standards

167. Section 28(1) and (2) of the Act insert new sections 90A and 98DA into the 1980 Act, and section 28(3) amends section 133 (regulations) of that Act.

Section 90A: Head teachers: education and training standards

168. Subsections (1) and (2) of section 90A extend the regulation-making power in sections 2 and 74(1) of the 1980 Act to allow the Scottish Ministers to specify the standards of education and training which prospective head teachers at grant-aided and education authority-managed schools are required to have before they can be appointed to the position.
169. Subsection (3) provides the Scottish Ministers with flexibility in such regulations to make different provision for different purposes while allowing for exceptions and exemptions from the general rule that prospective head teachers will be required to have obtained the standards and training specified, before being permanently appointed. It also allows the regulations to make consequential, transitional, transitory or savings provision.

Section 98DA: Head teachers: education and training standards

170. Section 98DA(1) gives the Scottish Ministers a regulation-making power to make provision for the education and training which prospective head teachers at independent schools are required to have before they can be appointed to the position. Section 98DA(2) makes it clear that such provision can apply to independent schools that are already registered or to a school which is the subject of an application for registration as an independent school (under section 98A of the 1980 Act).
171. Subsection (3) provides the Scottish Ministers with flexibility in regulations under section 98DA(1) to make different provision for different purposes while allowing for exceptions and exemptions from the general rule that prospective head teachers will be required to have obtained the standards of education and training specified before being permanently appointed.
172. **Section 28(3)** amends section 133 of the 1980 Act (regulations). New subsection (2BA) of section 133 disapplies section 133(2) (the default negative procedure) from applying to regulations under section 2 and 74(1) that make provision under section 90A or to regulations under section 98DA(1) and provides that such regulations will instead be subject to the affirmative procedure.