

STANDARDS IN SCOTLAND'S SCHOOLS ETC. ACT 2000

EXPLANATORY NOTES

THE ACT

Independent schools

Section 24 – Registration of independent school

54. Section 98(1) of the Education (Scotland) Act 1980 provides that an independent school may not be registered if the proprietor is already disqualified under the Act from being the proprietor of an independent school or if the premises to be used are disqualified from being used as a school. Section 24(1)(a) amends section 98 to provide a further ground for non-registration based on the unsuitability of the proprietor, a teacher at the school or the condition of the premises.
55. At present, independent schools are allowed to operate for one month before being provisionally registered. By virtue of the repeal of section 98(2A) of the 1980 Act by section 24(1)(b), prospective managers of new independent schools must be provisionally registered before the school opens. Operating a school which is not registered is a criminal offence under section 98(2) of the 1980 Act.
56. **Section 24(2)** adds a new section, section 98A, to the Education (Scotland) Act 1980. This requires that a proprietor and/or teacher must be told why the registration is being refused on this new ground and gives them the right to request that the refusal be referred to an Independent Schools Tribunal. The Tribunal may uphold the refusal or direct that the Registrar registers the school. If the refusal is upheld, the Tribunal may: disqualify the proprietor from being the proprietor of any independent school; disqualify the teacher from being a teacher in any school; or disqualify the premises or parts of the premises from being used as a school or as part of a school, as appropriate. A person may apply under section 102 of the 1980 Act for removal of any disqualification if, because of a change of circumstances, it is no longer necessary.

Section 25 – Welfare of pupil attending independent school

57. Section 99 of the 1980 Act imposes a duty on the Scottish Ministers to serve a notice of complaint on the proprietor of an independent school if they are satisfied that the school is objectionable on one of a number of grounds. If the appropriate steps are not taken to remedy the problem, as required by the notice, the ultimate sanction may be removal of the school from the register. Section 25 amends section 99 to add a further ground for serving a notice of complaint, namely failure to provide adequately for the welfare of any pupil attending the school.