



# Education (Scotland) Act 1980

## 1980 CHAPTER 44

### PART III

#### ADMINISTRATION AND FINANCE

##### *Central administration*

#### **66 Inspection of educational establishments.**

- (1) The Secretary of State shall have power to cause inspection to be made of every [<sup>F1</sup>school] at such intervals as appear to him to be appropriate, and to cause a special inspection of any [<sup>F2</sup>school] to be made whenever he considers such an inspection to be desirable, and he may from time to time cause inspection to be made of any other educational establishment [<sup>F3</sup>(other than a designated institution within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992)], and such inspections shall be made by Her Majesty's Inspectors or [<sup>F4</sup>any person appointed by the Scottish Ministers for the purposes of this section (or Her Majesty's Inspectors and any such person)].
- [<sup>F5</sup>(1AA) If requested to do so by the Scottish Ministers—
- (a) Her Majesty's Inspectors or any person appointed by the Scottish Ministers for the purposes of this section shall give advice to the Scottish Ministers on such matter as may be specified in the request;
  - (b) Her Majesty's Inspectors or any such person (or Her Majesty's Inspectors and any such person) may, as respects a matter so specified, inspect and report on a school (including any establishment in which school education is provided in pursuance of arrangements entered into under section 35 of this Act), or class of schools, so specified.]

[<sup>F6</sup>(1A) Without prejudice to subsection (1) above, the Scottish Ministers shall have power to cause inspection to be made at any establishment in which school education is provided in pursuance of arrangements entered into under section 35 of the Standards in Scotland's Schools etc. Act 2000 (asp 6); and such inspections shall be made by

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Her Majesty’s Inspectors or any person appointed by the Scottish Ministers for the purposes of this section (or Her Majesty’s Inspectors and any such person).]

<sup>F7</sup>[(1B) Notwithstanding subsection (1) above, the Secretary of State shall have power to cause inspection to be made of the education and training, wherever it is carried out, provided by institutions within the higher education and training, wherever it is carried out, provided by institutions within the higher education sector (within the meaning of the <sup>M1</sup>Further and Higher Education (Scotland) Act 1992) wholly or mainly for persons preparing to be, or persons who are, teachers in schools, and such inspections shall be made by Her Majesty’s Inspectors or other persons appointed by the Secretary of State for the purpose.]

(2) ..... <sup>F8</sup>

(3) If any person [<sup>F9</sup>wilfully]obstructs any person authorised to make an inspection in pursuance of this section in the execution of his duty, he shall be liable on summary conviction to a fine not exceeding [<sup>F10</sup>level 4 on the standard scale] or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

#### Textual Amendments

- F1** Word substituted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(14)(a)**
- F2** Word substituted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(14)(b)**
- F3** Words in s. 66(1) inserted (1.4.1993) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(2), **Sch. 9 para. 7(5)**; S.I. 1992/817, art. 3(2), **Sch. 4**
- F4** Words in s. 66(1) substituted (13.10.2000) by 2000 asp 6, s. 11(a); S.S.I. 2000/361, art. 3(1)(2), **Sch. Pt. I**
- F5** S. 66(1AA) inserted (13.10.2000) by 2000 asp 6, s. 11(b); S.S.I. 2000/361, art. 3(1)(2), **Sch. Pt. I**
- F6** S. 66(1A) substituted (4.3.2002) by 2000 asp 6, s. 36; S.S.I. 2002/72, **art. 2(1)(e)**
- F7** S. 66(1B) inserted (1.10.1998) by 1998 c. 30, s. 21 (with s. 42(8)); S.I. 1998/2215, **art. 2**.
- F8** Ss. 5, 28(2), 59, 66(2), 111(4)(5), 129(5)(6), 132(1), Sch. 2 paras. 1, 3 repealed by Education (Scotland) Act 1981 (c. 58), **Sch. 9**
- F9** Word in s. 66(3) inserted (13.10.2000) by 2000 asp 6, s. 60(1), **Sch. 2 para. 3(7)**; S.S.I. 2000/361, art. 3(1)(2), **Sch. Pt. I**
- F10** Words in s. 66(3) substituted (1.4.1996) by 1995 c. 40, ss. 3, 7(2), Sch. 1 para. 10, **Sch. 2 Pt. III**.

#### Marginal Citations

- M1** 1992 c. 37.

#### <sup>F11</sup>66A Code of practice as regards inspections under section 66

- (1) Subject to subsection (2) below, the Scottish Ministers may, for the purposes of—
- (a) giving practical guidance on matters relating to inspections under section 66 of this Act (including, without prejudice to that generality, such matters as the making and publishing of reports on those inspections); and
  - (b) promoting what appear to them to be desirable practices with respect to these matters,
- from time to time prepare, approve and issue such codes of practice as in their opinion are suitable for those purposes.

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- (2) Subsection (1) above does not apply in relation to inspections of educational establishments which are institutions for the provision of any form of further education.]

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**Textual Amendments**

**F11** S. 66A inserted (13.10.2000) by 2000 asp 6, s. 12; S.S.I. 2000/361, art. 3(1)(2), Sch. Pt. I

**[<sup>F12</sup>66B Duty of Her Majesty’s Inspectors to make reference to Scottish Ministers**

- (1) This section applies where, after an inspection under subsection (1) or (1AA) of section 66 of this Act of—

- (a) a public school; or
- (b) a grant-aided school,

Her Majesty’s Inspectors identify that a relevant person requires to take action to secure improvement in a matter relating to the school or the school education provided in it.

- (2) If it appears to Her Majesty’s Inspectors that—

- (a) having been given sufficient opportunity to secure improvement in a matter identified under subsection (1) above, the relevant person is failing or has failed to take satisfactory action to do so; and
- (b) having regard to the seriousness of that failure, an enforcement direction is justified,

they shall make a reference to the Scottish Ministers.

- (3) A reference under subsection (2) above shall—

- (a) be in writing;
- (b) specify the failure mentioned in subsection (2)(a) above; and
- (c) include recommendations as to the action which, in the opinion of Her Majesty’s Inspectors, the relevant person requires to take to remedy or prevent the recurrence of that failure.

- (4) Where Her Majesty’s Inspectors make a reference under subsection (2) above, they shall inform the relevant person of the making of that reference.

- (5) In this section and in sections 66C and 66D of this Act, “relevant person” means—

- (a) in relation to a public school, the education authority; and
- (b) in relation to a grant-aided school, the managers of the school.

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**Textual Amendments**

**F12** Ss. 66B-66D inserted (31.1.2005) by School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004 (asp 12), ss. 1, 9(2); S.S.I. 2005/10, art. 3(a)

**66C Preliminary notice**

- (1) Where, on a reference under section 66B(2) of this Act, it appears to the Scottish Ministers that—

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- (a) the relevant person is failing or has failed to take satisfactory action to secure improvement in the matter mentioned in section 66B(2)(a) of this Act; and
  - (b) an enforcement direction is justified,
- they may serve a preliminary notice on the relevant person.
- (2) A preliminary notice is a notice which—
- (a) informs the relevant person of the apparent failure mentioned in subsection (1)(a) above; and
  - (b) requires the relevant person to submit to the Scottish Ministers, within such time as is specified in the notice, a written response which—
    - (i) states that the person has not so failed and gives reasons supporting that statement; or
    - (ii) states that the person has so failed but gives reasons why an enforcement direction should not be given to that person.

#### Textual Amendments

**F12** Ss. 66B-66D inserted (31.1.2005) by [School Education \(Ministerial Powers and Independent Schools\) \(Scotland\) Act 2004 \(asp 12\), ss. 1, 9\(2\); S.S.I. 2005/10, art. 3\(a\)](#)

### **66D Enforcement direction**

- (1) Where, following service under section 66C(1) of this Act of a preliminary notice and the expiry of the time specified in it, it still appears to the Scottish Ministers that—
  - (a) the relevant person is failing or has failed to take satisfactory action to secure improvement in the matter mentioned in section 66B(2)(a) of this Act; and
  - (b) having regard to the seriousness of that failure, action under this section is justified,
 they may give the relevant person an enforcement direction.
- (2) An enforcement direction is a direction in writing by the Scottish Ministers requiring the relevant person to whom it is given to take, within such time as is specified in the direction, such action as is so specified, being action calculated to remedy or prevent the recurrence of the failure mentioned in subsection (1)(a) above.
- (3) Where two or more courses of action are specified in an enforcement direction, the Scottish Ministers may specify for each a different time within which it is to be taken.
- (4) An enforcement direction may place such conditions as the Scottish Ministers may specify in it upon the carrying out of such functions of the relevant person in relation to the school and the school education provided in it as are so specified.
- (5) The Scottish Ministers may vary an enforcement direction by giving a further such direction.
- (6) A further such direction need not proceed upon a further preliminary notice under section 66C(1) of this Act.
- (7) An enforcement direction may be revoked by the Scottish Ministers.
- (8) Before giving, varying or revoking an enforcement direction, the Scottish Ministers shall consult Her Majesty's Inspectors.

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- (9) A relevant person to whom an enforcement direction is given shall comply with it.
- (10) The Scottish Ministers may, instead of or as well as giving an enforcement direction, make such recommendations to the relevant person as they think appropriate.
- (11) If the Scottish Ministers exercise their power to give, vary or revoke an enforcement direction they shall—
- (a) prepare a report on their exercise of that power; and
  - (b) lay that report before the Scottish Parliament.]

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**Textual Amendments**

- F12** Ss. 66B-66D inserted (31.1.2005) by School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004 (asp 12), ss. 1, 9(2); S.S.I. 2005/10, art. 3(a)

**67 Local inquiries.**

The Secretary of State may cause a local inquiry to be held for the purpose of the exercise of any of his functions under this Act [<sup>F13</sup>or any other enactment relating to education], and the provisions of Schedule 1 to this Act shall have effect with regard to any such inquiry.

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**Textual Amendments**

- F13** Words inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(2), **Sch. 10 para. 8(15)**

**68 Power to require submission to medical examination.**

Where any question is to be decided by the Secretary of State under this Act or under any rule, regulation or order made thereunder, then, if in the opinion of the Secretary of State the medical examination of any pupil [<sup>F14</sup>or other person enrolled at an educational establishment] would assist the determination of the question, the Secretary of State may by notice in writing served on the parent of that pupil, if the pupil is enrolled at a school, or on the pupil [<sup>F14</sup>or other person] himself if he is enrolled at [<sup>F15</sup>another] educational establishment, require the parent to submit him, or require the pupil [<sup>F14</sup>or other person] to submit himself, as the case may be, for such examination; and if any person on whom such a notice is served fails without reasonable excuse to comply with the requirements thereof, he shall be liable on summary conviction to a fine not exceeding [<sup>F16</sup>level 1 on the standard scale].

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**Textual Amendments**

- F14** Words in s. 68 inserted (1.4.1993) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(2), **Sch. 9 para. 7(6)(a)(b)**; S.I. 1992/817, art. 3(2), **Sch. 4**
- F15** Word substituted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(2), **Sch. 10 para. 8(16)**
- F16** Words in s. 68 substituted (11.4.1983) by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), ss. 289F, 289G (as inserted by Criminal Justice Act 1982 (c. 48), s. 54)

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## 69 Approval and carrying out of schemes.

- (1) The Secretary of State may, after considering any representations made to him on the subject and the report of any local inquiry which may have been held under section 67 of this Act, approve, either as submitted or with such modifications and amendments as he thinks proper, any scheme or revised scheme or modification of an existing scheme (in this section referred to as “the scheme”) submitted to him under this Act by an education authority; and thereupon it shall be the duty of the education authority to carry the scheme into effect as so approved.
- (2) If an education authority inform the Secretary of State that they are aggrieved by his approval with modifications or amendments of the scheme, the Secretary of State shall cause the scheme as so approved to be laid before Parliament as soon as may be thereafter together with the report of any local inquiry which may have been held under section 67 of this Act. If either House of Parliament within the period of forty days beginning with the day on which the scheme is laid before it resolves that the approval of the scheme be annulled, the scheme as so approved shall cease to have effect, but without prejudice to anything previously done thereunder or to the submission and approval with or without modifications and amendments of any new scheme, revised scheme or modification of an existing scheme.
- (3) In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

## 70 Powers to enforce duty of education authorities and other persons.

[<sup>F17</sup>(1)] If the Secretary of State is satisfied, either on complaint by any person interested or otherwise, that an education authority, <sup>F18</sup>... the managers of a school or educational establishment, or other persons have failed to discharge any duty imposed on them by or for the purposes of this Act or of any other enactment relating to education, the Secretary of State may make an order declaring them to be in default in respect of that duty and requiring them before a date stated in the order to discharge that duty. If by the said date the education authority, <sup>F18</sup>... managers or other persons have not discharged the duty, one or other of the following steps may be taken to secure the discharge thereof—

- (a) the Secretary of State may make such arrangements as he thinks fit for the discharge of the duty, and all expenses incurred by the Secretary of State in so doing shall be recoverable as a debt due by the authority, managers or other persons to the Secretary of State; or
- (b) the Court of Session may, on the application of the Lord Advocate, order specific performance of the duty.

[<sup>F19</sup>(2) Without prejudice to the generality of subsection (1) above, in that subsection the expression “enactment” includes—

- (a) an Act of the Scottish Parliament but only in so far as it is an Act which relates to school education; and
- (b) an order, regulation, rule or other instrument which has effect by virtue of an Act of the Scottish Parliament but only in so far as it is an instrument which so relates.]

[<sup>F20</sup>(3) Despite subsection (2), no order under subsection (1) may be made in respect of a failure by an education authority that is of a type mentioned in subsection (4).

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- (4) The types of failure are—
- (a) a failure mentioned in section 18(3) of the Education (Additional Support for Learning) (Scotland) Act 2004 (“the 2004 Act”) (references to an Additional Support Needs Tribunal for Scotland),
  - (b) a failure in relation to a decision or information mentioned in section 18(3) of the 2004 Act,
  - (c) a failure mentioned in section 18(5A) or (5B) of the 2004 Act,
  - (d) where a failure mentioned in paragraph (a), (b) or (c) also constitutes a failure to discharge the duty imposed by section 4 of the 2004 Act, a failure under that section that is so constituted.
- (5) The Scottish Ministers may by regulations make provision for or in connection with the procedure to be followed in relation to—
- (a) the investigation of an alleged failure by an education authority, the managers of a school or educational establishment or other person to discharge a duty mentioned in subsection (1),
  - (b) the determination of whether to make an order under that subsection.
- (6) Regulations under subsection (5) may—
- (a) include transitional, transitory or saving provision,
  - (b) make different provision for different purposes.
- (7) Before making any regulations under subsection (5), the Scottish Ministers must consult such persons as they consider appropriate.]

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#### Textual Amendments

- F17** S. 70 renumbered as s. 70(1) (13.10.2000) by 2000 asp 6, s. 60(1), **Sch. 2 para. 3(8)**; S.S.I. 2000/361, art. 3(1)(2), **Sch. Pt. I**
- F18** Words in s. 70(1) repealed (1.8.2007) by Scottish Schools (Parental Involvement) Act 2006 (asp 8), s. 24(2), **sch.**; S.S.I. 2007/31, art. 2(b), sch. 2
- F19** S. 70(2) added (13.10.2000) by 2000 asp 6, s. 60(1), **Sch. 2 para. 3(8)**; S.S.I. 2000/361, art. 3(1)(2), **Sch. Pt. I**
- F20** S. 70(3)-(7) inserted (1.1.2017 for specified purposes, 10.1.2018 in so far as not already in force) by Education (Scotland) Act 2016 (asp 8), **ss. 24, 33(2)**; S.S.I. 2016/386, reg. 2, sch.; S.S.I. 2017/164, reg. 2, sch. (as amended by S.S.I. 2017/352, reg. 2)

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#### Modifications etc. (not altering text)

- C1** S. 70 applied by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), **s.7(8)**
- C2** S. 70: functions transferred (*temp.* 20.5.1999 to 1.7.1999) by S.I. 1999/901, art. 5, **Sch.**; S.I. 1998/3178, **art. 3**  
s. 70: functions transferred (1.7.1999) by S.I. 1999/1750, arts. 1(1), 2, **Sch. 1**; S.I. 1998/3178, **art. 3**
- C3** S. 70 excluded by 2010 c. 15, s. 87(2) (as amended) (1.10.2010) by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), arts. 1(2), **3(b)**

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### *Advisory councils*

#### **71 Advisory councils.**

- (1) It shall be lawful for Her Majesty by Order in Council to establish an advisory council consisting, as to not less than two-thirds of the members, of persons qualified to represent the views of various bodies interested in education, for the purpose of advising the Secretary of State on educational matters, and the Secretary of State shall take into consideration any advice or representation submitted to him by the advisory council.
- (2) Provisions may be made in the said order for the appointment by the advisory council of special committees to deal with remits on particular subjects made to the council by the Secretary of State, for such special committees to be composed of persons nominated by the Secretary of State of whom some shall be members of the council and the remainder shall be persons having special knowledge or experience of the subjects of the respective remits, and for the reports of special committees to be submitted to the Secretary of State by the advisory council, who shall be entitled in submitting the reports to make such comments thereon as they think fit.
- (3) The Secretary of State may, after consultation with education authorities and other persons interested, by order establish a regional advisory council for any branch of education, to advise the education authorities and other managers of schools, <sup>F21</sup> and other educational establishments in the region as to the development of the branch of education for which the council is appointed.

#### **Textual Amendments**

**F21** Words repealed by [Self-Governing Schools etc. \(Scotland\) Act 1989 \(c. 39, SIF 41:2\)](#), s. 82(2), [Sch. 11](#)

### *Finance*

#### **72 Expenses of Secretary of State.**

- (1) The expenses incurred by the Secretary of State in the exercise of his functions under this Act shall, in so far as they are not met under section 1(2) of the <sup>M2</sup>Reorganisation of Offices (Scotland) Act 1939 [<sup>F22</sup>or recovered by virtue of subsection (3)], be defrayed out of money provided by Parliament.
- (2) Any sum by which any grants under this Act are increased by reason of the powers and duties conferred and imposed by the provisions of section 48 of this Act on education authorities shall be defrayed out of money provided by Parliament.
- <sup>F23</sup>(3) The Scottish Ministers may recover from an educational establishment mentioned in subsection (4) the expenses incurred in respect of an inspection of the establishment caused by the Scottish Ministers under section 66(1) following a request by the establishment.
- (4) An educational establishment referred to in subsection (3) is an establishment which—
  - (a) wholly or mainly, provides “fundable further education” within the meaning of section 5 of the Further and Higher Education (Scotland) Act 2005, and
  - <sup>F24</sup>(b) is not a post-16 education body.]]



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[<sup>F25</sup>(5) In subsection (4)(b), “post-16 education body” shall be construed in accordance with the Further and Higher Education (Scotland) Act 2005.]

#### Textual Amendments

- F22** Words in s. 72(1) inserted (21.3.2012) by [The Public Services Reform \(Recovery of Expenses in respect of Inspection of Independent Further Education Colleges and English Language Schools\) \(Scotland\) Order 2012 \(S.S.I. 2012/102\)](#), arts. 1, **2(a)**
- F23** S. 72(3)(4) inserted (21.3.2012) by [The Public Services Reform \(Recovery of Expenses in respect of Inspection of Independent Further Education Colleges and English Language Schools\) \(Scotland\) Order 2012 \(S.S.I. 2012/102\)](#), arts. 1, **2(b)**
- F24** S. 72(4)(b) substituted (31.3.2015) by [The Post-16 Education \(Scotland\) Act 2013 \(Modification of Legislation\) Order 2015 \(S.S.I. 2015/153\)](#), art. 1, **sch. para. 1(a)**
- F25** S. 72(5) inserted (31.3.2015) by [The Post-16 Education \(Scotland\) Act 2013 \(Modification of Legislation\) Order 2015 \(S.S.I. 2015/153\)](#), art. 1, **sch. para. 1(b)**

#### Marginal Citations

- M2** 1939 c. 20.

### 73 Power of Secretary of State to make grants to education authorities and others.

The Secretary of State may out of money provided by Parliament apply, in accordance with regulations made by him, such sums as he thinks necessary or expedient for any or all of the following purposes:—

- (a) the payment of grants to education authorities;
- (b) the payment of grants to universities;
- (c) the payment of grants to the managers of educational establishments;
- (d) the payment of grants to any other persons
  - [<sup>F26</sup>(i) [<sup>F27</sup>for] providing education or educational services;]<sup>F28</sup>or
  - (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.]
- (e) the payment of grants to persons to assist the carrying out of educational research;
- (f) the payment of allowances [<sup>F29</sup>or loans]to or in respect of persons
  - [<sup>F30</sup>(i) undertaking; or
  - (ii) who have undertaken]courses of education;
- (g) providing for any other educational expenditure approved by him.

#### Textual Amendments

- F26** The word “for” is inserted before “providing educational or educational services” to constitute subparagraph (i) of s. 73(d) by virtue of [Self-Governing Schools etc. \(Scotland\) Act 1989 \(c. 39, SIF 41:2\)](#), s. **73(a)**
- F27** Word inserted by virtue of [Self-Governing Schools etc. \(Scotland\) Act 1989 \(c. 39, SIF 41:2\)](#), s. **73(a)**
- F28** Word “or” and s. 73(d)(ii) inserted by [Self-Governing Schools etc. \(Scotland\) Act 1989 \(c. 39, SIF 41:2\)](#), s. **73(b)**
- F29** Words in s. 73(f) inserted (16.7.1998) by [1998 c. 30, ss. 29\(1\), 46\(3\)](#) (with s. 42(8)).

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**F30** S. 73(f)(i)(ii) substituted (3.5.2001) for word “attending” by 2001 asp 6, ss. 3(2), 5(2)

### [<sup>F31</sup>73ZA Administration of certain sums

- (1) The Scottish Ministers may direct—
  - (a) the Scottish Further and Higher Education Funding Council; or
  - (b) any other body or person,
 to administer any sums applied by the Scottish Ministers for a purpose referred to in paragraph (a), (c) or (f) of section 73 of this Act.
- (2) A body or person to whom a direction is given under subsection (1) above shall administer those sums—
  - (a) in such manner and to such extent; and
  - (b) subject to such conditions,
 as the Scottish Ministers may in the direction specify.
- (3) The reference in subsection (1) above to a purpose referred to in paragraph (a), (c) or (f) of section 73 of this Act is a reference to that purpose only in so far as relating to support for persons—
  - (a) undertaking; or
  - (b) who have undertaken,
 courses of education provided by [<sup>F32</sup>post-16 education] bodies.
- (4) In subsection (3) above, “[<sup>F33</sup>post-16 education] bodies” shall be construed in accordance with the Further and Higher Education (Scotland) Act 2005 (asp 6).]

#### Textual Amendments

- F31** S. 73ZA inserted (3.10.2005) by Further and Higher Education (Scotland) Act 2005 (asp 6), ss. 19(1), 36(2); S.S.I. 2005/419, art. 2(1)
- F32** Words in s. 73ZA(3) substituted (3.3.2014) by Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), sch. para. 1(2)(a); S.S.I. 2014/21, art. 2, sch. 1
- F33** Words in s. 73ZA(4) substituted (3.3.2014) by Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), sch. para. 1(2)(b); S.S.I. 2014/21, art. 2, sch. 1

### [<sup>F34</sup>73A Transfer or delegation of functions relating to student support.

- (1) If the Secretary of State so determines, any function exercisable by him by virtue of regulations made under section 73(f) of this Act shall, to such extent as is specified in his determination, be exercisable instead by such body or person as is so specified.
- (2) A person or body by whom any function is for the time being exercisable by virtue of subsection (1) above shall comply with any direction given by the Secretary of State as to the exercise of that function.
- (3) The Secretary of State may make arrangements for any person or body specified in the arrangements to exercise on his behalf, to such extent as is so specified, any function exercisable by him by virtue of regulations under section [<sup>F35</sup>73(a), (c) or (f)] of this Act (including any such functions as to appeals).

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- (4) Any arrangements made under subsection (3) above shall not prevent the Secretary of State from exercising the function in question himself.
- (5) The Secretary of State may make provision for enabling appeals—
- (a) to be made with respect to such matters arising out of the exercise by any person or body of any function by virtue of subsection (1) or (3) above as he may determine; and
  - (b) to be so made to a person or body appointed by him for that purpose.
- (6) The Secretary of State may pay to any person or body by whom any function is exercisable by virtue of subsection (1) or (3) above—
- (a) such amounts as he considers appropriate for the purpose of meeting expenditure incurred or to be incurred by that person or body—
    - (i) in making [<sup>F36</sup>payments,] grants or loans by virtue of regulations under section [<sup>F37</sup>73(a), (c) or (f)] of this Act, or
    - (ii) by way of administrative expenses,in, or in connection with, the exercise of that function;
  - (b) in the case of any such person, or of any body with which the Secretary of State has made arrangements under subsection (3) above, such remuneration as he may determine.
- (7) Any payment under subsection (6)(a) above may be made subject to such terms and conditions (including conditions as to repayment) as the Secretary of State may determine.
- (8) The Secretary of State may pay to any person or body appointed by him under subsection (5) such remuneration or administrative expenses (or both) as he may determine.
- (9) In relation to any function which, by virtue of subsection (1) or (3) above is exercisable to a specified extent, references in any other provision of this section to the exercise of that function are accordingly to its exercise to that extent.
- [ The references in subsections (3) and (6)(a)(i) above to regulations under section 73(a)
- <sup>F38</sup>(10) or (c) of this Act are references to those regulations only in so far as relating to support for persons—
- (a) undertaking; or
  - (b) who have undertaken,
- courses of education provided by [<sup>F39</sup>post-16 education] bodies.
- (11) In subsection (10) above, “[<sup>F40</sup>post-16 education] bodies” shall be construed in accordance with the Further and Higher Education (Scotland) Act 2005 (asp 6).]

#### Textual Amendments

- F34** Ss. 73A-73D inserted (16.7.1998) by 1998 c. 30, ss. 29(2), 46(3) (with s. 42(8))
- F35** Words in s. 73A(3) substituted (3.10.2005) by Further and Higher Education (Scotland) Act 2005 (asp 6), ss. 19(2)(a), 36(2); S.S.I. 2005/419, art. 2(1)
- F36** Word in s. 73A(6)(a)(i) inserted (3.10.2005) by Further and Higher Education (Scotland) Act 2005 (asp 6), ss. 19(2)(b)(i), 36(2); S.S.I. 2005/419, art. 2(1)
- F37** Words in s. 73A(6)(a)(i) substituted (3.10.2005) by Further and Higher Education (Scotland) Act 2005 (asp 6), ss. 19(2)(b)(ii), 36(2); S.S.I. 2005/419, art. 2(1)

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- F38** S. 73A(10)(11) added (3.10.2005) by [Further and Higher Education \(Scotland\) Act 2005 \(asp 6\)](#), [ss. 19\(2\)\(c\)](#), 36(2); S.S.I. 2005/419, art. 2(1)
- F39** Words in s. 73A(10) substituted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [sch. para. 1\(3\)\(a\)](#); S.S.I. 2014/21, art. 2, sch. 1
- F40** Words in s. 73A(11) substituted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [sch. para. 1\(3\)\(b\)](#); S.S.I. 2014/21, art. 2, sch. 1

<sup>F41</sup>**73B Regulations relating to student loans.**

- (1) This section applies in relation to regulations under paragraph (f) of section 73 of this Act made with respect to loans.
- (2) Regulations to which this section applies may make provision requiring such amounts as may be prescribed, payable under loans granted by virtue of such regulations, to be paid directly to institutions providing courses of education who have previously made payments of any prescribed description to persons [<sup>F42</sup>undertaking] such courses to whom such loans may be granted.
- (3) Regulations to which this section applies may make such provision as the Secretary of State considers necessary or expedient in connection with the recovery of amounts due from borrowers under loans granted by virtue of such regulations, including provision for—
  - (a) imposing on employers, or (as the case may be) such other persons or bodies as may be prescribed, requirements with respect to—
    - (i) the making of deductions in respect of amounts so due (or, in any prescribed circumstances, amounts assessed in accordance with the regulations to be so due) from emoluments payable to borrowers,
    - (ii) the collection by other means of such amounts,
    - (iii) the transmission of amounts so deducted or collected to the Secretary of State in accordance with directions given by him;
  - (b) imposing on employers, or such other persons or bodies as may be prescribed, requirements with respect to the keeping and production of records for such purposes as may be prescribed;
  - (c) imposing on borrowers requirements with respect to—
    - (i) the provision of such information, and
    - (ii) the keeping and production of such documents and records,
 relating to their income as may be prescribed;
  - (d) requiring the payment, by persons or bodies to whom the requirements imposed in pursuance of paragraphs (a) to (c) above apply, of—
    - (i) penalties in cases of non-compliance with, or otherwise framed by reference to, such requirements, and
    - (ii) interest in respect of periods when such penalties are due but unpaid;
  - (e) requiring the payment by borrowers, in respect of periods when amounts due under their loans are unpaid, of—
    - (i) interest (applied to such amounts at a rate calculated otherwise than in accordance with subsections (6) and (7) below), or
    - (ii) both such interest and one or more surcharges (together with further interest in respect of periods when such surcharges are due but unpaid);

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- (f) enabling the Secretary of State to require the reimbursement by borrowers of costs or expenses of any prescribed description incurred by him in connection with the recovery of unpaid amounts;
  - (g) applying or extending with or without modification, for purposes connected with the recovery of amounts under regulations to which this section applies, any of the provisions of the Taxes Acts or of [<sup>F43</sup> “PAYE regulations”];
  - (h) determining the priority as between deductions falling to be made by virtue of paragraph (a)(i) above and deductions falling to be made from emoluments payable to borrowers by virtue of other enactments (whenever passed);
  - (i) modifying any enactment or instrument (whenever passed or made) so as to provide for the treatment, in connection with any calculation with respect to income (however defined), of amounts due from or payable to such persons under loans granted by virtue of regulations to which this section applies.
- (4) In subsection (3) above—
- (a) “employers” means persons who make payments of, or on account of, income assessable to income tax under Schedule E, and
  - (b) “the Taxes Acts” has the same meaning as in the <sup>M3</sup>Taxes Management Act 1970.
- (5) Regulations to which this section applies may make provision for the payment, in respect of amounts overpaid by borrowers, of interest at such rate, and calculated in such manner, as may be determined by the Secretary of State from time to time.
- (6) A rate of interest, prescribed by regulations to which this section applies, to be borne by loans shall at no time exceed the rate for the time being specified for the purposes of any exemption conferred by virtue of section 16(5)(b) of the <sup>M4</sup>Consumer Credit Act 1974 (exemption of certain consumer credit agreements by reference to the rate of the total charge for credit).
- (7) Subject to subsection (6) above, regulations to which this section applies shall not prescribe a rate of interest to be borne by loans higher than that which the Secretary of State, having regard to such retail prices index as appears to him to be appropriate, is satisfied is required to maintain the value in real terms of the outstanding amounts of such loans.
- (8) Regulations to which this section applies may make provision, for the purpose of calculating the interest to be borne by loans, for repayments by borrowers to be treated as having been made or received on such date or dates as may be prescribed.
- (9) Regulations to which this section applies may prescribe requirements or other provisions which add to or otherwise modify, during the currency of a loan, requirements or other provisions (whether as to repayment or otherwise) which apply in relation to loans granted by virtue of such regulations.
- (10) Regulations to which this section applies may make provision for a borrower not to be liable to make any repayment in respect of a loan—
- (a) during such periods as may be prescribed from time to time, or
  - (b) in such circumstances as may be prescribed,
- including provision for the cancellation of any further such liability of the borrower in any such circumstances.
- (11) Regulations to which this section applies may make provision for appeals with respect to matters arising under such regulations (including provision for determining, or

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enabling the determination of, the procedure to be followed in connection with such appeals).

(12) Regulations to which this section applies may, in relation to a borrower’s discharge under or by virtue of section [F<sup>44</sup>137, 138 or 140 of the Bankruptcy (Scotland) Act 2016], make provision for the treatment of any debt or liability to which a borrower is, or may become, subject in respect of sums received, or which he is entitled to receive, [F<sup>45</sup> before, on or] after the date of his sequestration.

(13) Nothing in this section prejudices the generality of section 73(f) of this Act.

#### Textual Amendments

- F41** Ss. 73A-73D inserted (16.7.1998) by 1998 c. 30, **ss. 29(2), 46(3)** (with s. 42(8))
- F42** Word in s. 73B(2) substituted (3.5.2001) by 2001 asp 6, **ss. 3(3), 5(2)**
- F43** Words in s. 73B(3)(g) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003** (c. 1), s. 723, **Sch. 6 para. 149(a)** (with Sch. 7)
- F44** Words in s. 73B(12) substituted (30.11.2016) by **Bankruptcy (Scotland) Act 2016** (asp 21), s. 237(2), **sch. 8 para. 8** (with **ss. 232, 234(3), 235, 236**); S.S.I. 2016/294, reg. 2
- F45** Words in s. 73B(12) inserted (1.4.2008) by **Bankruptcy and Diligence etc. (Scotland) Act 2007** (asp 3), **ss. 34(1), 227(3)** (with s. 223); S.S.I. 2008/115, art. 3(1)(a) (with arts. 4-6, 10, 15) (as amended: (23.2.2009) by S.S.I. 2009/67, art. 7; (31.1.2011) by S.S.I. 2011/31, art. 5(a); and (4.10.2014) by S.S.I. 2014/173, arts. 1(2), 3)

#### Marginal Citations

- M3** 1970 c. 9.
- M4** 1974 c. 39.

#### <sup>F46</sup>73C Transitional provisions and savings on repeal of Education (Student Loans) Act 1990.

- (1) The Secretary of State may by regulations make such transitional provision and savings in connection with the repeal by the Teaching and Higher Education Act 1998 of the <sup>M5</sup>Education (Student Loans) Act 1990 (“the 1990 Act”) as he considers necessary or expedient including—
- (a) provision for any function which has been conferred under or by virtue of the 1990 Act to transfer to, or otherwise become exercisable by—
    - (i) the Secretary of State, or
    - (ii) such other person or body as may be prescribed,
 to such extent as may be prescribed; and
  - (b) provision for the transfer to the Secretary of State or any such other person or body of rights or liabilities arising under or by virtue of the 1990 Act.
- (2) Regulations made by virtue of paragraphs (a) and (b) of subsection (1) above may, in particular, provide for—
- (a) any such function to be exercisable in pursuance of such regulations in such modified form as may be prescribed;
  - (b) the 1990 Act to have effect with such modifications as may be prescribed.

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#### Textual Amendments

**F46** Ss. 73A-73D inserted (16.7.1998) by 1998 c. 30, ss. 29(2), 46(3) (with s. 42(8))

#### Marginal Citations

**M5** 1990 c. 6.

### <sup>F47</sup>73D Provision as to maximum amounts of certain allowances.

- (1) This section applies to allowances payable by virtue of section 73(f) of this Act in respect of the fees charged in connection with <sup>F48</sup> . . . .
- (2) The Secretary of State may by order made by statutory instrument determine the maximum amount payable in any academic year of allowances to which this section applies in respect of such courses or classes of courses of higher education as may be so determined and, subject to subsection (3) below, a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Where the Secretary of State has determined a maximum amount under subsection (2) above, he shall not make a further determination increasing that maximum amount under that subsection unless—
  - (a) he is satisfied that the increase is no greater than is required to maintain the allowance's value in real terms; or
  - (b) a draft of the order containing the further determination has been laid before, and approved by a resolution of, each House of Parliament.
- (4) For the purposes of subsection (3)(a) above the Secretary of State shall have regard to such retail prices index as appears to him to be appropriate.
- (5) In subsection (2) above, “courses of higher education” means courses of higher education falling within section 38 of the <sup>M6</sup>Further and Higher Education (Scotland) Act 1992.

#### Textual Amendments

**F47** Ss. 73A-73D inserted (16.7.1998) by 1998 c. 30, ss. 29(2), 46(3) (with s. 42(8))

**F48** Words in s. 73D(1) repealed (3.5.2001) by 2001 asp 6, ss. 3(4), 5(2)

#### Marginal Citations

**M6** 1992 c. 37.

### [<sup>F49</sup>73E Supply of information in connection with student loans.

- (1) This section applies to any information which is held—
  - (a) by the Commissioners of Inland Revenue, or
  - (b) by a person providing services to those Commissioners and in connection with the provision of those services.
- (2) Information to which this section applies may be supplied to—
  - (a) the Secretary of State or the Department of Education for Northern Ireland,

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- (b) any person or body acting on behalf of the Secretary of State or that Department under the delegation of functions provisions, or
  - (c) any person or body by whom any function of the Secretary of State or that Department is for the time being exercisable to any extent by virtue of the transfer of functions provisions,
- for the purpose of enabling or assisting the recipient to exercise any function in connection with the operation of the student loans scheme.
- (3) Information supplied under subsection (2) above shall not be supplied by the recipient to any other person or body unless it is supplied—
- (a) to a person or body to whom it could have been supplied under that subsection, or
  - (b) for the purposes of any civil or criminal proceedings arising out of the student loans scheme.
- (4) Subsections (2) and (3) above extend only to the supply of information by or under the authority of the Commissioners of Inland Revenue.
- (5) This section does not limit the circumstances in which information may be supplied apart from this section.
- (6) In this section—
- (a) “ the delegation of functions provisions ” means section 73A(3) of this Act or section 23(4) of the Teaching and Higher Education Act 1998;
  - (b) “ the transfer of functions provisions ” means section 73A(1) of this Act or section 23(1) of the Teaching and Higher Education Act 1998; and
  - (c) “ the student loans scheme ” means the provisions of—
    - (i) regulations under section 73(f) of this Act with respect to loans; or
    - (ii) regulations under section 22 of the Teaching and Higher Education Act 1998 so far as having effect in relation to loans under that section;
 and in this subsection any reference to a provision of this Act includes a reference to any corresponding Northern Ireland legislation.]

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#### Textual Amendments

**F49** S. 73E inserted (16.7.1998) by 1998 c. 30, ss. 30, 46(3)(with s. 42(8))

#### 74 Payment of grants to be subject to conditions.

- (1) The Secretary of State may by regulations make provision that any payment which he is required or authorised to make by or under this Act, except section 76 of this Act, shall be subject to such conditions as may be prescribed in <sup>F50</sup>or determined by him under] the regulations, and that education authorities and other persons to whom such payments have been made shall comply with such requirements as may be specified in <sup>F51</sup>or determined by him under] the regulations.
- (2) Where the Secretary of State is satisfied that the persons to whom any grant is payable under this Act are, by reason of the provisions of any trust deed or other instrument, unable to fulfil any condition or comply with any requirement imposed under this section, he may, after consultation with them, by order make such modifications of the said provisions as may be necessary for the purpose of enabling the said persons



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to fulfil that condition or comply with that requirement; and any such trust deed or other instrument shall, during such period as may be specified in the order, have effect subject to any modifications so made.

#### Textual Amendments

- F50** Words inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(17)(a)**
- F51** Words inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(17)(b)**

### 75 Examination of accounts.

Save as may be otherwise prescribed, it shall be a condition of the payment by the Secretary of State of a grant to the managers of a school or other educational establishment not under the management of an education authority or to other persons providing educational services approved by the Secretary of State that the accounts of the income and expenditure of such managers or persons in respect of such school, educational establishment or service shall be set out according to a form prescribed by the Secretary of State and shall together with the relative vouchers and other documents be submitted for examination to the Secretary of State.

#### Modifications etc. (not altering text)

- C4** S. 75 excluded (29.4.1993) by S.I. 1993/974, reg. 4(7)

### [<sup>F52</sup>75A Assisted places at grant-aided and independent schools.

- (1) [<sup>F53</sup>The Secretary of State shall, subject to subsections (1A) and (1B) below,] operate a scheme whereby—
- participating schools remit fees that would otherwise be chargeable in respect of pupils admitted to assisted places under the scheme; and
  - the Secretary of State reimburses the schools for the fees that are remitted.

<sup>F54</sup>[ The Secretary of State shall operate a scheme such as is described in subsection (1) (1A) above only in relation to any pupil admitted to an assisted place under such a scheme prior to the beginning of the first term of the 1997-98 school year where the pupil will be in attendance at the school concerned—

- at the beginning of that term; or
- after the beginning of that term but before the end of that school year, and where it appears to the Secretary of State that it is reasonable, in view of any particular circumstances relating to that pupil, that he should be permitted to take advantage of that place after the beginning of that term,

and, for the purposes of this section, “ 1997-98 school year ” means the period of twelve months beginning on 1st August 1997.

- (1B) A pupil holding an assisted place who is receiving primary education during the 1997-98 school year shall cease to hold that place—
- at the end of the school year in which he completes his primary education; or

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- (b) if the Secretary of State, where he is satisfied that it is reasonable to do so in view of any particular circumstances relating to that pupil, decides that he should continue to hold that place for a further period during which he receives secondary education, at the end of that period.]

<sup>F55</sup> [ In this section references to a participating school are references to any grant-aided (2) or independent school providing secondary education which the Secretary of State has determined, prior to the coming into force of this subsection, to be a participating school for the purposes of the scheme.]

- (3) A determination under subsection (2) above—
  - (a) shall state the maximum annual amount allocated by the Secretary of State to the school under the scheme including the maximum annual amount so allocated for the purposes of section 75B of this Act; and
  - (b) may contain such conditions as the Secretary of State thinks fit in addition to those prescribed under subsection (9) below.

<sup>F56</sup> [ The Secretary of State may alter—

- (4) (a) the maximum annual amount referred to in subsection (3)(a) above; or
  - (b) the conditions referred to in subsection (3)(b) above,
 by written notification to the school concerned.]

- (5) A participating school shall comply with any conditions contained in a determination under subsection (2) above and with any condition or obligation prescribed under subsection (9) below.

<sup>F57</sup> (6) .....

- (7) The fees in relation to which the scheme is to have effect shall be—
  - (a) tuition and other fees the payment of which is a condition of attendance at a participating school but excluding—
    - (i) boarding fees; and
    - (ii) such other charges, if any, as may be prescribed by regulations; and
  - (b) entrance fees for public examinations paid by a participating school in respect of candidates from the school.

- (8) If the Secretary of State is of the opinion that any fee which falls to be remitted in whole or in part under a scheme established and operated under this section is excessive, he may substitute for such fee such other amount as he considers appropriate.

- (9) The Secretary of State shall by regulations prescribe—

<sup>F58</sup> (a) .....

<sup>F58</sup> (b) .....

- (c) the conditions subject to which, the extent to which, and the arrangements in accordance with which, fees are to be remitted by participating schools;
- (d) the time and manner in which participating schools are to claim and receive reimbursements from the Secretary of State;
- (e) conditions to be complied with by participating schools with respect to <sup>F59</sup> . . . the fees to be charged, the keeping and auditing of accounts and the furnishing of information to the Secretary of State; and
- (f) such other matters as appear to him to be requisite for the purposes of the scheme.

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<sup>F60</sup> Regulations under this section may—

- (9A) (a) provide for the discharge of any future liabilities of the Secretary of State to make reimbursements of fees by way of lump sum payments; <sup>F61</sup> . . .
- (b) provide for the Secretary of State, in a case where a participating school—
- (i) merges with another school;
  - (ii) closes (whether wholly or in part); or
  - (iii) notifies the Secretary of State that it no longer wishes to provide assisted places,

to authorise the new school or, as the case may be, any other participating school to provide any assisted places which the participating school first mentioned was authorised to provide; and a new school authorised to provide assisted places under regulations made under this section shall be treated for the purposes of this section and section 75B of this Act as if a determination had been made in respect of it under subsection (2) above <sup>F62</sup>; and

- (c) provide for the Secretary of State, in a case where he is satisfied that it is reasonable to do so in view of any particular circumstances relating to a pupil who holds (or has, at any time since the beginning of the first term of the 1997-98 school year, held) an assisted place at a school under a scheme operated by virtue of subsection (1) above, to authorise another school which is, or is treated as, a participating school to provide for the pupil under such a scheme the assisted place which the first-mentioned school was authorised to provide.]]

(9B) Without prejudice to his duty to operate a scheme under subsection (1) above in respect of pupils such as are mentioned in subsection (1A) above, the Secretary of State may by regulations make such provision as he considers necessary for or in relation to the ending of the scheme.

(9C) Regulations made under this section or section 75B of this Act may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Secretary of State thinks fit.

(10) Regulations under subsection (9) above may authorise the Secretary of State to make provision for any purpose specified in the regulations.

(11) Before making regulations under subsection (9) above the Secretary of State shall consult such bodies as appear to him to be appropriate and to be representative of participating schools.

(12) Regulations made under subsection (9)(c) above shall be reviewed by the Secretary of State in consultation with such bodies as appear to him to be appropriate and to be representative of participating schools—

- (a) not later than two years after the date on which the first such regulations are made; and
- (b) thereafter at intervals not exceeding two years.

(13) Except where the context otherwise requires, references in this section and section 75B of this Act to a school include references to the proprietors and managers of the school; and references in this section to an independent school are references to an independent school which is—

- (a) a registered school; and

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- (b) conducted only for charitable purposes within the meaning of section 122(1) of this Act.]

#### Textual Amendments

- F52** Ss. 75A, 75B inserted by Education (Scotland) Act 1981 (c. 58), s. 5(1)
- F53** Words in s. 75A(1) substituted (31.7.1997) by 1997 c. 59, s. 5(1)(a) (with s. 1(3)).
- F54** S. 75A(1A)(1B) inserted (31.7.1997) by 1997 c. 59, s. 5(1)(b) (with s. 1(3)).
- F55** S. 75A(2) substituted (31.7.1997) by 1997 c. 59, ss. 5(1)(c), 7(3) (with s. 1(3)).
- F56** S. 75A(4) substituted (31.7.1997) by 1997 c. 59, ss. 5(1)(d), 7(3) (with s. 1(3)).
- F57** S. 75A(6) repealed (1.12.1997) by 1997 c. 59, ss. 5(2)(a), 6(3), Sch. Pt. II (with s. 1(3)); S.I. 1997/2774, art. 2.
- F58** S. 75A(9)(a)(b) repealed (1.12.1997) by 1997 c. 59, ss. 5(2)(a), 6(3), Sch. Pt. II (with s. 1(3)); S.I. 1997/2774, art. 2.
- F59** Words in s. 75A(9)(e) repealed (1.12.1997) by 1997 c. 59, ss. 5(2)(a), 6(3), Sch. Pt. II (with s. 1(3)); S.I. 1997/2774, art. 2.
- F60** S. 75A(9A)-(9C) inserted (31.7.1997) by 1997 c. 59, ss. 5(1)(e), 7(3) (with s. 1(3)).
- F61** S. 75A: Word immediately preceding para. (b) in subsection (9A) omitted (24.7.1998) by virtue of 1998 c. 31, s. 130(2)(a) (with ss. 138(9), 144(6)) and repealed (1.9.1999) by 1998 c. 31, s. 140(3), Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1
- F62** S. 75A(9A)(c) and word immediately preceding it inserted (24.7.1998) by 1998 c. 31, s. 130(2)(b) (with ss. 138(9), 144(6)).

#### 75B Incidental expenses of and provision for pupils holding assisted places.

- (1) The Secretary of State may by regulations require or enable or make provision for requiring or enabling any school participating in the scheme referred to in section 75A of this Act to make grants in respect of such expenses, including such travelling expenses, and to remit such charges, as may be specified in the regulations and to make such provision of meals or other refreshment or of facilities for the consumption of meals or other refreshment and such provision of clothing as the school making the provision considers appropriate, being expenses, charges or provision in respect of matters incidental to or arising out of the attendance at the school of pupils holding assisted places under the scheme.
- (2) Regulations made under this section may require or enable or make provision for requiring or enabling any school providing meals or other refreshment under subsection (1) above to make such charges as it thinks fit for any such meal or other refreshment except where it is provided by virtue of subsection (4) below.
- (3) Regulations under this section shall provide that, within the maximum amount stated under section 75A(3) of this Act, any amounts granted or remitted by a school and expenditure incurred by them by or under the regulations shall be reimbursed to the school by the Secretary of State.
- (4) The Secretary of State shall exercise his power to make regulations under this section so as to ensure that, in relation to any pupil whose parents are in receipt of supplementary benefit or family income supplement, such provision is made for that pupil in the middle of the day as appears to the school to be requisite.
- (5) Regulations under this section may in particular prescribe—
  - (a) the conditions subject to which, the extent to which, and the arrangements in accordance with which, grants and remissions are to be made and meals,

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- other refreshment, facilities for the consumption thereof and clothing are to be provided;
- (b) whether a charge is to be remitted in whole or in such part as may be prescribed in the regulations;
  - (c) the time and manner in which schools are to claim and receive reimbursement from the Secretary of State.
- (6) Regulations under this section may authorise the Secretary of State to make provision for any purpose specified in the regulations.

**76 Industrial scholarships.**

- (1) The Secretary of State may award industrial scholarships or make payments to any other person in respect of the award of such scholarships by that person.
- (2) In this section “industrial scholarships” means scholarships (however described) tenable by persons undertaking full-time courses of higher education provided by a university, college or other institution in the United Kingdom, being courses which appears to the Secretary of State or, as the case may be, the person awarding the scholarships to be relevant to a career in industry.
- (3) In subsection (2) above the reference to a full-time course includes a reference to a course consisting of alternate periods of—
  - (a) full-time study in the university, college or institution in question; and
  - (b) associated industrial, professional or commercial experience;and the reference in that subsection to a course provided by a university, college or institution in the United Kingdom includes a reference to a course provided by such a university, college or institution in conjunction with a university, college or other institution in another country.

*Grant-aided colleges*

F63 77 .....

**Textual Amendments**

**F63** S. 77 repealed (16.5.1992) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(3), Sch.10; S.I. 1992/817, art. 3(2), Sch.1

*Appointment of director of education*

F64 78 **Appointment of director of education.**

.....

**Textual Amendments**

**F64** S. 78 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 118(4), Sch.14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2.

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### *Local administration*

#### **79 Education authorities may receive and administer bequests.**

Every education authority shall be at liberty to accept any bequest or gift of property or funds for behoof of any school or other educational establishment under their management, whether generally or for the promotion of any particular branch or branches of education or instruction, or for increasing the income of any teacher, and it shall be the duty of the authority to administer such property, funds or money according to the wishes and intentions of the donors, and in such manner as to raise the standard of education and otherwise increase the educational efficiency of the school or other educational establishment intended to be benefitted.

#### **80 Funds for behalf of public schools etc., to be transferred to education authorities.**

- (1) Where property or money has been or shall be vested in any persons as trustees for behoof of a public school or other educational establishment under the management of an education authority, or for the promotion of any branch of education in such school or educational establishment, or to increase the income of any teacher therein, the free income of such property or money shall be accounted for and paid to the education authority, and shall be applied and administered by the education authority according to the trusts attaching thereto.
- (2) It shall be lawful for the education authority, with the approval of the Secretary of State, to vary or depart from the said trusts, with a view to increasing the efficiency of the school or educational establishment by raising the standard of education therein or by other means.

#### **81 Trust funds to be kept separate.**

The amount of every property or fund held by an education authority on a separate trust shall be kept separate.

#### **82 Reports by education authorities.**

Every education authority shall make such reports and returns and give such information to the Secretary of State as he may from time to time require.

#### **83 Returns by registrars of births, deaths, and marriages to education authorities.**

Every registrar of births, deaths, and marriages shall make to an education authority on a form to be provided by the authority such returns of particulars with regard to the births and deaths of children registered by him as may be required by the authority with the approval of the Registrar-General of Births, Deaths and Marriages in Scotland.

#### **84 Certificates of birth.**

- (1) Where the age of any person is required to be ascertained or proved for the purposes of this Act or of any enactment relating to the employment of children or young persons, the registrar of births, deaths and marriages having the custody of the register of births containing the entry relating to the birth of that person shall, upon being presented by any person with a written requisition in such form and containing such particulars as

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may be prescribed and upon payment of a fee of [<sup>F65</sup>£9.00], supply that person with a copy of the entry certified under his hand.

- (2) Every registrar shall, upon being requested so to do, supply free of charge a form of requisition for the purposes of this section.

**Textual Amendments**

**F65** S. 84(1): fee of £9.00 payable (in place of amount previously prescribed) amended (1.4.2009) by Registration of Births, Deaths and Marriages (Fees) (Scotland) Order 2009 (S.S.I. 2009/65), arts. 1(1), 2, **sch.**

**Modifications etc. (not altering text)**

**C5** S. 84(1) modified (1.1.2011) by The Registration of Births, Deaths and Marriages (Fees) (Scotland) Order 2010 (S.S.I. 2010/428), arts. 1(1), 2, **sch.**

**85 Presumption of age.**

Where in any proceedings under this Act the prosecutor alleges that any person whose age is material to the proceedings is under, of, or over, any age, then, unless the contrary is proved, the court may presume that person to be under, of, or over, the age alleged.

**86 Admissibility of documents.**

In any legal proceedings any document purporting to be—

- (a) a document issued by an education authority, and to be signed by the proper officer of that authority <sup>F66</sup>. . .;
- (b) an extract from the minutes of the proceedings of an education authority or of any committee or sub-committee thereof, and to be signed by the chairman of the authority or of the committee or sub-committee or by the officer having the custody of the minutes;
- (c) a certificate giving particulars of the attendance of a pupil at a school <sup>F67</sup>, and to be signed by the head teacher of the school <sup>F67</sup>;
- (d) a certificate issued by a medical officer of a Health Board, and to be signed by such officer;
- (e) a certificate issued by an education authority that an attendance order has been made by the authority and a copy thereof served upon the parent of the child to whom the order relates, and to be signed by the proper officer of the authority <sup>F68</sup>. . .; or
- (f) . . . . . <sup>F69</sup>

shall be received in evidence and shall, unless the contrary is proved, be deemed to be the document which it purports to be, and to have been signed by the person by whom it purports to have been signed, without proof of his identity, signature or official capacity, and any such extract or certificate as is mentioned in paragraph (b) (c) (d) [<sup>F70</sup>or (e)] above shall, in the absence of evidence to the contrary, be sufficient evidence of the matters therein stated.

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#### Textual Amendments

- F66** Words in s. 86(a) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 118(5)(b), **Sch.14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**.
- F67** Words repealed by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(2), **Sch. 11**
- F68** Words in s. 86(e) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 118(5)(b), **Sch.14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**.
- F69** S. 86(f) repealed by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(2), **Sch. 11**
- F70** Words substituted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(18)**



**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 78 and cross-heading inserted by [2016 asp 8 s. 25](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 48A(5)(a)(I) words repealed by [2000 asp 6 Sch. 3](#)
- s. 53(3)(b)(i)-(iia) repealed by [2012 c. 5 Sch. 14 Pt. 1](#)
- s. 53(3)(b)(iii) words repealed by [2012 c. 5 Sch. 14 Pt. 1](#)
- s. 53ZA inserted by [2016 asp 8 s. 22\(3\)](#)
- s. 54A inserted by [2016 asp 8 s. 23](#)
- s. 98DA inserted by [2016 asp 8 s. 28\(2\)](#)
- s. 99(1A)(g)(ii) word substituted by [2020 asp 13 sch. 5 para. 8\(3\)](#)
- s. 99(1A)(h)(ii) word substituted by [2020 asp 13 sch. 5 para. 8\(3\)](#)
- s. 133(2XA) inserted by [2016 asp 8 s. 21\(3\)\(b\)](#)
- s. 133(4)(aa) inserted by [2016 asp 8 s. 21\(3\)\(c\)\(i\)](#)