



# Education (Scotland) Act 1996

## 1996 CHAPTER 43

### PART III

#### SCHOOL BOARDS

#### **28 School Boards: elections**

- (1) In section 2 of the School Boards (Scotland) Act 1988 (in this Part of this Act referred to as “the 1988 Act”) (composition of Boards) subsections (8) to (12) shall cease to have effect.
- (2) After the said section 2 there shall be inserted the following sections—

#### **“2A Elections**

- (1) Subject to subsections (2) and (3) below, elections for members of School Boards shall be held during the regular election period in every relevant year; and in this Act, an election held under this subsection shall be referred to as a “regular election”.
- (2) In the case of a school (including a combined school) which comes into existence after the commencement of section 28 of the Education (Scotland) Act 1996, the first election for members of the School Board shall be held as soon as practicable after pupils first attend the school.
- (3) In the case of a school for which no School Board is established at the commencement of the said section 28—
  - (a) where a School Board has been disestablished or a first election has been held and no School Board has been established, further elections for members of the School Board shall be held in accordance with section 20(7) of this Act; and
  - (b) in any other case, the first election for members of the School Board shall be held as soon as practicable after pupils first attend the school.

- (4) In the event of a lesser number of parent members being elected at an election held in pursuance of subsection (2) or (3) above than is necessary to make up the number for the time being prescribed under section 2 of this Act as the number of parent members for the Board, subsections (5), (6) and (7) of section 20 of this Act shall apply.
- (5) In the event of a vacancy for a parent member of a Board arising a by-election shall be held—
- (a) where an authority is so requested by the Board, not more than 3 months after the vacancy occurs; or
  - (b) in any other case, during the next regular election period whether or not that period falls in a relevant year.
- (6) In the event of—
- (a) a lesser number of staff members being elected on any occasion than is necessary to make up the number for the time being prescribed under the said section 2 as the number of staff members for the Board; or
  - (b) a vacancy for a staff member of a board arising,
- a by-election shall be held as soon as possible and, in any event, not more than 3 months after the occasion or, as the case may be, vacancy arising.
- (7) Where no person is elected by virtue of subsection (6) above, the education authority—
- (a) may at any time; and
  - (b) if requested in writing by a person entitled to stand and vote in an election for a staff member, shall within three months of such request, hold a by-election to fill the vacancy.
- (8) Where a person ceases, for whatever reason, to be a parent member or a staff member not more than 6 months before the expiry of his term of office, it shall not be necessary to hold a by-election under subsection (5) or, as the case may be, (6) above.
- (9) Schedule 1 to this Act shall have effect for the purpose of the holding of elections.
- (10) In this section—
- “regular election period” means not earlier than 1 September in any year and not later than 30 November in that year, or such other period as may be prescribed; and
- “relevant year” means 1997 and every second year thereafter.

## **2B Co-option**

- (1) A Board shall, as soon as is practicable after their establishment, co-opt members in accordance with section 2(1) of this Act.
- (2) Where a vacancy for a co-opted member of a Board occurs, the Board shall, in accordance with this Act, co-opt another person in his place.
- (3) Subject to subsection (4) below, where, following the holding of a by-election for the election of a parent member of a Board no person is elected, the Board

may, not later than three months after the holding of such by-election, invite a person from among the parents of pupils attending the school to be co-opted as a member of the Board; but no more than two persons co-opted under this subsection shall be members of the Board at any time, and a person so co-opted shall be known as a co-opted parent member of the Board.

(4) Subsection (3) above shall not apply in the case of a by-election held for the purpose of enabling a School Board to be established.”

(3) Where, before the commencement of this section—

- (a) a vacancy occurs among the parent members of a Board; and
- (b) no by-election has been held,

section 2A of the 1988 Act shall apply in relation to the holding of such a by-election.

## **29 School Boards: terms of office**

(1) For section 3 of the 1988 Act there shall be substituted the following section—

### **“3 Terms of office**

- (1) The terms of office of members of School Boards shall be determined in accordance with this section.
- (2) The term of office of every member elected at a regular election shall begin on the day following the end of the regular election period in the year of his election and, subject to subsection (3) below, expire at the end of the regular election period in the second relevant year thereafter.
- (3) Where a School Board are first established, the term of office of one half of the parent members (or, where an odd number of parent members is elected, the largest number less than half) selected by agreement amongst them or, failing agreement, by the drawing of lots, shall expire—
  - (a) in the case of a Board established during or not more than 12 months after the end of a regular election period in a relevant year, at the end of the next such regular election period; and
  - (b) in the case of a Board established not more than 9 months before a regular election period in a relevant year, at the end of the second such regular election period after their establishment,and the term of office of the remaining members shall expire at the end of, respectively, the second and third regular election periods in relevant years after the Board’s establishment.
- (4) The term of office of a co-opted member shall expire four years after the date of his co-option.
- (5) The term of office of a member elected at a by-election or co-opted under section 2B(3) of this Act to fill a vacancy in the membership of the Board shall expire when the term of office of the member he is elected or, as the case may be, co-opted to replace would have expired under this section.
- (6) A parent member of a Board who ceases to be eligible to serve in the capacity in which he was elected or, as the case may be, co-opted may continue to be a member of the Board until the next regular election unless the remaining part of his term of office is for a period of more than two years.

- (7) A member of a Board may resign office at any time by giving notice in writing to the Clerk to the Board or to the education authority for the area.
- (8) A School Board may remove any member of the Board who they are satisfied—
- (a) is unable or unfit to carry out his duties; or
  - (b) has failed, without good cause, to attend—
    - (i) any meeting of the Board for a continuous period of not less than 6 months; and
    - (ii) 3 consecutive meetings of the Board.”
- (2) The term of office of any person who has been elected to a School Board established before the commencement of this section shall be determined in accordance with the following provisions of this section.
- (3) Subject to subsection (4) below, where the term of office of any member of a Board would, by virtue of section 3 of the 1988 Act as originally enacted, have expired—
- (a) at any time in the period of two years following the commencement of this section, his term of office shall expire on 30 November 1997;
  - (b) at other time, his term of office shall expire on 30 November 1999.
- (4) Where, in relation to any Board, the application of subsection (3) above would not result in the term of office of an equal number of parent members of the Board (or, where there is an odd number of parent members, an equal number plus or minus one) expiring on 30 November in each of 1997 and 1999, the education authority shall, after consultation with the Board, direct which members shall retire on 30 November 1997 and 1999 respectively.
- (5) Notwithstanding subsection (4) above, where any question arises as to the expiry of the term of office of an elected member of a Board, the education authority shall, after such consultation as is mentioned in subsection (4) above, direct whether the term of office of the member shall expire on 30 November 1997 or 1999.
- (6) A direction given by an education authority under subsection (4) or (5) above shall be binding.
- (7) In this section, “School Board” and “parent members” have the same meanings as in the 1988 Act and “parent member” shall be construed accordingly.

### **30 School Boards: conflict of interest**

After section 5 of the 1988 Act there shall be inserted the following new section—

#### **“5A Conflict of interest**

- (1) Subject to subsection (2) below, where, whether before or during any meeting of a Board or any committee of theirs, any member of the Board or of such committee becomes aware that he or any person connected with him has (whether directly or indirectly) a material interest in or relating to any matter to be or being considered by the Board or, as the case may be, the committee, he shall declare such interest and withdraw from the meeting during such consideration and shall not vote on any question relating to the matter.

- (2) Nothing in subsection (1) above shall—
- (a) require a parent member or staff member of a Board or committee to declare an interest or withdraw; or
  - (b) prohibit him from voting,
- in relation to any matter where his interest exists only by reason of his being such a member.
- (3) Any person who is, by virtue of section 5 of this Act, entitled to attend and speak at any meeting of a Board, who becomes aware that he or any person connected with him has (whether directly or indirectly) a material interest in any matter being considered by the Board shall declare such interest and his declaration shall be recorded in the minutes of the meeting.
- (4) Section 346(2) of the Companies Act 1985 (meaning of “connected person”) shall apply for the purpose of determining whether a person is connected with—
- (a) a member of a Board or, as the case may be, a member of any committee of theirs; and
  - (b) any person mentioned in subsection (3) above as being entitled to attend and speak at a meeting,
- as it applies for the purpose of determining whether a person is connected with a director of a company; and for such purpose, references in that section to a director of a company shall be construed as if they were references to, as the case may be, a member of the Board or of such committee, or a person mentioned in paragraph (b) above.
- (5) The validity of any proceedings of a Board or committee shall not be affected by any failure to comply with this section.”

### **31 School Boards: miscellaneous**

The 1988 Act shall be amended in accordance with Schedule 4 to this Act.