

1981 No. 1562 (S. 163)

EDUCATION, SCOTLAND

The Scottish Examination Board Regulations 1981*Made* - - - - 30th October 1981*Laid before Parliament* 6th November 1981*Coming into operation* 1st January 1982

In exercise of the powers conferred on me by section 129 of the Education (Scotland) Act 1980(a) and of all other powers enabling me in that behalf I hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the Scottish Examination Board Regulations 1981 and shall come into operation on 1st January 1982.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires the following expressions have the meanings hereby respectively assigned to them:—

“the Act” means the Education (Scotland) Act 1980;

“the Board” has the meaning assigned to it by Regulation 3;

“financial year” in relation to the Board means the period beginning on 1st January and ending on 31st December each year, or such other period as may be agreed between the Board and the local authority body;

“local authority body” has the meaning assigned to it by Regulation 13;

“the 1963 Regulations” means the Scottish Certificate of Education Examination Board Regulations 1963(b).

(2) In these regulations, any reference to a regulation is a reference to a regulation of these regulations and any reference in a regulation to a paragraph is a reference to a paragraph of that regulation.

The Board

3. The Board established under section 129 of the Act for the purposes mentioned or referred to in subsection (1) of that section and called the Scottish Certificate of Education Examination Board in the 1963 Regulations, shall be called the Scottish Examination Board, shall continue to be a body corporate with perpetual succession and a common seal, and, subject to the provisions of these regulations, shall continue to have all the rights, powers and privileges of a body corporate.

(a) 1980 c.44; section 129 was amended by sections 13 and 21 of and Schedule 9 to the Education (Scotland) Act 1981 (c.58).

(b) S.I. 1963/2131.

Purposes of Board

4. The purposes of the Board mentioned in section 129(1) of the Act shall include—

- (a) acting on behalf of, or providing services for, other examination bodies or authorities in relation to the examinations those bodies or authorities conduct ;
- (b) conducting or assisting the conduct of research into, and undertaking development in connection with, examinations.

Functions of Board

5.—(1) The Board shall have the following duties :—

- (a) to make arrangements for and to conduct examinations each year for the award of certificates relating to secondary education ;
- (b) to award such certificates on such conditions approved by the Secretary of State as the Board may impose ;
- (c) to advise the Secretary of State on such matters relating to examinations for pupils receiving secondary education as the Secretary of State refers to them, or as the Board consider necessary ;
- (d) to give effect to such direction as the Secretary of State may give to the Board under these regulations as to the discharge by them of their functions.

(2) The Board shall have the following powers :—

- (a) with the approval of the Secretary of State to enter into arrangements for the performance of functions or the provision of services for other examination bodies or authorities, provided that such bodies or authorities meet the whole of the expenditure incurred by the Board in carrying out such arrangements ;
- (b) with the approval of the Secretary of State to enter into arrangements with other persons to enable them to discharge on behalf of the Board any of the Board's functions ;
- (c) to conduct or assist the conduct of research into, and to undertake development in connection with, examinations.

(3) The Secretary of State may, after consultation with the Board, give to them such directions as to the discharge by them of their functions as appear to him to be expedient.

Membership

6.—(1) The Board shall consist of a chairman appointed by the Secretary of State and 37 other members as follows :—

- (a) 32 members being—
 - (i) composed in the numbers specified in Column 2 of the Table set out in paragraph (2) opposite the authorities, bodies or persons specified in Column 1 of that Table ; and
 - (ii) appointed by the Secretary of State from persons nominated by, or by bodies which appear to the Secretary of State to represent the interests of, the authorities and others so specified as persons representative of those authorities and others ; and

(b) 5 members who have experience in industry or commerce or who otherwise have qualifications which, in the opinion of the Secretary of State, make them suitable for appointment by him to the Board:

Provided that (i) during the period 1st January 1982 to 31st August 1982 the foregoing provisions of this paragraph shall apply, subject to the following modifications:—

- (aa) for “ 37 ” there shall be substituted “ 40 ”;
- (bb) for “ 32 ” there shall be substituted “ 36 ”;
- (cc) for “ column 2 ” there shall be substituted “ column 3 ”; and
- (dd) for “ 5 ” there shall be substituted “ 4 ”;

(ii) during the period 1st September 1982 to 31st August 1984 the foregoing provisions of this paragraph shall apply subject to the following modifications:—

- (aa) for “ 37 ” there shall be substituted “ 39 ”;
- (bb) for “ 32 ” there shall be substituted “ 34 ”; and
- (cc) for “ column 2 ” there shall be substituted “ column 4 ”.

(2) The Table referred to in paragraph (1) is as follows:—

<i>Column 1</i>	<i>Column 2</i> (After 31.8.84)	<i>Column 3</i> (1.1.82 to 31.8.82)	<i>Column 4</i> (1.9.82 to 31.8.84)
The Universities of Scotland	8	9	8
Education Authorities	6	6	6
Institutions of further education... ..	1	1	1
Central Institutions	1	2	1
Colleges of education	1	2	2
Directors of education	2	2	2
Educational advisers	1	1	1
Teachers employed in educational establishments	11	12	12
Grant-aided and independent schools ...	1	1	1

Assessors

7. The Secretary of State may appoint one or more of his officers to be an assessor or assessors sitting with the Board, and each assessor, or in his absence a substitute nominated by the assessor, shall be entitled to attend and speak at meetings of the Board and of committees and sub-committees of the Board but shall not be entitled to vote except at meetings of any committee or sub-committee of which he has been appointed a member.

Term of office

8.—(1) The Chairman and each of the other members of the Board shall hold office in accordance with the terms of his appointment.

(2) The Secretary of State shall declare a member's place vacant—

- (a) where he intimates in writing to the Secretary of State his resignation from office;
- (b) where he has had his estate sequestrated or has made a trust deed for behoof of his creditors or a composition contract and the Secretary of State has received from the Board a report to that effect;

(c) where the Secretary of State has received from the Board—

(i) a report that a member is incapable of holding office ; or

(ii) a report that a member has persistently failed to attend meetings of the Board, or of committees or sub-committees of the Board, without reasonable excuse, and a recommendation, that he declare the member's place vacant,

and the Secretary of State is satisfied that, in all the circumstances, it is appropriate to declare the place vacant ;

(d) where otherwise he considers that a member is unable or unfit to discharge the functions of a member, or is unsuitable to continue as a member.

(3) A member of the Board shall be eligible for re-appointment on the expiry of his period of office.

Committees

9.—(1) The Board shall appoint a finance committee of which—

(a) not less than one-third of the members shall be members appointed to the Board in accordance with these regulations from among persons nominated as representative of the interests of education authorities ; and

(b) the member appointed to the Board in accordance with these regulations from among persons nominated as representative of the interests of grant-aided and independent schools, shall be a member ;

and the finance committee may appoint from among their own number such sub-committees as they think fit.

(2) The Board may appoint such other committees as they think fit and such other committees may appoint such sub-committees as they think fit.

(3) The membership of such other committees may include persons who are not members of the Board and sub-committees appointed under the foregoing paragraph may consist wholly of such persons.

(4) The Board may arrange for the discharge by any committee appointed under paragraphs (1) and (2) of any of their functions, other than functions relating to finance which the Board may arrange to be discharged only by the finance committee. A committee may arrange for the discharge of any of their functions by a sub-committee but only in so far as they are authorised to do so by standing orders, or by a direction of the Board.

Proceedings

10.—(1) The Board shall make, and shall amend from time to time as may be necessary, standing orders relative to the functions of their committees and sub-committees, the convening of meetings of the Board and of committees and sub-committees, the conduct of business at meetings, the keeping of minutes, accounts and other records, the signing of cheques and documents to which the common seal is not required to be fixed, the custody of deeds and other documents, the duties of officials of the Board and such other matters connected with the conduct of their business as they think fit.

(2) The proceedings of the Board or of any committee or sub-committee shall not be invalidated by any vacancy in the membership of the Board, or of any committee or sub-committee, or by any defect in the appointment of a member.

(3) The Board and, subject to any directions of the Board, any committee or sub-committee may, subject to the requirements of standing orders, regulate their own proceedings and fix a quorum for their own proceedings.

Financial arrangements

11.—(1) Where the Secretary of State, after consultation with the Board, gives the Board a direction for such purposes as are specified in the direction, the Board shall ensure that they make adequate financial provision for those purposes.

(2) The Board shall not incur any expenditure in respect of the acquisition of land except with the prior approval of the Secretary of State.

12.—(1) The Board shall from time to time determine and notify to presenting authorities namely education authorities, the managers of educational establishments not under the management of education authorities, and such other authorities as may be recognised by the Board for the purpose of presentation of candidates for examination—

(a) the charges made by the Board in respect of presentations by such authorities for examinations conducted by the Board; and

(b) the arrangements for payment by such authorities of such charges.

(2) The Board may determine different levels of charges for examination presentations in respect of different examination subjects and different grades of such subjects, and may impose additional charges in respect of candidates entered for examinations later than such date as the Board may specify in connection with their arrangements for the conduct of examinations.

(3) Except in so far as provided in paragraph (2) and subject to paragraph (4), the Board shall not, in determining the charges for examination presentations, differentiate among presenting authorities or the candidates they present.

(4) In relation to examination presentations made by presenting authorities furth of Scotland, the Board may determine such level of examination charges in respect of such subjects and grades of subjects as they consider appropriate in the circumstances.

(5) The Board shall endeavour to secure that in relation to any financial year the charges they determine for examination presentations in that year shall not exceed in total such sum as is required to meet the Board's expenditure in that year, in so far as that expenditure is not met from other income of the Board in that year.

(6) All income received by the Board shall be applied wholly towards meeting the Board's expenses in discharging their functions.

13.—(1) Not less than 6 weeks before the beginning of every financial year, the Board shall prepare and submit estimates of their income and expenditure to, and for the approval of, such body as the Secretary of State may determine to be representative of local authority interests ("the local authority body").

(2) The Secretary of State shall notify to the Board the name of any local authority body determined by him.

(3) The local authority body may approve the estimates of income and expenditure submitted to it.

(4) The Board shall not incur any expenditure in any financial year beyond that approved by the local authority body under paragraph (3), except with the approval of that body.

(5) Except in respect of the acquisition of land, the power of the Board to borrow money shall be limited to power to borrow by way of overdraft from a bank for periods not exceeding 6 months.

(6) In respect of the acquisition of land in accordance with Regulation 11(2), the Board shall have power to borrow money and grant heritable securities in relation thereto.

14.—(1) The Board shall keep proper accounts of all sums received or paid by them and in relation to the keeping of such accounts the Board shall give to the Secretary of State such information about the accounts in such manner and according to such methods as the Secretary of State may notify in writing to the Board.

(2) The accounts of the Board shall be audited by auditors appointed by the Board for that purpose, and to the satisfaction of the Secretary of State, and the Board shall, if the Secretary of State intimates to them that he is not so satisfied, make such arrangements for the audit of the accounts as he may require.

(3) Within 3 months after the end of each financial year, an abstract of the accounts of the Board for that year, signed by the Chairman of the Board on their behalf and certified by the appointed auditors, shall be transmitted to the Secretary of State.

Allowances of members

15. For the purposes of the payment to the members of the Board, or of any committee or sub-committee thereof, of travelling, subsistence and other allowances, sections 45(4) and 46 of the Local Government (Scotland) Act 1973(a) shall apply to such members as if they were members of a body to which those sections apply.

Reports

16.—(1) The Board shall—

(a) submit to the Secretary of State reports on such matters as may be referred to them by the Secretary of State ; and

(b) submit to the Secretary of State an annual report on their conduct of examinations and on the exercise of their functions generally as soon as possible after the expiry of the year to which the report relates ; the report shall include a statement of the Board's income and expenditure for that year ; and the Secretary of State shall lay a copy of that report before each House of Parliament.

(2) Without prejudice to the provisions of the foregoing paragraph the Board shall comply with any requests from the Secretary of State for information relating to the examinations conducted by the Board or to the work of the Board otherwise.

(a) 1973 c.65.

Consequential

17.—(1) Any persons who immediately before the date of coming into operation of these regulations were members of the Scottish Certificate of Education Examination Board shall on and after that date be members of the Scottish Examination Board for a period corresponding to the unexpired period of their appointment to the other Board, and their appointment shall be subject to the provisions of these regulations.

(2) On the date of coming into operation of these regulations all rights, obligations and property of the Scottish Certificate of Education Examination Board shall by virtue of this regulation, be rights and obligations to which the Board shall be entitled or subject, and property heritable and moveable in which the Board shall be vested, in the name of the Scottish Examination Board.

(3) Any thing done or made in relation to the Scottish Certificate of Education Examination Board under the provisions of the 1963 Regulations which could be done or made in relation to the Scottish Examination Board under the provisions of these regulations shall be treated as having been so made or done and shall have effect accordingly.

Revocations

18. The 1963 Regulations are hereby revoked.

George Younger,
One of Her Majesty's Principal
Secretaries of State.

New St. Andrew's House,
Edinburgh.
30th October 1981.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations make provision with respect to the Board established under section 129 of the Education (Scotland) Act 1980 for purposes which include the conduct of examinations in Scotland. The Board, formerly called, the Scottish Certificate of Education Examination Board, is to be called the Scottish Examination Board.

Regulation 3 provides for the continuing incorporation of the Board and for the change of name. Regulation 4 sets out purposes of the Board additional to those specified in section 129(1) of the 1980 Act; and Regulation 5 sets out the Board's functions and authorises the Secretary of State to give the Board directions as to the discharge of those functions.

Regulation 6 provides that the Board's membership is to comprise a chairman and 37 other members appointed by the Secretary of State and contains interim membership arrangements during the period from 1st January 1982 to 31st August 1984. Regulation 7 authorises the appointment of assessors to the Board.

Regulation 8 makes provision with respect to the appointment and termination of appointment, of members, and Regulations 9 and 10 provide for the internal organisation and procedures of the Board.

Regulation 11 relates to the Board's duty to make adequate financial provision in respect of directions given by the Secretary of State and requires the Board to obtain his prior approval to expenditure involving the acquisition of land or buildings.

Regulations 12 and 13 make provision with respect to the Board's income from charges for examination presentations, and the Board's expenditure and power to borrow. Estimates of income and expenditure are to be approved by a local authority body nominated by the Secretary of State.

Regulation 14 deals with the keeping of accounts and with their audit ; Regulation 15 with allowances to members of the Board ; and Regulation 16 with the submission of reports to the Secretary of State and the laying of annual reports before Parliament.

Regulation 17 contains provisions consequential on the change in the Board's name, constitution and functions.

Regulation 18 revokes the Scottish Certificate of Education Examination Board Regulations 1963 which had previously made provision in respect of the Board.

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