



Education (Scotland) Act 1980

1980 CHAPTER 44

PART V

INDEPENDENT SCHOOLS

[^F198A Application for registration of independent school

- (1) Any person proposing to carry on an independent school shall apply to the Scottish Ministers for registration of that school.
- (2) An application for registration shall—
 - (a) be in such form; and
 - (b) include such information,as the Scottish Ministers may, by regulations, prescribe.
- (3) The Scottish Ministers may, subject to subsection (4) below, grant an application for registration if they are satisfied that—
 - (a) efficient and suitable instruction will be provided at the school, having regard to the ages and sex of the pupils who shall be attending the school;
 - (b) the welfare of such pupils will be adequately safeguarded and promoted;
 - (c) subject to subsection (5)(a) below—
 - (i) the proprietor of the school is a proper person to be the proprietor of an independent school; and
 - (ii) every proposed teacher in the school is a proper person to be a teacher in any school;
 - (d) subject to subsection (5)(b) below, the proposed school premises are suitable for use as a school; and
 - (e) subject to subsection (5)(c) below, the accommodation to be provided at the school premises is adequate and suitable, having regard to the number, ages and sex of the pupils who shall be attending the school.
- (4) The Scottish Ministers may, on granting an application for registration, impose such conditions on the carrying on of the registered school as they think fit.

Changes to legislation: Education (Scotland) Act 1980, Section 98A is up to date with all changes known to be in force on or before 20 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (5) The Scottish Ministers shall not be satisfied that—
- (a) the proprietor of an independent school is a proper person to be the proprietor of such a school or, as the case may be, that a proposed teacher in such a school is a proper person to be a teacher in any school if that proprietor or, as the case may be, proposed teacher—
 - (i) is, by virtue of this Part of this Act, disqualified from being such a proprietor or, as the case may be, such a teacher;
 - (ii) is [^{F2}barred from regulated work with children]; or
 - (iii) is a prescribed person;
 - (b) proposed school premises are suitable for use as a school if any part of such premises is, by virtue of this Part of this Act, disqualified from being so used; and
 - (c) accommodation to be provided at school premises is adequate and suitable if any such accommodation is, by virtue of this Part of this Act, disqualified from being used as such or from being used as such for pupils of—
 - (i) such number; or
 - (ii) such age or sex,
 for which it is proposed it be used.
- (6) In this Part of this Act—
- [^{F3}“barred from regulated work with children” shall be construed in accordance with the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14);]
- “prescribed person” means—
- (a) in relation to a proprietor of an independent school, a person falling within such class of persons as the Scottish Ministers may, by regulations, prescribe; and
 - (b) in relation to a teacher or proposed teacher in such a school, a person falling within such class of persons as may be so prescribed; and
- “proposed teacher” means a person that the proprietor of an independent school proposes will, on the registration of that school, be a teacher in it.]

Textual Amendments

- F1** Ss. 98A-98D substituted (31.12.2005) for s. 98A by [School Education \(Ministerial Powers and Independent Schools\) \(Scotland\) Act 2004 \(asp 12\)](#), **ss. 4(2)**, 9(2); S.S.I. 2005/570, art. 2(a) (with art. 3(1)(2))
- F2** Words in s. 98A(5)(a)(ii) substituted (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **sch. 4 para. 6(a)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a)
- F3** Words in s. 98A(6) substituted (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **sch. 4 para. 6(b)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a)

Modifications etc. (not altering text)

- C1** S. 98A(6) modified (temp.) (20.1.2009) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Transitory Provisions in Consequence of the Safeguarding Vulnerable Groups Act 2006\) Order 2009 \(S.S.I. 2009/4\)](#), arts. 1(2), **4** (with art. 3)

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 98A(5)(a)(ii) word substituted by [2020 asp 13 sch. 5 para. 8\(2\)\(a\)](#)
- s. 98A(6) words substituted by [2020 asp 13 sch. 5 para. 8\(2\)\(b\)](#)

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\(3\)](#)