CHAPTER 59.

An Act to reorganise the Educational Endowments of Scotland. A.D. 1882.

[18th August 1882.]

WHEREAS it is desirable to extend the usefulness of educational endowments in Scotland, and to carry out more fully than is done at present the spirit of the founders' intentions, and so far as may be to make an adequate portion of such endowments available for affording to boys and girls of promise opportunities for obtaining higher education of the kind best suited to aid their advancement in life:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Interpretation of terms.

1. For the purposes of this Act, unless the context otherwise requires,—

"Educational endowment" shall mean any property, heritable or moveable, dedicated to charitable uses, and which has been applied or is applicable in whole or in part, whether by the declared intention of the founder or the consent of the governing body or by custom or otherwise, to educational purposes, but shall not, except with the consent of the governing body, include the funds, whether capital or revenue, of any incorporation or society contributed or paid by the members of such incorporation or society by way of entry moneys or other fixed or stated payments, nor burgess fines paid to any such incorporation or corporate society except as herein-after provided.

"Governing body" shall mean the managers, governors, or trustees of any endowment or other persons having the administration of the revenues thereof:

"Burgh" shall mean royal or parliamentary burgh:

"Scotch Education Department" shall mean the Lords of the Committee of the Privy Council on Education in Scotland:

A.D. 1882.

"The Commissioners" shall mean the Commissioners appointed under this Act, and "Commissioner" shall mean one of such Commissioners:

"The Court of Session" shall mean either division of the Inner House of the said Court.

Short title.

2. This Act may be cited as the Educational Endowments (Scotland) Act, 1882.

Commencement of Act.

3. This Act shall, except as herein-after otherwise provided, come into operation on the first day of November one thousand eight hundred and eighty-two, which date is in this Act referred to as the commencement of this Act.

Commissioners.

Appointment of Commissioners.

4. For the purposes of this Act it shall be lawful for Her Majesty to appoint seven Commissioners, and to appoint a secretary to the Commissioners, and as vacancies occur to supply such vacancies. The Commissioners and secretary shall hold office during Her Majesty's pleasure. The Commissioners of Her Majesty's Treasury may assign such salaries as they think fit to the said secretary, and to such assistant commissioners, officers, and clerks as may be appointed by the Commissioners during their pleasure, with the approval of the Commissioners of the Treasury.

Her Majesty may from time to time appoint one of the Commissioners to be chairman.

The Commissioners of Public Works shall provide a suitable office in Edinburgh in which the business of the Commissioners may be transacted.

The Commissioners shall be paid, on scales to be approved by the Treasury, the personal and travelling expenses incurred by them on the business of the Commission. The assistant commissioners, officers, and clerks shall be paid, on scales to be approved by the Treasury, the personal and travelling expenses incurred by them when employed on the business of the Commission out of Edinburgh.

All the aforesaid salaries and personal, travelling, or office expenses, and also any expenses incurred by the Scotch Education Department under this Act, shall be paid out of moneys to be voted by Parliament.

The Commissioners shall receive no payment except for such personal and travelling expenses as aforesaid.

The provisions of this section shall have effect from and after the passing of this Act.

Powers of Commissioners.

5. Subject to the provisions herein-after contained the Commissioners shall have power to prepare drafts of schemes for the future

government and management of educational endowments, which schemes may provide for altering the conditions and provisions of such endowments, including the powers of investing the funds thereof, or amalgamating, combining, or dividing such endowments, or altering the constitution of the governing bodies thereof, or uniting two or more existing governing bodies, or establishing new governing bodies with such powers as shall seem necessary, and to insert in such schemes clauses incorporating the governing bodies, whether old or new.

Provisions where governing body wholly or partly consists of members of town council, &c.

6.—(1.) Where the governing body, or a majority of the governing body, of any educational endowment as at present constituted consists of persons deriving their qualification as members thereof, either directly or indirectly, from their election to be members of the town council of any burgh or of any other public body, provision shall be made in any scheme under this Act relating to such endowment that not less than two thirds of the governing body thereof as altered by such scheme shall consist of persons elected by such town council or other public body aforesaid, or partly and in such proportion as the Commissioners shall determine by such town council or other public body aforesaid, and partly by such school board or school boards as the Commissioners, having regard to the locality or localities interested in such endowment, shall determine.

(2.) Where the governing body of any educational endowment as at present constituted consists to the extent of one half or less than one half of persons deriving their qualification as members thereof, either directly or indirectly, from their election to be members of the town council of any burgh or other public body, provision shall be made in any scheme under this Act relating to such endowment that the governing body thereof as altered by such scheme shall consist to such extent, being not less than the existing proportion on the governing body of persons deriving their qualification as aforesaid, as the Commissioners shall determine of persons elected by such town council or other public body aforesaid, or partly by such town council or other public body aforesaid, and partly by such school board or school boards as the Commissioners, having regard to the locality or localities interested in such endowment, shall determine.

(3.) Where the governing body of any educational endowment as at present constituted includes no persons deriving their qualification as members thereof, either directly or indirectly, from their election to be members of the town council of any burgh or of any other public body, provision shall be made in any scheme under this Act

A.D. 1882.

relating to such endowment that the governing body thereof as altered by such scheme shall consist to such extent as the Commissioners shall determine of persons elected by such town council or school board or other public body as the Commissioners, having regard to the locality or localities interested in such endowment, shall determine: Provided that this subsection shall not apply where its application would in the judgment of the Commissioners be inconsistent with the intentions of the founder or with the purposes of the endowment.

Scope of Commission.

7. Subject to the provisions of this Act it shall be the duty of the Commissioners in reorganizing as aforesaid educational endowments to have special regard to making provision for secondary or higher or technical education in public schools or otherwise in those localities to which the endowments severally belong, or in such manner as to secure to the inhabitants of those localities the benefit of such endowments, and, if the Commissioners think fit, they may provide for the establishing or the aiding of industrial museums and libraries: Provided that nothing in this Act contained shall be taken to compel the Commissioners to restrict any bursary, exhibition, scholarship, or other educational benefit attached to or tenable at any educational institution to the children of persons resident in the locality where that institution exists.

Endowments subject to Commission.

Act not to apply to certain endowments. 35 & 36 Vict. c. 62.

8. This Act shall not apply—

(1.) to any educational endowment given either by present gift made subsequently to the passing of the Education (Scotland) Act, 1872, or by the will of a testator who died subsequently to the passing of the said Act;

(2.) to any endowment belonging to, or administered by, or in the gift of any of the universities of Scotland, or any of the colleges of such universities; or

(3.) to any endowment solely or mainly applicable or applied for the purposes of theological instruction or belonging to any theological institution,

unless the founder or the governing body of such educational endowment, or the senatus academicus of such university respectively, shall intimate in writing to the Commissioners their consent that such endowment shall be dealt with under this Act.

Date of oldest part of endowment to be date of endowment, unless con-

9. Where part of an endowment has been given before the passing of the Education (Scotland) Act, 1872, and another part has been given subsequently to the passing of the said Act, and the two portions cannot in the opinion of the Commissioners be

conveniently separated from each other, the date of the older part of the endowment shall be held to be the date of the endowment.

veniently separable.

10. Where any part of an educational endowment within the meaning of this Act, and part of it is applicable or applied to other charitable purposes, the scheme shall be in conformity with the following provisions (except so far as the governing body of such endowment assent to the scheme departing therefrom); that is to say,

Apportionment of mixed endowments.

(1.) The proportion of the endowment or annual income for the time being derived therefrom which is applicable to such other charitable uses shall not be diverted by the scheme from such uses unless in the opinion of the Commissioners—

(*a*) there are no persons who are entitled to benefit out of such part of the endowment; or

(*b*) the purposes of such part of the endowment have failed altogether; or

(*c*) such purposes have become insignificant in comparison with the magnitude of such part of the endowment; or

(*d*) such purposes have become prejudicial to the public welfare:

(2.) The proportion of the endowment or annual income for the time being so applicable to such other charitable uses shall be deemed to be the proportion which, in the opinion of the Commissioners, is the proportion which has according to the average of such number of years as the Commissioners shall determine been appropriated as regards capital or applied as regards income to such uses, or if that proportion differs from the proportion which ought to have been so appropriated or applied according to the express directions of the instrument of foundation or the decree of any competent court or the statutes or regulations governing such endowment, the proportion applicable to such other charitable uses shall be the proportion which ought, according to the express directions of such instrument, or such decree or such statutes or regulations, to have been appropriated or applied to such other charitable uses:

(3.) If the proportion applicable to other charitable uses amounts to or exceeds one half of the whole of the endowment, the governing body of such endowment existing at the date of the scheme shall, so far as regards its non-educational purposes, remain unaltered by the scheme:

A.D. 1882.

(4.) Where the governing body remains so unaltered, that body shall pay or apply for educational purposes such proportion as under the former provisions of this section is applicable to those purposes, or such less sum as may be fixed by the Commissioners:

(5.) When any portion of the endowment or the annual income of such portion has been accumulated and not applied to any purpose, the Commissioners shall determine whether and in what proportion such portion or income is to be considered for the purposes of this section as having been appropriated or applied for educational purposes or for other charitable uses.

Subject to the foregoing provisions of this section, the Commissioners shall have power by any scheme to deal with such endowment, and with the governing body thereof, in the same manner in all respects as if the whole of it were an educational endowment.

Application to education of non-educational endowments.

11. Any governing body having an endowment or fund which is not an educational endowment within the meaning of this Act, if there are no persons who are entitled to benefit out of the endowment, or if the purposes of the endowment have failed altogether, or have become obsolete or useless, or are otherwise sufficiently provided for, or are insignificant in comparison with the magnitude of the endowment, or are, in the opinion of such governing body, not substantially beneficial to the class of persons for whom such endowment was originally intended, or if it has been found impossible, either from the inadequacy of the endowment, or the impracticable character of the founders' intentions, to carry these intentions into effect, may intimate in writing to the Commissioners their assent to the endowment being deemed to be, and thereafter such endowment may be dealt with in all respects as if it were, an educational endowment.

Endowments for apprenticeship fees, maintenance, and clothing to be deemed educational.

12. For the purposes and subject to the provisions of this Act endowments for the payment of apprenticeship fees, or for the advancement in life, or for the maintenance or clothing, or otherwise for the benefit of poor children, and the funds and property of the Society in Scotland for Propagating Christian Knowledge so far as applicable or applied to educational purposes shall be deemed to be and may be dealt with as educational endowments.

Requisites of Schemes.

Vested interests.

13. In framing schemes the Commissioners shall save or shall make due compensation for the vested interests of individuals holding any office, place, employment, pension, compensation allowance, bursary, or emolument under or arising out of the educational

or other endowment at the date of the passing of this Act, and shall provide that no funds now applied in terms of the founders' directions to free elementary education shall be diverted to any other purpose, except to the extent to which such funds are manifestly in excess of the requirements for the purpose of free elementary education of the localities to which they belong.

"Elementary education" shall mean such education as may be given in the State-aided schools of Scotland pursuant to the provisions of the Education (Scotland) Act, 1872, and in terms of the Minutes of the Scotch Education Department in force for the time being, with respect to the administration of the parliamentary grant for public education. 35 & 36 Vict. c. 62.

Interests acquired after passing of Act.

14. Every interest, right, privilege, or preference which any person may acquire after the passing of this Act, in or relative to any educational endowment, or in the governing body thereof, or as member of any such governing body, or in or relative to any office, place, employment, pension, compensation allowance, bursary, or emolument in the gift of any such governing body, shall be subject to the provisions of any scheme made under this Act; and the governing body of an educational endowment shall not, during the continuance of the power of making schemes under this Act, begin to build, rebuild, or enlarge any school buildings, or teachers' residences, or buildings connected therewith, except with the written consent of the Commissioners, or under the directions of such a scheme, but this provision shall not prevent them from continuing any works begun before the passing of this Act, or from doing anything necessary for the repair or maintenance of buildings or residences existing at the passing of this Act.

Interests of particular classes to be kept in view.

15. In framing schemes it shall be the duty of the Commissioners, with respect alike to the constitution of the governing body and to educational provisions, to have regard to the spirit of founders' intentions, and in every scheme which abolishes or modifies any privileges or educational advantages to which a particular class of persons is entitled, whether as inhabitants of a particular area or as belonging to a particular class in life or otherwise, they shall have regard to the educational interests of such class of persons: Provided always, that where the founder of any educational endowment has expressly provided for the education of children belonging to the poorer classes, either generally or within a particular area, or otherwise for their benefit, such endowment for such education or otherwise for their benefit shall continue, so far as requisite, to be applied for the benefit of such children.

A.D. 1882.

Selection of beneficiaries.

16. In framing schemes the Commissioners shall provide that in making a selection from amongst those eligible for the benefits of any educational endowment, due regard shall be paid to merit as ascertained by examination, or in such other manner as the Commissioners shall determine.

Benefits to be extended to girls.

17. In framing schemes provision shall be made, so far as can be equitably arranged and as the circumstances of each particular locality require, for extending to both sexes the benefit of endowments.

Tenure of office of teachers, &c.

18. In every scheme the Commissioners shall provide for the dismissal at pleasure of every officer in the employment of the governing body and of every teacher and officer in the endowed school or schools to which the scheme relates, including the principal teacher or teachers, with or without a power of appeal in such cases and to such authority as to the Commissioners may seem expedient. A scheme may provide for the removal of any religious tests or qualifications applicable to teachers.

Inspection and audit.

19. Every scheme shall provide for the periodical inspection of any school sharing in any endowment, and for the periodical audit of the accounts of any endowment dealt with by the scheme, in such manner as the Scotch Education Department may from time to time prescribe. The cost of such audit and, except in the case of public or State-aided schools, the cost of such inspection shall be paid out of the funds of the endowment to which the scheme relates.

Provision for future alteration of schemes.

20. In any scheme the Commissioners may provide for the alteration of the scheme from time to time by the Court of Session upon application made with the consent of the Scotch Education Department by the governing body or any party interested, provided such alteration shall not be contrary to anything contained in this Act; and the governing body constituted under any provisional order passed in terms of the Endowed Institutions (Scotland) Act, or the Endowed Institutions (Scotland) Act, 1878, with consent of the Scotch Education Department, may apply to the court for the alteration of any such order from time to time as such governing body may deem necessary.

41 & 42 Vict. c. 48.

Procedure.

Preliminary inquiry.

21. Before preparing the draft of a scheme for any endowment or endowments the Commissioners may make such public examination or inquiry as they think proper, and shall give the governing body or governing bodies an opportunity of being heard.

Governing body may lodge draft scheme.

22. Any governing body or any governing bodies jointly may within two months after the commencement of this Act give notice in writing of their intention to submit a draft scheme for the consideration of the Commissioners, and if after such notice they submit such a scheme within four months after the commencement of this Act the Commissioners shall take it into consideration before preparing their scheme.

Printing and publication of draft schemes.

23. When the Commissioners have prepared the draft of a scheme they shall cause it to be printed, and printed copies of it to be sent to the governing body or governing bodies of the endowment or endowments to which it relates, and shall also cause the draft, or a proper abstract thereof, to be published in such manner as they think sufficient for giving information to all persons interested.

Governing body may lodge objections.

24. During two months after the first publication of the draft of a scheme the Commissioners shall receive any objections made to them in writing by any public body or persons interested respecting such scheme, and any amendments proposed thereon, and at any time after the expiration of such two months the Commissioners, if they think fit, may hold an inquiry, or they may refer the draft of the scheme, and the amendments proposed thereon, to an assistant commissioner, and direct him to hold a local public inquiry concerning the subject-matter of such scheme.

As to framing of schemes.

25. As soon as may be after the expiration of the said two months, or the holding of such inquiry by the Commissioners, or the receipt by the Commissioners of the report of the assistant commissioner on the local inquiry held by him (as the case may be), the Commissioners shall proceed to consider any objections made to them in writing respecting the draft scheme, and any amendments proposed thereon, and the report (if any), and thereupon they shall, if they think fit, frame a scheme in such form as they think expedient, and submit it for the approval of the Scotch Education Department, provided that where a scheme has been prepared and submitted in pursuance of this Act to the Commissioners, before the Commissioners have prepared the draft of a scheme, the Commissioners shall, if requested by the governing body who submitted it, submit such scheme with their own to the Scotch Education Department.

Approval of Scotch Education Department to schemes.

26. The Scotch Education Department, as soon as a scheme is submitted to them, shall, before approving the same, cause the scheme, or a proper abstract thereof, to be published in such manner as they think sufficient for giving information to all persons

A.D. 1882.

interested, together with a notice stating that during two months after the first publication of such notice the Scotch Education Department will receive any objections made to them in writing by any public body or persons interested respecting such scheme.

After the expiration of the said two months, unless a case has been submitted to the Court of Session within the time and in the manner herein-after provided, the Scotch Education Department may, if they think fit, approve the scheme or may remit the scheme, with such declaration as the nature of the case seems to them to require, to the Commissioners, and if they remit the scheme with a declaration the provisions contained in the immediately succeeding section shall apply.

The Scotch Education Department as soon as they approve a scheme shall forthwith, in such manner as they think sufficient for giving information to all persons interested, publish a notice that the scheme has been approved by them, and that unless within two months after the first publication of such notice a petition is presented to the Scotch Education Department as in this section mentioned, such scheme may be approved by Her Majesty by an Order in Council without being laid before Parliament.

During the said two months a petition praying that the scheme may be laid before Parliament may be presented to the Scotch Education Department by the governing body of the endowment to which the scheme relates, or by the town council of any burgh directly affected by the scheme, or by the school board, or by any ratepayers (not less than twenty) of any burgh or parish or place directly affected by the scheme, or by any person or persons having a vested interest in the endowment or any part of it.

Proceedings where scheme is remitted.

27. Where a scheme is remitted with a declaration the Scotch Education Department shall transmit to the Commissioners any objections made to them in writing respecting such scheme, and the Commissioners may thereupon proceed to prepare an amended scheme and may submit the same for the approval of the Scotch Education Department in the same manner and subject to the same provisions as are in this Act provided in the case of the approval of a scheme, and so on from time to time as often as occasion may require.

Quorum of Commissioners.

28. A scheme of the Commissioners shall not be submitted to the Scotch Education Department unless a majority of the Commissioners for the time being have signified in writing their approval of such scheme, but in all other respects three Commissioners may act under this Act.

Quorum of governing body.

29. The majority of members of a governing body who are present at a meeting of their body duly constituted shall have power to do anything that may be required to be done by a governing body for the purposes of this Act: Provided that this power shall be in addition to and not in restraint of any power which any meeting of such governing body may have independently of this Act.

30.—

Special case to Court of Session on questions of law.

(1.) If the governing body of any endowment to which a scheme relates, or any person or body corporate directly affected by such scheme, feel aggrieved by the scheme on the ground of the scheme being one which is not within the scope of, or made in conformity with this Act, or

(2.) if any person, holding any office, place, employment, pension, compensation allowance, bursary, or emolument under or arising out of an endowment dealt with by the scheme, feel aggrieved by the scheme on the ground that it does not save or make due compensation, as required by this Act, for his vested interests,—

such governing body, person, or body corporate may, within one month after the first publication of the scheme or amended scheme, submit a case to the Court of Session, to which the Commissioners shall and any others directly interested may be parties, for the opinion of the said Court on the question or questions therein stated, and if the Court is of opinion that the scheme is contrary to law on any of the grounds in this section mentioned, the Scotch Education Department shall not approve thereof, but they may, if they think fit, remit the same to the Commissioners with a declaration as herein-before provided.

Subject to the provisions of the immediately succeeding section, a case submitted under this section shall be framed, lodged, amended, heard, and otherwise dealt with in the same manner, as nearly as may be, as a special case presented in terms of the sixty-third section of the Court of Session Act, 1868.

31 & 32 Vict. c. 100.

Deliverance of Court of Session final. Disposal of questions of expenses.

31. In any proceeding before the Court of Session authorised by this Act, the judgment or deliverance of the Court shall be final and not subject to review; and the Court shall dispose of all questions of expenses, and may, if they think fit, direct the expenses or any part thereof (including the expenses of the Commissioners) to be paid out of the funds of the educational endowment to which the proceeding relates: Provided always, that it shall not be lawful for the Court to find the Commissioners liable in expenses.

A.D. 1882.

Scheme to be approved by Order in Council. When to be laid before Parliament.

32. If at the expiration of the time for a petition to the Scotch Education Department praying that a scheme be laid before Parliament no such petition has been presented, it shall be lawful for Her Majesty, by Order in Council, to declare her approbation of such scheme without the same being laid before Parliament.

If any such petition has been presented, the Scotch Education Department shall, as soon as may be, cause the scheme to be laid before both Houses of Parliament; and after it has lain two months before Parliament, then, unless within such two months an address has been presented by one or other of the said Houses praying Her Majesty to withhold her consent from such scheme or any part thereof, it shall be lawful for Her Majesty by Order in Council to declare her approbation of such scheme or any part thereof, to which such address does not relate.

A scheme when approved by Her Majesty in Council shall have full operation and effect from the date of such Order in Council, in the same manner as if it had been enacted in this Act; and thereupon every Act of Parliament, letters patent, statute, deed, instrument, trust, or direction relating to the subject-matter of the scheme, so far as inconsistent with the provisions thereof, shall be repealed and abrogated.

Provision as to schemes for endowments under 50*l.* annual value. 41 & 42 Vict. c. 78.

33. In the case of endowments belonging to any State-aided school or to any public school under the Education (Scotland) Acts, 1872 and 1878, of less annual value than fifty pounds, the procedure herein-before prescribed shall not apply, if the governing body of such endowment or the school board, as the case may be, frame and submit to the Scotch Education Department a scheme respecting such endowment.

The Scotch Education Department may approve such scheme with or without any modifications as they think fit.

In framing and approving such scheme the same powers may be exercised, and subject to the same conditions, as nearly as may be, as in the case of any scheme under this Act; and such scheme, when approved by the Scotch Education Department, shall have effect as if it were a scheme approved by Order in Council under this Act.

Amendment of schemes.

34. Schemes may be from time to time framed and approved for amending any scheme approved under this Act, and all the provisions of this Act relative to an original scheme shall apply also to an amending scheme, mutatis mutandis.

Evidence of scheme.

35. The Order in Council approving a scheme shall be conclusive evidence that such scheme was within the scope of and made in con-

formity with this Act, and the validity of such scheme and order shall not be questioned in any legal proceedings whatever.

Inquiry by assistant commissioner.

36. Where any assistant commissioner holds a local public inquiry under this Act, he shall for that purpose hold a sitting or sittings in some convenient place in the neighbourhood of the place where the endowment or endowments to which the scheme relates is situate or administered, and shall thereat take and receive any evidence, oral or documentary, offered, or which may have been called for or produced under the powers contained in the immediately succeeding section, and shall hear and inquire into any objections respecting the scheme or the endowment or endowments, with power from time to time to adjourn any sitting.

Notice shall be published in such manner as the Commissioners direct of every such sitting (except an adjourned sitting) fourteen days at least before the holding thereof.

Power to cite witnesses, &c.

37. In the execution of this Act the Commissioners shall have the same powers as a judge of the Court of Session with regard to the citation and examination of witnesses and the recovery and inspection of documents, and it shall not be necessary that any warrant of citation or order shall be signed by more than one Commissioner, and if any warrant or order of the Commissioners in exercise of the said powers is not obeyed, a judge of the Court of Session may on summary application by the Commissioners grant a second warrant of citation and diligence in ordinary form, or make such other order as may be necessary.

This section shall authorise the citation and examination of witnesses and the recovery and inspection of documents before an assistant commissioner; and any assistant commissioner may administer an oath or affirmation, as the case may be, to any witness or haver.

As to report of assistant commissioner.

38. The assistant commissioner who holds a local inquiry shall make a report in writing to the Commissioners, setting forth the result of the inquiry, and whether in his opinion the draft scheme referred to him should be approved with or without alteration, and if with any, then with what alteration, and his reasons for the same, and the objections, if any, made on the inquiry and his opinion thereon.

Cost of publishing scheme, &c.

39. The cost of publishing and circulating any draft scheme, or scheme or any abstract thereof, under this Act, shall be paid out of the funds of the endowment or endowments to which the same relates. Provided that if the Scotch Education Department or the Commissioners cause any draft scheme or scheme or abstract

A.D. 1882.

thereof to be published in the Edinburgh Gazette no fees shall be exigible in respect of such publication.

Miscellaneous.

Service of notices.

40. Notices and documents required to be served on or sent to a governing body for the purposes of this Act may be served or sent by being left at the office, if any, of such governing body, or being served on or sent to the chairman, secretary, clerk, or other officer of such body, or if there is no office, chairman, secretary, clerk, or officer, or none known to the Commissioners after reasonable inquiry, by being served on or sent to the principal teacher of the endowed school, if any, under such governing body.

Service by post.

41. Notices and documents required to be served or sent for the purposes of this Act may be served or sent by post, and shall be deemed to have been served and received at the time when the letter containing the same would be delivered in the ordinary course of the post; and in proving such service or sending it shall be sufficient to prove that the letter containing the notices or documents was properly addressed and put into the post office.

Signature and evidence of documents of the Scotch Education Department.

42. Any scheme, declaration, minute, notice, or other document for the purposes of this Act, if purporting to be signed by a secretary or assistant secretary of the Scotch Education Department, shall, unless the contrary is proved, be deemed to have been so signed and to have been approved or made, as the case may be, by the said Department.

Annual reports.

43. The Commissioners shall in every year make to the Scotch Education Department a report of their proceedings under this Act during the preceding year, and the Scotch Education Department shall cause such report to be laid with all convenient speed before both Houses of Parliament.

Returns, &c. by governing body.

44. Every governing body shall make such reports and returns and give to the Commissioners such information as to the funds, estates, property, and income under the control of the governing body as the Commissioners may from time to time require.

Every governing body shall make such reports and returns and give such information to the Scotch Education Department as the Department may from time to time require.

Inspection and audit where endowments regulated under former Acts. 41 & 42 Vict. c. 48.

45. The accounts of every endowment which has been regulated, in whole or in part, by a Provisional Order made and confirmed pursuant to the provisions of the Endowed Institutions (Scotland) Act, or the Endowed Institutions (Scotland) Act, 1878,

shall be periodically audited, and any school sharing in such endowment shall be periodically inspected, in such manner as the Scotch Education Department may from time to time prescribe. The cost of such audit, and, except in the case of public or State-aided schools, the cost of such inspection shall be paid out of the funds of the endowment to which the Provisional Order relates.

Provision for default of governing body.

46. If the governing body of any educational endowment fail to give effect to the provisions of any scheme approved under this Act, or of any Provisional Order made and confirmed under the Endowed Institutions (Scotland) Act or the Endowed Institutions (Scotland) Act, 1878, it shall be lawful for the Scotch Education Department, upon the application of the town council of any burgh directly affected by such scheme or Provisional Order, or of the school board, or of any ratepayers (not less than twenty) of any burgh, or parish, or place directly affected thereby, or of any person or persons having a vested interest in the endowment or any part of it, and after such inquiry as they shall think proper, to send a requisition to such governing body, requiring them to give effect to the provisions of the scheme or Provisional Order, and the governing body shall comply with the said requisition without undue delay, and, if they fail, may be summarily compelled to do so by the Court of Session, on a petition and complaint at the instance of the Lord Advocate.

Duration of powers of making schemes.

47. The powers of making and approving of a scheme under this Act shall not, unless continued by Parliament, be exercised after the thirty-first of December one thousand eight hundred and eighty-seven.

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