2005 No. 570 (C.29)

EDUCATION

The School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004 (Commencement No. 2 and Transitional Provisions) Order 2005

Made - - - - 10th November 2005

The Scottish Ministers, in exercise of the powers conferred by section 9(2) and (3) of the School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004(**a**) and of all other powers enabling them in that behalf, hereby make the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004 (Commencement No. 2 and Transitional Provisions) Order 2005.

(2) In this Order–

(a) "the Act" means the School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004; and

(b) "the 1980 Act" means the Education (Scotland) Act 1980(**b**).

Appointed day for commencement of Part 2 and Part 3 of, and schedules 1 and 2 to, the Act

2. Subject to article 3(2), the appointed day for the coming into force of the following provisions of the Act is 31st December 2005–

(a) Part 2;

(b) Part 3 (so far as not already in force)(**c**);

(c) schedule 1 (so far as not already in force)(**d**); and

(d) schedule 2.

Transitional Provisions

3.—(1) Where, immediately before 31st December 2005, the registration of an independent school is provisional only under the 1980 Act,(**e**) that school's registration shall be treated for all

(**a**) 2004 asp 12.
(**b**) 1980 c.44.
(**c**) Section 8(1) of Part 3 was brought partially into force on 31st January 2005 by the School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004 (Commencement No. 1) Order 2005 (S.S.I. 2005/10).
(**d**) Paragraphs 1(8)(b), 1(8)(c) and 2 of Schedule 1 were brought into force on 31st January 2005 by S.S.I. 2005/10.
(**e**) Section 98 of the 1980 Act deals with the registration of independent schools. The definition in section 135 of the 1980 Act of a "provisionally registered school" means an independent school registered in the register of independent schools whereof the registration is provisional only. That definition is repealed by section 8(2) of, and schedule 2 to, the Act.

purposes as if an application for registration in respect of it had been granted on that date under section 98A(3) of the 1980 Act(**a**).

(2) In respect of any provider of full-time education to pupils of school age who, immediately before 31st December 2005, is neither registered nor provisionally registered as an independent school, and who is providing such education to fewer than five pupils, the provisions commenced by this Order shall not apply until 30th June 2006.

ROBERT E BROWN
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
10th November 2005

(**a**) Section 4(2) of the Act substituted section 98A of the 1980 Act with a replacement section 98A. The substituted section 98A(3) makes provision for the granting of an application for registration.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force, on 31st December 2005, the remaining provisions of the School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004 ("the Act").

Part 2 of the Act, which is brought into force, deals with independent schools. Part 2 makes amended provision for the registration and regulation of such schools, and deals with a range of other matters relating to independent schools. These include removing the minimum numbers threshold in the definition of an independent school.

Part 3, also brought into force, deals with general matters, and introduces the two schedules to the Act. Schedule 1 makes minor and consequential amendments to the Education (Scotland) Act 1980, and schedule 2 makes minor repeals, again largely in relation to the 1980 Act.

The Order also makes transitional provisions as detailed in article 3.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force by the School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004 (Commencement No.1) Order 2005 (S.S.I. 2005/10).

Provision	*Date of Commencement*
(a) Part 1	31st January 2005
(b) section 8(1) of Part 3, but only so far as relating to provisions of schedule 1 mentioned below	31st January 2005
(c) paragraphs 1(8)(b), 1(8)(c) and paragraph 2 of schedule 1	31st January 2005

SCOTTISH STATUTORY INSTRUMENTS

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