

SCHOOLS (CONSULTATION) (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

General

Schedule 1 – Relevant proposals

68. This schedule is introduced by section 2. It sets out the categories of proposal in respect of which authorities must conduct consultations according to the Act's provisions.
69. In the 1981 Regulations, (which will be revoked as a result of the repeal of sections 22A and 22B of the 1980 Act), there are 23 “kinds of proposal” in respect of which authorities must conduct consultations in the manner set out in those Regulations. In schedule 1 those 23 categories have been consolidated and grouped into 10 broad categories, but without loss of any of the 23 current categories.
70. [Paragraphs 1 to 10](#) of the schedule set out the “grouped” categories of relevant proposals.

Closure (paragraph 1)

71. These are proposals for the permanent discontinuation of: a school; all the nursery classes in a school; a stage of education in a school; or the provision of either Gaelic or English medium education in all of the nursery classes in a school or in a stage of education, whether or not it is to be continued in the other medium. Section 21(1) (a) of the Act defines school as meaning any school under the management of an education authority, which means a public school as defined in section 135(1) of the 1980 Act. Under section 135(1) this therefore means that, in addition to primary and secondary schools, the following are also included within the meaning of “school”¹: a stand-alone special school; a special class within a mainstream school¹; and a nursery school. Nursery classes in a school and stage of education in a school are as defined in paragraph 12 of schedule 1 to the Act. Also caught within paragraph 1(4) and (5) are proposals to make arrangements, howsoever described, which would result or be likely to result in the permanent discontinuation of a school, stage of education or the provision of Gaelic or English medium education in all the nursery classes or a stage of education (apart from a nursery class) in a school. Permanent discontinuation excludes temporary discontinuance, for instance, in an emergency, by way of planned decant for a period, or because the school roll has meantime fallen to zero.
72. If a relevant proposal falls within more than one of the categories set out in paragraphs 1 to 9 (ie proposals affecting schools not FE centres) of this schedule, it is to be regarded as falling solely within paragraph 1. In other words it is to be treated as a closure proposal.

¹ A special class is a class for pupils with additional support needs within a mainstream school. Paragraph 12 of the schedule defines “special school” and “special class”.

Establishment (paragraph 2)

73. These are proposals to establish a new school or a new stage of education in a school. Given the meaning of “school” (as in paragraph 72 above) paragraph 2 of schedule 1 therefore also covers a proposal to establish a special class within a mainstream school.

Relocation (paragraph 3)

74. These are proposals to relocate a school or a nursery class in whole or in part. In the 1981 Regulations such proposals were described as “change of site”.

Admission arrangements (paragraph 4)

75. These are proposals to vary any of the admission arrangements for a school, including its catchment area (replacing the term “delineated area” used in the 1981 Regulations) or placing request guidelines formulated under section 28B(1)(c) of the 1980 Act. Other types of proposal included here would be a change in selection procedures for schools or converting a school which is a single sex school to a “mixed” school or *vice versa*.

Transfer from primary to secondary school (paragraph 5)

76. Included here are proposals to vary, for instance, the relationship between a secondary school and its “feeder” primary schools, or to change the age and time at which primary pupils transfer to secondary school.

Primary school commencement date (paragraph 6)

77. These are proposals to vary the number or other details of commencement dates (for starting primary school) fixed under section 32 of the 1980 Act.

Special class outwith a special school (paragraph 7)

78. These are proposals for varying the arrangements for special classes in a mainstream school.

Transport to a denominational school (paragraph 8)

79. These are proposals specifically to discontinue arrangements for the provision of school transport (provided under section 51 of the 1980 Act) to and from a denominational school.

Changing from denominational to non-denominational school (paragraph 9)

80. These are proposals for a denominational school to become a non-denominational school in terms of section 22(4) of the 1980 Act.

Discontinuance of a further education centre (paragraph 10)

81. These are proposals to discontinue a local authority managed further education centre. Such centres now exist only in Orkney and Shetland. Further education colleges and centres elsewhere in Scotland are no longer run by local authorities. Paragraph 10 sets out what sort of a facility is included within the term “further education centre” and what is not.

Meaning of expressions used in this schedule (paragraphs 11 & 12)

82. Paragraph 11(1) defines what is meant by a school “affected” by a proposal and sub-paragraph (2) offers examples such as the school proposed for closure and the schools to which its pupils would transfer; or the schools whose pupils would transfer to a newly established school. Sub-paragraph (3) excludes from the definition of an “affected”

*These notes relate to the Schools (Consultation) (Scotland) Act
2010 (asp 2) which received Royal Assent on 5 January 2010*

school one where the only impact would be the likelihood of its being subject to placing requests as a result of the implementation of the proposal.

83. Paragraph 12 defines the terms “catchment area”, “nursery class”, “primary school”, “primary education”, “secondary school”, “secondary education”, “further education” and “school commencement date” by reference to section 135(1) and (2) of the 1980 Act. “Denominational school” is defined by reference to section 21 of the 1980 Act, which in turn makes reference to sections 16(1) and 17(2) of the 1980 Act.² “Special school” and “special class” are defined by reference to the Education (Additional Support for Learning) (Scotland) Act 2004. “English medium education”, “Gaelic medium education” and “stage of education” are defined within paragraph 12 itself.

² Denominational schools are either as: transferred to education authorities under section 16(1); or provided by education authorities under section 17(2).