
 S T A T U T O R Y I N S T R U M E N T S

1981 No. 1558 (S.159)

EDUCATION, SCOTLAND

**The Education (Publication and Consultation Etc.)
(Scotland) Regulations 1981**

Made - - - - - 30th October 1981
Laid before Parliament 6th November 1981
Coming into Operation 1st December 1981

In exercise of the powers conferred on me by sections 22A and 22B 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 Education (Publication and Consultation Etc.) (Scotland) Regulations 1981 and shall come into operation on 1st December 1981.

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;

“college council” means a body appointed under section 125(1) of the Local Government (Scotland) Act 1973(b) and within the meaning of section 125(2)(b) of that Act;

“course” means a course of instruction in which progressive study is undertaken throughout the period of the course of a subject or a number of related subjects;

“date of a proposal” in relation to any person requiring to be consulted by virtue of these regulations means the date upon which consultation with such person, in relation to the proposal, commences;

“delineated area” in relation to a school means that part of the area of an education authority from which pupils resident therein will be admitted to the school in terms of any priority based on residence in accordance with the guidelines formulated by the authority under section 28B(1)(c) of the Act;

“further education centre” means an institution for provision of further education; the expression does not include a centre wholly or mainly for provision of social, cultural and recreative activities or a centre for provision of courses of further education available in the evening

(a) 1980 c. 44; sections 22A and 22B were inserted by section 6 of the Education (Scotland) Act 1981 (c. 58).

(b) 1973 c. 65.

only but includes the premises used by the institution or, if the said premises are not used exclusively by the institution, the said premises in so far as and for such period as they are used by the institution;

“school council” means a body appointed under section 125(1) of the Local Government (Scotland) Act 1973 and within the meaning of section 125(2)(a) of that Act;

“single sex establishment” means a single sex establishment within the meaning of section 26(1) of the Sex Discrimination Act 1975(a).

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

(3) In these regulations a reference to a school affected by a proposal is a reference to a school to which the proposal relates, and which, in the event of implementation of the proposal, would be affected by that implementation or by the implementation of any part of the proposal and such a reference shall include a school to which pupils may be transferred or from which pupils may be transferred as a consequence of implementation of the proposal and in accordance with arrangements made by the education authority making the proposal.

(4) In Schedule 1 the expression “school” shall not for the purposes of that Schedule include a special class within the meaning of section 135(1) of the Act.

Proposals prescribed for the purpose of section 22A of the Act

3. The kinds of proposal hereby prescribed for the purposes of section 22A of the Act (which an education authority are required to publish or otherwise make available and on which they are required to consult in pursuance of subsection (1) of that section and in accordance with these regulations) shall be the kinds of proposals specified in Column 1 of Schedule 1.

Persons to be consulted on prescribed kinds of proposals

4. The persons prescribed for the purposes of section 22A of the Act (being persons whom an education authority are required to consult in pursuance of section 22A(1) and in accordance with these regulations) shall, as respects any proposal of a kind mentioned in Column 1 of Schedule 1, be the persons or bodies specified in Column 2 of that Schedule opposite the reference to that kind of proposal in Column 1.

Manner of consultations

5.—(1) This regulation and the next three regulations shall apply in relation to the manner of consultations requiring to be carried out in pursuance of section 22A(1) of the Act and these regulations: provided that in this regulation, with the exception of paragraphs (5) and (7) a reference to a parent shall, in the case of consultations in relation to a further education centre, be construed as a reference to a student or employer, as the case may be, requiring to be consulted in accordance with regulation 4 and Schedule 1, paragraph (y).

(2) Subject to paragraph (7), consultation with every parent requiring to be consulted in accordance with regulation 4 and Schedule 1, paragraphs (a)

to (m), shall take the form of a notification being issued by an education authority to every such parent being a notification in which the authority shall include a statement outlining the proposal or such part thereof as in their opinion affects the parent to whom the notification is issued, and state where full details of the proposal may be obtained and shall both or either—

- (a) state an address to which representations on the proposal or such part may be submitted to the authority within the period specified in the notification (being a period of not less than 28 days from the date upon which the notification is by virtue of paragraph (6) deemed to have been received by a parent);
- (b) state the date, time and place of a meeting to be arranged by the authority at which representatives of the authority shall be present for the purposes of explaining the proposals, answering questions thereon and taking account of the representations of parents made at the meeting.

(3) Any meeting mentioned in paragraph (2) shall be held outwith normal working hours not less than 14 days after the date upon which the notification (referred to in paragraph (2)) is by virtue of paragraph (6) deemed to have been received by a parent and the place selected for the purpose of holding such a meeting shall be such place as in the opinion of the education authority is most convenient on account of its geographical situation in relation to the area of residence of parents expected to attend.

(4) Subject to paragraph (5), any notification mentioned in paragraph (2) shall be issued by post or by hand to each parent requiring to be consulted.

(5) Where a child of a parent requiring to be consulted is in attendance at a school under the management of the education authority, the authority may arrange for the notification to be handed to him for delivery to his parent.

(6) For the purposes of paragraphs (2) and (3) a notification shall be deemed to have been received by a parent on the day immediately following the date of issue of the notification unless the contrary, that it was received at a later date, is proved.

(7) Notwithstanding paragraph (2), consultation with a parent of a child who is not at the date of a proposal of school age and not in attendance at a primary school under the management of an education authority, being a parent requiring to be consulted in accordance with regulation 4 and Schedule 1 paragraphs (a) to (f) and (h) may take the form of notification by way of advertisement in a local newspaper circulating in the district in which the school affected by the proposal is situated, outlining the proposal and stating where full details of the proposal may be obtained and both or either of the matters specified in paragraph (2)(a) and (b); and in relation to such a parent, for the purposes of paragraph (2)(a) and (b), notification shall be deemed to have been received by him on the day immediately following the date of the advertisement.

Manner of consultations with school and college councils

6. For the purpose of consultation with a school council or a college council an education authority shall give to the clerk of the council full details of the proposal in relation to which consultation is required to take place and shall request him to submit to them within a period specified in the request, being a period of not less than 28 days from the date of the request, written representations of the school council or, as the case may be, college council.

Manner of consultation relating to denominational schools

7.—(1) For the purpose of consultation with the church or denominational body (if any) in whose interest any school affected by a proposal is conducted an education authority shall give full details thereof to any person authorised for the purpose by that church or body and shall invite representations in writing to be made to them within a period of not less than 28 days from the date of receipt by that person of the full details of the proposal in accordance with the provisions of this regulation.

(2) For the purpose of paragraph (1) the person authorised as therein mentioned shall be deemed to have received full details of the proposal on the day immediately following the date upon which the full details were given unless the contrary, that they were received at a later date, is proved.

Publication by advertisement and availability of proposals

8.—(1) This regulation shall apply in relation to publication of proposals of any of the kinds mentioned in Schedule 1, paragraphs (n), (o), (q), (r), by advertisement and to making such proposals available in pursuance of section 22A(1) of the Act.

(2) In relation to any such proposal an education authority shall cause to be inserted in a local newspaper circulating in that part of the area of the authority affected by the proposal brief details of such a proposal and information as to where full details thereof may be obtained in accordance with paragraph (3) and requesting written representations with respect to the proposals to be lodged at such address and by such date as may be specified in the advertisement (being a date not less than 28 days from the date of the advertisement).

(3) Full details of any such proposal shall be made available for reference on request at—

- (a) the head office of the education department of the authority or the divisional office for that part of the area of the authority in which any school affected by the proposal is situated;
- (b) with the consent of the appropriate library authority, at any public library within that part of the area mentioned in (a) above;
- (c) any school affected by the proposal;

during normal working hours on any working day between the date of the advertisement mentioned in paragraph (2) and the date specified therein.

Proposals prescribed for the purposes of section 22B of the Act

9. For the purposes of section 22B(1) of the Act, the kinds of proposals which an education authority may not by virtue of that subsection implement without the consent of the Secretary of State shall be the kinds of proposals specified in Schedule 2.

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

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

SCHEDULE 1

Regulations 3 and 4

KINDS OF PROPOSAL TO BE PUBLISHED OR MADE AVAILABLE AND PERSONS TO BE CONSULTED THEREON IN ACCORDANCE WITH SECTION 22A OF THE ACT

Col 1 Kinds of proposal	Col 2 Persons to be consulted
(a) Proposal to discontinue a school or stage of education in any school.	<ul style="list-style-type: none"> i. the parent of every pupil in attendance at any school affected by the proposal; ii. the parent or every child, being a child of whose existence the authority are aware who would be expected to be in attendance at the school or stage of education to be discontinued within two years from the date of the proposal; iii. the school council responsible for any school affected by the proposal; iv. any person authorised for the purpose by the church or denominational body (if any) in whose interest any school affected by the proposal is conducted.
(b) Proposal to change the site of any school.	<ul style="list-style-type: none"> i. the parent of every pupil in attendance at the school the site of which is to be changed; ii. the parent of every child, being a child of whose existence the authority are aware who would be expected to be in attendance at that school within two years from the date of the proposal; iii. the school council responsible for that school; iv. any person authorised for the purpose by the church or denominational body (if any) in whose interest that school is conducted.
(c) Proposal to provide a new school.	<ul style="list-style-type: none"> i. the parent of every pupil who, in the event of the proposal being implemented, would be liable to be requested by the authority to change from the school attended by him prior to that event to another school; ii. the parent of every child in attendance at a primary school who is expected to transfer to secondary education within 2 years of the date of the proposal and who would, in the event of the proposal being implemented, be expected to transfer to a secondary school, other than that to which he would otherwise have been expected to transfer;

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| | <ul style="list-style-type: none"> iii. the parent of every child of whose existence the authority are aware who has not commenced attendance at primary school but is expected to commence such attendance within 2 years of the date of the proposal and, who would in the event of the proposal being implemented, be expected to attend a primary school other than that which he would otherwise have been expected to attend; iv. the school council responsible for any school affected by the proposal; v. any person authorised for the purpose by the church or denominational body (if any) in whose interest a school affected by the proposal is conducted. |
| <p>(d) Proposal to vary any arrangements adopted by an education authority in relation to any school and applied at the date of coming into operation of these regulations, being arrangements which, if made after that date, would in effect have constituted a delineated area in respect of that school.</p> | <p>persons as for proposal in paragraph (c) of column 1.</p> |
| <p>(e) Proposal to delineate any part of the authority's area as a delineated area in relation to any school, where the proposed delineation differs in effect from arrangements as mentioned in paragraph (d), if any.</p> | <p>persons as for proposal in paragraph (c) of column 1.</p> |
| <p>(f) Proposal to vary any delineated area in relation to any school.</p> | <p>persons as for proposal in paragraph (c) of column 1.</p> |
| <p>(g) Proposal to vary any arrangements for the time being in operation for the transfer of pupils from a primary school to a secondary school by virtue of which variation, in the event of the proposal being implemented, pupils will normally transfer to a secondary school other than that to which they would normally have transferred hitherto.</p> | <ul style="list-style-type: none"> i. the parent of every pupil in attendance at any primary school affected by the proposal; ii. the parent of every pupil in attendance at any secondary school affected by the proposal who would, in the event of the proposal being implemented, be liable to be requested to change schools; iii. the school council responsible for any school affected by the proposal; iv. any person authorised for the purpose by the church or denominational body (if any) in whose interest a school affected by the proposal is conducted. |

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- (h) Proposal for provision at a school of a stage of primary or of secondary education not hitherto there provided.
- i. the parent of every pupil in attendance at the school at which the stage of primary or of secondary education is proposed to be provided;
 - ii. the parent of every child being a child of whose existence the authority are aware who would be expected to be in attendance at that school within 2 years from the date of the proposal;
 - iii. the parent of every pupil who would, in the event of the proposal being implemented, be liable to be requested to change schools;
 - iv. the school council responsible for any school affected by the proposal;
 - v. any person authorised for the purpose by the church or denominational body (if any) in whose interest a school affected by the proposal is conducted.
- (i) Proposal to make or vary arrangements for the constitution of a special class as part of a school other than a special school.
- i. the parent of every pupil who, in the event of the proposal being implemented, would be liable to be requested by the authority to change schools;
 - ii. the school council responsible for any school of which the special class is or is proposed to form part;
 - iii. any person authorised for the purpose by the church or denominational body (if any) in whose interest a school of which the special class is or is proposed to form part is conducted.
- (j) Proposal for constitution, variation or discontinuance of arrangements whereby pupils are selected for admission to any school with reference to their aptitude or ability or the likelihood of their profiting from a particular course of secondary education provided for at that school.
- i. the parent of every pupil in attendance at the school to which the arrangements for admission are proposed to apply;
 - ii. the school council responsible for that school;
 - iii. any person authorised for the purpose by the church or denominational body (if any) in whose interest that school is conducted.
- (k) Proposal to change a school being a single sex establishment admitting pupils of one sex, into a school admitting also pupils of the opposite sex.
- i. the parent of every pupil in attendance at the school for which the admission arrangements are to be changed;
 - ii. the school council responsible for that school;
 - iii. any person authorised for the purpose by the church or denominational body (if any) in whose interest that school is conducted.

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| (l) Proposal to change a school, being a single sex establishment admitting pupils of one sex, into a school admitting pupils of the opposite sex only. | persons as for proposal in paragraph (k) of column 1. |
| (m) Proposal to change a school, being a school admitting pupils of both sexes, into a school admitting pupils of one sex only. | persons as for proposal in paragraph (k) of column 1. |
| (n) Proposal for a change in the age and timing or age or timing of transfer of pupils from the stage of primary education to secondary education. | <ul style="list-style-type: none"> i. every person making representations to the authority under regulation 8(2); ii. the school council responsible for any school affected by the proposal; iii. any person authorised for the purpose by the church or other denominational body (if any) in whose interest any school affected by the proposal is conducted. |
| (o) Proposal in relation to a primary school to change from one school commencement date to two or more such dates or for a reduction in the number of such dates fixed in terms of section 32 of the Act. | persons as for proposal in paragraph (n) of column 1. |
| (p) Proposal to vary any practice adopted by an education authority with respect to regulating priorities for admission to any school at the date of coming into operation of these regulations, being a practice which, if adopted, after that date would have had effect as guidelines formulated under section 28B(1)(c) of the Act. | <ul style="list-style-type: none"> i. the school council responsible for any school affected by the proposal; ii. any person authorised for the purpose by the church or other denominational body (if any) in whose interest any school affected by the proposal is conducted. |
| (q) Proposal for the formulation of guidelines to be followed as respects placing in schools generally in accordance with section 28B(1)(c) of the Act, in so far as such proposal is for guidelines which differ from the practices mentioned in paragraph (p), if any. | persons as for proposal in paragraph (n) of column 1. |
| (r) Proposal for revision of the guidelines mentioned in category (q) above. | persons as for proposal in paragraph (n) of column 1. |
| (s) Proposal to formulate guidelines to be followed as respects placing in any particular school in the event of there being more placing requests made in respect of that school or in respect of any stage of school education provided in any particular school than there are places available. | <ul style="list-style-type: none"> i. the school council responsible for the school to which the guidelines will relate; ii. any person authorised for the purpose by the church or denominational body (if any) in whose interest that school is conducted. |

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| (t) | Proposal for the revision of any guidelines mentioned in paragraph (s) above. | persons as for proposal in category(s) of column 1. |
| (u) | Proposals to fix a maximum number of pupils who the authority intend should be educated in any particular school or at any particular stage of education provided at a particular school. | <ul style="list-style-type: none"> i. the school council responsible for the school to which the maximum number will relate; ii. any person authorised for the purpose by the church or denominational body (if any) in whose interest that school is conducted. |
| (v) | Proposal to vary any maximum number so fixed. | persons as for proposal in paragraph (u) of column 1. |
| (w) | Proposal to discontinue arrangements for the time being in force with respect to the facility referred to in section 51(1)(a) of the Act (provision of transport) provided with respect to pupils attending a school transferred to the education authority under section 16(1) or provided by them under section 17(2) of the Act; and in this paragraph the reference to sections 16(1) and 17(2) of the Act shall include a reference to the corresponding provision of the Education (Scotland) Act 1918(a), the Education (Scotland) Act 1946(b) and the Education (Scotland) Act 1962(c); provided that a proposal shall not be included in this category unless it relates solely to schools of the kind referred to above. | any person authorised for the purpose by the church or denominational body in whose interest any school affected by the proposal is conducted. |
| (x) | Proposal to reach the opinion in terms of section 22(4) of the Act that the conditions prescribed in section 21(1) to (4) of the Act ought no longer to apply to a school, being such a school as is referred to in paragraph (w) above; and | any person authorised for the purpose by the church or denominational body in whose interest any school affected by the proposal is conducted. |
| (y) | Proposal to discontinue a further education centre. | <ul style="list-style-type: none"> i. the college council of the further education centre to be discontinued; ii. any student attending that further education centre who would in the event of and by reason only of the proposal being implemented, be prevented from completing his course of study, unless he enrolled in a different further education centre or obtained tuition by other means; iii. the employer of any such student. |

(a) 1918 c. 48.

(b) 1946 c. 72.

(c) 1962 c. 47.

Regulation 9

SCHEDULE 2

KINDS OF PROPOSALS PRESCRIBED FOR THE PURPOSES OF SECTION 22B OF THE ACT (PROPOSALS REQUIRING CONSENT OF THE SECRETARY OF STATE)

The kinds of proposals prescribed for the purposes of section 22B of the Act are specified as follows—

- (a) proposals to discontinue any school or stage of education in any school which if implemented would result in any child in attendance at that school
 - (i) where the school is a primary school, having to attend a different primary school at a distance of 5 or more miles from that school that distance being measured by the nearest available route; or
 - (ii) where the school is a secondary school, having to attend a different secondary school at a distance of 10 or more miles from that school that distance being measured by the nearest available route;
 - (b) proposals to change the site of any school which if implemented would result, in the case of a primary school, in the new site thereof being more than 5 miles distant from the previous site; and, in the case of a secondary school, in the new site thereof being more than 10 miles distant from the previous site.
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EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations provide as to the kinds of proposals on matters relating to schools on which an education authority is required to make information available, to publish and to consult before implementation in accordance with section 22A of the Education (Scotland) Act 1980. They also provide as to the kinds of proposals on such matters which require the consent of the Secretary of State before implementation.

Regulation 3 and Schedule 1 Column 1 prescribe the kind of proposals on which such consultation is required to be carried out;

Regulation 4 and Schedule 1 Column 2 prescribe the persons with whom such consultations are required to take place;

Regulation 5 provides for the procedures to be followed in consultation on proposals;

Regulations 6 and 7 provide for manner of consultation with school councils and relating to denominational schools;

Regulation 8 provides for publication by advertisement of certain kinds of proposal; and

Regulation 9 and Schedule 2 prescribe the kinds of proposals to which the Secretary of State's consent is required before implementation.

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