
STATUTORY INSTRUMENTS

1982 No. 1222 (S. 145)

EDUCATION, SCOTLAND

The Education (Record of Needs) (Scotland) Regulations 1982

<i>Made - - - -</i>	<i>24th August 1982</i>
<i>Laid before Parliament</i>	<i>13th September 1982</i>
<i>Coming into Operation</i>	<i>1st January 1983</i>

In exercise of the powers conferred on me by section 65D 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 (Record of Needs) (Scotland) Regulations 1982 and shall come into operation on 1st January 1983.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

“the Act” means the Education (Scotland) Act 1980;

“assessment profile” in relation to a recorded child or recorded young person means the description of that child or young person current for the time being and prepared by the education authority responsible for the provision of education for him, having regard to the advice afforded to the authority in any process of assessment of him and in particular but without prejudice to that generality the advice so afforded in relation to his aptitudes, interests, abilities and impairments;

“named person” in relation to a Record means the person to whom application may be made in terms of section 62(2)(c) of the Act for advice and information about the special educational needs of the recorded child or the recorded young person to whom the Record relates;

“process of assessment” means the process of assessment undergone by a recorded child or recorded young person in pursuance of section 61 of the Act, or of that section as modified under, and for the purposes of, section 65A of the Act;

“responsible party” in relation to a Record means the parent of the recorded child, or the recorded young person, or where the education authority are of the opinion that the recorded young person cannot act in his own behalf, his parent.

(2) In these regulations, unless the context otherwise requires, any reference to a regulation is a reference to a regulation of these regulations and any reference in a regulation to a paragraph is a reference to a paragraph of that regulation.

(a) 1980 c.44. Section 65D was inserted by section 4 of the Education (Scotland) Act 1981 (c.58).

The Record

3.—(1) Every Record shall be in the form set out in the Schedule to these regulations and shall include four parts containing respectively the matters mentioned in section 65D(2)(a) to (d) of the Act, and an assessment profile.

(2) There shall be entered in every Record information with respect to the following matters—

- (a) the full name and address of the recorded child or recorded young person to whom it relates, his age, the name and address of his parent, and where his parent is a member of the armed forces, particulars of that membership;
- (b) the name, address and telephone number (if any) of the named person;
- (c) any views relating to the opening and keeping of the Record which may be expressed to the education authority by the responsible party;
- (d) disclosure, review, discontinuance and preservation of the Record;
- (e) issue, return and destruction of copies of, and extracts from, the Record.

Custody of Record and copies thereof

4.—(1) Subject to the provisions of these regulations each Record shall be held in the custody of the education authority opening the same in pursuance of section 60(2) of the Act, at such place as they consider appropriate and shall be available for inspection there by the responsible party on request during normal hours of business of that place.

(2) Where an education authority open a Record they shall send a copy of it to the responsible party and shall advise him of the place where, in accordance with paragraph (1), the Record is so held and may be inspected.

(3) A copy of the Record shall be available at the school at which, for the time being, provision is being made for the special educational needs of the recorded child or recorded young person to whom the Record relates, and shall for the purposes of the provisions of regulation 10(3) of the Schools General (Scotland) Regulations 1975 (a) be deemed to be part of the pupil's progress record kept for that child or young person, and for the purpose of construing that regulation in relation to such copy any reference therein to a pupil's progress record shall include a reference to that copy.

(4) Where an education authority for the time being hold in their custody a Record relating to

- (a) a recorded child or recorded young person whose parent is a member of the armed forces and who is for the time being receiving education under the auspices of the Service Children's Education Authority;
- (b) a recorded child or recorded young person who is for the time being receiving education from a local education authority in England or Wales or an education and library board in Northern Ireland;

the education authority may with the consent of the responsible party make a copy of the Record relating to such child or young person available to such Authority, local education authority or, as the case may be, board.

(a) S.I. 1975/1135.

Transfer of Record

5.—(1) Where a recorded child or recorded young person moves from, without any immediate intention of returning to, the area of the education authority which opened and keeps his Record or otherwise keeps it, that education authority shall as soon as practicable thereafter transfer his Record to the education authority of the area to which that child or young person then belongs in accordance with section 23(3) of the Act.

(2) A Record so transferred shall be held in the custody of, and be deemed to have been opened under section 60(2) of the Act by, the education authority to whom it is transferred and the provisions of the Act and these regulations shall apply accordingly.

(3) The education authority to whom a Record is transferred under paragraph (1) shall inform the responsible party of the fact of—

- (a) the transfer of the Record to them; and
- (b) their responsibility under the Act for the maintenance of the Record and for making provision for the special educational needs of the recorded child or recorded young person to whom the Record relates.

Modification of Record

6.—(1) Where an education authority in pursuance of the following provisions of the Act—

- (a) section 28A(5) (a);
- (b) section 64(6) or (11);
- (c) section 65(6);
- (d) section 65A,

modify, or, as the case may be, amend the information relating to special educational needs contained in a Record, they shall notify the responsible party of the terms of the modification or amendment and secure that any copy of the Record issued in accordance with these regulations is modified or amended in similar terms.

(2) The education authority shall retain at the appropriate part of the Record any information relating to special educational needs, notwithstanding that such information may have been subsequently modified or amended in terms of paragraph (1).

(3) In this regulation “information relating to special educational needs” means any information contained in any of the four parts of the Record as mentioned in section 65D(2) of the Act or in the assessment profile and any information with respect to the named person.

Disclosure of a Record

7.—(1) Where in relation to any Record

- (a) a named person;
- (b) an officer of the Secretary of State concerned with the provision being made for the special educational needs of the recorded child or recorded young person to whom the Record relates;

(a) Section 28A(5) as applied to recorded children and young persons by section 65E of, and Schedule A2 to, the Act, which were inserted into the Act by section 4 of, and Schedule 3 to, the Education (Scotland) Act 1981.

- (c) a reporter of any local authority falling to perform functions under any enactment with respect to a matter concerning the recorded child or recorded young person, to whom the Record relates,

makes a request in writing to an education authority to disclose to him a Record, by any one or more of the following methods—

- (i) allowing him access to the Record at any reasonable time;
- (ii) providing him with a copy of the Record, or an extract therefrom;
- (iii) giving him such information from the Record, as is identified in the request,

the education authority shall disclose the Record by complying with that request; and in this paragraph “reporter” means an officer appointed by a local authority under section 36 of the Social Work (Scotland) Act 1968 (a) .

(2) Where in relation to any Record, a person being—

- (a) a teacher or other person concerned with identifying or making provision for the special educational needs of the recorded child or recorded young person to whom the Record relates;
- (b) an officer of a local authority falling for the purposes of the Social Work (Scotland) Act 1968 to perform functions in relation to that child or young person;
- (c) an officer of the health board for the area in which that child or young person resides or is receiving school education;
- (d) a person engaged in research or studies of an educational, medical or social nature;
- (e) any other person,

makes a request in writing to an education authority to disclose a Record (other than the part thereof containing information with respect to the matter mentioned in regulation 3(2)(c)) by

- (i) allowing him access to the Record at any reasonable time;
- (ii) giving him such information from the Record as is identified in the request,

the authority may, if they are satisfied as to the purposes for which such disclosure is requested, disclose the Record (other than the said part) or may refuse to disclose the Record as they think fit:

Provided that

- (aa) in the case of a request under subparagraph (d) above an education authority shall not disclose the identity of the person to whom the Record relates unless they consider it essential in the circumstances of the research or studies that such disclosure should be made; and
- (bb) in the case of a request under subparagraph (e) above, the authority shall refuse to disclose the Record unless they are satisfied that the responsible party has consented in writing to disclosure being made in terms of the request.

(a) 1968 c.49.

Return of copies of or extracts from a Record

8.—(1) Subject to paragraph (2), any copy of or extract from a Record issued by an education authority shall be returnable on demand to that authority or any other education authority requiring the return of the same.

(2) Paragraph (1) shall not apply in relation to the copy of a Record sent to the responsible party in accordance with regulation 4(2).

Discontinuance, preservation and destruction of a Record

- 9.—(1) Where an education authority discontinue a Record in pursuance of
- (a) section 64(5) or 65(4) of the Act (direction by Secretary of State to discontinue a Record);
 - (b) an exercise of their function to review under section 65A of the Act the decision to record the recorded child or recorded young person to whom the Record relates;
 - (c) the recorded child or recorded young person having ceased to receive school education; or
 - (d) a request for discontinuance of the Record under section 65C(3) of the Act;

the provisions of this regulation shall apply.

(2) Where a Record falls to be discontinued as mentioned in paragraph (1)(b) or (c), the education authority shall

- (a) preserve the Record for a period of 5 years from the date of discontinuance of the Record, which date shall be noted on the Record;
- (b) on the expiry of that period forthwith destroy the Record; and
- (c) if the whereabouts of the responsible party are known to the authority, intimate to him that the Record has been destroyed.

(3) Where a Record falls to be discontinued as mentioned in paragraph (1)(a) or (d) the education authority shall in writing—

- (a) intimate to the responsible party the date of discontinuance which shall have been noted by them on the Record; and
- (b) require that party to indicate in writing within 21 days of the date of intimation either—
 - (i) that he wishes the Record to be preserved by the authority for a period of 5 years immediately following the date of discontinuance; or
 - (ii) that he does not wish the Record to be so preserved.

(4) Where a responsible party so indicates that he wishes the Record to be preserved as mentioned in paragraph (3)(b)(i), the education authority shall preserve the Record accordingly.

(5) Where a responsible party so indicates that he does not wish the Record to be preserved as mentioned in paragraph (3)(b)(ii), or otherwise fails so to indicate that he wishes the Record to be preserved as mentioned in paragraph (3)(b)(i), the education authority shall—

- (a) on the expiry of the period of 21 days referred to in paragraph (3)(b), forthwith destroy the Record; and
- (b) intimate in writing to the responsible party that the Record has been destroyed.

(6) During any period in which a Record is preserved in accordance with this regulation, where a request for disclosure of the Record is made by a person mentioned in regulation 7 to the education authority in whose custody the preserved Record is held, that request shall be dealt with by that authority as if it were a request made under paragraph (1) or as the case may be paragraph (2) of regulation 7.

(7) In this regulation in relation to destruction of a Record a reference to a Record includes a reference to any copy of or extract from a Record issued in accordance with these regulations.

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

New St Andrew's House,
Edinburgh.
24th August 1982.

SCHEDULE

Regulation 3(1)

CONFIDENTIAL

For Official Use

(The information contained in this Record of Needs is Confidential. It may not be disclosed except in accordance with the Education (Scotland) Act 1980 and the Education (Record of Needs) (Scotland) Regulations 1982.)

RECORD OF NEEDS

PART I

Surname Forename(s)
Date of Birth Sex
Address:— Change of Address:—
.....
.....
Postcode Postcode

I certify that this Record of Needs has been opened in terms of section 60(2) of the Education (Scotland) Act 1980 by the undernoted education authority.

Signed
..... Education Authority
.....Date

FOR COMPLETION ONLY ON TRANSFER OF RECORD OF NEEDS

I certify that this Record of Needs has been transferred to the undernoted education authority and that the responsible party* has been informed in accordance with the provisions of the Education (Record of Needs) (Scotland) Regulations 1982.

Signed
..... Education Authority
.....Date

*Regulation 2(1) of the 1982 Regulations provides that "responsible party" means the parent of the recorded child, or the recorded young person, or, where the education authority are of the opinion that the recorded young person cannot act in his own behalf, his parent.

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FOR COMPLETION ONLY ON DISCONTINUANCE OF RECORD OF NEEDS

I certify that this Record of Needs is discontinued on 19 in accordance with the provisions of the Education (Record of Needs) (Scotland) Regulations 1982.

Signed
..... Education Authority
.....Date

FOR COMPLETION ONLY ON PRESERVATION OF RECORD OF NEEDS

I certify that this Record of Needs is preserved for a period of 5 years from 19 in accordance with the provisions of the Education (Record of Needs) (Scotland) Regulations 1982.

Signed
..... Education Authority
.....Date

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PART II

PARENT*

Surname Forename(s)
Relationship to recorded child or young person.....
Address:— Change of Address:—
.....
.....
.....
Postcode Postcode

(For completion only where Parent/Guardian is a member of the Armed Forces)

Arm of Service
Rank
Number

NAMED PERSON

Surname Forename(s)
.....
Address for Contact
.....
.....
.....
Postcode
Telephone No.

*“Parent” is defined in the Education (Scotland) Act 1980 as including guardian and any person who is liable to maintain or has the actual custody of a child or young person.

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PART III

ASSESSMENT

A ASSESSMENT PROFILE

B SUMMARY OF IMPAIRMENTS GIVING RISE TO SPECIAL EDUCATIONAL NEEDS

NATURE OF IMPAIRMENT	EDUCATIONAL IMPLICATIONS*			
	Physical Access	Curriculum	Facilities	Location

..... Date

*Tick aspects requiring provision for special educational needs.

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PART IV

STATEMENT OF SPECIAL EDUCATIONAL NEEDS

SIGHT, HEARING AND COMMUNICATION

INTELLECTUAL/CURRICULAR

SOCIAL/EMOTIONAL

PHYSICAL/MEDICAL

..... Date

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PART V

MEASURES PROPOSED BY THE AUTHORITY TO MEET SPECIAL EDUCATIONAL NEEDS

A. EDUCATION AUTHORITY SERVICES:—

B. OTHER SERVICES:—

..... Date

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PART VI

SCHOOL TO BE ATTENDED

NAME

ADDRESS.....

.....

.....

Head

Telephone No.

Nature of Placement*

..... Date

*eg day, residential, part-time, part-residential

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PART VII

VIEWS OF(RESPONSIBLE PARTY*)

*See footnote to Part I of Record of Needs

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PART VIII

REVIEW OF INFORMATION RELATING TO SPECIAL EDUCATIONAL NEEDS

Date	Initiated by Authority (A) Responsible Party*, (RP)	Extent of Reassessment	Findings	ALTERATION OF RECORD	
				Proposals notified to Responsible Party	Alteration effected

*See footnote to Part 1 of Record of Needs

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PART IX

DISCLOSURE OF RECORD OF NEEDS

Copies of/extracts from the RECORD of NEEDS have been lodged as follows:

Date	Recipient	Material Supplied	Authorising Officer	Date Returned (R) Destroyed (D)

EXPLANATORY NOTE

(This Note is not part of the regulations.)

These regulations prescribe the form and content of a document called a Record of Needs, to be kept by education authorities in Scotland in respect of children and young persons with pronounced specific or complex educational needs of a continuing nature.

The regulations also make provision for

- (1) the keeping, amendment and transfer of the Record of Needs;
- (2) the disclosure of information from it and the persons to receive such information;
- (3) the discontinuance, preservation and destruction of the Record of Needs, in different circumstances.

STATUTORY INSTRUMENTS

1982 No. 1222 (S. 145)

EDUCATION, SCOTLAND

The Education (Record of Needs) (Scotland) Regulations 1982

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