

EXECUTIVE NOTE

The School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004 (Commencement No. 2 and Transitional Provisions) Order 2005 SSI/2005/570 (C. 29)

The above instrument was made in exercise of the powers conferred by section 9(2) and 9(3) of the School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004. The instrument is not subject to Parliamentary Procedure.

Policy Objectives

This Order commences the remainder of the School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004. In particular, Part 2 of this Act amends existing legislation contained within the Education (Scotland) Act 1980 relating to the operation of independent schools in Scotland.

Part 2 amends the existing definition of an independent school to include schools with fewer than five pupils, revises the registration process, in doing so removing the category of provisional registration. It also makes revised provision for the refusal of applications for registration; disqualifications, notifications and appeals, and removal from the register where a school is no longer being carried on. New provision is made for the regulation of independent schools, specifically in regard to the imposition, variation and revocation of conditions. It also provides for a revised appeal process, replacing the Independent Schools Tribunal, with appeals now lying to the Sheriff Principal.

This Order also introduces transitional provisions for those schools affected by the change in definition and the abolition of provisional registration. Those schools with fewer than five pupils which would not previously have fallen within the definition of an independent school, and which would not therefore have required to register will be given until 30 June 2006 to apply for registration as an independent school. Schools which are provisionally registered immediately before commencement on 31 December 2005 will be granted registration under the new provisions, with such conditions as may be necessary being imposed in that regard.

Consultation

Her Majesty's Inspectorate of Education and the Scottish Council of Independent Schools have been consulted about the transitional provisions in the Order.

Financial Effects

The instrument has no financial effects on the Scottish Executive.

Scottish Executive Education Department
November 2005