

## POLICY NOTE

### THE CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014 (COMMENCEMENT No. 2, TRANSITIONAL AND TRANSITORY PROVISIONS) ORDER 2014

#### SSI 2014/165 (C. 12)

1. The above instrument is made in exercise of the powers conferred by section 102(3) and (4) of the Children and Young People (Scotland) Act 2014 (the 2014 Act).

#### Policy Objectives

2. The instrument forms the second part of an implementation package for the 2014 Act. This Order relates only to Part 15 of the 2014 Act. The provisions in Part 15 of the 2014 Act are being commenced in several stages, and therefore some transitory and transitional provisions are required.

3. The Order specifies that 1st August 2014 is the day that the provisions listed in the Schedule to the Order come into force. Some provisions are only partially commenced for certain purposes.

4. In particular the Schedule to the Order commences the following:-

- Sections 76 to 80 of the 2014 Act, which relate to amendments to the 2010 Act (restrictions on school closure proposals, financial implications of school closure proposals, corrections to closure proposals and special provision for rural school closure proposals);
- Section 81 of the 2014 Act partially, in respect of arrangements for notifying Ministers of a closure proposal, the time periods for Ministers' consideration and advice; in relation to the duty for Her Majesty's Inspectors of Education (HMIE) to provide advice to Ministers; and for the purpose of enabling Ministers to make regulations under new section 17B(5) (Review by Panel) and new schedule 2A (School Closure Review Panels) of the 2010 Act (both as inserted into the 2010 Act by section 81 of the 2014 Act).

#### Transitional provision: Restriction on closure proposals

5. Some provisions commenced by this Order are connected to the School Closure Review Panels, which are established under parts of section 81 of the 2014 Act which are not expected to be commenced until early 2015. Article 3 of the Order makes transitional provision for the period between 1<sup>st</sup> August 2014 and such time as responsibility for determining school closure review proposals transfers from the Scottish Ministers to the School Closure Review Panels. This means that for the period from 1<sup>st</sup> August 2014 while the Scottish Ministers are responsible for determining school closure proposals under section 16 to the 2010 Act, a decision of the Scottish Ministers to refuse consent to a closure proposal initiates the restriction in section 2A to the 2010 Act.

#### Transitional provision: Where decision made not to implement a closure proposal before 1<sup>st</sup> August 2014

6. Article 4 provides that the restriction on school closure proposals under section 2A to the 2010 Act does not apply to decisions taken before 1<sup>st</sup> August 2014.

### **Transitional provision: Special provision for rural school closure proposals**

7. Article 5 provides that new sections 11A, 12A and 13 of the 2010 Act (as inserted by section 80 of the 2014 Act), and amendments to section 12 of the 2010 Act, do not apply to rural school closure proposals for which an education authority has already published a proposal paper (under section 4 of the 2010 Act) before 1<sup>st</sup> August 2014. These sections significantly amend the process for preparing and making rural school closure proposals. Article 5 has the effect that the new requirements in these provisions will only apply to rural school closure proposals for which an education authority has published its proposal paper from 1<sup>st</sup> August 2014.

### **Transitory provisions: HMIE**

8. Article 6 makes transitory provision in relation to new section 17B(3) of the 2010 Act (as inserted by section 81(4) of the 2014 Act), to provide that the duty on HMIE to provide advice to the School Closure Review Panels is substituted with a duty for HMIE to provide advice to the Scottish Ministers until responsibility for determining school closure review proposals transfers from the Scottish Ministers to the School Closure Review Panels.

### **Consultation**

9. Formal consultation took place on the policy proposals in Part 15 of the 2014 Act during summer 2013. Informal consultation with stakeholders took place during the Parliamentary process and continues following Royal Assent. During implementation of the Act, both informal and formal consultation is planned.

10. Informal consultation on revised statutory guidance on the 2010 Act, to take account of the provisions commenced in this Order, is taking place in June 2014.

### **Impacts**

11. An equality impact assessment and business and regulatory impact assessment were carried out for the Children and Young People (Scotland) Bill. The impact assessments are available on the Scottish Government website.

**Scottish Government  
Learning Directorate**

**June 2014**