

POLICY NOTE

THE GAELIC MEDIUM EDUCATION (ASSESSMENT REQUESTS) (SCOTLAND) REGULATIONS 2016

SSI 2016 No. 425

The above instrument was made in exercise of the powers conferred by section 7(5) and (6) of the Education (Scotland) Act 2016, and all other powers enabling them to do so. The instrument is subject to negative procedure.

Policy Objectives

Part 2 of the Education (Scotland) Act 2016 (“the 2016 Act”) aims to facilitate the growth of Gaelic medium primary education (“GMPE”) by establishing a clear process whereby education authorities must respond to parental requests for an assessment of the need for GMPE. This statutory process is intended to ensure consistent practice across Scotland and provide clarity for education authorities and parents about the nature of the parental entitlement and the manner in which a parental request will be handled.

Section 7(1) of the 2016 Act provides that the parent of a child who is under school age and who has not commenced attendance at a primary school may make a request to the education authority in whose area the child is resident for an assessment of the need for GMPE. Section 18(1) of the 2016 Act explains that the term “*parent*” has the same meaning as in the Education (Scotland) Act 1980 and so such a request can be made by the guardian of, or any person who has parental responsibilities in relation to, or has care of, such a child.

Section 7(2)(a) states that a parental request under [subsection \(1\)](#) can only be made in relation to one child, who must be specified in the request; this child is then referred to as the “specified child”. However, section 7(2)(b) states that a request under subsection (1) must contain, or be accompanied by, evidence that there is a demand for GMPE from other parents of children resident in that same education authority area and who are in the same year group as the specified child. Section 7(3) provides that a parental request *may* also contain evidence that there is a demand for GMPE from parents of other children under school age who are resident in the same education authority area but who are in a different year group to the specified child.

Section 7(5) and (6) enables Scottish Ministers to make further provision about such requests by regulations. That is what these Regulations do.

Section 7(6) specifies that such regulations may, in particular, include provision for, or in connection with, the form of the request and how it should be made; information to be included in, or accompany, the request; and evidence about demand for GMPE from parents of other children as mentioned in [subsections \(2\) and \(3\)](#).

Given that a parental request can only be made in relation to one child and that education authorities are only under a duty to consider evidence of demand from parents of children who are under school age and resident in the same GMPE assessment area as the specified child, it is important that these details are clearly set out and readily apparent from the parental request. In line with the policy intention of the 2016 Act that a statutory assessment

process will ensure consistent practice across Scotland, the purpose of these Regulations is to prescribe the form in which a parent must make their request and the manner in which it must be made so that parents make such requests in a standard form and all education authorities receive such requests in a standard form. It is the intention that this standardisation will assist parents (in providing all of the required information) and education authorities (in processing requests within the statutory timescales).

These Regulations also provide for the information that is to be set out in, or accompany, the request which must include evidence about demand for GMPE from parents of other children resident in that same education authority area and who are in the same year group as the specified child and *may* include evidence about demand for GMPE from parents of other children resident in that same education authority area but who are in a different year group to the specified child.

Consultation

The requirements of all provisions of the 2016 Act were consulted on during the parliamentary progress of the Bill. Informal consultation on the proposed contents of these Regulations was also carried out with a working group consisting of representatives from Bòrd na Gàidhlig, Education Scotland, COSLA, Highland Council and Glasgow City Council.

Impact Assessments

All impact assessments were carried out prior to the introduction of the Education (Scotland) Bill. These Regulations do not change that analysis.

Financial Effects

All financial implications were also considered prior to the introduction of the Education (Scotland) Bill. These Regulations do not change that analysis.

The original Financial Memorandum to the Bill can be found at [http://www.parliament.scot/S4_Bills/Education%20\(Scotland\)%20Bill/b64s4-introd-en.pdf](http://www.parliament.scot/S4_Bills/Education%20(Scotland)%20Bill/b64s4-introd-en.pdf).

The supplementary Financial Memorandum is not relevant to Part 2 of the 2016 Act but can be found at: [http://www.parliament.scot/S4_Bills/Education%20\(Scotland\)%20Bill/SPBill64AFMS042016.pdf](http://www.parliament.scot/S4_Bills/Education%20(Scotland)%20Bill/SPBill64AFMS042016.pdf).

Scottish Government
Directorate for Learning

December 2016