Schools (Consultation) (Scotland) Act 2010

2010 asp 2

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 19th November 2009 and received Royal Assent on 5th January 2010

An Act of the Scottish Parliament to make provision for the consultation process that is to apply as respects various proposals made by education authorities for schools; to make special provision for rural schools; to provide for Ministerial call-in of closure proposals; and for connected purposes.

Process for all schools

1 Overview of key requirements

(1) Subsection (2) applies where, in relation to any school, an education authority has formulated a relevant proposal.

(2) Before proceeding with the proposal, the education authority must comply with the initial and subsequent requirements set out in subsections (3) and (4).

(3) The initial requirements are—

(a) to prepare an educational benefits statement in accordance with section 3,

(b) to prepare (and publish) a proposal paper in accordance with section 4,

(c) to give notice of the proposal to the relevant consultees (and invite representations) in accordance with section 6,

(d) to hold (and give notice of) a public meeting in accordance with section 7,

(e) to involve HMIE in accordance with section 8.

(4) The subsequent requirements are—

(a) to review the proposal in accordance with section 9(1),

(b) to prepare (and publish) a consultation report in accordance with sections 9 and 10.

[F1(4A) In the case of a closure proposal in relation to a rural school, the education authority must also comply with—

(a) the preliminary requirements set out in section 12A when it is formulating the proposal,

(b) the additional consultation requirements set out in section 13.**]**

(5) In subsection (2), the reference to proceeding with the proposal is to—

(a) deciding to implement it (wholly or partly), or

(b) implementing it (wholly or partly).

Textual Amendments

F1 S. 1(4A) inserted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 80(5)**, 102(3); S.S.I. 2014/165, art. 2, Sch. (with art. 5)

Commencement Information

I1 S. 1 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

2 Relevant proposals and consultees

(1) In this Act—

(a) a "relevant proposal" is any proposal specified in paragraphs 1 to 10 of schedule 1,

(b) a "closure proposal" is a proposal specified in paragraph 1 of that schedule.

(2) In this Act, the "relevant consultees"—

(a) in relation to a particular relevant proposal, are the consultees specified in the corresponding paragraph of schedule 2,

(b) so far as required by paragraphs 11 and 12 of that schedule, include the consultees specified in those paragraphs.

Commencement Information

I2 S. 2 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

[F2 2A Restriction on closure proposals

(1) This section applies where a decision is made not to implement a closure proposal in relation to a school.

(2) For the purposes of subsection (1)—

(a) a decision not to implement a closure proposal is—

(i) a decision not to implement the proposal made by the education authority following the publication of a consultation report in relation to the proposal (whether or not the proposal was called-in under section 15),

(ii) a decision of a School Closure Review Panel in relation to the proposal under section 17C(1)(a),

(b) such a decision is made by a School Closure Review Panel on the day on which the Panel notifies the decision to the education authority in pursuance of section 17C(5).

(3) The education authority may not publish a proposal paper concerning a further closure proposal in relation to the school during the period of 5 years beginning with the

day on which the decision is made unless there is a significant change in the school's circumstances.**]**

Textual Amendments

F2 S. 2A inserted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 77**, 102(3); S.S.I. 2014/165, art. 2, Sch. (with arts. 34)

3 Educational benefits statement

(1) The education authority must prepare an educational benefits statement which includes—

(a) the authority's assessment of the likely effects of a relevant proposal (if implemented) on—

(i) the pupils of any affected school,

(ii) any other users of the school's facilities,

(iii) any children who would (in the future but for implementation) be likely to become pupils of the school,

(iv) the pupils of any other schools in the authority's area,

(b) the authority's assessment of any other likely effects of the proposal (if implemented),

(c) an explanation of how the authority intends to minimise or avoid any adverse effects that may arise from the proposal (if implemented),

(d) a description of the benefits which the authority believes will result from implementation of the proposal (with reference to the persons whom it believes will derive them).

(2) The statement must also include the education authority's reasons for coming to the beliefs expressed under subsection (1)(d).

(3) In subsection (1), the references to effects and benefits are to educational effects and benefits.

Commencement Information

I3 S. 3 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

4 Proposal paper

(1) The education authority must prepare a proposal paper which—

(a) sets out the details of the relevant proposal,

(b) proposes a date for implementation of the proposal,

(c) contains the educational benefits statement in respect of the proposal,

(d) refers to such evidence or other information in support of (or otherwise relevant in relation to) the proposal as the education authority considers appropriate.

(2) The proposal paper must also give a summary of the process provided for in sections 1 to **[**[F3]17D**]** (so far as applicable in relation to the proposal).

[F4(2A) Where a proposal paper relates to a closure proposal, it must also contain information about the financial implications of the proposal.]

(3) A proposal paper may include more than one proposal.

(4) The education authority must—

(a) publish the proposal paper in both electronic and printed form,

(b) make the paper, and (so far as practicable) a copy of any separate documentation that it refers to under subsection (1)(d), available for inspection at all reasonable times and without charge—

(i) at its head office and on its website,

(ii) at any affected school or at a public library or some other suitable place within the vicinity of the school,

(c) provide without charge the information contained in the proposal paper—

(i) to such persons as may reasonably require that information in another form, and

(ii) in such other form as may reasonably be requested by such persons.

(5) The education authority must advertise the publication of the proposal paper by such means as it considers appropriate.

Textual Amendments

F3 Word in s. 4(2) substituted (30.3.2015) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 81(6)**, 102(3); S.S.I. 2015/104, art. 2

F4 S. 4(2A) inserted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 78**, 102(3); S.S.I. 2014/165, art. 2, Sch.

Commencement Information

I4 S. 4 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

5 Correction of the paper

(1) This subsection applies where, during the consultation period, an education authority—

(a) has been notified of—

(i) an alleged omission of relevant information from a proposal paper,

(ii) an alleged inaccuracy in a proposal paper,

(b) discovers—

(i) that relevant information has been omitted from a proposal paper,

(ii) an inaccuracy in a proposal paper.

(2) In a situation mentioned in subsection (1)(a), the education authority must—

(a) determine, as the case may be, if—

(i) relevant information has (in its opinion) been omitted,

(ii) there is (in fact) an inaccuracy, [F5]...

[F6(aa) inform the notifier of its determination under paragraph (a), and the reasons for that determination,]

(b) inform the notifier as to the action (if any) it is taking under **[**[F7]subsection (4) and of the reasons why it is, or is not, taking such action**][**[F8]and

(c) invite the notifier to make representations to the authority if the notifier disagrees with the authority's determination under paragraph (a) or its decision as to whether to take action under subsection (4).**]**

[[F9](2A) Where the notifier makes representations to the authority in pursuance of subsection (2)(c), the authority may—

(a) make a fresh determination under subsection (2)(a),

(b) make a fresh decision as to whether to take action under subsection (4).

(2B) The authority must inform the notifier if it takes a step mentioned in subsection (2A)(a) or (b).**]**

[[F10](3) Subsection (4) applies—

(a) where, in a situation mentioned in subsection (1)(a), the education authority determines that—

(i) relevant information has (in its opinion) been omitted from the proposal paper, or

(ii) there is (in fact) an inaccuracy in the proposal paper,

(b) in a situation mentioned in subsection (1)(b).

(4) Where—

(a) the information that has been omitted or, as the case may be, the inaccuracy relates to a material consideration relevant to the education authority's decision as to implementation of the proposal, it must take action as mentioned in subsection (5)(a) or (b),

(b) that information or inaccuracy does not relate to such a material consideration, the authority may—

(i) take action as mentioned in subsection (5)(a) or (b), or

(ii) take no further action (except by virtue of section 10(3)).

(5) The action referred to in subsection (4)(a) and (b)(i) is—

(a) to take the following steps—

(i) publish a corrected proposal paper,

(ii) give revised notice in accordance with section 6, and

(iii) send a copy of the corrected paper to HMIE,

(b) to issue a notice to the relevant consultees and HMIE—

(i) providing the omitted information or, as the case may be, correcting the inaccuracy, and

(ii) if the authority considers it appropriate, extending the consultation period by such period as is reasonable by reference to the significance of the information provided or, as the case may be, the nature of the correction.

(6) Where the education authority issues a notice mentioned in subsection (5)(b) after the end of the consultation period—

(a) the notice may, instead of extending the consultation period, specify such further period during which representations may be made on the proposal as is reasonable by reference to the significance of the information provided or, as the case may be, the nature of the correction, and

(b) any such further period is to be treated as part of the consultation period for the purposes of sections 8, 9 and 10.**]**

Textual Amendments

F5 Word in s. 5(2) repealed (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 79(2)(a)**, 102(3); S.S.I. 2014/165, art. 2, Sch.

F6 S. 5(2)(aa) inserted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 79(2)(b)**, 102(3); S.S.I. 2014/165, art. 2, Sch.

F7 Words in s. 5(2)(b) substituted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 79(2)(c)**, 102(3); S.S.I. 2014/165, art. 2, Sch.

F8 S. 5(2)(c) and word inserted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 79(2)(d)**, 102(3); S.S.I. 2014/165, art. 2, Sch.

F9 S. 5(2A)(2B) inserted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 79(3)**, 102(3); S.S.I. 2014/165, art. 2, Sch.

F10 S. 5(3)-(6) substituted for s. 5(3) (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 79(4)**, 102(3); S.S.I. 2014/165, art. 2, Sch.

Commencement Information

I5 S. 5 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

6 Notice and consultation period

(1) The education authority must give the relevant consultees notice—

(a) of the relevant proposal, or

(b) where only part of the proposal affects a particular consultee (or category of consultee), of that part of the proposal.

(2) The notice must—

(a) give a summary of the proposal (or part),

(b) give information about—

(i) where a copy of the proposal paper may be obtained, and

(ii) how to make written representations on the proposal (including to whom such representations should be submitted).

(3) The notice must also—

(a) state the date of the last day of the consultation period for the proposal,

(b) advise that this is the period within which written representations must be received by the authority for them to be taken into account, and

(c) if known (at the time of giving the notice), state the date, time and place of the public meeting on the proposal.

(4) In this Act, the "consultation period" is a period (fixed by the education authority) of at least 6 weeks that—

(a) starts on the day (or last day) on which the notice required by subsection (1) is given,

(b) runs continuously, and

(c) includes at least 30 school days of any affected school.

(5) In subsection (4), a "school day"—

(a) in relation to a particular school is a day on which the school is ordinarily open to its pupils for the purpose of their school education, or

(b) in the case of a further education centre to which paragraph 10 of schedule 1 refers, is a day on which the centre is ordinarily open to its students for the purpose of their further education.

Commencement Information

I6 S. 6 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

7 Public meeting

(1) During the consultation period, the education authority must hold (and be represented at) a public meeting on the relevant proposal.

(2) Advance notice of the date, time and place of the public meeting must be given by the education authority to—

(a) the relevant consultees,

(b) HMIE.

(3) Subsection (2)(a) does not require such notice to be given if it has already been given under section 6(3)(c).

(4) More than one proposal may be the subject of the same public meeting if the proposals are included in the same proposal paper.

Commencement Information

I7 S. 7 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

8 Involvement of HMIE

(1) The education authority must send to HMIE—

(a) when published, a copy of the proposal paper,

(b) as regards any relevant written representations received by the authority (from any person) during the consultation period—

(i) a copy of them, or

(ii) if HMIE agree, a summary of them,

(c) a summary of any oral representations made to it (by any person) at the public meeting,

(d) as available (and so far as otherwise practicable), a copy of any other relevant documentation.

(2) HMIE are to prepare a report on the educational aspects of the relevant proposal.

(3) In preparing the report, HMIE may—

(a) enter any affected school and make such reasonable enquiries of such persons there as HMIE consider appropriate, and

(b) make such reasonable enquiries of such other persons as HMIE consider appropriate.

(4) In preparing the report, HMIE are to have regard (in particular) to—
- (a) the educational benefits statement,
- (b) the things sent to them under subsection (1)(b) and (c),
- (c) any written representations made (by any person) direct to HMIE on any educational aspect of the proposal so far as HMIE consider them to be relevant.

(5) HMIE must submit the report to the education authority—
- (a) not later than 3 weeks after the authority has complied with subsection (1) (which 3 week period may not start during the consultation period), or
- (b) within such longer period as is agreed between them.

(6) In this Act, "HMIE's report" is the report prepared under subsection (2).

(7) In this Act, a reference to "HMIE" is a reference to Her Majesty's Inspectors (including any of them).

Commencement Information

I8 S. 8 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

9 Consultation report

(1) After the education authority has received HMIE's report, the authority is to review the relevant proposal having regard (in particular) to—
- (a) any relevant—
  - (i) written representations received by the authority (from any person) during the consultation period,
  - (ii) oral representations made to it (by any person) at the public meeting,
- (b) HMIE's report.

(2) The education authority must then prepare a consultation report.

(3) The education authority must—
- (a) publish the consultation report in both electronic and printed form,
- (b) make the report available for inspection at all reasonable times and without charge—
  - (i) at its head office and on its website,
  - (ii) at any affected school or at a public library or some other suitable place within the vicinity of the school,
- (c) provide without charge the information contained in the consultation report—
  - (i) to such persons as may reasonably require that information in another form, and
  - (ii) in such other form as may reasonably be requested by such persons.

(4) The education authority must inform any person who during the consultation period made written representations on the relevant proposal of the publication of the consultation report.

(5) The education authority must advertise the publication of the consultation report by such means as it considers appropriate.

Commencement Information

I9 S. 9 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

10 Content of the report

(1) The consultation report must (in particular)—

(a) contain the information mentioned in subsection (2),

(b) if applicable, include the further information mentioned in subsection (3),

(c) in a relevant case, also provide the explanation mentioned in subsection (4).

(2) The information is—

(a) a record of the total number of any written representations made to the education authority (by any person) on the proposal during the consultation period,

(b) a summary of—

(i) those written representations,

(ii) any oral representations made to it (by any person) at the public meeting,

(c) a statement of the authority's response to—

(i) those written and oral representations,

(ii) HMIE's report,

(d) a copy of that report,

(e) a statement explaining how the education authority complied with section 9(1).

(3) In relation to any omission from, or inaccuracy in, the proposal paper to which section 5(1) applies,**[**[F11]including any alleged omission or inaccuracy notified to the education authority,**]** the further information is—

(a) details of the omission or inaccuracy**[**[F12], or (as the case may be) the alleged omission or inaccuracy,**]** (including a statement of the authority's opinion on it),

(b) a statement—

(i) of the action taken in respect of the omission or inaccuracy**[**[F13], or (as the case may be) the alleged omission or inaccuracy,**]** or

(ii) if no action has been taken, of that fact (and why).

[[F14](c) any representations made to the authority in pursuance of section 5(2)(c).**]**

(4) In the case of a closure proposal, the explanation is of the opportunity that may arise for making representations to the Scottish Ministers in connection with section 15(4).

Textual Amendments

F11 Words in s. 10(3) inserted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 79(5)(a)**, 102(3); S.S.I. 2014/165, art. 2, Sch.

F12 Words in s. 10(3)(a) inserted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 79(5)(b)**, 102(3); S.S.I. 2014/165, art. 2, Sch.

F13 Words in s. 10(3)(b) inserted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 79(5)(c)**, 102(3); S.S.I. 2014/165, art. 2, Sch.

F14 S. 10(3)(c) inserted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 79(5)(d)**, 102(3); S.S.I. 2014/165, art. 2, Sch.

Commencement Information

I10 S. 10 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

11 Time for further consideration

(1) An education authority may proceed with a relevant proposal only after the expiry of 3 weeks starting with the day on which the authority complies with section 9(3)(a).

(2) In subsection (1), the reference to proceeding with a proposal is to—

(a) deciding to implement it (wholly or partly), or

(b) implementing it (wholly or partly).

Commencement Information

I11 S. 11 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Special provision for rural schools

[F15 11A Presumption against rural school closure

(1) This section applies in relation to any closure proposal as respects a rural school.

(2) The education authority may not decide to implement the proposal (wholly or partly) unless the authority—

(a) has complied with sections 12, 12A and 13, and

(b) having so complied, is satisfied that such implementation of the proposal is the most appropriate response to the reasons for formulating the proposal identified by the authority under section 12A(2)(a).

(3) The authority must publish on its website notice of—

(a) its decision as to implementation of the proposal, and

(b) where it decides to implement the proposal (wholly or partly), the reasons why it is satisfied that such implementation is the most appropriate response to the reasons for formulating the proposal identified by the authority under section 12A(2)(a).**]**

Textual Amendments

F15 S. 11A inserted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 80(1)**, 102(3); S.S.I. 2014/165, art. 2, Sch. (with art. 5)

12 Factors for rural closure proposals

(1) Subsection (2) applies in relation to any closure proposal as respects a rural school.

(2) The education authority must have special regard to the factors mentioned in subsection (3).

(3) The factors are—

[F16](a) . . . . . .

(b) the likely effect on the local community in consequence of the proposal (if implemented),

(c) the likely effect caused by any different travelling arrangements that may be required in consequence of the proposal (if implemented).

(4) For the purpose of subsection (3)(b**[**[F17]and sections 12A(2)(c)(ii) and 13(5)(b)(ii)**]**), the effect on the community is to be assessed by reference (in particular) to—

(a) the sustainability of the community,

(b) the availability of the school's premises and its other facilities for use by the community.

(5) For the purpose of subsection (3)(c)**[**[F18]and sections 12A(2)(c)(iii) and 13(5)(b)(iii)**]**—

(a) the effect caused by such travelling arrangements includes (in particular)—

(i) that on the school's pupils and staff and any other users of the school's facilities,

(ii) any environmental impact,

(b) the travelling arrangements are those to and from the school of (and for) the school's pupils and staff and any other users of the school's facilities.

Textual Amendments

F16 S. 12(3)(a) repealed (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 80(2)(a)**, 102(3); S.S.I. 2014/165, art. 2, Sch. (with art. 5)

F17 Words in s. 12(4) inserted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 80(2)(b)**, 102(3); S.S.I. 2014/165, art. 2, Sch. (with art. 5)

F18 Words in s. 12(5) inserted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 80(2)(c)**, 102(3); S.S.I. 2014/165, art. 2, Sch. (with art. 5)

Commencement Information

I12 S. 12 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

[[F19]12A Preliminary requirements in relation to rural school closure

(1) This section applies where an education authority is formulating a closure proposal as respects a rural school.

(2) The authority must—

(a) identify its reasons for formulating the proposal,

(b) consider whether there are any reasonable alternatives to the proposal as a response to those reasons,

(c) assess, for the proposal and each of the alternatives to the proposal identified under paragraph (b) (if any)—

(i) the likely educational benefits in consequence of the implementation of the proposal, or as the case may be, alternative,

(ii) the likely effect on the local community (assessed in accordance with section 12(4)) in consequence of such implementation,

(iii) the likely effect that would be caused by any different travelling arrangements that may be required (assessed in accordance with section 12(5)) in consequence of such implementation.

(3) For the purposes of this section and section 13, reasonable alternatives to the proposal include (but are not limited to) steps which would not result in the school or a stage of education in the school (within the meaning of paragraph 12 of schedule 1) being discontinued.

(4) The authority may not publish a proposal paper in relation to the proposal unless, having complied with subsection (2), it considers that implementation of the closure proposal would be the most appropriate response to the reasons for the proposal.

(5) In this section and section 13, the references to the reasons for the proposal are references to the reasons identified by the education authority under subsection (2)(a).**]**

Textual Amendments

F19 S. 12A inserted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 80(3)**, 102(3); S.S.I. 2014/165, art. 2, Sch. (with art. 5)

[[F20]13 Additional consultation requirements

(1) This section applies in relation to any closure proposal as respects a rural school.

(2) The proposal paper must additionally—

(a) explain the reasons for the proposal,

(b) describe what (if any) steps the authority took to address those reasons before formulating the proposal,

(c) if the authority did not take such steps, explain why it did not do so,

(d) set out any alternatives to the proposal identified by the authority under section 12A(2)(b),

(e) explain the authority's assessment under section 12A(2)(c),

(f) explain the reasons why the authority considers, in light of that assessment, that implementation of the closure proposal would be the most appropriate response to the reasons for the proposal.

(3) The notice to be given to relevant consultees under section 6(1) must—

(a) give a summary of the alternatives to the proposal set out in the proposal paper,

(b) state that written representations may be made on those alternatives (as well as on the proposal), and

(c) state that written representations on the proposal may suggest other alternatives to the proposal.

(4) In sections 8(4)(c), 9(4) and 10(2)(a), the references to written representations on the proposal include references to written representations on the alternatives to the proposal set out in the proposal paper.

(5) When carrying out its review of the proposal under section 9(1), the education authority is to carry out—

(a) for the proposal and each of the alternatives to it set out in the proposal paper (if any), a further assessment of the matters mentioned in section 12A(2)(c)(i) to (iii), and

(b) an assessment, in relation to any other reasonable alternative to the proposal suggested in written representations on the proposal, of—

(i) the likely educational benefits in consequence of the implementation of the alternative,

(ii) the likely effect on the local community (assessed in accordance with section 12(4)) in consequence of such implementation,

(iii) the likely effect that would be caused by any different travelling arrangements that may be required (assessed in accordance with section 12(5)) in consequence of such implementation.

(6) The consultation report must additionally explain—

(a) the education authority's assessment under subsection (5)(a),

(b) how that assessment differs (if at all) from the authority's assessment under section 12A(2)(c),

(c) the authority's assessment under subsection (5)(b),

(d) whether and, if so, the reasons why the authority considers that implementation of the proposal (wholly or partly) would be the most appropriate response to the reasons for the proposal.**]**

Textual Amendments

F20 S. 13 substituted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 80(4)**, 102(3); S.S.I. 2014/165, art. 2, Sch. (with art. 5)

14 Designation of rural schools

(1) In this Act, a "rural school" is a school which is designated as such by its inclusion in the list of rural schools maintained by the Scottish Ministers for the purposes of this subsection.

(2) In determining the question of rurality when considering whether a school falls to be included in or excluded from the list of rural schools, the Scottish Ministers are to have regard (in particular) to—

(a) the population of the community (or settlement) in which the school is located,

(b) the geographical circumstances of that community (or settlement) including its relative remoteness or inaccessibility.

(3) The list of rural schools is to be accompanied by an explanation of how the Scottish Ministers devised the list—

(a) by reference to subsection (2), and

(b) if they consider it appropriate, by reference to any recognised criteria available from a reliable source.

(4) The Scottish Ministers are to—

(a) monitor the list of rural schools (and update it as regularly as they consider necessary),

(b) publish it (including as updated) in such way as they consider appropriate.

(5) An education authority must provide the Scottish Ministers with such information as they may reasonably require of it in connection with the list of rural schools.

Commencement Information
I13 S. 14 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Call-in by the Scottish Ministers

15 Call-in of closure proposals

(1) Subsections (2) to (6) apply where, in relation to any school, an education authority has decided to implement a closure proposal.

(2) The education authority must—
- (a) notify the Scottish Ministers of that decision within the period of 6 working days starting with the day on which the decision is made,
- (b) along with that notification, give them a copy of—
  - (i) the proposal paper,
  - (ii) the consultation report.
  - **[**[F21](iii) where the decision relates to a rural school, the notice published under section 11A(3).**]**

[[F22](2A) At the same time as it notifies the Scottish Ministers of the decision under subsection (2)(a), the education authority must publish on its website notice of—
- (a) the fact that the Scottish Ministers have been so notified, and
- (b) the opportunity for making representations to the Scottish Ministers in connection with subsection (4), including the date on which the 3 week period referred to in that subsection ends.**]**

(3) Before the expiry of **[**[F23]8**]** weeks starting with the day on which that decision is made, the Scottish Ministers may issue a call-in notice to the education authority.

(4) In considering whether to issue a call-in notice, the Scottish Ministers are to take account of any relevant representations made to them (by any person) within the first 3 weeks of that **[**[F24]8**]** week period.

[F25](5) . . . . . .

(6) The education authority may not proceed further with the proposal before the expiry of the **[**[F26]8**]** week period within which a call-in notice may be issued as respects the proposal.

(7) But the restriction in subsection (6) ceases to apply if (before the end of that period) the Scottish Ministers inform the education authority that they do not intend to issue a call-in notice as respects the proposal.

(8) In subsection (6), the reference to proceeding further with the proposal is to implementing it (wholly or partly).

Textual Amendments

F21 S. 15(2)(b)(iii) inserted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 81(1)(a)**, 102(3); S.S.I. 2014/165, art. 2, Sch.

F22 S. 15(2A) inserted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 81(1)(b)**, 102(3); S.S.I. 2014/165, art. 2, Sch.

F23 Word in s. 15(3) substituted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 81(1)(c)**, 102(3); S.S.I. 2014/165, art. 2, Sch.

F24 Word in s. 15(4) substituted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 81(1)(c)**, 102(3); S.S.I. 2014/165, art. 2, Sch.

F25 S. 15(5) repealed (30.3.2015) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 81(1)(d)**, 102(3); S.S.I. 2015/104, art. 2 (with art. 3)

F26 Word in s. 15(6) substituted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 81(1)(c)**, 102(3); S.S.I. 2014/165, art. 2, Sch.

Commencement Information

I14 S. 15 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

[F27]16 Determination of case

. . . . . .

Textual Amendments

F27 S. 16 repealed (30.3.2015) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 81(2)**, 102(3); S.S.I. 2015/104, art. 2 (with art. 3)

Commencement Information

I15 S. 16 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

17 Grounds for call-in etc.

(1) The Scottish Ministers may issue a call-in notice only if subsection (2) applies.

(2) This subsection applies where it appears to the Scottish Ministers that the education authority may have failed—

(a) in a significant regard to comply with the requirements imposed on it by (or under) this Act so far as they are relevant in relation to the closure proposal, or

(b) to take proper account of a material consideration relevant to its decision to implement the proposal.

(3) The education authority must provide the Scottish Ministers with such information in connection with a closure proposal as they may reasonably require of it for the purposes of their consideration of—

(a) whether to issue a call-in notice, [F28]...

[F29](b) . . . . . .

[[F30](3A) HMIE must provide the Scottish Ministers with such advice as to the educational aspects of a closure proposal as the Scottish Ministers may reasonably require of HMIE for the purpose of the Scottish Ministers' consideration of whether to issue a call-in notice.**]**

(4) In this Act, a "call-in notice" is one issuable by the Scottish Ministers under section 15(3).

Textual Amendments

F28 Word in s. 17(3) repealed (30.3.2015) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 81(3)(a)(i)**, 102(3); S.S.I. 2015/104, art. 2 (with art. 3)

F29 S. 17(3)(b) repealed (30.3.2015) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 81(3)(a)(ii)**, 102(3); S.S.I. 2015/104, art. 2 (with art. 3)

F30 S. 17(3A) inserted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 81(3)(b)**, 102(3); S.S.I. 2014/165, art. 2, Sch.

Commencement Information

I16 S. 17 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

[F31 17A Referral to the Convener of the School Closure Review Panels

(1) This section applies where a call-in notice is issued as respects a closure proposal.

(2) The Scottish Ministers must refer the proposal to the Convener of the School Closure Review Panels.

(3) The Convener must, within the period of 7 days beginning with the day on which the call-in notice is issued, constitute a School Closure Review Panel to review the proposal under section 17B(1).

(4) The education authority may not implement the proposal (wholly or partly)—
- (a) unless the Panel grants its consent to it under section 17C(1), and
- (b) until—
  - (i) the period mentioned in section 17D(2)(c) has expired without any appeal to the sheriff being made, or
  - (ii) where such an appeal is made, it is abandoned or the sheriff confirms the Panel's decision.

(5) Schedule 2A makes further provision about the Convener and School Closure Review Panels.

(6) In this Act—
- (a) "the Convener" is the Convener of the School Closure Review Panels,
- (b) a "School Closure Review Panel" is a School Closure Review Panel constituted under subsection (3).

Textual Amendments

F31 Ss. 17A-17D inserted (1.8.2014 for the purposes of commencing s. 17B(3) and so far as necessary to enable Scottish Ministers to make regulations under s. 17B(5); 6.10.2014 for the purpose of bringing into force s. 17A(6) for specified purposes; 9.1.2015 for the purpose of bringing into force s. 17A(6) in so far as not already in force, and 30.3.2015 in so far as not already in force) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 81(4)**, 102(3); S.S.I. 2014/165, art. 2, Sch. (with art. 6); S.S.I. 2014/251, art. 2(a); S.S.I. 2014/365, art. 2(a); S.S.I. 2015/104, art. 2

17B Review by Panel

(1) A School Closure Review Panel must consider both of the following in relation to a closure proposal—

(a) whether the education authority has failed in a significant regard to comply with the requirements imposed on it by (or under) this Act so far as they are relevant in relation to the proposal,

(b) whether the education authority has failed to take proper account of a material consideration relevant to its decision to implement the proposal.

(2) The education authority must provide the Panel with such information in connection with the proposal as the Panel may reasonably require of it for the purpose of subsection (1).

(3) HMIE must provide the Panel with such advice as to the educational aspects of the proposal as the Panel may reasonably require of them for the purpose of subsection (1).

(4) The Panel may request such other information and advice from any other person as it may reasonably require for the purpose of subsection (1).

(5) The Scottish Ministers may by regulations make further provision as to the procedures to be followed by the Panel when carrying out a review under subsection (1).

Textual Amendments

F31 Ss. 17A-17D inserted (1.8.2014 for the purposes of commencing s. 17B(3) and so far as necessary to enable Scottish Ministers to make regulations under s. 17B(5); 6.10.2014 for the purpose of bringing into force s. 17A(6) for specified purposes; 9.1.2015 for the purpose of bringing into force s. 17A(6) in so far as not already in force, and 30.3.2015 in so far as not already in force) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 81(4)**, 102(3); S.S.I. 2014/165, art. 2, Sch. (with art. 6); S.S.I. 2014/251, art. 2(a); S.S.I. 2014/365, art. 2(a); S.S.I. 2015/104, art. 2

17C Decision following review

(1) Following a review of a closure proposal under section 17B(1), the School Closure Review Panel may—

(a) refuse to consent to the proposal,

(b) refuse to consent to the proposal and remit it to the education authority for a fresh decision as to implementation,

(c) grant consent to the proposal—

(i) subject to conditions, or

(ii) unconditionally.

(2) The Panel must give reasons for its decision.

(3) Where the Panel remits the proposal to the education authority under subsection (1)(b), the Panel may specify any steps in the process provided for in sections 1 to 11 and (in relation to a closure proposal as respects a rural school) 12A that the authority must take again in relation to the proposal before making a fresh decision.

(4) The Panel may refuse to consent to the proposal under subsection (1)(a) or (b) only if the Panel finds either or both of the following—

(a) that the education authority has failed in a significant regard to comply with the requirements imposed on it by (or under) this Act so far as they are relevant in relation to the proposal,

(b) that the authority has failed to take proper account of a material consideration relevant to its decision to implement the proposal.

(5) The Panel must notify the education authority of its decision within the period of 8 weeks beginning with the day on which the Panel is constituted unless (before the end of that period) the Panel issues a notice to the education authority—

(a) stating that the Panel does not intend to notify the decision within that period,

(b) specifying the reason why that is so, and

(c) indicating the likely date for notifying the decision.

(6) Where the Panel issues a notice under subsection (5), it must notify the education authority of its decision within the period of 16 weeks beginning with the day on which the Panel is constituted.

(7) After the Panel notifies the education authority of its decision, the Panel must—

(a) notify the Scottish Ministers of the decision, and

(b) publish notice of the decision in such manner as it considers appropriate.

(8) Where the Panel grants consent to the proposal subject to conditions, the education authority must comply with the conditions.

Textual Amendments

F31 Ss. 17A-17D inserted (1.8.2014 for the purposes of commencing s. 17B(3) and so far as necessary to enable Scottish Ministers to make regulations under s. 17B(5); 6.10.2014 for the purpose of bringing into force s. 17A(6) for specified purposes; 9.1.2015 for the purpose of bringing into force s. 17A(6) in so far as not already in force, and 30.3.2015 in so far as not already in force) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 81(4)**, 102(3); S.S.I. 2014/165, art. 2, Sch. (with art. 6); S.S.I. 2014/251, art. 2(a); S.S.I. 2014/365, art. 2(a); S.S.I. 2015/104, art. 2

17D Appeal against decision of the Panel

(1) An appeal may be made to the sheriff against a decision of a School Closure Review Panel under section 17C(1) by—

(a) the education authority,

(b) a relevant consultee in relation to the closure proposal.

(2) An appeal under subsection (1)—

(a) may be made only on a point of law,

(b) must be made by way of summary application,

(c) must be made within the period of 14 days beginning with the day on which the Panel publishes notice of the decision under section 17C(7)(b).

(3) In the appeal, the sheriff may—

(a) confirm the decision, or

(b) quash the decision and refer the matter back to the Panel.

(4) The sheriff's determination of the appeal is final.**]**

Textual Amendments

F31 Ss. 17A-17D inserted (1.8.2014 for the purposes of commencing s. 17B(3) and so far as necessary to enable Scottish Ministers to make regulations under s. 17B(5); 6.10.2014 for the purpose of bringing into force s. 17A(6) for specified purposes; 9.1.2015 for the purpose of bringing into force s. 17A(6) in so far as not already in force, and 30.3.2015 in so far as not already in force) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 81(4)**, 102(3); S.S.I. 2014/165, art. 2, Sch. (with art. 6); S.S.I. 2014/251, art. 2(a); S.S.I. 2014/365, art. 2(a); S.S.I. 2015/104, art. 2

General

18 Ancillary provision

Schedule 3—

(a) modifies enactments,

(b) makes transitional, transitory and saving provision.

Commencement Information

I17 S. 18 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

19 Guidance

[[F32](1) In exercising its functions under this Act, an education authority must have regard to any guidance issued by the Scottish Ministers for the purposes of or in connection with this Act.**]**

[[F33](2) The Convener, and a School Closure Review Panel, must have regard to any such guidance in exercising their functions under this Act.**]**

Textual Amendments

F32 S. 19(1) : s. 19 renumbered as s. 19(1) (9.1.2015) by Children and Young People (Scotland) Act 2014 (asp 8) , **ss. 81(7)(a)** , 102(3) ; S.S.I. 2014/353 , art. 2(1)(b)

F33 S. 19(2) inserted (9.1.2015) by Children and Young People (Scotland) Act 2014 (asp 8) , **ss. 81(7)(b)** , 102(3) ; S.S.I. 2014/353 , art. 2(1)(b)

20 Regulations

(1) The Scottish Ministers may by regulations make such—

(a) supplemental provision, or

(b) incidental, consequential, transitional, transitory or saving provision,

as they consider necessary or expedient for the purposes of or in connection with this Act.

(2) The Scottish Ministers may by regulations modify schedule 1 or 2 by—

(a) adding an entry to, or removing an entry from, it, or

(b) altering the terms of any entry in it.

(3) Regulations under subsection (1)(a) may (in particular) elaborate on any aspect of the process provided for in sections 1 to **[**[F34]17D**]**.

(4) Regulations under subsection (1) may (in particular) include provision as to the functions of education authorities or the Scottish Ministers.

(5) The power to make regulations under subsection (1) or (2) includes power to make different provision for different purposes.

(6) The power to make regulations under subsection (1) or (2) is exercisable by statutory instrument, but—

(a) a statutory instrument containing regulations under subsection (2) is not to be made unless a draft of the instrument has been laid before, and approved by resolution of, the Scottish Parliament,

(b) a statutory instrument containing regulations under subsection (1) which adds to, replaces or omits the text of an Act (including this Act) is not to be made unless a draft of the instrument has been laid before, and approved by resolution of, the Parliament,

(c) a statutory instrument containing any other regulations under subsection (1) is subject to annulment in pursuance of a resolution of the Parliament.

[[F35](7) Regulations under section 17B(5) and paragraphs 1(9) and 2(5) of schedule 2A—

(a) may make different provision for different purposes,

(b) may make supplemental, incidental, consequential, transitional, transitory or saving provision,

(c) are subject to the negative procedure.**]**

Textual Amendments

F34 Word in s. 20(3) substituted (30.3.2015) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 81(8)(a)**, 102(3); S.S.I. 2015/104, art. 2

F35 S. 20(7) inserted (1.8.2014 for specified purposes, otherwise 30.3.2015) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 81(8)(b)**, 102(3); S.S.I. 2014/165, art. 2, Sch. (with art. 6); S.S.I. 2015/104, art. 2

21 Definitions

(1) In this Act—

"education authority" has the meaning given in section 135(1) of the 1980 Act,

"school"—

(a) means any school under the management of an education authority (that is, a public school as defined in section 135(1) of the 1980 Act),

(b) in relation to a proposal specified in paragraph 10 of schedule 1, includes the (authority-managed) further education centre concerned,

"the 1980 Act" means the Education (Scotland) Act 1980 (c. 44).

[F36F37](2) In this Act—

"affected school" is to be construed in accordance with paragraph 11 of schedule 1,

"call-in notice" (as respects a closure proposal) is defined in section 17(4),

"consultation period" is defined in section 6(4) and "consultation report" is to be construed by reference to section 1(4),

[[F36]"the Convener" is defined in section 17A(6),**]**

"educational benefits statement", "proposal paper" and "public meeting" are to be construed by reference to section 1(3),

"HMIE's report" and "HMIE" are defined in section 8(6) and (7),

"relevant proposal", "closure proposal" and "relevant consultees" are defined in section 2,

"rural school" is defined in section 14(1).

[[F37]"School Closure Review Panel" is defined in section 17A(6).**]**

(3) Unless the context otherwise requires, any undefined expression used in this Act (but defined in section 135(1) of the 1980 Act) is to be construed in accordance with section 135(1) of the 1980 Act.

Textual Amendments

F36 Words in s. 21(2) inserted (6.10.2014 for specified purposes, 9.1.2015 in so far as not already in force) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 81(9)(a)**, 102(3); S.S.I. 2014/251, art. 2(b); S.S.I. 2014/365, art. 2(b)

F37 Words in s. 21(2) inserted (6.10.2014 for specified purposes, 9.1.2015 in so far as not already in force) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 81(9)(b)**, 102(3); S.S.I. 2014/251, art. 2(b); S.S.I. 2014/365, art. 2(b)

22 Commencement and short title

(1) This section and sections 19 to 21 come into force on the day after Royal Assent.

(2) The other provisions of this Act come into force on the day that the Scottish Ministers by order made by statutory instrument appoint.

(3) An order under subsection (2) may appoint different days for different provisions.

(4) An order under subsection (2) may—

(a) include such transitional, transitory or saving provision as the Scottish Ministers consider necessary or expedient in connection with the commencement of this Act,

(b) make different provision for different purposes.

(5) The short title of this Act is the Schools (Consultation) (Scotland) Act 2010.

Status: *Point in time view as at 30/03/2015.*
Changes to legislation: *There are currently no known outstanding effects for the Schools (Consultation) (Scotland) Act 2010. (See end of Document for details)*

SCHEDULE 1

(introduced by section 2)

RELEVANT PROPOSALS

Closure

1 (1) A proposal to permanently—
- (a) discontinue a school, or
- (b) discontinue—
  - (i) all the nursery classes in a school, or
  - (ii) a stage of education in a school (apart from a nursery class).

(2) A proposal to permanently—
- (a) discontinue the provision of Gaelic medium education in all the nursery classes in a school that also provides a nursery class through English medium education, or
- (b) discontinue the provision of Gaelic medium education in a stage of education (apart from a nursery class) in a school that also provides the stage of education through English medium education.

(3) A proposal to permanently—
- (a) discontinue the provision of English medium education in all the nursery classes in a school that also provides a nursery class through Gaelic medium education, or
- (b) discontinue the provision of English medium education in a stage of education (apart from a nursery class) in a school that also provides the stage of education through Gaelic medium education.

(4) For the purpose of this paragraph a proposal to make arrangements of the sort mentioned in sub-paragraph (5) (however described) is to be regarded as a proposal to discontinue (as the case may be)—
- (a) the school,
- (b) all the nursery classes in the school,
- (c) a stage of education in the school (apart from a nursery class), or
- (d) the provision of Gaelic or English medium education in all the nursery classes or a stage of education (apart from a nursery class) in the school.

(5) The arrangements are such arrangements in respect of the school or a stage of education in the school as would (if they were implemented) result, or be likely to result, in the permanent discontinuation of (as the case may be)—
- (a) the school,
- (b) all the nursery classes in the school,
- (c) a stage of education in the school (apart from a nursery class), or
- (d) the provision of Gaelic or English medium education in all the nursery classes or a stage of education (apart from a nursery class) in the school.

(6) If a proposal—
- (a) by virtue of sub-paragraph (4) falls within this paragraph, and
- (b) also falls within another paragraph of this schedule except paragraph 10,

the proposal is to be regarded as falling within this paragraph only.

Commencement Information
I18 Sch. 1 para. 1 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Establishment

2 A proposal to establish—
(a) a new school, or
(b) a new stage of education in a school.

Commencement Information
I19 Sch. 1 para. 2 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Relocation

3 A proposal to relocate (in whole or in part) a school or nursery class.

Commencement Information
I20 Sch. 1 para. 3 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Admission arrangements

4 A proposal to vary any admission arrangements for a school including—
(a) a proposal to establish, terminate or otherwise alter the catchment area of a school, and
(b) a proposal to make or modify guidelines in respect of the handling of placing requests.

Commencement Information
I21 Sch. 1 para. 4 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Transfer from primary to secondary school

5 A proposal to vary the arrangements for the transfer of pupils from a primary school to a secondary school.

Commencement Information
I22 Sch. 1 para. 5 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Primary school commencement date

6 A proposal to change the school commencement date of a primary school.

Status: *Point in time view as at 30/03/2015.*
Changes to legislation: *There are currently no known outstanding effects for the Schools (Consultation) (Scotland) Act 2010. (See end of Document for details)*

Commencement Information
I23 Sch. 1 para. 6 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Special class outwith a special school

7 A proposal to vary arrangements for the constitution of a special class in a school other than a special school.

Commencement Information
I24 Sch. 1 para. 7 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Transport to denominational school

8 A proposal to discontinue arrangements for the provision of transport by the education authority for pupils attending a denominational school.

Commencement Information
I25 Sch. 1 para. 8 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Changing from denominational to non-denominational school

9 A proposal to change a denominational school into a non-denominational school.

Commencement Information
I26 Sch. 1 para. 9 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Discontinuance of a further education centre

10 (1) A proposal to discontinue a further education centre which is managed by the education authority.

(2) For the purpose of this paragraph, a "further education centre" is an institution for the provision of further education.

(3) But it does not include a centre wholly or mainly for the provision of social, cultural and recreational activities (or any of such activities) or a centre for provision of courses of education in the evening only.

Commencement Information
I27 Sch. 1 para. 10 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Meaning of expressions used in this schedule

11 (1) In this Act, a reference to any school that is affected by a proposal is to—

(a) every school which the proposal directly concerns, and
(b) any other school which would be significantly affected in consequence of the proposal (if implemented).

(2) So (for example) an affected school is—
(a) a school which it is proposed be discontinued,
(b) a school to which the education authority proposes to transfer some or all of the pupils of a discontinued school,
(c) a school in respect of which it is proposed to alter the catchment area (including where that is the result of the discontinuance of another school),
(d) a school from which it is proposed to transfer pupils as a result of the establishment of a new school.

(3) But a school is not an affected school solely because it would be likely to become the subject of placing requests as a consequence of the implementation of a proposal.

Commencement Information
I28 Sch. 1 para. 11 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

12 For the purposes of this schedule and schedule 2—

"catchment area" has the meaning given in section 28A(3D) of the 1980 Act,

"denominational school" is a school of a type referred to in section 21 of the 1980 Act,

"English medium education" means teaching by means of the English language,

"Gaelic medium education" means teaching by means of the Gaelic language (as spoken in Scotland),

"nursery class", "primary education", secondary education" and "further education" are to be construed in accordance with section 135(1) and (2) of the 1980 Act,

"primary school" and "secondary school" are schools where primary and secondary education respectively are provided (whether or not exclusively),

"school commencement date" has the meaning given in section 32(1) of the 1980 Act,

"special school" has the meaning given in section 29(1) of the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) and "special class" is a class of the kind described there,

"stage of education" means—
(a) a yearly stage of—
(i) primary education, or
(ii) secondary education,
(b) a nursery class in a school, or
(c) a special class in a school which is not itself a special school.

Commencement Information
I29 Sch. 1 para. 12 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

SCHEDULE 2

(introduced by section 2)

RELEVANT CONSULTEES

Closure

1 In relation to a proposal specified in paragraph 1 of schedule 1, the consultees are—

(a) the Parent Council or Combined Parent Council of any affected school,

(b) the parents of the pupils at any affected school,

(c) the parents of any children expected by the education authority to attend any affected school within two years of the date of publication of the proposal paper,

(d) the pupils at any affected school (in so far as the education authority considers them to be of a suitable age and maturity),

(e) the staff (teaching and other) at any affected school,

(f) any trade union which appears to the education authority to be representative of the persons mentioned in sub-paragraph (e),

(g) the community council (if any),

(h) any body which has been established by a local authority, whether formally or informally, for the purpose of assisting it in carrying out its functions under Part 2 of the Local Government in Scotland Act 2003 (asp 1),

(i) any other education authority that the education authority considers relevant,

(j) any other users of any affected school that the education authority considers relevant.

Commencement Information

I30 Sch. 2 para. 1 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Establishment

2 In relation to a proposal specified in paragraph 2 of schedule 1, the consultees are—

(a) the Parent Council or Combined Parent Council of any affected school,

(b) the parents of the pupils at any affected school,

(c) the parents of any children expected by the education authority to attend any affected school within two years of the date of publication of the proposal paper,

(d) the pupils at any affected school (in so far as the education authority considers them to be of a suitable age and maturity),

(e) the staff (teaching and other) at any affected school,

(f) any trade union which appears to the education authority to be representative of the persons mentioned in sub-paragraph (e),

(g) the community council (if any),

(h) any body which has been established by a local authority, whether formally or informally, for the purpose of assisting it in carrying out its functions under Part 2 of the Local Government in Scotland Act 2003,

(i) any other education authority that the education authority considers relevant,

(j) any other users of any affected school that the education authority considers relevant.

Commencement Information
I31 Sch. 2 para. 2 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Relocation

3 In relation to a proposal specified in paragraph 3 of schedule 1, the consultees are—

(a) the Parent Council or Combined Parent Council of any affected school,
(b) the parents of the pupils at any affected school,
(c) the parents of any children expected by the education authority to attend any affected school within two years of the date of publication of the proposal paper,
(d) the pupils at any affected school (in so far as the education authority considers them to be of a suitable age and maturity),
(e) the staff (teaching and other) at any affected school,
(f) any trade union which appears to the education authority to be representative of the persons mentioned in sub-paragraph (e),
(g) the community council (if any),
(h) any body which has been established by a local authority, whether formally or informally, for the purpose of assisting it in carrying out its functions under Part 2 of the Local Government in Scotland Act 2003,
(i) any other education authority that the education authority considers relevant,
(j) any other users of any affected school that the education authority considers relevant.

Commencement Information
I32 Sch. 2 para. 3 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Admission arrangements

4 In relation to a proposal specified in paragraph 4 of schedule 1, the consultees are—

(a) the Parent Council or Combined Parent Council of any affected school,
(b) the parents of the pupils at any affected school,
(c) the parents of any children expected by the education authority to attend any affected school within two years of the date of publication of the proposal paper,
(d) the pupils at any affected school (in so far as the education authority considers them to be of a suitable age and maturity),
(e) the staff (teaching and other) at any affected school,
(f) any trade union which appears to the education authority to be representative of the persons mentioned in sub-paragraph (e),
(g) the community council (if any),

(h) any body which has been established by a local authority, whether formally or informally, for the purpose of assisting it in carrying out its functions under Part 2 of the Local Government in Scotland Act 2003,

(i) any other education authority that the education authority considers relevant.

Commencement Information

I33 Sch. 2 para. 4 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Transfer from primary to secondary school

5 In relation to a proposal specified in paragraph 5 of schedule 1, the consultees are—

(a) the Parent Council or Combined Parent Council of any affected school,

(b) the parents of the pupils at any affected school,

(c) the parents of any children expected by the education authority to attend any affected school within two years of the date of publication of the proposal paper,

(d) the pupils at any affected school (in so far as the education authority considers them to be of a suitable age and maturity),

(e) the staff (teaching and other) at any affected school,

(f) any trade union which appears to the education authority to be representative of the persons mentioned in sub-paragraph (e),

(g) the community council (if any),

(h) any body which has been established by a local authority, whether formally or informally, for the purpose of assisting it in carrying out its functions under Part 2 of the Local Government in Scotland Act 2003,

(i) any other education authority that the education authority considers relevant.

Commencement Information

I34 Sch. 2 para. 5 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Primary school commencement date

6 In relation to a proposal specified in paragraph 6 of schedule 1, the consultees are—

(a) the Parent Council or Combined Parent Council of any affected school,

(b) the parents of the pupils at any affected school,

(c) the parents of any children expected by the education authority to attend any affected school within two years of the date of publication of the proposal paper,

(d) the pupils at any affected school (in so far as the education authority considers them to be of a suitable age and maturity),

(e) the staff (teaching and other) at any affected school,

(f) any trade union which appears to the education authority to be representative of the persons mentioned in sub-paragraph (e),

(g) any other education authority that the education authority considers relevant.

Commencement Information
I35 Sch. 2 para. 6 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Special class outwith a special school

7 In relation to a proposal specified in paragraph 7 of schedule 1, the consultees are—
(a) the Parent Council or Combined Parent Council of any affected school,
(b) the parents of the pupils at any affected school,
(c) the parents of any children expected by the education authority to attend any affected school within two years of the date of publication of the proposal paper,
(d) the pupils at any affected school (in so far as the education authority considers them to be of a suitable age and maturity),
(e) the staff (teaching and other) at any affected school,
(f) any trade union which appears to the education authority to be representative of the persons mentioned in sub-paragraph (e),
(g) any other education authority that the education authority considers relevant.

Commencement Information
I36 Sch. 2 para. 7 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Transport to denominational school

8 In relation to a proposal specified in paragraph 8 of schedule 1, the consultees are—
(a) the Parent Council or Combined Parent Council of any affected school,
(b) the parents of the pupils at any affected school,
(c) the parents of any children expected by the education authority to attend any affected school within two years of the date of publication of the proposal paper,
(d) the pupils at any affected school (in so far as the education authority considers them to be of a suitable age and maturity),
(e) the staff (teaching and other) at any affected school,
(f) any trade union which appears to the education authority to be representative of the persons mentioned in sub-paragraph (e),
(g) any other education authority that the education authority considers relevant.

Commencement Information
I37 Sch. 2 para. 8 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Changing from denominational to non-denominational school

9 In relation to a proposal specified in paragraph 9 of schedule 1, the consultees are—
(a) the Parent Council or Combined Parent Council of any affected school,
(b) the parents of the pupils at any affected school,

(c) the parents of any children expected by the education authority to attend any affected school within two years of the date of publication of the proposal paper,

(d) the pupils at any affected school (in so far as the education authority considers them to be of a suitable age and maturity),

(e) the staff (teaching and other) at any affected school,

(f) any trade union which appears to the education authority to be representative of the persons mentioned in sub-paragraph (e),

(g) any other education authority that the education authority considers relevant.

Commencement Information

I38 Sch. 2 para. 9 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Discontinuance of a further education centre

10 In relation to a proposal specified in paragraph 10 of schedule 1, the consultees are—

(a) the Parent Council or Combined Parent Council of any school at which the pupils who attend the further education centre also attend,

(b) the parents of the pupils of school age attending the centre,

(c) the parents of any pupils expected by the education authority to attend the centre within two years of the date of publication of the proposal paper,

(d) the pupils attending the centre (in so far as the education authority considers them to be of a suitable age and maturity),

(e) the staff (teaching and other) of any school at which the pupils who attend the further education centre also attend,

(f) any trade union which appears to the education authority to be representative of the persons mentioned in sub-paragraph (e),

(g) the community council (if any),

(h) any body which has been established by a local authority, whether formally or informally, for the purpose of assisting it in carrying out its functions under Part 2 of the Local Government in Scotland Act 2003,

(i) the staff (teaching and other) at the centre,

(j) the students attending the centre,

(k) the employers of any such students,

(l) any other users of the centre that the education authority considers relevant.

Commencement Information

I39 Sch. 2 para. 10 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Gaelic consultee

11 In relation to any proposal mentioned above which affects the provision of Gaelic medium education, Bòrd na Gàidhlig is also a consultee.

Commencement Information
I40 Sch. 2 para. 11 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Denominational consultee

12 In relation to any proposal mentioned above which affects a denominational school, also a consultee is the person duly authorised for the purpose by the church or denominational body in whose interest the affected school is conducted.

Commencement Information
I41 Sch. 2 para. 12 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Meaning of expressions used in this schedule

13 In this schedule—

"community council" is one established by a local authority under Part IV of the Local Government (Scotland) Act 1973 (c. 65),

"Parent Council" and "Combined Parent Council" means one established in accordance with sections 6 and 16 respectively of the Scottish Schools (Parental Involvement) Act 2006 (asp 8).

Commencement Information
I42 Sch. 2 para. 13 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

[[F38]SCHEDULE 2A

(introduced by section 17A)

SCHOOL CLOSURE REVIEW PANELS

Textual Amendments
F38 Sch. 2A inserted (1.8.2014 so far as necessary to enable Scottish Ministers to make regulations under paras. 1(9) and 2(5), 9.1.2015 in so far as not already in force) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 81(5)**, 102(3); S.S.I. 2014/165, art. 2, Sch.; S.S.I. 2014/353, art. 2(1)(a)

Convener of the School Closure Review Panels

1 (1) There is established the office of the Convener of the School Closure Review Panels.

(2) The Scottish Ministers must appoint a person to hold that office.

(3) A person so appointed—

(a) is not to be regarded as a servant or agent of the Crown and does not have any status, immunity or privilege of the Crown,

(b) subject to any provision made in regulations under sub-paragraph (9), holds and vacates office on such terms and conditions as the Scottish Ministers may determine.

(4) The Convener—

(a) may delegate a function conferred on the Convener by this Act,

(b) must delegate such a function if required to do so by directions issued under paragraph 4.

(5) Nothing in sub-paragraph (4)(a) prevents the Convener from carrying out any function delegated under that sub-paragraph.

(6) Sub-paragraph (7) applies during any period when—

(a) the office of the Convener is vacant, or

(b) the person holding that office is unable to perform the functions conferred on the office because the person is incapacitated.

(7) The Scottish Ministers may appoint a person to act as Convener during that period.

(8) A person appointed to act as Convener under sub-paragraph (7)—

(a) is to be appointed on such terms and conditions as the Scottish Ministers may determine,

(b) while acting as such, is to be treated for all purposes, except those of any regulations made under sub-paragraph (9), as the Convener.

(9) The Scottish Ministers may by regulations make provision for or about—

(a) eligibility for, and disqualification from, appointment under sub-paragraph (2),

(b) tenure and removal from office of a person appointed under sub-paragraph (2),

(c) payment of—

(i) salary, fees, expenses and allowances to such a person,

(ii) pensions, allowances or gratuities (including by way of compensation for loss of office) to, or in respect of, such a person,

(d) such other matters in relation to the appointment of the Convener as the Scottish Ministers consider appropriate.

Panel members

2 (1) The Convener is to appoint such number of persons as the Convener considers appropriate to be eligible to serve as members of a School Closure Review Panel.

(2) Each Panel is to consist of 3 of the persons appointed under sub-paragraph (1).

(3) It is for the Convener to select—

(a) the members of the Panel,

(b) one of those members to chair the Panel.

(4) The Convener is to make appropriate arrangements for the training of persons appointed under sub-paragraph (1).

(5) The Scottish Ministers may by regulations make provision for or about—

(a) eligibility for, and disqualification from, appointment under sub-paragraph (1),
(b) tenure and removal from office of persons so appointed,
(c) the process for the selection of Panel members under sub-paragraph (3),
(d) payment of expenses, fees and allowances to persons selected under that sub-paragraph,
(e) such other matters as the Scottish Ministers consider appropriate in relation to—
(i) the appointment of persons under sub-paragraph (1),
(ii) the selection of Panel members under sub-paragraph (3).

Property, staff and services

3 (1) The Scottish Ministers may—
(a) provide, or ensure the provision of, such property, staff and services to the Convener as they consider necessary or expedient in connection with the exercise of the Convener's functions,
(b) pay grants to the Convener for the purposes of enabling the Convener to employ staff and obtain services in connection with the exercise of the Convener's functions.

(2) The Convener is to provide a School Closure Review Panel with such staff and services as the Convener considers necessary or expedient in connection with the exercise of the Panel's functions.

Directions

4 (1) The Scottish Ministers may issue directions to the Convener as to the exercise of the Convener's functions (and the Convener must comply with them).

(2) Directions under sub-paragraph (1) may vary or revoke earlier such directions.

(3) The Scottish Ministers must publish any directions issued under sub-paragraph (1) in such manner as they consider appropriate.

Reports

5 (1) As soon as practicable after the end of each calendar year, the Convener must prepare a report on—
(a) the exercise of the Convener's functions during that year, and
(b) the exercise of the functions of any School Closure Review Panel which has carried out a review under section 17B during that year.

(2) A report prepared under sub-paragraph (1) must be—
(a) submitted to the Scottish Ministers, and
(b) published in such manner as the Convener considers appropriate.**]**

Status: *Point in time view as at 30/03/2015.*
Changes to legislation: *There are currently no known outstanding effects for the Schools (Consultation) (Scotland) Act 2010. (See end of Document for details)*

SCHEDULE 3

(introduced by section 18)

ANCILLARY PROVISION

Modification of enactments

1 (1) In section 22 (discontinuance and moves of educational establishments) of the 1980 Act—

(a) in subsection (4), for the words "sections 22A, 22B, 22C and 22D of this Act" in the first place where they occur substitute " sections 22C and 22D of this Act and the Schools (Consultation) (Scotland) Act 2010 (asp 2) ",

(b) in proviso (ii) to that subsection, for the words "sections 22A, 22B, 22C and 22D of this Act" substitute " sections 22C and 22D of this Act and the Schools (Consultation) (Scotland) Act 2010 (asp 2) ".

(2) Sections 22A and 22B of the 1980 Act are repealed.

Commencement Information

I43 Sch. 3 para. 1 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

2 In the Local Government etc. (Scotland) Act 1994 (c. 39), section 143 is repealed.

Commencement Information

I44 Sch. 3 para. 2 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Transitional, transitory and saving provision

3 (1) Sub-paragraphs (2) to (5) apply to any relevant proposal if—

(a) a consultation on the proposal has been initiated (and is in progress), or has been carried out, by an education authority—

(i) under the 1981 Regulations and section 22A of the 1980 Act, and

(ii) before commencement of this paragraph, and

(b) no final decision to implement the proposal has been made before commencement of this paragraph.

(2) The education authority may not proceed with the proposal unless the consultation consists of (or includes) the matters provided for in sections 1 to 10 so far as relevant in relation to the proposal.

(3) Section 11 applies in relation to the proposal.

(4) In the case of a closure proposal as respects a rural school—

(a) where applicable—

(i) if the proposal paper has not yet been published, the paper must (whenever published) additionally explain the extent to which the education authority has, up to that stage, taken account of the matters provided for in section 12(2) to (5),

(ii) if the consultation report has not yet been published, the report must (whenever published) additionally explain the extent to which the

education authority has, at any (or any other) stage, taken account of the matters provided for in section 12(2) to (5),

(b) at any time when the education authority is deciding whether to implement the proposal, section 12(2) to (5) applies in relation to the proposal.

(5) In the case of any closure proposal, if at any time the education authority decides to implement the proposal, sections 15 to 17 apply in relation to the proposal.

Commencement Information
I45 Sch. 3 para. 3 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

4 (1) Sub-paragraph (2) applies to a relevant proposal if—

(a) a consultation on the proposal has been carried out by an education authority—

(i) under the 1981 Regulations and section 22A of the 1980 Act, and

(ii) before the commencement of this paragraph, and

(b) the final decision to implement the proposal has been made before commencement of this paragraph.

(2) The education authority may proceed further with the proposal except in the circumstances mentioned in sub-paragraph (3) or (4).

(3) The circumstances are where the authority modifies the proposal in a material way.

(4) The circumstances are where—

(a) in accordance with section 22B of the 1980 Act, the proposal requires the consent of the Scottish Ministers, and

(b) that consent—

(i) has not yet been given, or

(ii) is, or has been, refused.

Commencement Information
I46 Sch. 3 para. 4 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

5 Despite paragraph 1(2)—

(a) to the extent required for the purposes of paragraph 3, the 1981 Regulations and section 22A of the 1980 Act continue to operate as they did immediately before the commencement of this paragraph, and

(b) to the extent required for the purposes of paragraph 4, the 1981 Regulations and section 22A of the 1980 Act, and section 22B of that Act, continue to operate as they did immediately before the commencement of this paragraph.

Commencement Information
I47 Sch. 3 para. 5 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

6 (1) In paragraph 3(2), the reference to proceeding with the proposal is to—

(a) deciding to implement it (wholly or partly), or

(b) implementing it (wholly or partly).

(2) In paragraph 4(2), the reference to proceeding further with the proposal is to implementing it (wholly or partly).

(3) In this schedule, "the 1981 Regulations" are the Education (Publication and Consultation Etc.) (Scotland) Regulations 1981 (S.I. 1981/1558).

Commencement Information

I48 Sch. 3 para. 6 in force at 5.4.2010 by S.S.I. 2010/70, **art. 2**

Status:
Point in time view as at 30/03/2015.

Changes to legislation:
There are currently no known outstanding effects for the Schools (Consultation) (Scotland) Act 2010.