



# Schools (Consultation) (Scotland) Act 2010

2010 asp 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.

[<sup>F1</sup>(iii) where the decision relates to a rural school, the notice published under section 11A(3).]

[<sup>F2</sup>(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 [<sup>F3</sup>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 [<sup>F4</sup>8] week period.

<sup>F5</sup>(5) .....

(6) The education authority may not proceed further with the proposal before the expiry of the [<sup>F6</sup>8] week period within which a call-in notice may be issued as respects the proposal.

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- (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

- F1** 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.
- F2** 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.
- F3** 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.
- F4** 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.
- F5** 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)
- F6** 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

- I1** S. 15 in force at 5.4.2010 by S.S.I. 2010/70, art. 2

### <sup>F7</sup> 16 Determination of case

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#### Textual Amendments

- F7** 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

- I2** 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—

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- (a) whether to issue a call-in notice, <sup>F8</sup>...
- <sup>F9</sup>(b) .....

[<sup>F10</sup>(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

- F8** 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)
- F9** 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)
- F10** 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

- I3** S. 17 in force at 5.4.2010 by S.S.I. 2010/70, art. 2

### [<sup>F11</sup>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).

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### Textual Amendments

**F11** 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

**F11** 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.

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- (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

**F11** 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,

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- (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

- F11** 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](#)

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