



Schools (Consultation) (Scotland) Act 2010

2010 asp 2

Call-in by the Scottish Ministers

15 Call-in of closure proposals **S**

- (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.
 - [^{F1}(iii) where the decision relates to a rural school, the notice published under section 11A(3).]
- [^{F2}(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 [^{F3}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 [^{F4}8] week period.
- ^{F5}(5)
- (6) The education authority may not proceed further with the proposal before the expiry of the [^{F6}8] week period within which a call-in notice may be issued as respects the proposal.

Changes to legislation: There are currently no known outstanding effects for the Schools (Consultation) (Scotland) Act 2010, Cross Heading: Call-in by the Scottish Ministers. (See end of Document for details)

- (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

^{F7} 16 Determination of case **S**

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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. **S**

- (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—
- 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
 - 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, ^{F8}...
- ^{F9}(b)

[^{F10}(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

[^{F11}17A Referral to the Convener of the School Closure Review Panels **S**

- (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).

Changes to legislation: There are currently no known outstanding effects for the Schools (Consultation) (Scotland) Act 2010, Cross Heading: Call-in by the Scottish Ministers. (See end of Document for details)

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 **S**

- (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 **S**

- (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 **S**

- (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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