



# Schools (Consultation) (Scotland) Act 2010

2010 asp 2

*Process for all schools*

## 1 Overview of key requirements **S**

- (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.
- [<sup>F1</sup>(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).

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*Changes to legislation: There are currently no known outstanding effects for the Schools (Consultation) (Scotland) Act 2010, Cross Heading: Process for all schools. (See end of Document for details)*

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#### 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 **S**

- (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**

## [<sup>F2</sup>2A Restriction on closure proposals **S**

- (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.]

*Changes to legislation: There are currently no known outstanding effects for the Schools (Consultation) (Scotland) Act 2010, Cross Heading: Process for all schools. (See end of Document for details)*

### 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 **S**

- (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 **S**

- (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 <sup>F3</sup>17D] (so far as applicable in relation to the proposal).
- <sup>F4</sup>(2A) Where a proposal paper relates to a closure proposal, it must also contain information about the financial implications of the proposal.]

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- (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 **S**

- (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,<sup>F5</sup>...
  - <sup>F6</sup>(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 <sup>F7</sup>subsection (4) and of the reasons why it is, or is not, taking such action<sup>F8</sup>and

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- (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).]

[<sup>F9</sup>(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).]

[<sup>F10</sup>(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.]

*Changes to legislation: There are currently no known outstanding effects for the Schools (Consultation) (Scotland) Act 2010, Cross Heading: Process for all schools. (See end of Document for details)*

### 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 **S**

- (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

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- (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** **S**

- (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** **S**

- (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,

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- (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).

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**Commencement Information**

**I8** S. 8 in force at 5.4.2010 by [S.S.I. 2010/70](#), [art. 2](#)

**9 Consultation report** **S**

- (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.



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### Commencement Information

**19** S. 9 in force at 5.4.2010 by [S.S.I. 2010/70](#), [art. 2](#)

## 10 Content of the report **S**

- (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,<sup>[F11]</sup> including any alleged omission or inaccuracy notified to the education authority,<sup>[F11]</sup> the further information is—
  - (a) details of the omission or inaccuracy<sup>[F12]</sup>, or (as the case may be) the alleged omission or inaccuracy,<sup>[F12]</sup> (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<sup>[F13]</sup>, or (as the case may be) the alleged omission or inaccuracy,<sup>[F13]</sup> or
    - (ii) if no action has been taken, of that fact (and why).
  - <sup>[F14]</sup>(c) any representations made to the authority in pursuance of section 5(2)(c).<sup>[F14]</sup>
- (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.](#)

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**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** **S**

- (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**

**[<sup>F15</sup>11ZA Directions relating to making documents available and holding public meetings** **S**

- (1) The Scottish Ministers may, on the application of an education authority, give a direction that the education authority is to take one or more of the actions mentioned in subsection (2).
- (2) Those actions are—
  - (a) to disregard the duty under section 4(4)(a) and 9(3)(a) to publish things in printed form,
  - (b) to treat the duty under sections 4(4)(b) and 9(3)(b) to make things available for inspection in a place as a duty to make things available in such manner as the education authority considers appropriate instead,
  - (c) to meet the duty under section 7(1) to hold a public meeting in a place by holding a meeting using remote facilities instead.
- (3) A direction may be given under this section only if the Scottish Ministers are satisfied that giving the direction is a necessary and proportionate action for or in connection with the protection of public health.
- (4) A direction given under this section may vary or revoke an earlier direction.
- (5) A direction under this section—
  - (a) may be varied or revoked,
  - (b) may relate to one or more relevant proposals,
  - (c) may be given subject to such conditions as may be specified in the direction.
- (6) A direction given under this section must be published in such manner as the Scottish Ministers consider appropriate.
- (7) In this section—
 

“protection of public health” is to be construed in accordance with section 1(5) of the Public Health etc. (Scotland) Act 2008,

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“remote facilities” means any equipment or facility which—

- (a) enables persons who are not in the same place to participate in the meeting, and
- (b) enables those persons to speak to and be heard by each other (whether or not it enables those persons to see and be seen by each other).]

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**Textual Amendments**

**F15** S. 11ZA inserted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), ss. **18(2)**, 59(1)

**Changes to legislation:**

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