

EDUCATION (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Gaelic Medium Education

Assessments: primary education

Section 12: Full assessments

46. This section applies where an education authority has received a parental request under section 7(1) and has decided, under section 10, to carry out a full assessment of the need for GMPE in a GMPE assessment area.
47. Subsections (2) and (3) state that, in undertaking a full assessment, an education authority must provide Her Majesty's inspectors of schools (in practice this means Education Scotland), Bòrd na Gàidhlig, Comann nam Pàrant and the National Parent Forum of Scotland with details of the request and the information the authority took into account under section 9(3) in making an initial assessment. The education authority must seek the views of those bodies on those matters and on the authority's determination under section 9(5) as to whether there is, or is not, a potential need for GMPE in the GMPE assessment area. Subsection (4) provides that Education Scotland and Bòrd na Gàidhlig must provide these views within 4 weeks of being asked. Comann nam Pàrant and the National Parent Forum of Scotland are under no duty to provide these views, but may do so; and subsection (6)(a) of this section requires that the education authority must have regard to all views provided within that 4 week period, including any of Comann nam Pàrant and the National Parent Forum of Scotland, when undertaking the full assessment.
48. Subsection (5) explains that, at the completion of a full assessment, an education authority must decide whether or not to secure the provision of GMPE in the GMPE assessment area. Subsection (5) is subject to subsection (7), which provides that the authority must decide to secure the provision of GMPE in the GMPE assessment area unless, having regard to the matters in subsection (6), the authority considers it would be unreasonable to do so.
49. Subsection (6) states that an education authority must have regard to a number of mandatory factors in making the decision under subsection (5). The mandatory factors are set out in paragraphs (a) to (l) of subsection (6). Because education authorities have the power under section 23 of the 1980 Act to provide education to pupils belonging to other education authority areas, these factors include, at paragraphs (f) and (g), a requirement for education authorities to have regard to the location of GMPE provision in neighbouring education authorities as well as the extent to which children resident in another education authority, adjacent to the GMPE assessment area, could access GMPE in that area and the extent to which children resident in the GMPE assessment area could access GMPE in another education authority, adjacent to the GMPE assessment area.

*These notes relate to the Education (Scotland) Act 2016
(asp 8) which received Royal Assent on 8 March 2016*

50. Subsection (8) gives the Scottish Ministers the power by regulations to modify subsections (3) and (6). This power may be exercised to change the bodies from whom views must be sought during the full assessment or to amend, remove or add a factor to the list of factors that an education authority must have regard to in deciding whether or not to secure the provision of GMPE in that GMPE assessment area.