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SCOTTISH STATUTORY INSTRUMENTS

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**2020 No. 128**

**EDUCATION**

**The Education (Miscellaneous Amendments)  
(Coronavirus) (Scotland) Regulations 2020**

<i>Made</i>	- - - -	<i>at 3.00 p.m. on 22nd April 2020</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>at 4.30 p.m. on 22nd April 2020</i>
<i>Coming into force</i>	- -	<i>23rd April 2020</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 28A(5) and 28D(3) of the Education (Scotland) Act 1980<sup>(1)</sup> and section 22 of, and paragraphs 4(3) and 6(6) of schedule 2 of the Education (Additional Support for Learning) (Scotland) Act 2004<sup>(2)</sup> and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Education (Miscellaneous Amendments) (Coronavirus) (Scotland) Regulations 2020 and come into force on 23 April 2020.

**Amendment of the Education (Placing in Schools Etc-Deemed Decisions) (Scotland) Regulations 1982**

2.—(1) The Education (Placing in Schools Etc-Deemed Decisions) (Scotland) Regulations 1982<sup>(3)</sup> are amended in accordance with the following paragraphs.

- (2) In regulation 4(1) (deemed decision of education authority)—
- (a) for “30th April” in both places where it appears substitute “31st May”,
  - (b) for “2 months” in both places where it appears substitute “3 months”.
- (3) In regulation 5(1) (deemed decision of appeal committee)—
- (a) in subparagraph (a), for “2 months” substitute “4 months”,
  - (b) in subparagraph (c), for “14 days” substitute “28 days”,

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(1) 1980 c.44. Section 28A and 28D of the Education (Scotland) Act 1980 were inserted by section 1(1) of the Education (Scotland) Act 1981 (c.58). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(2) 2004 asp 4.

(3) S.I. 1982/1733.

- (c) in the full-out, for “2 months” to the end substitute “4 months, 14 days or, as the case may be, 28 days.”.

### **Amendment of the Education (Appeal Committee Procedures) (Scotland) Regulations 1982**

**3.—**(1) The Education (Appeal Committee Procedures) (Scotland) Regulations 1982(4) are amended in accordance with the following paragraphs.

- (2) In regulation 2(1) (interpretation)(5)—
- (a) after the definition of “education authority” insert—
- ““electronic communication” has the meaning given to it by section 15(1) of the Electronic Communications Act 2000(6);”,
- (b) after the definition of “First-tier Tribunal” insert—
- ““hearing” means an oral hearing and includes a form of hearing conducted in whole or in part by video link, telephone or other means of instantaneous multi-party electronic communication;”,
- (c) omit the definition of “working days”.
- (3) In regulation 5 (acknowledgment of reference)(7), for “5 working days” substitute “28 days”.
- (4) In regulation 7(1) (fixing date of hearing)—
- (a) after “appeal committee” insert “as soon as reasonably practicable”,
- (b) for “28 days” substitute “3 months”,
- (c) for “possible” substitute “reasonably practicable”.
- (5) In regulation 8(1) (notification of hearing)(8)—
- (a) omit subparagraphs (a) and (b),
- (b) before “give notification” insert “as soon as reasonably practicable,”.
- (6) In regulation 9(2) (combined hearings)—
- (a) after “held” insert “as soon as reasonably practicable”,
- (b) for “28 days” substitute “3 months”,
- (c) before “practicable after” insert “reasonably”.
- (7) After regulation 11 (procedure at hearing), insert—

#### **“Written consideration of reference**

**11A.—**(1) The appeal committee may, with the agreement of all parties, determine the reference following consideration of written representations submitted by the parties, rather than by way of a hearing.

(2) Subject to paragraph (3), where paragraph (1) applies, the appeal committee is to determine the procedure that is to be followed and such procedure must make provision that, so far as reasonably practicable, serves the purpose of the procedural steps set out in regulation 11(2) to (5).

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(4) [S.I. 1982/1736](#).

(5) Regulation 2(1) was relevantly amended by regulation 3(d) of [S.S.I. 2006/322](#) and paragraph 7(2)(a) of schedule 2(2) of [S.S.I. 2018/4](#).

(6) [2000 c.7](#).

(7) Regulation 5 was relevantly amended by regulation 4 of [S.S.I. 2006/322](#).

(8) Regulation 8 was relevantly amended by regulation 5(a) and (b) of [S.S.I. 2006/322](#) and paragraph 7(3) of schedule 2(2) of [S.S.I. 2018/4](#).

(3) Regulations 7 to 10, 12, 13(5) and 14 apply, with any necessary modifications, to a determination of a reference under paragraph (1) as they apply to a hearing.”.

(8) In regulation 14(2) and (3) (notification of decision)(9), for “14 days” substitute “28 days”.

**Amendment of the Additional Support for Learning (Placing Requests and Deemed Decisions) (Scotland) Regulations 2005**

4.—(1) The Additional Support for Learning (Placing Requests and Deemed Decisions) (Scotland) Regulations 2005(10) are amended in accordance with the following paragraphs.

(2) In regulation 3 (deemed decision of education authority)—

(a) for “30thApril” in both places where it appears substitute “31st May”,

(b) for “2 months” in both places where it appears substitute “3 months”.

(3) In regulation 4 (deemed decision of appeal committee)—

(a) in paragraph (a), for “2 months” substitute “4 months”.

(b) in paragraph (c) , for “14 days” substitute “28 days”,

(c) in the full-out, for “2 months” to the end substitute “4 months, 14 days or, as the case may be, 28 days.”.

(4) In regulation 6 (provision of information to appeal committee), for “immediately” substitute “, as soon as reasonably practicable,”.

St Andrew’s House,  
Edinburgh  
At 3.00 p.m. on 22nd April 2020

*JOHN SWINNEY*  
A member of the Scottish Government

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(9) Regulation 14(2) and (3) were inserted by regulation 7 of S.S.I. 2006/322.

(10) S.S.I. 2005/515.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make amendments to regulations that make provision for placing requests and for the procedure of an education appeal committee. The changes made by these Regulations are necessary as a result of coronavirus (severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)).

Regulation 2 amends time limits in the Education (Placing in Schools Etc-Deemed Decisions) (Scotland) Regulations 1982 relating to education authorities' decisions on placing requests made under the Education (Scotland) Act 1980. It also amends time limits relating to the hearing of appeals by education appeal committees against those decisions and decisions on exclusions of pupils.

Regulation 3 amends time limits in the Education (Appeal Committee Procedures) (Scotland) Regulations 1982 relating to the hearing by education appeal committees of references from education authority decisions. It also makes other amendments to the procedure set out in those regulations, including to provide for hearings to be conducted remotely and for references to be considered by appeal committees on the basis of written representations by the parties.

Regulation 4 amends time limits in the Additional Support for Learning (Placing Requests and Deemed Decisions) (Scotland) Regulations 2005 relating to education authorities' decisions on placing requests made under the Education (Additional Support for Learning) (Scotland) Act 2004. It also amends time limits relating to the hearing of appeals by education appeal committees against those decisions.