

# **SCHOOLS (CONSULTATION) (SCOTLAND) ACT 2010**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### *Call-in by the Scottish Ministers*

#### *Section 15 – Call-in of closure proposals*

52. **Section 15** provides for the possibility of the Scottish Ministers “calling in” a decision taken by an authority after the consultation procedures set out in sections 1 to 11 (or 1 to 14 in relation to rural closure proposals) of the Act have been completed. Sections 15 to 17 of the Act only apply if the decision taken by an authority is to proceed to implement a closure proposal. The possibility of Ministerial call-in of a decision to implement a closure proposal applies whether or not the closure proposal is for a rural school.
53. **Section 15(2)** provides that the authority must notify the Scottish Ministers of a closure decision within six working days (starting on and including the day on which the decision was made) and supply the Scottish Ministers with a copy of the proposal paper and of the consultation report.
54. **Section 15(3)** prescribes a period of 6 weeks from the date of the authority’s decision, by the end of which the Scottish Ministers must decide whether to call-in the authority’s decision. In considering whether to do so, section 15(4) requires the Scottish Ministers to take account of representations made to them within the first 3 weeks of that 6 week period. Therefore persons wishing to make representations to the Scottish Ministers that the decision should (or should not) be called in have 3 weeks from the date of the authority’s decision to convey their representations to the Scottish Ministers. During the second half of the 6 week period the Scottish Ministers are to take account of any representations received – although their considerations are not restricted to the content of those representations – and decide whether or not to call the authority’s decision in. In this connection section 17(3)(a) requires an authority to provide the Scottish Ministers with such information in connection with the proposal as they may reasonably require for the purposes of considering whether to issue a call-in notice.
55. Calling in an authority decision is effected by the Scottish Ministers issuing a call-in notice (under section 15(3)), which has the effect of remitting the closure proposal to the Scottish Ministers, as provided for in section 15(5). Section 15(6) and (7) provide that the education authority may not proceed further with implementation of the closure decision wholly or partly before the 6 week period has expired, unless the Scottish Ministers have given notice before the end of the period that they will not call the decision in.