

SCHOOLS (CONSULTATION) (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Special provision for rural schools

Section 12 – Factors for rural closure proposals

41. **Sections 12 to 14** place an additional set of requirements on authorities when they are contemplating any closure proposal (specified in paragraph 1 of schedule 1) as respects a rural school. These are in addition to the requirements set out in the previous sections of the Act as to how consultations regarding relevant proposals for all schools are to be conducted.
42. **Section 12(3)** specifies three factors which an authority must “have special regard to” (under section 12(2)) when considering and proceeding with a closure proposal for a rural school.
43. The first factor is any viable alternative to the closure proposal. A decision to proceed to consult on a proposal to close a rural school should not be taken until any viable alternative to closure has been considered.
44. The second factor that an authority must consider is the likely effect on the local community if the closure proposal were to go ahead. Section 12(4)(a) specifies that that effect must be assessed by particular reference to the sustainability of the community. “Sustainability” is not defined in the Act and therefore bears its ordinary, dictionary meaning. Its usage here therefore means sustainability in the widest sense, both now and looking ahead. Section 12(4)(b) also requires particular consideration to be given to the implications for community access to or use of (or not as the case may be) of the school’s premises (which includes the grounds) and facilities after closure.
45. The third factor in section 12(3) is the likely changes to transport and travel arrangements if the closure proposal were to go ahead. This requires particular consideration of the effect on pupils, staff and other users of the school that would be occasioned by the school’s closure, and any consequential environmental impact. This could include consideration of journeys to and from the alternative school, use of vehicles (both school buses and parents’ cars), and curtailed possibilities for pupils walking and cycling to school (because of the greater distances involved) etc.

Section 13 – Explanation of approach

46. **Section 13** provides that when conducting consultations in respect of a closure proposal for a rural school, the proposal paper which an authority publishes (in accordance with section 4) must additionally explain and set out how, in formulating the proposal, the authority had special regard to the three factors described in section 12.

47. After the consultation period has concluded, the authority must additionally include in the consultation report an explanation of how, in reviewing the proposal it applied the three factors described in section 12. The consultation report must also explain any change of attitude on the part of the authority regarding the application of the three factors in relation to the closure proposal.

Section 14 – Designation of rural schools

48. In the Consultation Paper on the Bill¹, the Scottish Ministers indicated their intention to define which schools are rural schools by reference to the 3 rural area categories contained (out of the 8 area categories) in the Scottish Government’s well-established “Urban/Rural Classification”; these are “Accessible Rural”, “Remote Rural;” and “Very Remote Rural”. This classification is regularly updated and used for a variety of purposes including analysis of data and particularly the presentation of statistics and other information. Section 14 includes provisions which enable the Scottish Ministers to proceed as they set out in the Consultation Paper (see paragraph 5).
49. **Section 14(1)** requires the Scottish Ministers to maintain a list of rural schools. That list must also be accompanied by an explanation of how it was devised (section 14(3)). Section 14(2) specifies that in considering the question of “rurality” and which schools are to be included in, or excluded from, the list, the Scottish Ministers must have particular regard to the population and geographical circumstances (remoteness etc.) of the community or settlement in which the school is located. These are essentially the factors which determine the categories of area within the existing “Urban/Rural Classification”.
50. **Section 14(4)** also requires the Scottish Ministers to monitor the list, updating it as they consider necessary, and to publish it.
51. **Section 14(5)** requires an authority to provide the Scottish Ministers with such information as they may reasonably require, in connection with maintaining the list. An example might be where there had been a significant increase or decrease in the population of the community in which a school is located – that being one of the determining factors set out in section 14(2) – such as might warrant a school being added to or removed from the list.

1 <http://www.scotland.gov.uk/Publications/2008/04/25131457/0>