

2005 No. 571

EDUCATION

**The Registration of Independent Schools (Scotland)
Regulations 2005**

Made - - - - - *10th November 2005*

Laid before the Scottish Parliament *11th November 2005*

Coming into force - - - *31st December 2005*

The Scottish Ministers, in exercise of the powers conferred by section 98(3) and 98A(2) of the Education (Scotland) Act 1980(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Registration of Independent Schools (Scotland) Regulations 2005 and shall come into force on 31st December 2005.

(2) In these Regulations—

- (a) “boarding” in relation to a pupil means a pupil provided with accommodation at a school (or elsewhere under arrangements made by the proprietor of the school), and in relation to a school means a school which provides or makes arrangements for the provision of accommodation for such pupils;
- (b) “child care position” means a child care position within the meaning of the Protection of Children (Scotland) Act 2003(b);
- (c) “the Council” means the General Teaching Council for Scotland;
- (d) “electronic address” means such address as may be provided for by electronic means, and references to the doing of anything in writing shall include references to the doing of that thing by means of a document—
 - (i) transmitted by electronic means;
 - (ii) received in legible form; and
 - (iii) capable of being used for subsequent reference;
- (e) “the 1980 Act” means the Education (Scotland) Act 1980; and

(a) 1980 c.44. 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). Section 98A of the Education (Scotland) Act 1980 (“the 1980 Act”) was replaced by a new section 98A by virtue of section 4(2) of the School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004 (2004 asp 12) (“the 2004 Act”).

(b) 2003 asp 5.

(f) “the 1997 Act” means the Police Act 1997(a).

(3) Where these Regulations require a document to be signed, that requirement shall be satisfied—

(a) if the signature is written; or

(b) in the case of a document which is transmitted electronically in accordance with these Regulations by the electronic signature with the meaning of section 7 of the Electronic Communications Act 2000(b) of the person who is required to sign it.

(4) References in these Regulations to “relevant person” shall be construed where applicable in accordance with section 103A(6) of the 1980 Act(c).

(5) References in these Regulations to “employed” shall be construed to include carrying out work of any kind, whether paid or unpaid and whether under a contract of service, contract for services, or otherwise than under a contract.

Revocation

2. The Registration of Independent Schools (Scotland) Regulations 1957(d) and the Registration of Independent Schools (Scotland) Amendment Regulations 1975(e) are hereby revoked.

PART II

INFORMATION AS TO PARTICULARS TO BE FURNISHED TO THE REGISTRAR

Application for registration of an independent school

3. Every application for the registration of an independent school(f) shall—

(a) be made in writing by the proprietor(g) of that school to the Scottish Ministers;

(b) include information as to the particulars specified in Schedule 1 and such of the information as to the particulars specified in Schedule 2 as is available and applicable at the time the application is made; and

(c) include a statement signed by the proprietor that, to the best of the proprietor’s knowledge and belief, the information provided in the application is true and accurate.

Notification to Registrar of changes to certain particulars

4.—(1) Within one month of the occurrence of a designated change affecting a registered school(h) the proprietor shall furnish the Registrar(i) with written notification of—

(a) the nature of the designated change;

(b) the date on which it occurred; and

(c) information as to such of the particulars specified in paragraph (3) as are applicable.

(2) In paragraph (1), “designated change” means a change in any of the particulars specified in paragraphs 1 to 8 of Schedule 1.

(a) 1997 c.50.

(b) 2000 c.7.

(c) Section 103A(6) was inserted into the 1980 Act by virtue of section 7 of the 2004 Act.

(d) S.I. 1957/1058.

(e) S.I. 1975/1412.

(f) Section 135(1) of the 1980 Act, as amended by section 3 of the 2004 Act, defines “independent school”.

(g) Section 135(1) of the 1980 Act defines “proprietor”.

(h) Section 135(1) of the 1980 Act, as amended by section 8(2) and Schedule 2 to the 2004 Act, defines “registered school”.

(i) “Registrar” is as referred to in Part V of the 1980 Act.

(3) The specified particulars are—

- (a) where there is a change of proprietor, the name, postal address, electronic address, telephone number and facsimile number of the new proprietor and the relevant details of the new proprietor in terms of paragraph 6, 7 and 8 of Schedule 1, together also with a statement as referred to in paragraph 10 of Schedule 1;
- (b) where there is a change of the school's name, the new name of the school; and
- (c) where there is a change of the school's location, the new postal address of the school together with, if changed, the electronic address, telephone number and facsimile number.

Annual returns

5. Information as to the particulars specified in Schedule 2 shall be notified in writing to the Registrar by the proprietor in September of each year.

St Andrew's House,
Edinburgh
10th November 2005

ROBERT E BROWN
Authorised to sign by the Scottish Ministers

SCHEDULE 1

Regulations 3 and 4

Information as to Particulars required in an Application for Registration

1. The name of the school.
2. The postal address, electronic address, telephone number and facsimile number of the school, including a description of the heritable property occupied for the purposes of the school and plans of each building forming part of the school, indicating sanitary facilities and the dimensions of each room.
3. The type of school, detailing which combination of the following describe the school, and the education or other provision made within it—
 - (a) primary education;
 - (b) secondary education;
 - (c) provision for education other than referred to within paragraphs 3 (a) or 3 (b);
 - (d) day or boarding;
 - (e) additional support for learning;
 - (f) church or other denominational body in whose interest the school is conducted.
4. The maximum intended number of pupils in the school.
5. The date from which the school is to be operational.
6. In the case of an individual proprietor, that person's full name, usual residential address, electronic address, telephone number and facsimile number.
7. The postal address, electronic address, telephone number and facsimile number to which communications to the proprietor should be sent if different from 6.
8. Where the proprietor is not an individual—
 - (a) the name of the proprietor;
 - (b) the postal address, electronic address, telephone number and facsimile number of the proprietor's principal office together with such information insofar as it relates to (where it has one) the proprietor's registered office;
 - (c) the full name, postal address, electronic address, telephone number and facsimile number, of any person to whom the proprietor wishes communications concerning the school to be addressed;
 - (d) in the case of a body corporate, Scottish partnership, or unincorporated association (other than a Scottish partnership), the title of the body, partnership or association, a description of its nature and the full name and usual residential address of any relevant person and the capacity in which such person acts; and
 - (e) in the case where the school is, or is conducted by, a charity, the name of that charity and details as to its registration as a charity.
9. A copy of the school's—
 - (i) Curriculum;
 - (ii) Statement of Aims;
 - (iii) Prospectus;
 - (iv) Admissions Policy;
 - (v) Fire Risk Assessment Policy and Procedure;

- (vi) Health and Safety Risk Assessment Policy and Procedure; and
- (vii) Child Protection Policy and Procedure, including a statement of the school's policy and practice on seeking criminal record certificates under Part V of the 1997 Act, which statement shall also include a statement detailing what checks are made, including those with reference to Part V of the 1997 Act, in respect of all persons working or to be working in a child care position, relative to the school.

10. A statement confirming that criminal record certificates under Part V of the 1997 Act appropriate to the position have been obtained and are in accordance with the school's Child Protection Policy and Procedure, in respect of–

- (a) the proprietor of the school;
- (b) all proposed teachers; and
- (c) all other persons in or to be in a child care position relative to the school.

SCHEDULE 2

Regulations 3 and 5

Information as to Particulars required in an Annual Return

1. The number of pupils in the school arranged by their year of birth, their sex and whether they are day or boarding pupils.
2. The following particulars in relation to every teacher employed by or in the school as at the date on which the Annual Return is completed–
 - (a) their full name;
 - (b) their date of birth and sex;
 - (c) whether they are employed on a full-time, part-time or other basis and if employed on a part-time or other basis the number of hours for which that teacher is employed per week;
 - (d) their qualifications, the subject or subjects for which they are employed to teach, and confirmation of whether or not they are registered with the Council.
3. A statement confirming that criminal record certificates under Part V of the 1997 Act, appropriate to the position, have been obtained and are in accordance with the school's Child Protection Policy and Procedure, in respect of–
 - (a) any teachers, and
 - (b) any other persons in a child care position,employed for the first time by or in, or re-employed by or in the school, within the previous 12 month period.
4. A statement confirming that the assessments undertaken in terms of the School's Fire Risk Assessment Policy and Procedure, and Health and Safety Risk Assessment Policy and Procedure have been reviewed within the previous 12 month period.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 2 of the School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004 revises and amends the legislation governing independent schools within the Education (Scotland) Act 1980.

These Regulations set out the information as to particulars which is to be provided to the Registrar of Independent Schools in relation to an application for registration of an independent school. They also require certain specified changes in those particulars to be notified to the Registrar. Provision is in addition made for the information as to particulars relating to a registered independent school to be notified to the Registrar within an Annual Return, in connection with the continuing registration of the school.

These Regulations revoke the Registration of Independent Schools (Scotland) Regulations 1957 and the Registration of Independent Schools (Scotland) Amendment Regulations 1975.

2005 No. 571

EDUCATION

**The Registration of Independent Schools (Scotland)
Regulations 2005**

£3.00

© Crown Copyright 2005