

2007 No. 487

EDUCATION

**The Education (School and Placing Information) (Scotland)
Amendment Regulations 2007**

Made - - - - - *31st October 2007*

Laid before the Scottish Parliament *1st November 2007*

Coming into force - - - *23rd November 2007*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 2 and 28B(1)(a)(ii) and (3) of the Education (Scotland) Act 1980(a) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Education (School and Placing Information) (Scotland) Amendment Regulations 2007 and come into force on 23rd November 2007.

Amendment of the Education (School and Placing Information) (Scotland) Regulations 1982

2.—(1) The Education (School and Placing Information) (Scotland) Regulations 1982(b) are amended in accordance with this regulation.

(2) In regulation 2(1) (interpretation)—

(a) after the definition of “the Act” insert—

““the 2004 Act” means the Education (Additional Support for Learning) (Scotland) Act 2004;

“the 2006 Act” means the Scottish Schools (Parental Involvement) Act 2006;”(c);

(b) after the definition of “basic information” insert—

““Combined Parent Council” means a Combined Parent Council established further to section 16 (establishment etc. of Combined Parent Council) of the 2006 Act;”(d);

(a) 1980 c.44 (“the 1980 Act”). Section 2 was amended by section 69(1) of the Self-Governing Schools etc. (Scotland) Act 1989 (c.39) and by Schedule 6, paragraph 1 to the Education (Scotland) Act 1996 (c.43). Section 28B was inserted by section 1(1) of the Education (Scotland) Act 1981 (c.58) and amended by schedule 3, paragraph 3 to the 2004 Act. Section 135(1) of the 1980 Act contains the definition of “prescribed” relevant to the exercise of statutory powers under which these Regulations are made. 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).

(b) S.I. 1982/950 as amended by S.I. 1990/181, 1993/1604, 1994/351 and S.S.I. 2000/407.

(c) 2004 asp 4 and 2006 asp 8.

(d) Section 18 of the 2006 Act abolished School Boards (appointed by section 1 of the School Boards (Scotland) Act 1988 (c.47)) and sections 6 and 16 respectively established Parent Councils and Combined Parent Councils. The relevant sections of the 2006 Act were brought into force on 1st August 2007 by the Scottish Schools (Parental Involvement) Act 2006 (Commencement No. 2) Order 2007 S.S.I. 2007/31.

- (c) after the definition of “nursery class” insert–
 - ““Parent Council” means a Parent Council established further to section 6 (scheme for establishment of a Parent Council) of the 2006 Act;”;
 - (d) in the definition of “placing request” after “Act” insert “or, in the case of a child having additional support needs, sub-paragraphs 2(1) and (2) (duty to comply with placing requests) of schedule 2 (children and young persons with additional support needs: placing requests) to the 2004 Act”(a);
 - (e) omit the definitions of “recorded” and “undergoing assessment”(b); and
 - (f) in the definition of “Scottish Credit and Qualifications Framework Levels” for “mean if” substitute “means in”(c).
- (3) In regulation 4 (application of regulations to young persons and others)–
- (a) in paragraph (1) for “recorded young person” substitute “young person having additional support needs”;
 - (b) in sub-paragraph (2)(b)(i)–
 - (i) for “undergoing assessment or a recorded young person” substitute “having additional support needs”; and
 - (ii) omit “for the purposes of section 61 of the Act”;
 - (c) for sub-paragraph (2)(c) substitute–
 - “(c) in relation to a child having additional support needs shall apply to a young person having such additional support needs as it applies to such a child.”; and
 - (d) omit paragraph (3)(d).
- (4) In regulation 6(6) (duties and powers with respect to supply of certain basic information to certain parents) for “special educational” substitute “additional support”.
- (5) In regulation 17(3) (notification of right to make a placing request in respect of certain children) for “undergoing assessment or a recorded child” substitute “having additional support needs”.
- (6) In regulation 18 (notification of right to make a placing request and other information relating to children undergoing assessment and recorded children)–
- (a) for the heading of regulation 18 substitute–
 - “Notification of right to make a placing request and other information relating to children having additional support needs”;
 - (b) in paragraph (1) for “undergoing assessment and any recorded child” substitute “having additional support needs.”;
 - (c) for paragraph (2) substitute–
 - “(2) Where an education authority are required by the provisions of subsection (1)(b) as read with subsection (4) of section 28B of the Act to inform the parent of a child having additional support needs of the general effect of paragraphs 2 (duty to comply with placing requests) and 3 (circumstances in which duty does not apply) of schedule 2 (children and young persons with additional support needs: placing requests) to the 2004 Act and of his right to make a placing request the authority shall give notification in writing by letter or otherwise, which shall include the following items–

(a) Schedule 2, paragraph 1 to the 2004 Act disappplied, in relation to children and young persons having additional support needs, sections 28A, 28C, 28E, 28F and 28G of the 1980 Act and instead applies the provisions of that schedule.

(b) The definitions of “recorded” and “undergoing assessment” refer respectively to sections 60 and 61 of the 1980 Act which were repealed by schedule 3, paragraph 3, sub-paragraph 12 to the 2004 Act. The definition of “recorded” in section 135 of the 1980 Act was repealed by schedule 3, paragraph 3, sub-paragraph 13(a)(ii) to the 2004 Act.

(c) This definition was inserted by regulation 2(2) of S.S.I. 2000/407.

(d) Regulation 4(3) refers to Schedule A2, paragraph 3 to the 1980 Act, and that Schedule was repealed by schedule 3, paragraph 14 to the 2004 Act.

- (a) the information required to be given in terms of paragraph 2 (duty to comply with placing requests) of schedule 2 (children and young persons with additional support needs: placing requests) to the 2004 Act;
- (b) a statement of where information with respect to schools under their management and their placing arrangements therein is available for reference and where it will be supplied to any parent on application;
- (c) a statement that a list is available showing those special schools, not under the management of the authority, to which it is the authority's practice to send pupils, and where it will be supplied to any parent on application.”;
- (d) in paragraph (3)–
 - (i) for “paragraphs (5) and (6)” substitute “paragraph (6)”; and
 - (ii) for “being a child undergoing assessment, or a recorded child” substitute “having additional support needs”; and
- (e) omit paragraphs (4) and (5).
- (7) In regulation 19 (information to be given on receipt of a placing request)–
 - (a) in paragraph (1) for “paragraphs (2) and (3)” substitute “paragraph (3)”; and
 - (b) omit paragraph (2); and
 - (c) in paragraph (3) for “Paragraphs (1) and (2)” substitute “Paragraph (1)”.
- (8) In Schedule 1–
 - (a) in sub-paragraph 1(e) of Part 1 (basic information) for “special educational” substitute “additional support”;
 - (b) in Part II (school information)–
 - (i) for sub-paragraph 2(f) substitute–
 - “(f) the provisions made for pupils having additional support needs;”;
 - (ii) in sub-paragraph 2(ff) for “there are pupils in attendance at the school with a Record of Needs” substitute “any pupils attending the school have additional support needs”(a);
 - (iii) in sub-paragraph 2(q)(ii) for “Scottish Examination Board” substitute “Scottish Qualifications Authority”;
 - (iv) for sub-paragraph 2(v)(i)(b) substitute–
 - “(i) the budgeted cost of the education provided by the school for the current financial year, expressed on a per pupil basis, which, as regards a school in respect of which a Parent Council or Combined Parent Council is established shall be the total budgeted expenditure for all running costs for that school for that financial year, and as regards a school in respect of which no Parent Council or Combined Parent Council is established shall be the total expenditure for all running costs for the school with the exception of Parent Council or Combined Parent Council related costs, the total such expenditure in each case being divided by the total number of pupils as reported in the school census in the first term of the school year which began in the current financial year, “financial year” for the purpose of this paragraph means the 12 months ending 31st March;”;
 - (v) in sub-paragraph 2(v)(ii)(b) for “School Board” substitute “Parent Council or Combined Parent Council”;
 - (vi) omit sub-paragraphs 2(x) and 2(y); and

(a) Sub-paragraph 2(ff) was inserted by paragraph 2 of the Schedule to S.I. 1993/1604.

(b) Sub-paragraphs 2(v)(i) and (ii) were inserted by paragraph 4 of the Schedule to S.I. 1993/1604.

- (vii) for sub-paragraph 2(z) substitute–
 - “(z) where a Parent Council or Combined Parent Council is established, its address, telephone number and email address to which all communications to it should be sent.”(a).
- (c) in Part III (supplementary information)–
 - (i) for sub-paragraph 3(i) substitute–
 - “(i) the general effect of sections 17 to 22 (Additional Support Needs Tribunals for Scotland; references to Tribunal in relation to co-ordinated support plan; powers of Tribunal in relation to reference; references to Tribunal and powers of Tribunal: further provision; appeal to Court of Session against Tribunal decision; and placing requests) of, and schedule 2, (children and young persons with additional support needs: placing requests) to the 2004 Act relating to placing requests in relation to children having additional support needs;”; and
 - (ii) in sub-paragraph 3(p) for “special educational” substitute “additional support”.
- (9) In Schedule 2 (kinds of information prescribed in relation to placing requests)–
 - (a) in sub-paragraph (d) after “authority” insert “or, in the case of a child having additional support needs paragraph 3 (circumstances in which duty does not apply) of schedule 2 (children and young persons with additional support needs: placing requests) to the 2004 Act”; and
 - (b) in sub-paragraph (f) for “section 28A(6) of the Act as substituted by Schedule A2 paragraph 3 to the Act” substitute “for a child having additional support needs, paragraphs 4 (placing request: further provision) and 6 (references to appeal committees: supplementary provisions) of schedule 2 (children and young persons with additional support needs: placing requests) to the 2004 Act”(b).

MAUREEN WATT

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
31st October 2007

(a) Sub-paragraphs 2(x), (y) and (z) were inserted by regulation 2 of S.I. 1990/181 as sub-paragraphs 2(s), (t) and (u) respectively; paragraph 6 of the Schedule to S.I. 1993/1604 renumbered the sub-paragraphs as 2(x), (y) and (z) respectively.

(b) The Additional Support for Learning (Placing Requests and Deemed Decisions) (Scotland) Regulations 2005 (S.S.I. 2005/515) was made under the enabling powers at paragraph 4(3) and 6(6) of schedule 2 to the 2004 Act.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under sections 2, 28B(1)(a)(ii) and (3) of the Education (Scotland) Act 1980 (“the 1980 Act”). The Education (School and Placing Information) (Scotland) Regulations 1982 (“the 1982 Regulations”) relate to the supply and availability of information as to schools and arrangements with respect to placing requests for places in schools under the management of an education authority. These Regulations make further amendments to the 1982 Regulations by amending regulations providing for Records of Needs, placing requests and School Boards.

With regard to Records of Needs, the Education (Additional Support for Learning) (Scotland) Act 2004 (“the 2004 Act”) replaces the system for assessment and recording of children and young people with special needs, including the Records of Needs process, established by the 1980 Act as amended by the Education (Scotland) Act 1981 and subsequent legislation. A new system for identifying and addressing the additional support needs of children and young people who face barriers to learning is provided for in the 2004 Act.

The 2004 Act amends the 1980 Act in terms of placing requests. Schedule 2 to the 2004 Act, together with sections 28(1), 28B and 28D of the 1980 Act as amended by the 2004 Act, provide for placing requests for children and young persons having additional support needs.

Regulations 2(2)(d) and (f), 2(3) to 2(7), 2(8)(a),(b)(i) and (ii), and (c) and 2(9) make amendments regarding Records of Needs and placing requests reflecting the changes in terminology and to the relevant statutory references.

School Boards as established by section 1 of the School Boards (Scotland) Act 1988, are abolished with effect from 1st August 2007 by the Scottish Schools (Parental Involvement) Act 2006. Section 6 and 16 respectively of that Act provide for Parent Councils and Combined Parent Councils. Regulations 2(9)(b)(iv) to (vii) make amendments to reflect these changes.

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