

**2021 No. 31**

**EDUCATION**

**The Education (Miscellaneous Amendments) (Coronavirus)  
(Scotland) Regulations 2021**

*Made* - - - - 20th January 2021

*Laid before the Scottish Parliament* 22nd January 2021

*Coming into force* - - 27th February 2021

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 28A(5), 28D(3), 28H(5), 56A, 56B and 56D of the Education (Scotland) Act 1980(a) and section 22 and paragraphs 4(3) and 6(6) of schedule 2 of the Education (Additional Support for Learning) (Scotland) Act 2004(b) 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 2021 and come into force on 27 February 2021.

**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(c) are amended in accordance with the following paragraphs.

(2) In regulation 4 (deemed decision of education authority)(d)—

(a) in paragraph (1)—

(i) for “Subject to the provisions of paragraphs (2) and (5), an” substitute “An”,

(ii) for “31st May” in both places where it appears substitute “15th May”,

(iii) for “3 months” in both places where it appears substitute “2 months”,

(b) omit paragraphs (2) to (5).

(3) In regulation 5 (deemed decision of appeal committee)(e)—

(a) in paragraph (1)—

(i) for “Subject to paragraph (2), where” substitute “Where”,

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(a) 1980 c.44. Sections 28A, 28D and 28H 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). Sections 56A, 56B and 56D were inserted by section 3 of the Schools (Health Promotion and Nutrition) (Scotland) Act 2007 (asp 15).

(b) 2004 asp 4.

(c) S.I. 1982/1733; relevantly amended by S.S.I. 2020/128 and 149.

(d) Regulation 4(1) was amended by S.S.I. 2020/128.

(e) Regulation 5(1) was amended by S.S.I. 2020/128 and 149.

- (ii) omit “, section 63(1)(c) or (d) or (2)(b) or (c) of the Act”,
  - (iii) in subparagraph (a), for “4 months” substitute “3 months”,
  - (iv) in subparagraph (c)—
    - (aa) omit “, section 64(10)”,
    - (bb) for “28 days” substitute “14 days”,
  - (v) in the full-out, for “4 months” to the end, substitute “3 months or, as the case may be, 14 days.”.
- (b) omit paragraphs (2) to (4).

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

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

- (2) In regulation 2(1) (interpretation)(b), after the definition of “reference” insert—
  - ““working days” does not include Saturdays, Sundays or any day observed in the administration of an education authority as a holiday”.
- (3) In regulation 5 (acknowledgment of reference)(c), for “28 days” substitute “5 working days”.
- (4) In regulation 7(1) (fixing date of hearing)(d), for “3 months” substitute “2 months”.
- (5) In regulation 8(1) (notification of hearing)(e), for “as soon as reasonably practicable,” substitute—
  - “(a) in the case of a reference other than a reference under sub-paragraph (b) not later than 14 days after receipt of the reference; and
  - (b) in the case of a reference under section 19(5)(c) of the 2004 Act not later than 7 days after receipt by the committee of notification from the First-tier Tribunal of the reference;”.
- (6) In regulation 9(2) (combined hearings)(f), for “3 months” substitute “2 months”.
- (7) In regulation 14(2) and (3) (notification of decision)(g), for “28 days” substitute “14 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(h) are amended in accordance with the following paragraphs.

- (2) In regulation 3 (deemed decision of education authority)(i)—
  - (a) for “31st May” in both places where it appears substitute “15th May”,
  - (b) for “3 months” in both places where it appears substitute “2 months”.
- (3) In regulation 4 (deemed decision of appeal committee)(j)—
  - (a) in paragraph (a), for “4 months” substitute “3 months”,
  - (b) in paragraph (c), for “28 days” substitute “14 days”,

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(a) S.I. 1982/1736; relevantly amended by S.S.I. 2020/128.  
 (b) Regulation 2(1) was relevantly amended by S.S.I. 2020/128.  
 (c) Regulation 5 was amended by S.S.I. 2006/322 and 128.  
 (d) Regulation 7(1) was amended by S.S.I. 2020/128.  
 (e) Regulation 8 was amended by S.S.I. 2020/128.  
 (f) Regulation 9(2) was amended by S.S.I. 2020/128.  
 (g) Regulation 14(2) and (3) were inserted by S.S.I. 2006/322 and amended by S.S.I. 2020/128.  
 (h) S.S.I. 2005/515.  
 (i) Regulation 3 was amended by S.S.I. 2020/128.  
 (j) Regulation 4 was amended by S.S.I. 2020/128.

(c) in the full-out, for “4 months” to the end substitute “3 months or, as the case may be, 14 days.”.

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

**Amendment of the Nutritional Requirements for Food and Drink in Schools (Scotland) Regulations 2020**

**5.** In Part 1 of schedule 2 of the Nutritional Requirements for Food and Drink in Schools (Scotland) Regulations 2020(b) (food standards for secondary school meals and at other times)—

(a) for paragraph 2, substitute—

“**2.** Oily fish must be provided—

(a) at least once every 3 weeks as part of an evening meal,

(b) at least once every 3 weeks other than as part of an evening meal.”,

(b) in paragraph 7(1), for “is not to be provided” to the end, substitute—

“can be provided—

(a) no more than 3 times in a week as part of an evening meal,

(b) no more than 3 times in a week other than as part of an evening meal.”,

(c) for paragraph 9, substitute—

“**9.** Pastry and products containing pastry can be provided—

(a) no more than twice a week as part of an evening meal,

(b) no more than twice a week other than as part of an evening meal.”,

(d) in paragraph 16(4)(b), for “100 millilitres” substitute “1000 millilitres”.

*JOHN SWINNEY*

A member of the Scottish Government

St Andrew’s House,  
Edinburgh  
20th January 2021

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(a) Regulation 6 was amended by S.S.I. 2020/128.

(b) S.S.I. 2020/153.

## EXPLANATORY NOTE

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

These Regulations make amendments to regulations that make provision for school placing requests and exclusion appeals and for the procedure of an education appeal committee. These changes are necessary as a result of the coronavirus (severe acute respiratory syndrome coronavirus 2 (SARS-COV-2)). These Regulations also amend the Nutritional Requirements for Food and Drink in Schools (Scotland) Regulations 2020.

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.

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.

Regulation 5 amends the Nutritional Requirements for Food and Drink in Schools (Scotland) Regulations 2020 to make it clear that certain requirements apply separately to evening meals provided to secondary school pupils in hostels maintained by education authorities.

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