

This document relates to the School Education (Amendment) (Scotland) Bill (SP Bill 37) as introduced in the Scottish Parliament on 28 September 2001

SCHOOL EDUCATION (AMENDMENT) (SCOTLAND) BILL

EXPLANATORY NOTES (AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

1. As required under Rule 9.3 of the Parliament's Standing Orders, the following documents are published to accompany the School Education (Amendment) (Scotland) Bill introduced in the Scottish Parliament on 28 September 2001:

- Explanatory Notes;
- a Financial Memorandum;
- an Executive Statement on Legislative Competence; and
- the Presiding Officer's Statement on Legislative Competence.

A Policy Memorandum, also prepared by the Scottish Administration, is printed separately as SP Bill 37-PM.

EXPLANATORY NOTES

INTRODUCTION

2. These Explanatory Notes have been prepared by the Scottish Administration in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

3. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section, or a part of a section, does not seem to require any explanation or comment, none is given.

THE BILL

4. This Bill has two separate but related purposes, in that they both deal with aspects of school education. Section 1 amends section 28A of the Education (Scotland) Act 1980 (“the 1980 Act”) so as to enable parents of children aged between 4 years and 6 months and 5 years to make placing requests to start primary school. It was competent to make requests in relation to such children before section 44(2) of the Standards in Scotland’s Schools etc. Act 2000 (“the 2000 Act”) came into force (which restricted the making of requests to children aged five or over). Section 2 amends the School Boards (Scotland) Act 1988 in connection with the abolition of the post of assistant headteacher. To enable existing assistant headteachers to be regraded as deputy headteachers without following the advertisement and appointment procedures required by that Act, the provisions in that Act requiring posts to be advertised and an appointment committee to be set up are disapplied. The section also removes references to assistant headteachers from that Act. These changes complement the introduction of a new career structure for the teaching profession from April 2002 and the abolition of the post of assistant headteacher.

Section 1 - Placing requests: children under school age

5. The statutory placing request regime contained in sections 28A to 28G of the 1980 Act enables a person to make a written request to an authority to place his or her child at a particular school. Section 31 of the 1980 Act defines “school age” as being 5 and over but under 16. Section 32 of the 1980 Act also provides that children who are not 5 by the school commencement date in August, but whose 5th birthday falls more than 6 months before the following commencement date, can either be treated as if they were 5 and admitted to school in that year, or have their entry deferred to the following August. In essence this means that the August intake includes children from 4 years and 6 months to 5 years and 6 months (or potentially in a few cases 5 years and 11 months).

6. Section 44(2) of the 2000 Act amended section 28A(1) of the 1980 Act by providing that placing requests may be made only for children of “school age”. This means that parents of children who are entitled to start school in August by virtue of section 32 cannot make a placing request.

7. Section 1 of the Bill remedies this while at the same time continuing to allow placing requests by parents of children of school age. This is achieved by substituting “qualifying age”

for “school age” in section 28A(1) and inserting a new subsection (6) into that section to define what is meant by a “child of qualifying age”. A “child of qualifying age” is a child who is of school age at the time of the placing request or who will be of school age in August when the child would start school or who will be entitled to start school then as a consequence of section 32 of the 1980 Act. An amendment of section 28G of the 1980 Act is needed in consequence of this change and this is made by section 1(2) of the Bill. Section 28G allows “young persons” (that is, children over school age but under 18) to make placing requests under section 28A in their own right.

Section 2 - Provisions relating to the abolition of the post of assistant headteacher

8. The School Boards (Scotland) Act 1988 confers functions on School Boards in relation to the selection of headteachers and other senior school staff (see sections 11 and 15 and Schedule 2). Following the McCrone Report (*A Teaching Profession for the 21st Century - the report of the Committee of Inquiry into professional conditions of service for teachers*), an agreement was reached among the Scottish Executive, education authorities and teachers’ representatives (outlined in a document entitled *A Teaching Profession for the 21st Century*) which aims to provide an improved and simplified career structure for the teaching profession, to be introduced from April 2002. As part of this new structure the grade of assistant headteacher will no longer exist and will be subsumed into the grade of deputy headteacher.

9. Section 2 of this Bill removes all references to assistant headteachers from the School Boards (Scotland) Act 1988. It also disapplies the requirements set out in paragraph 1 of Schedule 2 to that Act (which oblige education authorities to advertise the post of deputy headteacher and to set up a committee to consider a short list of candidates and make recommendations as to the filling of such a post) which would otherwise apply where an existing assistant headteacher is being regraded to the post of deputy headteacher.

FINANCIAL MEMORANDUM

INTRODUCTION

10. The rectifying of the unintended consequence of the 2000 Act for school placing requests and the changes to the School Board legislation to facilitate the introduction of a new career structure for the teaching profession contained in this Bill should have no financial effect.

COSTS ON THE SCOTTISH ADMINISTRATION

11. There should be no cost on the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

12. There should be no additional costs on local authorities. The effects of the amendments to placing request legislation have been considered and should not result in any significant increase in the overall number of requests made by parents to place their children in primary one.

Before the 2000 Act amendment was commenced, placing requests were made under section 28A of the 1980 Act by all parents making a request for a place at a particular school. Since the commencement of that amendment, parents of children of school age (i.e. 5 or over) have made statutory placing requests under section 28A as before, but parents of children younger than that have made requests under section 38 of the 2000 Act. The latter provision has given them a weaker right in law than parents of children over 5 (because, in particular, the authority have a discretion as to which school to place a child in; and there is no provision for appeals), but, in fact, has increased the administrative burden on authorities. This is because, instead of having one system to deal with all requests, they have had to devise a new system for dealing with requests under section 38. The effect of section 1 of the Bill will be to revert to the position where authorities have one system to deal with the bulk of these requests, so costs should not rise and, if anything, are likely to fall. In the year prior to the commencement of the 2000 Act, 91% of placing requests for primary one were accepted; 201 appeals were made to appeal committees; and only one placing request appeal was taken to the sheriff.

13. The effect of section 2 may give rise to a small saving in costs, namely the advertising costs and expenses incurred in relation to the appointments committees. Any savings, however, are likely to be negligible.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

14. There should be no costs on other bodies, individuals and businesses.

EXECUTIVE STATEMENT ON LEGISLATIVE COMPETENCE

15. On 26 September 2001, the Minister for Education, Europe and External Affairs (Mr Jack McConnell) made the following statement:

“In my view, the provisions of the School Education (Amendment) (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”

PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

16. On 26 September 2001, the Presiding Officer (Sir David Steel) made the following statement:

This document relates to the School Education (Amendment) (Scotland) Bill (SP Bill 37) as introduced in the Scottish Parliament on 28 September 2001

“In my view, the provisions of the School Education (Amendment) (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”

This document relates to the School Education (Amendment) (Scotland) Bill (SP Bill 37) as introduced in the Scottish Parliament on 28 September 2001

SCHOOL EDUCATION (AMENDMENT) (SCOTLAND) BILL

EXPLANATORY NOTES (AND OTHER ACCOMPANYING DOCUMENTS)

© Copyright The Scottish Parliamentary Corporate Body 2001

EDINBURGH: THE STATIONERY OFFICE

Printed in the United Kingdom by The Stationery Office Limited

Applications for reproduction should be made in writing to the Copyright Unit, Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ. Fax 01603 723000.

Produced and published in Scotland on behalf of the Scottish Parliament by
The Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now trading as The Stationery Office Ltd, which is responsible for printing and publishing Scottish Parliament publications.