POLICY NOTE

The Registration of Independent Schools (Scotland) Amendment Regulations 2021

SSI 2021/251

1. The above instrument was made in exercise of the powers conferred by sections 98(3) and 98A(2) of the Education (Scotland) Act 1980 ("the 1980 Act").

2. These Regulations are subject to negative procedure.

The purpose of the instrument is to update references in the Registration of Independent Schools (Scotland) Regulations 2006 to reflect current child protection legislation, and to specify additional information which independent schools and proposed independent schools must provide to the Registrar of Independent Schools.

Policy Objectives

3. This instrument amends the Registration of Independent Schools (Scotland) Regulations 2006 ("the 2006 Regulations") which set out the information that is to be included in an application for registration of an independent school and the information that is to be furnished to the Registrar by a registered school in terms of section 98 and 98A of the 1980 Act. The instrument amends regulation 2 and schedules 1 and 2 to the 2006 Regulations to replace references to the Police Act 1997 with references to the Protection of Vulnerable Groups (Scotland) Act 2007 ("the 2007 Act"), and update and add to the requirements for the information to be provided to the Registrar of Independent Schools by applicants to the register and by existing independent schools.

Background

4. The 2006 Regulations make detailed provision in relation to the registration of independent schools in Scotland. If a proposed school does not meet these requirements, it would not be registered, and if an existing school failed to meet these requirements it could be found objectionable under section 99(1A)(j) of the 1980Act.

5. The curent legislative framework relating to the protection of vulnerable groups was introduced by the 2007 Act and the Registrar and independent schools have fully complied with those requirements. However, the 2006 Regulations require to be amended to reflect those requirements and current practice.

6. This instrument also makes a number of additions to the information to be provided to the Registrar, either in the case of a proposed school or a registered school. These include:
    - The intended number of teachers to be employed in the school;
    - Adding to the requirements related to the school's Child Protection Policy and Procedure;
    - The school's First Aid Policy and Procedures;

- The governance and leadership arrangements for the school;
- The school's leadership structure;
- Details of the school's child protection officer and deputy child protection officer;
- Confirmation that all teachers are registered with the General Teaching Council for Scotland;
- Confirmation that all persons employed by the school have undertaken child protection training in the last 12 months; and
- The school's unique identifier code (usually known as its SEED code) used by the Scottish Government.

7. These amended provisions will help the Registrar effectively monitor independent schools.

Consultation

8. A formal consultation was undertaken in 2006 on all aspects of the proposed scheme for the protection of vulnerable groups before the passage of the 2007 Act, and further consultation took place on the secondary legislation which supported the Act. There is no requirement for statutory consultation on regulations made under sections 98 and 98A(2) of the 1980 Act.

9. The proposed amendments to the information requirements reflect information which the Registrar has found it helpful to require in their oversight of independent schools, and are well accepted and understood by the sector. The Registrar will update their guidance to schools to support the amended requirements.

10. The policy behind this instrument was shared with the Scottish Council for Independent Schools in June 2021, and they were content with the proposals. The Scottish Government has also worked closely with the Registrar in preparing the instrument.

Impact Assessments

11. This instrument updates legal references in existing regulations and brings the regulations into line with the Registrar's practices, which have evolved over time. We have considered the need for each impact assessment and, after completing screening assessments, have concluded that these are not required for this instrument.

Financial Effects

12. There will be no financial impact to the Scottish Government.

13. There will be no financial implications for the independent schools sector as these requirements are already in practice.

Scottish Government
Learning Directorate
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