

Registration of Independent Schools (Prescribed Person) (Scotland) Regulations 2017

Consultation Document

March 2017

1. Responding to the consultation

This consultation seeks views on the details of the draft Registration of Independent Schools (Prescribed Person) (Scotland) Regulations 2017 that set out the arrangements in respect of current and future teachers working in independent schools having to be registered with the General Teaching Council for Scotland (GTCS).

Please respond to this consultation using the Scottish Government's consultation platform, Citizen Space. You can view and respond to this consultation online at <https://consult.scotland.gov.uk/empowering-schools/registration-of-ind-schools-prescribed-persons>. You can save and return to your responses while the consultation is still open. If you respond using Citizen Space you will be directed to the Respondent Information Form. Please indicate how you wish your response to be handled and, in particular, whether you are happy for your response to be published.

Please ensure that consultation responses are submitted before the closing date of **1st May 2017**.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form attached in this document to:

Stacey-ann.Lindsay@gov.scot

or

Mrs S Lindsay
Empowering Schools Unit
Area 2A-South
Victoria Quay
Edinburgh
EH6 6QQ

Details of how your consultation response will be handled is set out in Annex A.

2. Introduction

There is currently no requirement for teachers in independent schools to be GTCS registered although voluntary registration has been encouraged by both the GTCS and the Scottish Council of Independent Schools.

A priority of the Scottish Government is to improve the life chances and education of all children in Scotland. High quality teaching and strong leadership are key features of a successful education system.

By introducing a requirement for all teachers working in independent schools to be GTCS registered this will bring them into line with local authority schools and is a means of improving the standard of teaching across the whole of the education sector.

It will offer assurance to parents that irrespective of where their children are educated the standards and quality of teaching staff is regulated by the GTCS. The requirement will provide schools with assurances of the standard and quality of the teachers they are employing. It will also benefit teachers through Professional Update, the aim of which is to support, maintain and enhance teachers' continued professionalism through professional learning.

3. Scope and transitional arrangements

The draft Registration of Independent Schools (Prescribed Person) (Scotland) Regulations 2017 attached at Annex B provide for the following:

- The definition of a prescribed person. This is any person who is not a registered teacher. "Registered teacher" means a teacher whose particulars are recorded in the register maintained by the General Teaching Council for Scotland.
- That from 1st October 2017 any teacher employed by an independent school must not be a prescribed person.
- A transitional period of 3 years (until 1st October 2020) for registration to be achieved by current teachers working in schools at the point the regulations come into force.
- The arrangements for consideration of an application to register an independent school that has been submitted to Scottish Ministers before 1st October 2017 but a decision has not been determined. A period of 6 months (until 1st April 2018) has been provided for an application to be considered and if registration is granted any teacher or proposed teacher on the application form who is not GTCS registered will be given 3 years from the date of registration of the school to meet the GTCS standards.

4. Consultation Questions

This consultation aims to seek the public's views on the draft Registration of Independent Schools (Prescribed Person) (Scotland) Regulations 2017 prior to these being laid in the Scottish Parliament.

Question 1

Do you agree that the regulations are clearly written and understandable?

Question 2

Do the transitional arrangements relating to current teachers and the handling of applications for new schools seem reasonable and fair?

Question 3

Are there any other comments you would like to add regarding this consultation?

There is no obligation to respond to all questions and you are free to submit further comments as you wish.

ANNEX A

Handling your response

If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.scotland.gov.uk>. If you use Citizen Space to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be given full consideration. Responses will be published where we have been given permission to do so.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to Stacey-ann.Lindsay@gov.scot

Scottish Government consultation process

Consultation is an essential part of the policy-making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.scotland.gov.uk>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Consultations may involve seeking views in a number of different ways, such as public meetings, focus groups, or other online methods such as Dialogue (<https://www.ideas.gov.scot>)

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals

- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

ANNEX B

Draft Regulations laid before the Scottish Parliament under section 133(2C)(b) of the Education (Scotland) Act 1980, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2017 No.

EDUCATION

The Registration of Independent Schools (Prescribed Person) (Scotland) Regulations 2017

Made - - - - 2017

Coming into force - - 1st October 2017

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 98A(6)(b) and 133(2D)(a) and (b) of the Education (Scotland) Act 1980(1) and all other powers enabling them to do so.

In accordance with section 133(2C)(a) of that Act the Scottish Ministers have consulted such persons as they think fit on a draft of this statutory instrument.

In accordance with section 133(2C)(b) of that Act, a draft of these Regulations has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Registration of Independent Schools (Prescribed Person) (Scotland) Regulations 2017 and come into force on 1st October 2017.

Prescribed Person

2. The class of persons prescribed for the purposes of Part V (Independent Schools) of the Education (Scotland) Act 1980 (the “1980 Act”), under section 98A(6)(b) of that Act is any person who is not a registered teacher.

“Registered teacher” means a teacher whose particulars are recorded in the register maintained by the General Teaching Council for Scotland under The Public Services Reform (General Teaching Council for Scotland) Order 2011(2) and includes a teacher whose registration has been marked as restricted - on the basis however that, for the duration of that teacher’s registration being marked as restricted, such a teacher may only be employed as a teacher—

- (a) by his or her existing employer; and
- (b) in his or her existing teaching post.

(1) c.44. Section 133 of the Education (Scotland) Act 1980 (“the 1980 Act”) as relevantly amended by section 26 of the Education (Scotland) Act 2016.
(2) S.S.I. 2011/215.

Transitory provision – teacher at an independent school who is not a registered teacher

3. Where a person is employed by an independent school as a teacher on or before 1st October 2017, but is not yet a registered teacher, then that person is to be treated as not being in the class of persons prescribed by regulation 2 until 1st October 2020.

Transitory provision – application for registration of independent school made but not yet determined

4. Where an application for the registration of an independent school under section 98A(1) of the 1980 Act:—

- (a) is made before 1st October 2017;
- (b) is granted on, or after, 1st October 2017 but before 1st April 2018; and
- (c) includes the full name and date of birth of a person as a teacher or proposed teacher in the school

that person is to be treated as not being in the class of persons prescribed by regulation 2 until the day occurring 3 years after the day on which that application for registration as an independent school is granted by Scottish Ministers.

Name

A member of the Scottish Government/
Authorised to sign on behalf of Scottish Ministers

St Andrew's House,
Edinburgh

Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part V of the Education (Scotland) Act 1980 (the “1980 Act”) deals with Independent Schools. Section 98A (Application for registration of independent school) requires that any person proposing to carry on an independent school shall apply to the Scottish Ministers for registration of that school. Section 98A(3) provides certain requirements which the Scottish Ministers must satisfy themselves of if they wish to grant the registration of a school. These include that (section 98A(3)(c)(ii)) “every proposed teacher in the school is a proper person to be a teacher in any school;”.

Section 98A(5) provides that the Scottish Ministers shall not be satisfied that a proposed teacher in such a school is a proper person to be a teacher in any school if that proposed teacher is disqualified under Part V of the 1980 Act from being a teacher; is barred from regulated work with children or is a prescribed person. These regulations prescribe what is a “prescribed person” for the purposes of section 98A(5).

Regulation 2 of these regulations prescribes a class of persons for the purposes of Part V (Independent Schools) of the 1980 Act, under section 98A(6)(b) of that Act as any person who is not a registered teacher. A registered teacher is defined as a teacher whose particulars are recorded in the register maintained by the General Teaching Council for Scotland.

The effect of these regulations is that from 1st October 2017 only a teacher who is registered with the General Teaching Council for Scotland can be a teacher in an independent school. If an independent school were to employ a teacher who is not a registered teacher after the coming into force of these regulations, Scottish Ministers could serve a notice of complaint under section 99 (Complaints) of the 1980 Act as the registered school would be objectionable upon the ground - set out in section 99(1A)(h)(iii) of the 1980 Act - that a teacher in the school is a prescribed person.

Regulation 3 of these regulations makes transitory provision for existing teachers at existing independent schools. The requirement to register with the General Teaching Council for Scotland for an existing teacher at an existing independent schools will take effect on 1st October 2020.

Regulation 4 of these regulations makes transitory provision where an application has been made to register a school as an independent school before 1st October 2017 and the application is granted on or after 1st October 2017 and before 1st April 2018. Where such an application includes the full name and date of birth of a person as a teacher or proposed teacher in the school, the requirement to register with the General Teaching Council for Scotland for that teacher or proposed teacher will take effect 3 years from the date of registration of that school.



ANNEX C RESPONDENT INFORMATION FORM

The Registration of Independent Schools (Prescribed Person) (Scotland) Regulations 2017

Please Note this form **must** be completed and returned with your response.

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (without name)
 Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes No



Scottish Government
Riaghaltas na h-Alba
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Any enquiries regarding this publication should be sent to us at
The Scottish Government
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ISBN: 978-1-78652-865-0 (web only)

Published by The Scottish Government, March 2017

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS263445 (03/17)

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