SCHOOL EDUCATION (AMENDMENT) (SCOTLAND) BILL

POLICY MEMORANDUM

INTRODUCTION

1. This document relates to the School Education (Amendment) (Scotland) Bill introduced in the Scottish Parliament on 28 September 2001. It has been prepared by the Scottish Administration to satisfy Rule 9.3.3(c) of the Parliament’s Standing Orders. The contents are entirely the responsibility of the Scottish Administration and have not been endorsed by the Parliament. Explanatory Notes and other accompanying documents are published separately as SP Bill 37–EN.

POLICY OBJECTIVES OF THE BILL

Placing requests

2. The objective of section 1 of the Bill, which relates to placing requests, is to correct an unintended consequence of the Standards in Scotland’s Schools etc. Act 2000 (“the 2000 Act”).

3. Section 44(2) of the 2000 Act amended section 28A of the Education (Scotland) Act 1980 (“the 1980 Act”) by removing the right under that section of parents of children under school age (that is, under 5 years old) to make placing requests. Before that amendment was made, the parent of any child under 16 could make such a request. Unfortunately, after the amendment was made it was realised that this change went too far. It removed the right of parents of children who are just below school age, and who are therefore due to start school at the August intake, to make placing requests under that section for their children. It was never the Executive’s intention to remove the right of the parents of those children.

4. The Bill corrects this by amending section 28A of the 1980 Act to restore the right of parents to make placing requests under that section for children who qualify as being of school age on the school commencement date in August because their 5th birthday falls before the following March.

5. Parents of children younger than this will still not have a statutory right to make a placing request under section 28A of the 1980 Act, as amended by the Bill. This was, and is, the policy intention of the Executive. Education authorities do, however, have a duty under section 38 of
This memorandum relates to the School Education (Amendment) (Scotland) Bill (SP Bill 37) as introduced in the Scottish Parliament on 28 September 2001.

The 2000 Act to provide primary school education for a child who is under school age if the child’s parents request it and if the authority agrees that the education would be suitable to the aptitude and ability of that child. This means that parents can still ask for a primary school place for a child who is under school age, and the authority will have to allow that child entry to a primary school if the education there is suitable for that child. Requests for places for children under 5 have been dealt with under that section by authorities since the 2000 Act was commenced, in line with administrative guidance issued by the Executive.

Restructuring of teaching profession

6. The objective of section 2 of the Bill is to provide for the successful and timely implementation of the agreement A Teaching Profession for the 21st Century, for which amendments to sections 11 and 15 of, and Schedule 2 to, the School Boards (Scotland) Act 1988 (“the 1988 Act”) are required.

7. The 1988 Act states that when an education authority intends to fill a post, other than on an acting basis, of a headteacher, deputy headteacher, or assistant headteacher they must advertise the post and set up an appointments committee for this purpose. This committee must include nominees of the School Board for whose school the appointment is to be made. In the case of headteacher appointments, the schedule also provides for the School Board to be consulted on the short list of candidates.

8. The agreement A Teaching Profession for the 21st Century reached collectively among teachers’ organisations, local authority employers and the Scottish Executive, provides for an improved and simplified career structure for the teaching profession to be introduced from April 2002. Under this new structure the grade of assistant headteacher will no longer exist, and it is expected that current posts in this grade will be subsumed into the grade of deputy headteacher.

9. Currently the salaries of promoted staff in schools (principal teachers, assistant headteachers, deputy headteachers and headteachers) are determined solely by the size of the school roll. Agreement has been reached with the teacher organisations and local authority employers to expand the criteria for salary placement to include the following factors:

- school roll
- management responsibilities
- policy development and monitoring
- external liaison
- whole school activities.

10. Promoted posts will be measured against these criteria to determine salary placement within the respective pay band. This work will be taken forward by the new national negotiating body, the Scottish Negotiating Committee for Teachers (SNCT), Career Structure, working group and will be referred to as “the job-sizing exercise”. The (SNCT) will undertake the development of the job-sizing exercise and it is expected that this work will be completed by 31 July 2003.
11. The Executive wishes to remove any impediment which could have an adverse effect on the job-sizing exercise by suspending the current appointment procedures for promoted posts for the purposes of the job-sizing exercise. Following discussions with the Scottish School Board Association it has been agreed that the job-sizing exercise should not trigger appointment procedures where School Board members normally have a right to participate. This exercise is a necessary and agreed step in making the transfer from the current range of teacher posts to the reduced and slim-lined grade structure. The provision in section 2 of the Bill, which suspends the application of the 1988 Act for the purposes of the job-sizing exercise, is designed so that School Boards will continue to be involved in headteacher and deputy headteacher appointment procedures for any new posts which do not form part of the job-sizing exercise. Section 2 also removes the now unnecessary references in the 1988 Act to “assistant headteacher”.

ALTERNATIVE APPROACHES

Placing requests

12. Placing request legislation could remain as it stands, but this would mean that the parents of approximately half of the children who commence school each August would have no statutory right to make a placing request for them. This creates difficulties for education authorities who may receive requests for these children, but who must give priority to those children with a right under section 28A, i.e. those who will be 5 years old or over on the school commencement date. This was never the Executive’s policy intention and is considered to be an untenable position.

13. The amendments made to section 28A of the 1980 Act by section 44(2) of the 2000 Act could be repealed. This would effect a return to the previous position, and parents of all children under school age would have the right to make placing requests for them. This would, however, also mark a return to the situation before the 2000 Act where parents of children well under school age could make placing requests for them. This approach is considered to be unhelpful, and would not reflect the Executive’s intention.

14. The most appropriate approach is therefore considered to be an amendment to the 1980 Act in terms of this Bill. This restores parents’ statutory right to make placing requests for children who qualify as being of school age on the school commencement date or who will be before the following March, while also clearly maintaining the position that parents do not have a statutory right to make placing requests for children who are well under school age.

Restructuring of teaching profession

15. The only applicable alternative approach would have been to do nothing. This would mean incurring a significant amount of time and unnecessary bureaucracy for local authorities and School Boards which in turn could delay the efficient introduction of the new career structure. The most appropriate approach is therefore considered to be in terms of this Bill which suspends appointment procedures for promoted posts for the duration of the job-sizing exercise.
CONSULTATION

16. A consultation paper including a draft Bill was issued on 5 July 2001, to detail the reasons for the proposed amendments. This document was circulated widely to all education and other organisations who may have an interest in these areas. In advance of the publication of the consultation paper the Scottish School Boards Association was consulted on the changes to school board legislation and gave their agreement to this course of action. The consultation period ended on 17 September 2001. All the responses received supported the approaches taken by the Bill, as was anticipated. The first is that the Bill will improve arrangements for meeting placing requests for children who are about to enter primary school education. Secondly, the Bill will amend existing legislation to complement the introduction of a new career structure for the teaching profession, putting teachers and teaching at the core of Executive education policies.

EFFECTS ON EQUAL OPPORTUNITIES, HUMAN RIGHTS, ISLAND COMMUNITIES, LOCAL GOVERNMENT, SUSTAINABLE DEVELOPMENT, ETC.

Placing requests

17. The amendments to the placing request legislation should assist local authorities in planning provision and managing schools. There will be no effect upon human rights, island communities, local government or sustainable development.

Restructuring of teaching profession

18. There are no effects on these areas.
This memorandum 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

POLICY MEMORANDUM

© Copyright The Scottish Parliamentary Corporate Body 2001

EDINBURGH: THE STATIONERY OFFICE

Printed in the United Kingdom by The Stationery Office Limited

£1.50

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.