
SCOTTISH STATUTORY INSTRUMENTS

2017 No. []

EDUCATION

The Section 70 (Procedure) (Scotland) Regulations 2017

Made - - - -

Laid before the Scottish Parliament

Coming into force - - - - *27th November 2017*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 70(5) of the Education (Scotland) Act 1980(a) and all other powers enabling them to do so.

In accordance with paragraph 70(7) of that Act, the Scottish Ministers have consulted with [and] such other persons as they considered appropriate.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Section 70 (Procedure) (Scotland) Regulations 2017 and come into force on 27th November 2017.

(2) In these Regulations—

“the 1980 Act” means the Education (Scotland) Act 1980;

“relevant complaint” means a complaint which the Scottish Ministers consider involves the potential failure by an education authority, the managers of a school or educational establishment, or other persons to discharge a duty imposed on them by or for the purposes of the 1980 Act or of any other enactment relating to education;

“working day” means any day which is not—

- (a) a Saturday;
- (b) a Sunday;
- (c) a day from 27th December to 31st December inclusive;
- (d) a day in July; or
- (e) a day specified as a bank holiday in Scotland in or by virtue of the Banking and Financial Dealings Act 1971(b);

Procedure

2.—(1) Regulation 2(2), (3) and (4) specifies the procedure which applies to an investigation carried out by the Scottish Ministers under section 70 of the 1980 Act.

(a) 1980 c.44. Section 70 was relevantly amended by section 24 of the Education (Scotland) Act 2016 (asp 8), to insert subsections (3) to (7).

(b) 1971 c.80 (“the 1971 Act”). Paragraph 2 of schedule 1 of the 1971 Act was relevantly amended by the St Andrew’s Day Bank Holiday (Scotland) Act 2007 asp 2..

(2) The Scottish Ministers must establish if a complaint received under section 70 of the 1980 Act is a relevant complaint within 15 working days beginning with the date of receipt of the complaint (“the complaint receipt date”).

(3) If the Scottish Ministers establish that it is a relevant complaint, they must investigate the complaint and reach a determination as to whether to make an order under section 70(1) within 105 working days beginning with the complaint receipt date.

(4) If the Scottish Ministers otherwise establish that there may have been a failure to discharge a duty as referred to in section 70(1) of the 1980 Act, they may investigate and if they investigate they must reach a determination as to whether to make an order under section 70(1) within 105 working days of deciding that there may have been a failure.

A member of the Scottish Government

St Andrew’s House,
Edinburgh

2017

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations specify the procedure which applies to an investigation carried out by the Scottish Ministers under section 70 of the Education (Scotland) Act 1980 (“the 1980 Act”).

Regulation 2(2) provides that the Scottish Ministers must establish if a complaint received under section 70(1) of the 1980 Act is a relevant complaint within 15 working days beginning with the date of its receipt (“the complaint receipt date”). Regulation 1(2) defines a relevant complaint as a complaint which the Scottish Ministers consider involves the potential failure by an education authority, the managers of a school or educational establishment, or other persons to discharge a duty imposed on them by or for the purposes (i) of the 1980 Act or (ii) of any other enactment relating to education.

Regulation 2(3) provides that if the Scottish Ministers establish that it is a relevant complaint, they must investigate the complaint and reach a determination as to whether to make an order under section 70(1) within 105 working days beginning with the complaint receipt date.

Regulation 2(4) provides that if the Scottish Ministers otherwise establish that there may have been a failure to discharge a duty as referred to in section 70(1) (without having received a complaint), they may investigate and if they investigate, they must reach a determination as to whether to make an order under section 70(1) within 105 working days of deciding that there may have been such a failure.