SCOTTISH STATUTORY INSTRUMENTS

2003 No. 581

EDUCATION

The Pupils' Educational Records (Scotland) Regulations 2003

Made - - - -	*26th November 2003*
Laid before the Scottish Parliament - - - -	*27th November 2003*
Coming into force - -	*5th January 2004*

The Scottish Ministers in exercise of the powers conferred by section 4(1) and (2) of the Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002(**1**) and of all other powers enabling them in that behalf, after consultation with such persons as appeared to them to be appropriate, in accordance with section 5(3) of the said Act, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Pupils' Educational Records (Scotland) Regulations 2003 and shall come into force on 5th January 2004.

Interpretation

2. In these Regulations–

"the 1980 Act" means the Education (Scotland) Act 1980(**2**) ;

"the 1998 Act" means the Data Protection Act 1998(**3**);

"education authority" has the same meaning as in section 135 of the 1980 Act;

"parent" has the same meaning as in section 135 of the 1980 Act;

"pupil" means a person who receives, or has received, school education provided by the responsible body;

"Record of Needs" has the same meaning as in section 60 of the 1980 Act;

"school" has the same meaning as in section 135 of the 1980 Act;

"school day" means any day on which there is a school session; and

"school education" has the same meaning as in section 1(5) of the 1980 Act.

(**1**) 2002 asp 12.
(**2**) 1980 c. 44. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).
(**3**) 1998 c. 29.

Meaning of educational record

3.—(1) In these Regulations "educational records" means any records of information, excluding information contained in a Record of Needs, which–

(a) are processed by or on behalf of the responsible body;

(b) relate to any person who is or has been a pupil at the school;

(c) relate to the school education of that person; and

(d) originated from or was supplied by any of the persons specified in paragraph (2) below,

other than information which is kept and intended to be kept by a teacher or by an employee of the responsible body solely for their own use.

(2) The persons referred to in paragraph (l)(d) are–

(a) a teacher;

(b) any other employee of the responsible body;

(c) the pupil to whom the information relates; or

(d) a parent of that pupil.

Preservation of education records

4. The educational records relating to a pupil shall be preserved by the responsible body for a period of five years following the pupil having ceased receiving school education.

Requirement to disclose pupils' educational records

5.—(1) Subject to paragraphs (3) to (7) below and to regulations 6 and 7, the responsible body, upon receiving a request by a parent for disclosure of their child's educational records, shall within 15 school days, make them available for inspection, free of charge, to that parent.

(2) Subject to paragraphs (3) to (7) below and to regulations 6 and 7, the responsible body, upon receiving a request by a parent for a copy of their child's educational records, or of information forming part of those records as may be specified in the request, shall provide such a copy within 15 school days to that parent on payment of any fee that may be required under regulation 9.

(3) The responsible body is not obliged to comply with the requirements of paragraphs (1) and (2) above unless they are supplied, on request, with such information as they may reasonably require in order to satisfy themselves as to the identity of the person making the request and to locate the information which that person seeks.

(4) The requirements of paragraphs (1) and (2) above apply to information held at the date of receipt of the request, but if any correction, addition or erasure is made between that time and the time when the information is supplied, the parent shall also be supplied with the information as so amended.

(5) Where the responsible body has previously complied with a request made by a parent under paragraph (1) or (2) above, that body is not obliged to comply with a subsequent identical or similar request by that parent unless, in the opinion of the responsible body, there has been a change in circumstances or a reasonable interval has elapsed since compliance with the previous request.

(6) In determining for the purposes of paragraph (5) whether requests made under paragraph (1) or (2) are made at reasonable intervals, regard shall be had to the nature of the information requested and the frequency with which the information is altered.

(7) Where a pupil transfers to another school, the responsible body shall transmit a copy of the pupil's educational records to the body responsible for the management of that school, free of charge, if that body so requests, and within 15 school days of receiving the request.