

Circular No 4/2005

To: Directors of Education

Copy to: Chief Executives, Local Authorities
Chief Executive, COSLA
General Teaching Council for Scotland
Higher Education Institutions
Teacher Associations
Jordanhill School Board Managers

Telephone: 0131-244 «Ext»
Fax: 0131-244 0957
«email»@scotland.gsi.gov.uk
<http://www.scotland.gov.uk>

Our ref:

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Dear Sir/Madam

**THE REQUIREMENTS FOR TEACHERS (SCOTLAND) REGULATIONS 2005
REPEAL OF THE SCHOOLS (SCOTLAND) CODE 1956**

1. This circular attaches regulations that were laid in the Scottish Parliament on 17 June 2005 and came into force on 30 September 2005. The regulations have the following impact:

Require authorities to employ adequate numbers of teachers with appropriate professional skills and knowledge (regulation 3)

Require authorities to employ only registered teachers (regulation 4)

Prescribe the qualification required by teachers who are wholly or mainly involved in teaching the deaf, blind and deaf/blind (regulations 5 to 9)

Repeal of the remainder of the Schools Scotland Code (regulation 12 and Schedule)

THE MAIN REGULATIONS IN DETAIL

2. The coming into force of the Requirements for Teachers (Scotland) Regulations 2005 finalises the repeal of the Schools (Scotland) Code 1956 which was announced on 9 October 2002. A consultation exercise on the final stage of the repeal was carried out in November 2004. Following consideration of the responses to the consultation a number of changes were made to the draft regulations. The paragraphs below set out the impact of the new regulations and the Annex indicates the provisions of the Schools Scotland Code that have been repealed.

Regulation 3 – General Requirements in Relation to Employment of Teachers

3. This regulation requires local authorities to employ adequate numbers of teachers and those teachers are to have the appropriate professional skills and knowledge for the teaching duties allocated to them.

(a) Adequate numbers

3.1 The requirement for local authorities to employ an adequate staff in schools under their management was an original feature of the Schools (Scotland) Code 1956. It was

among the regulations listed for repeal as it was considered that the provision of adequate staff numbers is implicit in an education authority's obligation under section 1 of the Education (Scotland) Act 1980 to provide adequate and efficient school education. However, following the public consultation exercise in November 2004 it was decided the requirement should remain explicit in subordinate legislation

(b) Appropriate professional skills and knowledge

3.2 The qualifications required to teach in primary and secondary schools were previously set out in regulations 5(1) and 6(1) of the Schools (Scotland) Code 1956 Regulation 5(1) permitted teachers with teaching qualifications in primary or secondary education to teach in primary schools. Regulation 6(1) required teachers in secondary schools to have an appropriate secondary qualification which was defined as a qualification in one of the subjects they were required to teach or a primary qualification if teaching in the area of learning support.

3.3 The repeal of both of these regulations will allow education authorities and schools to deploy teachers according to the educational needs of children, rather than on the basis of their teaching qualification. From 30 September 2005, the appropriateness of a teacher for a particular post will be a matter for education authorities as employers. Prior to the placement of a teacher in a particular post, an employing local authority must be assured that the teacher has the appropriate professional skills and knowledge required for the post to which they are appointed.

3.4 In the vast majority of cases a teaching qualification in the subject or sector concerned will provide the evidence required. Where a teacher is being asked to teach in a sector other than the one for which they were trained education authorities will need to satisfy themselves that the teacher has the appropriate professional skills and knowledge. This may have been obtained through continuous professional development that has been taken or recognition by the General Teaching Council through its Framework for Professional Recognition

3.5 It is not anticipated however, that teachers trained in one sector will have the requisite skills and knowledge without additional training. Through continuous professional development, teachers will have the opportunity to develop skills not required in their original teaching qualification and allow them to teach across sectoral boundaries. Recognition by the GTCS under its Framework will provide the necessary assurance for authorities that such training is sufficient. Further details about the Framework and the process to be undertaken by teachers wishing to gain supplementary professional recognition should be obtained directly from the GTCS. Further details about the Framework and the process to be undertaken by teachers wishing to gain supplementary professional recognition should be obtained directly from the GTCS.

Regulation 4 – Requirement to Employ Registered Teachers

4. This regulation requires education authorities to only employ teachers registered with the GTCS in line with the original commitment by Ministers when consultation on the future of the Code was undertaken in 2000. The Standards in Scotland's Schools etc Act 2000 however provides the GTCS with the power of suspension (section 11A of the General Teaching Council (Scotland) Act 1965 refers). The Explanatory Note to the 2000 Act indicated that the requirement in the 1956 Code for teachers to be registered would need to be amended to cover the suspension of teachers by the GTCS. Now that the 1956 Code is repealed, the definition of 'registered teacher' in this regulation has been amended to ensure that education authorities are not required to dismiss a teacher while they are suspended from the register. The intention here has been to amend the requirement of

registration to ensure that such teachers can remain in employment while their case is being considered. However, a suspended teacher can only be employed as a teacher by their existing employer and will be unable to enter into a new contract of employment as a teacher until the GTCS consideration of his or her case is completed.

Regulations 5, 6 and 7 – Requirements in the Employment of Teachers with Hearing Impaired Pupils, Visually Impaired Pupils and of Pupils who are both Hearing and Visually Impaired.

5. These regulations replace provisions found in regulation 7 of the Schools (Scotland) Code 1956, as amended, which have been repealed. This has been done because those provisions were considered to be outdated in terminology, and to present a view of additional support needs in education which is no longer appropriate. The new regulations deal, as did the earlier provisions, with the education of children with sensory impairments. Teachers of children with other additional support needs will be required to possess the necessary skills and knowledge, as set out in regulations 3 and 4.

Where an education authority seeks to employ a teacher wholly or mainly to teach pupils with a hearing or a visual impairment or with both hearing and visual impairments, regulations 4, 5 and 6 require that teacher to hold an appropriate qualification. This will include teachers working on a peripatetic basis wholly or mainly with these pupils. Further guidance on the the constitution of appropriate qualifications will be issued in due course.

Regulation 8 - Employment of Teachers of Hearing or Visually and Impaired Pupils Who Do Not Possess an Appropriate Qualification

6. This regulation gives an education authority the power to employ a teacher wholly or mainly to teach pupils who are hearing impaired, visually impaired or both hearing and visually impaired who does not hold an appropriate qualification, provided that the authority is satisfied that the teacher is in the process of obtaining the necessary qualification and the period of teaching without the qualification does not exceed 5 years in total.

Regulation 9 – Existing Qualifications for Teaching Hearing or Visually and Impaired Pupils

7. This provides that teachers who already possess the specialist qualification required under regulation 7 (1) (teacher of hearing impaired pupils and (2) (teacher of visually impaired pupils) of the Schools (Scotland) Code 1956 shall be treated as possessing an appropriate qualification under regulation 5 or 6, as relevant. This regulation, in conjunction with regulation 8, will ensure that pupils with sensory impairments are taught by teachers with the appropriate skills to meet their highly specialised needs, while avoiding any shortfall in qualified staff.

Regulation 10 – Application of Regulations to Jordanhill School, Glasgow

8. The terms of the 1956 Code previously applied to Jordanhill School. Following the repeal of the Code, the effect of this regulation is to ensure that regulations 3 and 4 of The Requirements for Teachers (Scotland) Regulations 2005 replace those previously applied under the Code to Jordanhill School.

Regulation 11 – Amendment of the Jordanhill School Grant Regulations 1988

9. The effect of this regulation is to delete references to the Schools (Scotland) Code 1956 in the Jordanhill School Grant Regulations, following the Code's repeal.

Regulation 12 - Revocations

10. The Schools (Scotland) Code 1956 has been incrementally repealed over the years. Although outdated, a number of amending regulations remain in force, and the Schedule revokes these.

11. Should you require any further information or wish to discuss this circular, please contact Rod Minty on 0131-244 0988.

Yours faithfully

DONALD HENDERSON

THE SCHOOLS (SCOTLAND) CODE 1956**REGULATIONS REPEALED DURING– STAGE 1 (15 October 2002)**

5(3) and 5(4)	types of promoted posts in primary schools;
5(5)	the number of teachers in primary schools;
6(2) and 6(3)	types of promoted posts in secondary schools;
8	reports to Scottish Ministers on unsatisfactory teachers;
14(1) and 14(2)	designation and stages of classes;
15	size of classes in secondary and special schools;
23 and 24	provisions for certain types of schools; and
29 and 30	transitional provisions.

REGULATIONS REPEALED DURING – STAGE 2 (26 November 2004)

1	interpretation;
4(3)	employment of registered or conditionally registered without necessary qualifications when no suitably qualified staff available;
5(1)	primary teachers to hold TQ primary or TQ secondary;
6(1)	secondary teachers to hold TQ secondary or a TQ primary if teaching “backward pupils”;
9	provision of adequate clerical assistance for head teachers
24A	application of the Code to self governing schools; and
31	citation, commencement and revocation.