

CONSULTATION DOCUMENT ON UPDATING THE SCHOOL PREMISES (GENERAL REQUIREMENTS AND STANDARDS) (SCOTLAND) REGULATIONS 1967

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FOREWORD



This Government is committed to ensuring that our schools are first class places to learn and develop and that they demonstrate a commitment to the highest design and environmental standards. Good design and spaces inspire, stimulate, challenge and support pupils and teachers.

The school estate strategy; [Building Better Schools: Investing in Scotland's Future](#) which was jointly released with COSLA back in 2009 is as relevant now as it was then. It sets out the national and local governments shared vision, aspirations and principles for the efficient and effective management of the school estate.

Investment in schools represent a major component of Scotland's investment in its people, communities and their futures. During the last 9 years (2007-08 to 2015-16) 651 school building projects have been completed and the proportion of schools in good or satisfactory condition has increased from 61% in 2007 to 84% in 2016.

However, the School Premises (General Requirements and Standards) (Scotland) Regulations 1967 that prescribe a broad minimum standard that the premises or equipment of schools have to meet are now somewhat out of date and it is timely that we take time to update these. This consultation is about seeking your views on the updating of these Regulations to ensure they meet the needs of modern schools in Scotland, such as 2-18 year olds all through schools, school campuses as well as the traditional stand-alone schools.

This consultation is **not** about the design and construction required for compliance with building regulations, but what the minimum standards should be in our schools such as internal space, outdoor space, playing fields and the provision of sanitary facilities etc. These Regulations provide protection to ensure that no schools fall below an expected standard. Indeed, some of the provisions within the Regulations provide greater protection, such as the provision of sanitary facilities, where the number of facilities required in many instances is greater than the current British Standard.

I hope you are able to contribute your views on these proposals and I invite you to let us know what you think.

A handwritten signature in black ink, appearing to read 'John Swinney'.

John Swinney MSP
Deputy First Minister and
Cabinet Secretary for Education and Skills

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Responding to this Consultation

We are inviting responses to this consultation by 9 October 2017

Please respond to this consultation using the Scottish Government's consultation platform, Citizen Space. You view and respond to this consultation online at <https://consult.scotland.gov.uk/school-infrastructure/updating-of-the-school-premises>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 9 October 2017

If you are unable to respond online, please complete the Respondent Information Form (see "Handling your Response" below) to:

School Infrastructure Unit
Scottish Government
Area 2A South
Victoria Quay
Edinburgh, EH6 6QQ

Handling your response

If you respond using Citizen Space (<http://consult.scotland.gov.uk/>), 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.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form attached included in this document. 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 analysed and considered along with any other available evidence to help us. 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 the contact address above or at schoolestate@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.

THE GENERAL REQUIREMENTS AND STANDARDS FOR SCHOOL PREMISES IN SCOTLAND REGULATIONS

CONSULTATION

Introduction

1. The School Premises (General Requirements and Standards) (Scotland) Regulations 1967 ('the 1967 Regulations') were last amended in 1973 and 1979¹ and are now somewhat dated for the needs of modern schools in Scotland such as 2-18 year olds all through schools, school campuses as well as the traditional stand-alone schools. The traditional cellular classroom is still the norm but there is increasing use of open shared-spaces and covered external spaces within the new curriculum.
2. The 1967 Regulations set out a broad minimum standard in relation to certain aspects of school accommodation, including areas for school sites, overall minimum educational accommodation, lighting, ventilation etc. However, there is also a lot of other legislation that applies to all buildings, including schools and it seems appropriate to remove school-specific premises Regulations where they duplicate requirements in other legislation and update those that are still required.
3. As existing schools adhere to the current 1967 Regulations, it is intended that the updated Regulations will apply only to new schools to be built and any schools that are substantially modernised or refurbished. This consultation seeks your views on the proposed amendments to the 1967 Regulations regarding the general requirements and standards for school premises.
4. Non-statutory guidance will accompany the updated Regulations. This will allow more detailed information to be provided for the standards that would not otherwise be possible within the legislation. This could be reference to British Standards and guidance provided by **sportscotland** etc.

Background

Legislation applying to school premises only

5. The Education (Scotland) Act 1980 provides the powers to Scottish Ministers to prescribe standards for premises of educational establishments in Regulations². The current standards are set out in the 1967 Regulations. Education Authorities and the managers of any grant-aided school must ensure that the premises and equipment of any educational establishment under their management conform to those standards.

¹ In 1994 the Regulations were extended to self-governing schools through the Self-Governing Schools (Application and Amendment of Regulations)(Scotland) Regulations 1994.

² Section 19 of the Education (Scotland) Act 1980.

Legislation applying to different types of buildings, including schools

6. There is other legislation that applies to all buildings, including schools. This includes:

- The Health and Safety at Work Act 1974;
- The Workplace (Health, Safety and Welfare) Regulations 1992, together with its Approved Code of Practice and Guidance (collectively – WRs);
- The Equality Act 2010;
- Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002;
- Building (Scotland) Regulations 2004;
- Fire (Scotland) Act 2005 and the associated Fire Safety (Scotland) Regulations 2006;
- Food Hygiene (Scotland) Regulations 2006;
- Social Care and Social Work Improvement Scotland (Requirement for Care Services) Regulations 2011.

7. All new educational and day care buildings, must be designed and built in accordance with the Building (Scotland) Regulations 2004 ('the building regulations'). The Scottish Building Standards Technical Handbook for Non-Domestic Buildings ([Technical Handbook](#)) provides guidance on ways of complying with the building regulations, which in some instances includes reference to British Standards. Similarly, such buildings which undergo extension, alteration or conversion must also meet the standards (for the new work being carried out) and be subject to building warrant approval.

8. Compliance with the above legislation provides buildings that secure the health, safety and well-being of pupils and staff, as well as providing buildings that are energy efficient and sustainable. However, those who are responsible for schools also need to ensure that the premises are suitable for education and that pupils are provided with facilities to deliver their education (such as playing fields) or to ensure that pupils' specific welfare needs are met. Further, the needs of employees are not necessarily the same as pupils.

Other relevant legislation/guidance etc.

National Care Standards - Early Learning and Childcare

9. The Public Services Reform (Scotland) Act 2010 set up the Care Inspectorate, which has a scrutiny and improvement role taking account of standards and outcomes issued by Scottish Ministers. On 9 June 2017 Ministers issued new Health and Social Care Standards (<http://www.gov.scot/Publications/2017/06/1327/0>) to fulfil this duty. The Care Inspectorate's scrutiny and improvement role includes Early Learning and Childcare (ELC) settings ensuring they meet the Health and Social Care Standards and the ELC design guidance '[Space to Grow](#)' and in doing so will ensure the suitability of the premises for the care provided.

10. The Care Inspectorate can also issue recommendations for improvement and requirements for change and can seek to cancel a registration for operation in very serious cases. As the Care Inspectorate carry out a comprehensive inspection regime within ELC, it seems unnecessary to duplicate legislation in this area within the 1967 Regulations. **The intention is therefore to remove all reference to ELC within the 1967 Regulations.**

National Care Standards – School Care Accommodation Services

11. There were minimum standards for boarding accommodation in the School Premises (Standards and General Requirements)(Scotland) Regulations 1959, but these have since been repealed. The accommodation standards are no longer set down in legislation but are based on established practices and procedures.

12. The Care Inspectorate is responsible for regulating school care accommodation services. If a school offers boarding facilities it must be registered with the Care Inspectorate as a school care accommodations service. The Care Inspectorate and Education Scotland work together to deliver an integrated service for the regulation and inspection of these services.

13. Therefore, this is an existing example of an area where the School Premises Regulations have been repealed but the environment has been taken into account as part of the inspection process.

Discussion

14. School premises Regulations are therefore needed to ensure that the specific needs of pupils are met particularly on issues that impact on their welfare (such as washroom facilities, lighting and acoustics) or on education (such as playing fields). However, for the reasons outlined above, there is no need to duplicate legislation that adequately covers particular areas.

15. Therefore, we propose to remove some Regulations that are no longer necessary, retain and update others. This should have the effect of minimising bureaucracy and reduce the burden on education authorities. We expect the Regulations will come into force in the early part of 2018.

16. The Regulations that we propose to retain, update or remove are set out below and summarised in Annex A. Your views on these proposals are welcome. If you think that they would have an adverse effect on welfare or education then please let us know.

Regulations that are to be retained unchanged

Educational accommodation in schools providing both primary and secondary education

Regulation 11: *Every school providing both primary and secondary education shall include an area of educational accommodation as may be approved in each case.*

17. In certain circumstances, particularly in rural areas, education authorities may decide that a joint primary and secondary school is the most suitable provision. As the Regulations also prescribe standards for primary and secondary school separately, it is considered appropriate that this Regulation which allows the educational accommodation for schools providing both primary and secondary education to be approved by the Scottish Ministers, should be retained.

Question 1: Do you agree that this Regulation should be retained? If not, why not?

Educational accommodation in special schools

Regulation 13: *Every special school shall include an area of educational accommodation as may be approved in each case.*

18. The educational accommodation needs in special schools will be vastly different to that in mainstream primary or secondary schools. Teacher:pupil ratio will be higher so classroom sizes are likely to be larger for the number of pupils accommodated and there may also be specialised provision such as healthcare accommodation, a hydrotherapy pool, sensory room, learning environments, as well as outside learning and social spaces. Therefore, it is considered to be appropriate that this Regulation which allows the educational accommodation to be approved by Scottish Ministers should be retained.

Question 2: Do you agree that this Regulation should be retained? If not, why not?

Outdoor education and recreational areas

Regulation 20: *At every school there shall be provided immediately adjacent to the school building an outdoor area or outdoor areas laid out and surfaced for educational and recreational activities.*

19. The current Regulation requires that there is a provision for outdoor space which is additional to the provision of playing fields. This allows pupils an important opportunity for physical exercise and socialising during break-time and the opportunity for outdoor education. As there is no other legislation which prescribes that recreational outdoor space is required adjacent to the school building it is necessary to retain this Regulation unchanged.

Question 3: Do you agree that this Regulation adequately covers the requirements for outdoor educational and recreational areas? If not, why not?

Acoustic Conditions

Regulation 24: *Every part of the school building shall have acoustic conditions and insulation against disturbance by noise appropriate to the use for which the part of the building is designed.*

20. Background noise can be a significant obstacle to effective listening. Favourable school acoustics benefit pupils and teachers alike improving pupils' well-being and educational performance as well as enhancing a school's suitability for alternative uses. Acoustics are covered within the 'Silver and Gold Sustainability Levels' of the sustainability section (Section 7) of the Technical Handbook. The intention of Section 7 is to encourage the adoption of more demanding sustainability standards in buildings. However, there is no mandatory requirement, under the building regulations, for the provisions of the Silver and Gold levels to be achieved by school buildings. Therefore it is necessary to retain this Regulation unchanged. Supplementary non-statutory guidance will be provided on how suitable acoustic conditions can be achieved.

Question 4: Do you agree that this Regulation adequately covers the requirements for acoustic conditions? If not, why not?

Water supply

Regulation 25:

(1) In every school building wholesome water in sufficient quantities shall be provided for drinking and for all other purposes.

(2) Each wash basin or group of wash basins shall have a supply of water warmed sufficiently for washing purposes.

(3) All sinks to be used for general purposes and baths shall have an adequate supply of separately controlled hot and cold water.

(4) Every shower shall have a supply of water warmed to a temperature of not less than 38°C nor more than 44°C.

21. The provision and accessibility of drinking water for staff is covered by the WRs, but no other legislation covers water supplies for pupils. Similarly no other legislation covers hot and cold water supplies to pupils' toilets, baths or showers, nor addresses the risk to children of scalding. Regulation in this area should therefore be retained.

Question 5: Do you agree that this Regulation adequately covers the requirements for water supply? If not, why not?

Grant-Aided Schools

Regulation 26³

22. This Regulation applies Parts I and III of the 1967 Regulations to the premises and equipment of grant-aided schools. Currently there are around 8 grant-aided schools in Scotland and it is proposed that the new Regulations will continue to apply to grant-aided schools.

Question 6: Do you agree that the new Regulations should apply to grant-aided schools? If not, why not.

³ See Regulation 26 The School Premises (General Requirements and Standards)(Scotland) Regulations 1967 Annex B

Regulations that are to be updated

Sites for playing fields

Regulation 8⁴:

23. For primary and secondary schools it is a requirement that there are playing fields available and for primary schools it is a further requirement that playing fields are in close proximity to the school. This allows schools to source their playing fields from outside providers if necessary and there is no intention to remove this provision.

24. In recent years there has been an increasing move towards the use of synthetic pitches (SP) as they provide greater playing capacity than grass pitches. Given this, it would appear appropriate to allow a reduced area of provision if this includes SP. It is acknowledged that most of the SP will be synthetic grass pitches (SGP) but to allow flexibility for other potential surfaces, provision will refer to SP.

25. Consideration needs to be given to the circumstances of the site, and should also consider the wider sporting community need, in deciding what the mix of outdoor sports facilities should be. The increase of shared campuses means that the requirements of primary/secondary/additional support needs in a single setting also has to be taken into account. When determining the area required for a shared school campus the total number of pupils and the area provision for secondary school is to be used.

26. It is proposed that this Regulation is updated to provide for a minimum area if there is only grass pitches at a school and the minimum area if there is only SP at a school. However, a mixture between the two is likely to be the preferred option and therefore the area required in some circumstances will be less than that currently defined for grass pitches. **Sportscotland** provides guidance on the recommended provision of school playing fields within their planning and design guidance and this will be included/referred to within the non-statutory guidance which will accompany the Regulations.

27. Currently, the Regulation also provides that every nursery school and every nursery class in a primary school shall have available in close proximity to it a garden playing space. However, this aspect of accommodation of nursery classes and schools will be regulated by the Care Inspectorate and so the intention is that this part of the Regulation will be removed.

⁴ See Regulation 8 The School Premises (General Requirements and Standards)(Scotland) Regulations 1967 Annex B

Proposed updated Regulation 8:

Sites for playing fields

Primary school

| <i>Number of pupils</i> | <i>Minimum Area (ha) if grass only.</i> | <i>Minimum Area (ha) if SP only.</i> |
|-------------------------|---|--------------------------------------|
| <i>60 or less</i> | <i>0.1</i> | <i>0.1</i> |
| <i>61-140</i> | <i>0.2</i> | <i>0.3</i> |
| <i>141-315</i> | <i>0.3</i> | <i>0.3</i> |
| <i>316-450</i> | <i>0.4</i> | <i>0.3</i> |
| <i>451 or more</i> | <i>0.6</i> | <i>0.3</i> |

Secondary Schools

| <i>Number of pupils</i> | <i>Minimum Area (ha) if grass only.</i> | <i>Minimum Area (ha) if SP only.</i> |
|-------------------------|---|--------------------------------------|
| <i>320-500</i> | <i>1.6</i> | <i>1.7</i> |
| <i>501-750</i> | <i>2.4</i> | <i>1.7</i> |
| <i>751-1,000</i> | <i>3.2</i> | <i>1.7</i> |
| <i>1,001-1,200</i> | <i>3.6</i> | <i>2.5</i> |
| <i>1,201-1,400</i> | <i>4.0</i> | <i>2.5</i> |
| <i>1,401-1,600</i> | <i>4.4</i> | <i>3.2</i> |
| <i>1,601-1,800</i> | <i>4.8</i> | <i>3.2</i> |
| <i>1,801-2,000</i> | <i>5.2</i> | <i>3.2</i> |

Question 7: Do you agree that if there is a mixture of grass pitches and SP then the area required in some circumstances can be less than that currently defined for grass pitches? If not, why not?

Educational accommodation in primary schools and secondary schools.

Regulation 9 and 10⁵:

28. Educational accommodation means **all** the internal space within schools, including accommodation for assembly, dining, study, music, physical education, shower and changing rooms, storage etc. Classroom size should be appropriate to allow effective teaching and no area of the school should compromise health and safety. Scottish Government accommodation metrics which are applied to the pupil roll are used as a guide when building new schools through Schools for the Future Programme. These metrics were developed by assessing the mean accommodation area of existing primary and secondary schools in Scotland. It would seem appropriate to use these as a minimum standard and include in the Regulation reference to the most up to date accommodation metrics published by the Scottish Government. The metrics used at the moment to build new schools are:

⁵ See Regulation 9 and 10 The School Premises (General Requirements and Standards)(Scotland) Regulations 1967 Annex B

Primary Schools

| Pupil roll of the school | m ² per pupil |
|--------------------------|--------------------------|
| Up to 231 | 8.5 |
| 232-462 | 7.5 |
| 463+ | 6.5 |

Secondary Schools

| Pupil roll of the school | m ² per pupil |
|--------------------------|--------------------------|
| Up to 400 | 13 |
| 401-800 | 12 |
| 801-1200 | 11 |
| 1201+ | 10 |

29. These accommodation metrics provide an acceptable area for space within a school but local authorities may choose to build schools larger than this. However, if local authorities wish to build smaller than this then exceptionally they may seek approval from the Scottish Government.

Question 8: Do you agree that accommodation metrics is an appropriate method to calculate the educational accommodation required? If not, why not?

Sanitary accommodation for pupils

Regulation 15 and 16⁶:

30. The existing Regulation provides a higher number of appliance per pupil than is required for employees within the Technical Handbook for non-domestic buildings. This is because of the unique circumstances surrounding schools where access to facilities may have peaks at break times. In addition, the School Premises Regulations do not prescribe standards for accessible sanitary facilities for persons with a disability or refer to unisex toilets that could address gender issues. Therefore, the Regulation needs to be updated and simplified to meet current expectations.

31. That said, the number of toilets and wash hand basins as prescribed in the current Regulations should be retained as it ensures a greater provision than the Technical Handbook and the school provision recommended in British Standard 6465-1: 2006. This is particularly important in smaller schools, which are prevalent in Scotland, where the existing Regulations provision may be double that prescribed in the British Standard.

32. However, the provision can also be updated to reflect the needs of modern schools. Currently the Regulation states that half the accommodation shall be for boys and the other half for girls and does not refer to unisex toilets. Flexibility should

⁶ See Regulation 15 and 16 The School Premises (General Requirements and Standards)(Scotland) Regulations 1967 Annex B

be permitted within this Regulation to allow the provision of separate toilet facilities for boys and girls except where they are provided for use by one pupil at a time. Urinals in these circumstances may no longer be necessary and therefore the provision of urinals should be optional if replaced with a toilet.

33. Accessible sanitary facilities for pupils who are disabled should be provided in accordance with the guidance to standard 3.12 Sanitary Facilities within the Technical Handbook. As the provision of wash hand basins is related to the number of toilets provided, it seems appropriate that this issue is provided for in this Regulation. However, it is considered that the current Regulation also needs to be updated to provide that sanitary disposal units should be provided in all cubicles used by girls aged 8 or over which is a requirement within the British Standard 6465-1: 2006.

34. The current Regulations cover changing accommodation and showers, given the term “educational accommodation” includes references to both terms. It is considered that for clarity, the new Regulations should provide that showers must be provided for the use of pupils aged 11 years or over engaged in physical education and should be accessible from the changing rooms for all users. British Standard 6465-1: 2006 details that there should be one shower per 10 pupils or part thereof engaged in physical education.

35. As the intention is that nursery schools and nursery classes will be regulated by the Care Inspectorate then the provision that applies to nursery schools and nursery classes within a primary school will be removed.

Question 9: Do you agree that this covers the requirements for toilet and washing facilities? If not, why not?

Medical inspection and rest room accommodation

Regulation 18⁷:

36. It is still necessary to have a Regulation which ensures the provision of accommodation for the medical examination and treatment of pupils and appropriate facilities for pupils who are ill or injured. However, the current Regulation is out of date with reference to the Education (Scotland) Act 1962 and School Health Service (Scotland) Regulations 1947 so it would be appropriate to update this Regulation.

37. Section 57 of the Education (Scotland) Act 1980 refers to the requirement in section 39 of the National Health Service (Scotland) Act 1978 that medical and dental examination and inspection of pupils is provided for pupils. Therefore there is still a requirement for accommodation in this matter and similarly under health and safety requirements, a rest room is required for pupils who are ill or injured.

38. This Regulation should be updated to remove reference to out of date legislation and to ensure the provision of a medical room for medical and dental

⁷ See Regulation 18 The School Premises (General Requirements and Standards)(Scotland) Regulations 1967 Annex B

examinations and a rest room for the short term care of sick and injured pupils which includes or is adjacent to a toilet facility. For schools that cater for complex needs additional medical accommodation must be provided which caters for those needs.

Question 10: Do you agree that this covers the requirements for medical inspection and rest room accommodation? If not, why not?

Lighting

Regulation 21⁸:

39. The current Regulation requires that in every school building the lighting, both natural and artificial, of each room or other space shall be appropriate to the purpose for which the room or other space is provided and then prescribes the level or sources of light which are somewhat out of date.

40. Lighting is covered within the 'Silver and Gold Sustainability Levels' of the sustainability section (Section 7) of the Technical Handbook. The intention of Section 7 is to encourage the adoption of more demanding sustainability standards in buildings. However, there is no mandatory requirement, under the building regulations, for the provisions of the Silver and Gold levels to be achieved by school buildings.

41. As lighting is important to a pupil's ability to learn then it is considered that Regulation should be retained in this area, but simplified. The standard should ensure that the lighting, both natural and artificial, of each room or other space shall be appropriate to the purpose for which the room or other space is provided. Supplementary non-statutory guidance will be provided on how appropriate lighting can be achieved.

Question 11: Do you agree this covers the requirements for lighting? If not, why not?

⁸ See Regulation 21 The School Premises (General Requirements and Standards)(Scotland) Regulations 1967 Annex B

Regulations that are to be removed

General Requirements

Regulation 4⁹

42. This Regulation requires that education authorities seek written approval from Scottish Ministers before the commencement for works for the erection of any school building or new premises for an existing school at a cost in excess of £1m. This relates to the historical situation at that time of how school infrastructure development was funded.

43. The current situation is that local authorities have their own capital programme, to deliver both national and local investment priorities. The Scottish Government allocates a proportion of its capital budget directly to local government¹⁰ to support those infrastructure investment programmes. Local authorities are able to supplement their funding from the Scottish Government through borrowing, using receipts from asset sales and other income. Therefore this Regulation is no longer required.

Question 12: Do you agree that this Regulation can be removed? If not, why not?

Sites for primary and secondary schools

Regulation 7¹¹:

44. The size of site for a primary or secondary school or a joint campus will relate to the size of school and the number of pupils to be accommodated. Class size requirements will also influence the number of classrooms required and therefore the size of the school. As well as the educational accommodation there needs to be sufficient space for outdoor spaces (excluding school playing fields), bicycle racks, school transport drop-off points etc.

45. Site selection will be determined by the nature of the educational provision, the types of outdoor learning experiences and recreational activities that will take place at the potential site and the accessibility for the local community etc. In some communities there may be competing pressure on land availability and there may be instances where a suitable site is available but does not meet the existing size of site requirements. A multi-storey school in this context may provide an ideal educational provision, but the current requirements would not allow this unless approved by Scottish Ministers.

46. Therefore, it is proposed that the size of site will not be prescribed in the Regulations but it is for local authorities to select the most appropriate and suitable

⁹ See Regulation 4 The School Premises (General Requirements and Standards)(Scotland) Regulations 1967 Annex B

¹⁰ Infrastructure Investment Plan 2015

<http://www.gov.scot/Publications/2015/12/5962/downloads#res-1>

¹¹ See Regulation 7 The School Premises (General Requirements and Standards)(Scotland) Regulations 1967 Annex B

site that meets the needs of the community, taking account of the accommodation metrics, class size requirements and outdoor space. This means looking at the school as an entity which embraces all of its functions, learning, recreation, social, cultural in relationship to its surroundings and to the local community.

Question 13: Do you agree that this Regulation can be removed? If not, why not?

Playroom accommodation in nursery schools and classes

Regulation 12¹²:

47. Nursery provision has changed substantially from when the Regulations first came into force with provision extending to 2 and 3 year olds. The needs of this younger age group is different and the accommodation should be appropriate for their needs.

48. The Care Inspectorate regulate and inspect care services such as day-care and nursery provision and ensure that services comply with the School Premises Regulations and their own guidance. However, as their guidance has different accommodation metrics than the School Premises Regulations there is the potential for different inspection standards between local authority run premises and the private sector. The Care Inspectorate have worked with education authorities in developing the ELC design guidance 'Space to Grow'.

49. It is not considered to be appropriate for there to be two systems in operation within this sector. As the Care Inspectorate carry out inspections and only register businesses to operate if they meet the requirements in the current ELC design guidance 'Space to Grow' and the Social Care and Social Work Improvement Scotland (Requirement for Care Services) Regulations 2011 then this provides assurances that the space provided in nursery schools and classes does not compromise the health and safety of young children. This Regulation is therefore no longer needed.

Question 14: Do you agree that this Regulation and all other reference to ELC within the Regulations is no longer required and can be removed? If not, why not?

Kitchen premises

Regulation 14¹³:

50. Food hygiene is covered by the Food Hygiene (Scotland) Regulations 2006 and it sets out the basic hygiene requirements for premises, facilities and staff involved in the preparation and serving of food. The area accommodation metrics includes an area for kitchens and dining so it is considered that these provisions do

¹² See Regulation 12 The School Premises (General Requirements and Standards)(Scotland) Regulations 1967 Annex B

¹³ See Regulation 14 The School Premises (General Requirements and Standards)(Scotland) Regulations 1967 Annex B

not need duplicating with a separate Regulation within the School Premises Regulations.

Question 15: Do you agree that this Regulation can be removed? If not, why not?

Washing accommodation for pupils

Regulation 16¹⁴:

51. It is proposed that the provision in this Regulation is instead covered in the revised toilets and washing facilities Regulation (see paragraph 30 above).

Question 16: Do you agree that this Regulation is no longer required as it is met within the revised toilets and washing facilities Regulation? If not, why not?

Accommodation for staff

Regulation 17¹⁵:

52. The current Regulation requires that accommodation including cloakroom and sanitary accommodation, is provided for staff. However, Regulation 11, 23 and 25 of the WRs cover requirements for workstations and seating for staff, accommodation for clothing and facilities for rest and to eat meals. The Technical Handbook also details the sanitary requirements for non-domestic buildings. Therefore, it is considered that a specific Regulation on staff accommodation is unnecessary.

Question 17: Do you agree that this Regulation can be removed? If not, why not?

Storage accommodation

Regulation 19¹⁶:

53. This Regulation covers the provision of storage accommodation of material in support of education and for the storage of pupils outdoor clothing and other belongings to permit the safe and convenient passage of persons and goods within buildings. Regulation 17 of the WRs require that every workplace is organised in such a way that people can circulate in a safe manner. As this is a health and safety requirement and the area accommodation metrics also include an element of storage then it is considered that a Regulation on storage is unnecessary.

Question 18: Do you agree that this Regulation can be removed? If not, why not?

¹⁴ See Regulation 16 The School Premises (General Requirements and Standards)(Scotland) Regulations 1967 Annex B

¹⁵ See Regulation 17 The School Premises (General Requirements and Standards)(Scotland) Regulations 1967 Annex B

¹⁶ See Regulation 19 The School Premises (General Requirements and Standards)(Scotland) Regulations 1967 Annex B

Ventilation

Regulation 22¹⁷:

54. The Technical Handbook (3.14) offers guidance to appropriate level of ventilation to buildings. Ventilation requirements are also covered in Regulation 6 of the WRs. Therefore it is considered that a specific Regulation on ventilation is unnecessary.

Question 19: Do you agree that this Regulation can be removed? If not, why not?

Heating

Regulation 23¹⁸:

55. Heating and cooling requirements are covered in Regulation 7 of the WRs. The Approved Code of Practice (ACOP) accompanying this Regulation sets minimum temperatures for rooms, differentiating between those that accommodate normal levels of activity and those where more active work takes place, and advises on local heating and cooling where needed. Therefore it is considered that a school-specific Regulation is unnecessary.

Question 20: Do you agree this Regulation can be removed? If not, why not?

Self-Governing Schools

Regulation 27¹⁹

56. This Regulation applies the standards to the premises and equipment of self-governing schools. The Self-Governing Schools etc. (Scotland) Act 1989 was repealed in 2000 and there are no self-governing schools in Scotland. Therefore it is considered that Regulation in this area is not necessary.

Question 21: Do you agree this Regulation can be removed? If not, why not?

Application of the Regulations to Independent Schools

57. The Regulations currently apply to education authorities and grant-aided schools but do not apply to Independent schools in Scotland of which there are around 100. However, the guidance on the Registration of Independent Schools in Scotland indicates that the premises must be suitable for use as a school. The accommodation standards are not set down in legislation but are based on established practices and procedures by HM Inspectors gained over many years. As

¹⁷ See Regulation 22 The School Premises (General Requirements and Standards)(Scotland) Regulations 1967 Annex B

¹⁸ See Regulation 23 The School Premises (General Requirements and Standards)(Scotland) Regulations 1967 Annex B

¹⁹ See Regulation 27 The School Premises (General Requirements and Standards)(Scotland) Regulations 1967 Annex B

it is expected that Independent Schools should provide accommodation to at least a similar standard as local authority schools it seems appropriate that the new Regulations should apply to them. As the new Regulations will apply to new and refurbished schools this should not have an undue effect on existing Independent Schools.

58. However, the power to create Regulations under section 19 of the Education Scotland Act 1980 only applies to education authorities. Therefore, if the new Regulations were to apply to Independent Schools then this would need to be considered through an Education Bill.

Question 22: Do you agree that the new Regulations should apply to Independent Schools. If not, why not?

Business and Regulation

59. The Scottish Government is committed to consulting with all parties potentially affected by proposals for new legislation, or where legislation is being changed significantly.

60. A partial Business and Regulatory Impact Assessment BRIA (Annex C) has been prepared for the 'Updating of the School Premises (General Requirements and Standards)(Scotland) Regulations 1967 ('the 1967 Regulations')'.

61. We would welcome comments on whether there are any costs and benefits that are not captured in the analysis; please provide supporting evidence.

62. Respondents are also asked to consider if there is any additional information to enhance the BRIA; please provide supporting evidence.

Question 23: What are your views on the overall costs and savings identified in the Impact Assessment?

Equality

63. The Scottish Government is committed to promoting equality and removing or minimising disadvantage which may be experienced by different groups of people. We have a legal duty to consider the impact of policies on people who may be differently affected in relation to the 'protected characteristics' under the Equality Act 2010. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Question 24: Please tell us about any potential equality impacts, either positive or negative, that you consider the proposals in this consultation may have, with reference to the 'protected characteristics' listed above. Please be as specific as possible.

Child Rights and Wellbeing

64. The Child Rights and Wellbeing Impact Assessment (CRWIA) is used to identify, research, analyse and record the impact of a proposed law or policy on children's human rights and wellbeing. CRWIA helps us to consider whether the Scottish Government is advancing the rights of children in Scotland and protecting and promoting the wellbeing of children and young people

Question 25: Are there any aspects of a child's rights or wellbeing that you think might be affected either positively or negatively by the proposals covered in this consultation?

ANNEX A

| Regulation | Retain Unchanged | Update | Remove |
|---|---------------------|--------|--------|
| 4. General Requirements | | | √ |
| 7. Sites for primary and secondary schools | | | √ |
| 8. Sites for playing fields | | √ | |
| 9. Educational accommodation in primary schools | | √ | |
| 10. Educational accommodation in secondary schools | | √ | |
| 11. Educational accommodation in schools providing both primary and secondary education | √ | | |
| 12. Playroom accommodation in nursery schools and classes | | | √ |
| 13. Educational accommodation in special schools | √ | | |
| 14. Kitchen Premises | | | √ |
| 15. Sanitary accommodation for pupils | | √ | |
| 16. Washing accommodation for pupils | | | √ |
| 17. Accommodation for staff | | | √ |
| 18. Medical inspection and rest room accommodation | | √ | |
| 19. Storage accommodation | | | √ |
| 20. Outdoor educational and recreational areas | √ | | |
| 21. Lighting | | √ | |
| 22. Ventilation | | | √ |
| 23. Heating | | | √ |
| 24. Acoustic conditions | √ | | |
| 25. Water supply | √ | | |
| 26. Application of Regulations to grant-aided schools | √ | | |
| 27. Application of Regulations to self-governing schools | | | √ |

ANNEX B

<http://www.legislation.gov.uk/uksi?title=School%20Premises%20%28General%20Requirements%20and%20Standards%29%20%28Scotland%29%20Regulations>

Partial Business and Regulatory Impact Assessment

1. Title of Proposal

Updating of the School Premises (General Requirements and Standards)(Scotland) Regulations 1967 ('the 1967 Regulations').

2. Purpose and intended effect

2.1 Background

The 1967 Regulations prescribe a broad minimum standard applicable in relation to certain aspects of school buildings, including areas for school sites, overall minimum internal space, playing fields, sanitary and washing accommodation, lighting, ventilation, heating etc.

The contents of the 1967 Regulations were last amended in 1973 and 1979²⁰ and are now somewhat dated for the needs of modern schools in Scotland such as 2-18 year olds all through schools, school campuses as well as the traditional stand-alone schools. For example, the 1967 Regulations do not prescribe standards for accessible sanitary facilities for disabled people or allow unisex toilets that could address gender issues. The area size of school playing fields is also outdated as it does not take account of the growth of synthetic pitches (SP) which could be met with a reduced area of provision.

The 1967 Regulations were also drafted and amended before the expansion in Early Learning and Childcare (ELC) provision. Nursery provision has changed substantially from when the Regulations first came into force with provision now extending to 2 and 3 year olds. The Care Inspectorate through the ELC Design Guidance 'Safe to Grow' prescribe a higher space standard for under 2 year olds and 2 to under 3 year olds than the standard prescribed in the 1967 Regulations and they carry out a comprehensive inspection regime within ELC.

The Care Inspectorate apply the 1967 Regulations space standards to local authority provided early years settings but for all other partner providers they apply their own space standards, thereby operating a dual regulation system which causes confusion within the regulatory system. Given the commitment to expand the provision of ELC from 600 to 1140 hours by 2020 there are concerns that this problem will be exacerbated.

Therefore, given that the expansion in ELC provision is required by 2020 and for the other reasons outlined in paragraph 2, it is considered appropriate that the 1967 Regulations are updated.

2.2 Objective

The policy objective is to revoke unnecessary Regulations, update or retain those that remain and produce a clear set of requirements for school premises. This

²⁰ In 1994 the Regulations were extended to self-governing schools through the Self-Governing Schools (Application and Amendment of Regulations)(Scotland) Regulations 1994.

should have the effect of minimising bureaucracy whilst ensuring buildings are appropriate for educating children and young people and minimise risks to children's health and safety.

2.3 Rationale for Government intervention

The 1967 Regulations are well out of date and do not meet the needs of modern schools in Scotland and the expansion in ELC. The rationale for intervention is to remove the application of the Regulations to ELC thus minimising regulatory burden and to remove unnecessary school-specific Regulations where this is already covered in other legislation. Where separate school-specific premises Regulations are needed, particularly with regard to the welfare of pupils or to ensure that school premises are conducive to education, these can be updated.

The proposals will contribute to the better achievement of the national outcomes:

- Our children have the best start in life and are ready to succeed;
- Our young people are successful learners, confident individuals, effective contributors and responsible citizens.

by:

- Facilitating a well-designed, maintained, managed school estate which encourages continuous engagement with learning.

3. Consultation

3.1 Within Government

The School Infrastructure Policy Unit has engaged with the following divisions and agencies during the development phase of the policy.

- Local authorities, who are responsible for their school estate, ensuring the location and condition of schools meets with population patterns and educational needs.
- Care Inspectorate who inspect services which include ELC to assess the suitability of the premises from which care is being provided.
- **sportscotland** who have an interest in the provision of playing fields.
- Scotland's Commissioner for Children and Young People who have an interest in the standard and quality of school toilets for pupils.
- Scottish Government Building Standards Division who, working through Scottish Ministers, set out the essential standards for building or conversion work including preparing building regulations and writing guidance on how to meet them.

In considering the best approach to updating the 1967 Regulations the SG considered the views of the above organisations.

- Local authorities through the ADES resource network were able to input their views on each of the Regulations and whether they met the needs of schools in the 21st century.
- The Care Inspectorate raised the concerns that the 1967 Regulations do not address the needs of 2 and 3 year olds particularly with the space standards

which were developed when provision was for 4 to 5 year olds for 2.5 hours a day.

- **sportscotland** were able to advise that if synthetic pitches (SPs) were provided the area of playing fields could be reduced as SPs provide greater playing capacity than grass pitches.
- Scotland's Commissioner for Children and Young People launched a campaign 'Flushed with Success' which looked to address the standard and quality of school toilets for pupils and aims to make sure that the quality of school toilet facilities for children is monitored and guaranteed, in the same way as for adults in the workplace.
- The SG Building Standards Division were able to advise whether school-specific or generic Regulations and guidance were already covered in Scottish building regulations and the non-domestic Technical Handbook.

3.2 Public Consultation

A consultation on proposals to update the 1967 Regulations will run for 12 weeks during the summer. As well as directly contacting stakeholders with a known interest, the consultations are also promoted on the SG website.

Additional informal consultation meetings have been held with:

- A representative of the ADES resources network;
- Care Inspectorate;
- **sportscotland**;
- Commissioner for Children and Young People;
- SG Building Standards Division.

3.3 Business Consultation

In developing proposals, the engagement in support of the Scottish Firms Impact Test will be undertaken during the public consultation. A questionnaire asking details about the proposals will be issued prior to SG visiting the identified stakeholders for face to face discussions.

These are with:

- Design and build companies – micro business
- Architectural firms and other consultants – micro and small business
- Manufacturers/suppliers – small business

4. Options

4.1 The following options were considered:

1. Do nothing.
2. Remove all reference to ELC within the 1967 Regulations.
3. Produce new School Premises Regulations which will not include reference to ELC and which would update other outdated Regulations e.g. lighting.
4. Produce new School Premises Regulations which will not include reference to ELC or to other school-specific premises standards which are met by other legislation and update or retain those that remain.

Option 4 is the preferred option. The removal of the application of the Regulations to

ELC and to remove unnecessary school-specific Regulations where such requirements are already covered in other legislation, will minimise the regulatory burden. Where separate school-specific premises Regulations are needed, particularly with regard to the welfare of pupils or to ensure that school premises are conducive to education, these can be updated.

4.2 Sectors and groups affected

Sectors and groups affected include:

- a) Local authorities – they will need to ensure that when procuring the building or refurbishment of schools that they adhere to the new requirements within the Regulations.
- b) Care Inspectorate – they will apply the ELC design guidance ‘Safe to Grow’ to ELC settings and have a consistent approach to these standards in both a local authority and partner provider setting.
- c) Building users - people using the building whether teachers, pupils, visitors will be affected by any changes to the current provision.
- d) Building designers/constructors - all those involved with building design and construction would have to familiarise themselves with the new/amended standards and guidance through training etc.
- e) Verification - Local authority verifiers would have to train staff to ensure they are aware of the requirements within the new Regulations.

4.3 Benefits

The Scottish Government is committed to address the concerns that the 1967 Regulations do not satisfy the current needs of schools and ELC.

Option 1 – Do nothing. This option would not assist in addressing the concerns regarding the space standards for ELC settings and for the other out-dated regulations.

Option 2 - Remove all reference to ELC within the Regulations. This would address the concerns regarding the space standards for the expansion in ELC for 2 year olds and 2 to 3 year olds and the dual regulation system within ELC settings. However, other out of date Regulations would remain and there would still be unnecessary school-specific Regulations that are already covered in other legislation.

Option 3 - Produce new School Premises Regulations which will not include reference to ELC and which would update other Regulations. This would address the concerns regarding the space standards for the expansion in ELC for 2 year olds and 2 to 3 year olds and the dual regulatory system within ELC settings. However, there would still be unnecessary school-specific premises Regulations which are already covered in other legislation.

Option 4 - Produce new School Premises Regulations which will not include reference to ELC or to other school-specific premises standards which are met by other legislation. This will minimise the regulatory burden and ensure where separate school-specific premises Regulations are needed these can be updated or retained.

4.4 Costs

Give details of all costs (additional and savings) associated with each option you are considering.

| Regulation | Option 1 | Option 2 | Option 3 | Option 4 |
|--|--------------|--------------|---|---|
| 4. General Requirements | Cost neutral | Cost neutral | Cost neutral | Cost neutral |
| 7. Sites for primary and secondary schools | Cost neutral | Cost neutral | If the best site is selected to meet the needs of the community then there is the potential to have cost savings. A site that perhaps would have been too small under the 1967 Regulations could be selected to build a multi-storey school. This could result in savings on land costs. Land prices for sites on which schools could be built vary across the country and even within localities will be affected by a range of factors. However, it stands to reason that where a school can be developed on a smaller site than would previously have been required, there is potential to save on the site costs. There is also potential annual school | If the best site is selected to meet the needs of the community then there is the potential to have cost savings. A site that perhaps would have been too small under the 1967 Regulations could be selected to build a multi-storey school. This could result in savings on land costs. Land prices for sites on which schools could be built vary across the country and even within localities will be affected by a range of factors. However, it stands to reason that where a school can be developed on a smaller site than would previously have been required, there is potential to save on the site costs. There is also potential annual school |

| | | | | |
|-----------------------------|--------------|--------------|---|---|
| | | | transport costs savings of £111 per primary pupil and £244 per secondary pupil ²¹ if the most suitable site is selected. However, as the local authorities can choose the size of site then it could be argued that the effect of the Regulation is cost neutral . | transport costs savings of £111 per primary pupil and £244 per secondary pupil if the most suitable site is selected. However, as the local authorities can choose the size of site then it could be argued that the effect of the Regulation is cost neutral . |
| 8. Sites for playing fields | Cost neutral | Cost neutral | There should be no extra costs as local authorities can still choose to have the minimum provision for grass playing fields. However, if local authorities choose to include SP then it is possible that the provision can be provided over a reduced area. This could result in savings on land costs, which will vary across the country and even within localities, but this would be offset by extra costs associated with SP. A grass pitch costs around £150k while a | There should be no extra costs as local authorities can still choose to have the minimum provision for grass playing fields. However, if local authorities choose to include SP then it is possible that the provision can be provided over a reduced area. This could result in savings on land costs, which will vary across the country and even within localities, but this would be offset by extra costs associated with SP. A grass pitch costs around £150k while a SGP |

²¹ The average spend on school transport per pupil by local authorities in Scotland in 2015-16

| | | | | |
|---|--------------|--------------|---|---|
| | | | synthetic grass pitch (SGP) around £500k ²² . However, grass pitches require higher maintenance costs of around £25-30k per annum compared to £10-15k for SGP ²³ . | around £500k. However, grass pitches require higher maintenance costs of around £25-30k per annum compared to £10-15k for SGP. |
| 9. Educational accommodation in primary schools | Cost neutral | Cost neutral | The accommodation metrics used within the Schools for the Future Programme were developed by assessing the mean accommodation area of existing primary and secondary schools in Scotland. This indicates that the minimum educational accommodation area as detailed in the 1967 Regulations were not used and that the accommodation metrics is a more realistic measure. Local authorities can also choose to build larger schools if they wish. Therefore in reality the | The accommodation metrics used within the Schools for the Future Programme were developed by assessing the mean accommodation area of existing primary and secondary schools in Scotland. This indicates that the minimum educational accommodation area as detailed in the 1967 Regulations were not used and that the accommodation metrics is a more realistic measure. Local authorities can also choose to build larger schools if they wish. Therefore in reality the |

²² sportscotland

²³ sportscotland

| | | | | |
|---|--------------|---|--|--|
| | | | change to this Regulation is cost neutral . | change to this Regulation is cost neutral . |
| 10. Educational accommodation in secondary schools | Cost neutral | Cost neutral | The accommodation metrics used within the Schools for the Future Programme were developed by assessing the mean accommodation area of existing primary and secondary schools in Scotland. This indicates that the minimum educational accommodation area as detailed in the 1967 Regulations were not used and that the accommodation metrics is a more realistic measure. Local authorities can also choose to build larger schools if they wish. Therefore in reality the change to this Regulation is cost neutral . | The accommodation metrics used within the Schools for the Future Programme were developed by assessing the mean accommodation area of existing primary and secondary schools in Scotland. This indicates that the minimum educational accommodation area as detailed in the 1967 Regulations were not used and that the accommodation metrics is a more realistic measure. Local authorities can also choose to build larger schools if they wish. Therefore in reality the change to this Regulation is cost neutral . |
| 11. Educational accommodation in schools providing both primary and secondary education | Cost neutral | Cost neutral | Cost neutral | Cost neutral |
| 12. Playroom accommodation in nursery schools and classes | Cost neutral | The space standard within the ELC design guidance 'Space to Grow' for under | The space standard within the ELC design guidance 'Space to Grow' for under | The space standard within the ELC design guidance 'Space to Grow' for under |

| | | | | |
|--|--------------|--|--|--|
| | | <p>2s is 3.7m², 2 and under 3s is 2.8m² and 3 and over is 2.3m². The 1967 Regulations playroom accommodation is from around 2.3m² to around 2.7m² depending on the number of pupils. Therefore, the Care Inspectorate space standards are higher. However, as covered external space will be included in the accommodation area this could result in undefined savings. There would also be cost savings, although this is not defined, for the Care Inspectorate as they would not need to refer to two standards when carrying out their inspections.</p> | <p>2s is 3.7m², 2 and under 3s is 2.8m² and 3 and over is 2.3m². The 1967 Regulations playroom accommodation is from around 2.3m² to around 2.7m² depending on the number of pupils. Therefore, the Care Inspectorate space standards are higher. However, as covered external space will be included in the accommodation area this could result in undefined savings. There would also be cost savings, although this is not defined, for the Care Inspectorate as they would not need to refer to two standards when carrying out their inspections.</p> | <p>2s is 3.7m², 2 and under 3s is 2.8m² and 3 and over is 2.3m². The 1967 Regulations playroom accommodation is from around 2.3m² to around 2.7m² depending on the number of pupils. Therefore, the Care Inspectorate space standards are higher. However, as covered external space will be included in the accommodation area this could result in undefined savings. There would also be cost savings, although this is not defined, for the Care Inspectorate as they would not need to refer to two standards when carrying out their inspections.</p> |
| 13. Educational accommodation in special schools | Cost neutral | Cost neutral | Cost neutral | Cost neutral |
| 14. Kitchen premises | Cost neutral | Cost neutral | Cost neutral | There would be cost savings, although this is not defined, for those involved in the building of schools as they would not |

| | | | | |
|---------------------------------------|--------------|--------------|---|---|
| | | | | need to look at multiple legislation. |
| 15. Sanitary accommodation for pupils | Cost neutral | Cost neutral | Cost neutral as the number of toilets and washbasins remain the same. However, local authorities can choose whether to have unisex toilets and urinals. While the number of baths or showers are not prescribed within the 1967 Regulations there was an expectation that these would be provided for physical education. The amendment defining the number of showers which meets the British Standard provides clarity and would be Cost Neutral. | Cost neutral as the number of toilets and washbasins remain the same. However, local authorities can choose whether to have unisex toilets and urinals. While the number of baths or showers are not prescribed within the 1967 Regulations there was an expectation that these would be provided for physical education. The amendment defining the number of showers which meets the British Standard provides clarity and would be Cost Neutral. |
| 16. Washing accommodation for pupils | Cost neutral | Cost neutral | Cost neutral as the number of toilets and washbasins remain the same. However, local authorities can choose whether to have unisex toilets and urinals. While the number of baths or showers are not prescribed within the 1967 Regulations there was an | Cost neutral as the number of toilets and washbasins remain the same. However, local authorities can choose whether to have unisex toilets and urinals. While the number of baths or showers are not prescribed within the 1967 Regulations there was an |

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|--|--------------|--------------|--|--|
| | | | expectation that these would be provided for physical education. The amendment defining the number of showers which meets the British Standard provides clarity and would be Cost Neutral. | expectation that these would be provided for physical education. The amendment defining the number of showers which meets the British Standard provides clarity and would be Cost Neutral. |
| 17. Accommodation for staff | Cost neutral | Cost neutral | Cost neutral | There would be cost savings, although this is not defined, for those involved in the building of schools as they would not need to look at multiple legislation. |
| 18. Medical inspection and rest room accommodation | Cost neutral | Cost neutral | Cost neutral | Cost neutral |
| 19. Storage accommodation | Cost neutral | Cost neutral | Cost neutral | There would be cost savings, although this is not defined, for those involved in the building of schools as they would not need to look at multiple legislation. |
| 20. Outdoor educational and recreational areas | Cost neutral | Cost neutral | Cost neutral | Cost neutral |
| 21. Lighting | Cost neutral | Cost neutral | Cost neutral | Cost neutral |
| 22. Ventilation | Cost neutral | Cost neutral | Cost neutral | There would be cost savings, although this is not defined, for those involved in the building of |

| | | | | |
|--|---|---|---|--|
| | | | | schools as they would not need to look at multiple legislation. |
| 23. Heating | Cost neutral | Cost neutral | Cost neutral | There would be cost savings, although this is not defined, for those involved in the building of schools as they would not need to look at multiple legislation. |
| 24. Acoustic conditions | Cost neutral | Cost neutral | Cost neutral | Cost neutral |
| 25. Water supply | Cost neutral | Cost neutral | Cost neutral | Cost neutral |
| 26. Application of regulations to grant-aided schools | Cost neutral | Cost neutral | Costs as detailed within this column. | Costs as detailed within this column. |
| 27. Application of Regulations to self-governing schools | Cost neutral - Regulation is to be repealed | Cost neutral - Regulation is to be repealed | Cost neutral - Regulation is to be repealed | Cost neutral - Regulation is to be repealed |
| Application of Regulations to Independent Schools | Cost neutral | Cost neutral | Costs as detailed within this column. | Costs as detailed within this column. |

Scottish Firms Impact Test

5. The face-to-face discussions will be carried out during and after the public consultation. The questions, responses and how business engagement will feed into the development of the proposal and will be completed at the post-consultation stage as part of the Final Stage BRIA.

5.1 Competition Assessment

Assessment has been based on Options 2, 3 and 4 as Option 1 proposes no change and therefore imposes no actions that may incur additional costs.

The building of schools are large infrastructure projects and therefore it is larger businesses that are likely to be involved in their construction.

The four competition filter questions provided within the Office of Fair Trading guidelines for policy makers on competition assessment were applied and it is considered that the proposed updating of the 1967 Regulations will not impact on competition within the market place.

i.e.

- Updating and simplifying the Regulations will not directly or indirectly limit the number or range of suppliers.
- Updating and simplifying the Regulations will not limit the ability of suppliers to compete.
- Updating and simplifying the Regulations will not limit suppliers' incentives to compete vigorously.
- Updating and simplifying the Regulations will not limit the choices and information available to consumers.

5.2 Test run of business forms

No new forms associated with this proposal are expected.

6. Legal Aid Impact Test

It is not envisaged that there will be any greater demands placed on the legal system by this proposal. Accordingly, it is not considered that there will be any effect on individuals' right of access to justice through availability of legal aid or possible expenditure from the legal aid fund.

Enforcement, sanctions and monitoring

7.1 Background

Local Authorities are responsible for ensuring that they meet the requirements of the School Premises Regulations. The new Regulations will be published on the Scottish Government web-site. All matters relating to enforcement, sanctions and monitoring will be carried out under the existing processes.

7.2 Enforcement and sanctions

It is the responsibility of Local Authorities to ensure they meet the requirements of the School Premises Regulations.

If the requirements of the School Premises Regulations are not met then under

Section 70 of the Education (Scotland) Act 1980 ('the 1980 Act') any interested person may make a complaint to the Scottish Ministers that a responsible body, such as an education authority, has failed to discharge any duty under the 1980 Act or any other enactment relating to education. The Scottish Ministers may make an order requiring the responsible body to carry out that duty, but before they do so, they must be satisfied that there has been a failure to discharge it. The Scottish Ministers are empowered, but not obliged, to make an order declaring a responsible body to be in default of a statutory duty.

7.3 Monitoring

The School Infrastructure Unit will review the implementation of the new Regulations with regular discussions with Local Authorities through the ADES Resources Network.

8. Implementation and delivery plan

8.1 Implementation

Option 4 will be taken forward by producing new School Premises Regulations which will not include reference to ELC or to other school-specific premises standards which are met by other legislation. The proposed changes will be subject to a 12 week period of public consultation beginning the summer of 2017. This will give a familiarisation lead-in time for stakeholders before the proposed new School Premises Regulations come into force the early part of 2018.

8.2 Implementation Period

The proposed updating of the School Premises Regulations are relevant to any party responsible for building schools. The proposed changes are planned for publication in the early part of 2018 pending the findings from the public consultation.

8.3 Post-Implementation Review

There will be continuous monitoring by the School Infrastructure Unit of the implementation of the proposals and through feedback from the ADES resources network. Any issues raised will be used to inform any future review which will take place within 10 years of the updating of the School Premises Regulations.

Summary and recommendation

Option 4 is being recommended. The removal of the application of the Regulations to ELC and to remove unnecessary school-specific Regulations where such requirements are already covered in other legislation, will minimise the regulatory burden.

- **Summary costs and benefits table**

| Option | Total benefit per annum: - economic, environmental, social | Total cost per annum: - economic, environmental, social - policy and administrative |
|--------|---|---|
| 1 | No benefits | Cost Neutral |
| 2 | Removal of dual regulation system. Care Inspectorate will have the responsibility of ensuring Early | There would be cost savings, although this is not defined, as the Care Inspectorate would not need to |

| | | |
|---|---|--|
| | <p>Learning and Childcare (ELC) meet the standards prescribed within the ELC design guidance 'Safe to Grow'.</p> <p>Although the space standards are higher within the Care Inspectorate standards, covered external space is included within the standard. This could result in cost savings.</p> | <p>refer to two standards when carrying out their inspections.</p> <p>As covered external space will be included in the accommodation area this could result in undefined savings.</p> |
| 3 | <p>As per option 2 and:</p> <p>The best site to build a school is selected that meets the needs of the community.</p> <p>The best site may increase active travel, improving health and wellbeing and reducing travel costs.</p> <p>Local authorities can choose to have a mix of grass pitches and SP.</p> <p>SP have lower maintenance costs and can accommodate significant levels of use by both school and community.</p> <p>Accommodation metrics will be used which have been developed by assessing the mean accommodation area of existing primary and secondary schools in Scotland and is therefore a more realistic measure.</p> <p>The number of toilets and washbasins will remain the same which is a higher provision than the British Standard 6465-1: 2006.</p> <p>There will be equality benefits in</p> | <p>As per option 2 and:</p> <p>There is the potential of savings in land costs if a smaller site is selected.</p> <p>There is the potential of savings on transport costs of around £111 per annum for a primary pupil and £244 for a secondary pupil if the most suitable site is selected.</p> <p>If SP are used it is possible that the provision can be provided over a reduced area. There could be savings in land costs.</p> <p>SGP are a higher cost at around £500,000 while a grass pitch costs around £150,000. Grass pitches have a higher maintenance cost of around £43k per annum compared to £14k for SGP.</p> |

| | | |
|---|--|--|
| | <p>that unisex toilets will be permissible and accessible toilets although always provided under the building standards legislation will be included within these Regulations.</p> <p>There will be clarity given in the number of showers required for pupils involved in physical education.</p> | |
| 4 | <p>As per option 3 and:</p> <p>Those responsible for building schools would not need to look at the school premises Regulations for certain standards as it is covered by other legislation.</p> | <p>As per option 3 and:</p> <p>There would be cost savings, although this is not defined, for those involved in the building of schools not needing to look at the school premises Regulation as it is covered by other legislation.</p> |

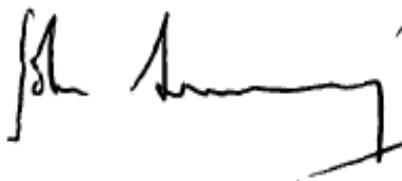
Declaration and publication

The Cabinet Secretary or Minister responsible for the policy (or the Chief Executive of non departmental public bodies and other agencies if appropriate) is required to sign off all BRIAs prior to publication. Use appropriate text from choices below:

- Sign-off for Partial BRIAs:

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact will be assessed during the public consultation with the support of businesses in Scotland.

Signed:



Date: 27 June 2017

**John Swinney, Member of Scottish Parliament
Deputy First Minister and Cabinet Secretary for Education and Skills**

**Scottish Government Contact point:
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**Consultation Document on Updating The School Premises (General Requirements and Standards) (Scotland) Regulations 1967****RESPONDENT INFORMATION FORM**

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

CONSULTATION QUESTIONS

1. Regulation 11: Educational accommodation in schools providing both primary and secondary education

Do you agree that this Regulation should be retained?

Yes

No

If not, why not?

2. Regulation 13: Educational accommodation in special schools

Do you agree that this Regulation should be retained?

Yes

No

If not, why not?

3. Regulation 20: Outdoor education and recreational areas

Do you agree that this Regulation adequately covers the requirements for outdoor educational and recreational areas?

Yes

No

If not, why not?

4. Regulation 24: Acoustic Conditions

Do you agree that this Regulation adequately covers the requirements for acoustic conditions?

Yes

No

If not, why not?

5. Regulation 25: Water supply

Do you agree that this Regulation adequately covers the requirements for water supply?

Yes

No

If not, why not?

6. Regulation 26: Grant-Aided Schools

Do you agree that the new Regulations should apply to grant-aided schools?

Yes

No

If not, why not?

7. Regulation 8: Sites for playing fields

Do you agree that if there is a mixture of grass pitches and SP then the area required in some circumstances can be less than that currently defined for grass pitches?

Yes

No

If not, why not?

8. Regulation 9 and 10: Educational accommodation in primary schools and secondary schools

Do you agree that accommodation metrics is an appropriate method to calculate the educational accommodation required?

Yes

No

If not, why not?

9. Regulation 15 and 16: Sanitary accommodation for pupils

Do you agree that this covers the requirements for toilet and washing facilities?

Yes

No

If not, why not?

10. Regulation 18: Medical inspection and rest room accommodation

Do you agree that this covers the requirements for medical inspection and rest room accommodation?

Yes

No

If not, why not?

11. Regulation 21: Lighting

Do you agree that this covers the requirements for lighting?

Yes

No

If not, why not?

12. Regulation 4: General requirements

Do you agree that this Regulation can be removed?

Yes

No

If not, why not?

13. Regulation 7: Sites for primary and secondary schools

Do you agree that this Regulation can be removed?

Yes

No

If not, why not?

14. Regulation 12: Playroom accommodation in nursery schools and classes

Do you agree that this Regulation and all other reference to ELC within the Regulations is no longer required and can be removed?

Yes

No

If not, why not?

15. Regulation 14: Kitchen premises

Do you agree that this Regulation can be removed?

Yes

No

If not, why not?

16. Regulation 16: Washing accommodation for pupils

Do you agree that this Regulation is no longer required as it is met within the revised toilets and washing facilities Regulation?

Yes

No

If not, why not?

17. Regulation 17: Accommodation for staff

Do you agree that this Regulation can be removed?

Yes

No

If not, why not?

18. Regulation 19: Storage accommodation

Do you agree that this Regulation can be removed?

Yes

No

If not, why not?

19. Regulation 22: Ventilation

Do you agree that this Regulation can be removed?

Yes

No

If not, why not?

20. Regulation 23: Heating

Do you agree that this Regulation can be removed?

Yes

No

If not, why not?

21. Regulation 27: Self-Governing Schools

Do you agree that this Regulation can be removed?

Yes

No

If not, why not?

22. Application of the Regulations to Independent Schools

Do you agree that the new Regulations should apply to Independent Schools.

Yes

No

If not, why not?

23. Business and Regulation

What are your views on the overall costs and savings identified in the Impact Assessment?

24. Equality

Please tell us about any potential equality impacts, either positive or negative, that you consider the proposals in this consultation may have, with reference to the 'protected characteristics' listed above. Please be as specific as possible.

25. Child Rights and Wellbeing Impact Assessment

Are there any aspects of a child's rights or wellbeing that you think might be affected either positively or negatively by the proposals covered in this consultation?

GLOSSARY OF TERMS

| | |
|---|-------|
| Business Regulatory Impact Assessment | BRIA |
| Child Rights and Wellbeing Impact Assessment | CRWIA |
| Early Learning and Childcare | ELC |
| Synthetic Pitches | SP |
| Synthetic Grass Pitches | SGP |
| The Workplace (Health, Safety and Welfare) Regulations 1992 | WRs |
| Approved Code of Practice and Guidance | ACOP |



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