

POLICY NOTE

THE CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014 (COMMENCEMENT No. 4) ORDER 2014

SSI 2014/314 (C. 29)

1. The above instrument is made in exercise of the powers conferred by section 102(3) of the Children and Young People (Scotland) Act 2014 (the 2014 Act).

Policy Objectives

2. The instrument forms part of an implementation package for the 2014 Act comprising this Order and also the Children and Young People (Scotland) Act 2014 (Ancillary Provision)(No. 2) Order 2014 and the Education (Disapplication of section 53B)(Scotland) Regulations 2014.

3. The Order specifies that the following provisions of the 2014 Act will come into force on 5 January 2015: section 93 (provision of free school lunches), so far as not already commenced, section 98 (modification of enactments) so far as is necessary for the purpose of commencing paragraph 2(3), (4) and (5) of schedule 5 (consequential amendments) to the 2014 Act.

4. In particular the following provisions in the 2014 Act are commenced:-

- Section 93 of the 2014 Act which relates to the provision of free school lunches. It has the effect of amending section 53 of the Education (Scotland) Act 1980 (the 1980 Act) to give education authorities the power to provide school lunches free of charge to pupils who satisfy such conditions as the authority thinks fit and give Scottish Ministers the power to make subordinate legislation to place local authorities under a duty to provide certain pupils with school lunches free of charge (whether that be by reference to their yearly stage of education or such other description);
- Section 98 is partially commenced for restricted purposes only; and
- Certain consequential amendments made in paragraph 2(3), (4) and (5) of schedule 5 to the 2014 Act which relate to the free school lunches provisions in section 93 of the 2014 Act. These amend (i) section 53A (promotion of school lunches) of the 1980 Act to extend the duty to take reasonable steps to ensure that those entitled to free school lunches, take those lunches; (ii) section 53B (protection of identity of pupils receiving free school lunches) of the 1980 Act, to enable Ministers to prescribe circumstances when the duty to protect identity will not apply¹; and (iii) section 133 (regulations, etc) of the 1980 Act in relation to enabling powers.

¹ The Education (Disapplication of section 53B)(Scotland) Regulations 2014 being laid within the package of SSIs which this Commencement Order forms part of, are made pursuant to this power.

Consultation

5. The provisions commenced by this Order were made via a non-government amendment at stage 3 of the parliamentary process of the 2014 Act and were fully supported by Scottish Ministers. There has, therefore, been no formal consultation by the Scottish Government. However, informal consultation with stakeholders has taken place and continues following Royal Assent. During implementation of the Act, both informal and formal engagement has taken place and further engagement is planned.

Impacts

6. While the appropriate impact assessments were carried out for the Children and Young People (Scotland) Bill, the provisions contained within this Order were not covered because they were passed as stage 3 non-Government amendments.

7. The results of any equality impact assessment will be published on the Scottish Government website.

Financial effects

8. The Scottish Government has committed to fully fund the revenue costs arising from the commitment to extend free school lunches to children in P1-3. £70.5 million over 2 years (2014/15 and 2015/16) has been agreed and confirmed and was based on the total number of primary school pupils (using the 2014 Healthy Living Survey data) not registered for free school lunches.

9. Reasonable capital costs associated with this commitment will also be met.

10. The commencement of the local authority power to provide school lunches free of charge to pupils who satisfy such conditions as the authority thinks fit, may have a financial effect at the discretion of individual councils. It is a matter for each council to allocate the total financial resources available to it on the basis of local needs and priorities having first fulfilled its statutory obligations and jointly agreed set of national and local priorities.

**Scottish Government
Learning Directorate
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