

POLICY NOTE

THE CHILDREN & YOUNG PEOPLE (SCOTLAND) ACT 2014 (ANCILLARY PROVISION) (NO. 2) ORDER 2014

SSI 2014/315

1. The above instrument is made by the Scottish Ministers in exercise of the powers conferred by section 101(a) of the Children and Young People (Scotland) Act 2014 (the 2014 Act) and all other powers enabling them to do so. The instrument is subject to negative procedure.

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 (Commencement No. 4) Order 2014 and the Education (Disapplication of section 53B)(Scotland) Regulations 2014. The instrument will come into force on 5 January 2015.

3. The purpose of this instrument is to revoke the Provision of School Lunches (Disapplication of the Requirement to Charge) (Scotland) Order 2008 (the 2008 Order) in consequence of the provisions in section 93(2) and (4) of the 2014 Act. The 2008 Order is no longer required in the light of those provisions.

Background

4. On 7 January 2014, the First Minister made a commitment to extend the entitlement to free school lunches to children in P1-P3 from January 2015. In February, at stage 3 of the Children and Young People (Scotland) Bill, non-government amendments to section 53 of the 1980 Act were lodged. The purpose of these amendments was to allow more pupils in Scotland to have access to a free school lunch and ensure the delivery of the entitlement from January 2015. The amendments, which were supported by Scottish Ministers and passed on 19 February, introduced:

- a regulation making power (new section 53(3)(c) of the 1980 Act) to allow Scottish Ministers to prescribe the description of pupils (whether that be by reference to their yearly stage of education or such other description) to whom local authorities are obliged to provide free school lunches; and
- a power which will allow education authorities to provide a free school lunch to pupils for whom they are responsible within schools under their management who satisfy such conditions as the authority think fit (section 53(2B)(a) and (2C) of the 1980 Act).

5. The 2014 Act received Royal Assent on 27 March 2014.

6. Section 53(2) of the Education (Scotland) Act 1980 (the 1980 Act) requires an education authority, where it provides school lunches, to charge for them (subject to section 53(3) of the 1980 Act (where the child (or their parent) is in receipt of certain benefits they cannot charge).

7. The 2008 Order enabled Scottish councils, to use their power to advance well-being in the Local Government in Scotland Act 2003 and provide free school lunches for Primary 1 to Primary 3 (P1-P3) pupils within schools under their management. Section 93(2) of the 2014 Act repeals section 53(2) of the 1980 Act thereby removing the obligation to charge. Also, section 93(4) of the 2014 Act amends section 53(2C)(b) of the 1980 Act with the effect that an education authority may provide school lunches (in addition to food and drink at such times of the school day as the authority think fit) free of charge to pupils who satisfy such conditions as the authority think fit.

8. When commenced on 5 January 2015, the effect of the amendments made by the 2014 Act is to render the power created by virtue of the 2008 Order, to enable education authorities to provide free school lunches to P1-3 pupils, as unnecessary hence its revocation by this instrument.

Consultation

9. The provisions contained within the 2014 Act were made via a non-government amendment at stage 3 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 2014 Act, both informal and formal engagement has taken place and further engagement is planned.

Impacts

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

Financial effects

11. This Order, which revokes the 2008 Order, will not have a direct financial effect. 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
November 2014**