

EDUCATION (SCOTLAND) ACT 2016

EXPLANATORY NOTES

THE ACT

Summary and background

4. In its Programme for Government, the Scottish Government set out a commitment to tackle poverty and inequality and to improve education and attainment for all. A programme for action has been designed to build on existing activity and is supported by additional funding targeted at some of Scotland's most deprived communities.
5. New legislative provision in the Act will place additional responsibilities on Scottish Ministers and local authorities to have regard to the need to reduce inequalities of outcomes – whether arising out of socio-economic disadvantage or otherwise – when exercising their functions relating to school education.
6. The Act will also ensure that certain children have rights to question any support needs they may have in order to make the most of their learning while at school. It will ensure that all children and young people have appropriately qualified teachers, and that local authorities each have a qualified and experienced Chief Education Officer with responsibility for advising on how to deliver their education functions. The Act will also introduce a power which will ensure that there is a clear process for parents to make complaints to the Scottish Ministers with regard to the carrying out of educational duties by local authorities and a clear process for requesting that a local authority assess the need to provide Gaelic medium education.
7. Specifically, the Act aims to:
 - promote excellence and equity within our education system through the establishment of the National Improvement Framework and by imposing duties on education authorities and the Scottish Ministers in relation to reducing inequalities of educational outcome experienced by disadvantaged children;
 - place a duty on local authorities both to assess the need for Gaelic medium primary education (GMPE) following a parental request, and to actively promote and support Gaelic medium education (GME) and Gaelic learner education (GLE). The Act will also place a duty on Bòrd na Gàidhlig to prepare guidance on how GME should operate in Scotland;
 - extend rights under the Education (Additional Support for Learning) (Scotland) Act 2004 (“the 2004 Act”) to children aged 12 and over with capacity to exercise those rights;
 - legislate for school pupils to receive a minimum number of learning hours annually;
 - restate section 53 of the Education (Scotland) Act 1980 (“the 1980 Act”) which sets out functions relating to the provision of school food in Scotland (and to extend the requirement to provide a free school lunch to eligible pre-school children at partner providers). This section has been amended a number of times since enactment and it is considered that the section would benefit from restatement;

*These notes relate to the Education (Scotland) Act 2016
(asp 8) which received Royal Assent on 8 March 2016*

- to give the Scottish Ministers a regulation-making power which can be used to place a duty on local authorities to provide grants of a specified amount for school clothing for certain pupils;
- modify the types of complaints that can be made to the Scottish Ministers under section 70 of the 1980 Act and introduce a power to make regulations about the procedure to be followed in relation to the investigation and determination of such complaints;
- legislate for the role of a Chief Education Officer in local authorities in Scotland;
- modify the powers of the Scottish Ministers to make regulations in relation to independent schools and grant-aided schools in Scotland so they are exercisable in such a way as to ensure that all teaching staff are registered with the General Teaching Council for Scotland;
- ensure that all schools in Scotland are led by qualified teachers. All new head teachers in Scotland will have to hold the 'Into Headship' qualification prior to their first head teacher post;
- amend section 47(3) of the Children and Young People (Scotland) Act 2014 ("the 2014 Act") as it currently excludes a small group of children from the early learning and childcare provisions.