

EDUCATION (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: School Education

8. This Part introduces a series of new duties on education authorities and the Scottish Ministers which are designed to promote a reduction in inequalities of educational outcome experienced by pupils as a result of socio-economic disadvantage or otherwise. Further, it introduces a series of new duties on education authorities and the Scottish Ministers to establish, and work with a view to delivering, the priorities of the National Improvement Framework for Scottish education.

Section 1: Pupils experiencing inequalities of outcome

9. This section inserts new sections 3A and 3B into the Standards in Scotland's Schools etc. Act 2000 ("the 2000 Act"). Section 3A places a duty on the Scottish Ministers to have due regard to the need to reduce inequalities of educational outcome experienced by pupils as a result of socio-economic disadvantage. The Scottish Ministers must fulfil this duty when exercising their powers in relation to the delivery of school education. The duty extends to both the Scottish Government and its agencies.
10. Section 3B of the 2000 Act places an equivalent duty on education authorities. Such authorities must satisfy this duty when making strategic decisions about how to carry out their functions for the delivery of school education and when considering what steps to take to implement such decisions. Section 3B(3) requires the education authority to seek and have regard to the views of head teachers, trade unions representing teachers, pupils, parents, voluntary organisations and others when seeking to carry out their duty.
11. Section 3A(2)(b)(ii) (as read with section 3B(2)) of the 2000 Act provides for the Scottish Ministers to extend, through regulations, the scope of the duties placed on them and education authorities so as to capture other groups of children experiencing inequalities of educational outcome in addition to those who are impacted by socio-economic disadvantage. This enabling power is subject to affirmative procedure.
12. The term 'school education' (which is defined in section 58(2) of the 2000 Act as having the meaning given in section 135(1) of the 1980 Act) extends to the delivery of early learning and childcare as defined in section 46 of the Children and Young People (Scotland) Act 2014.

Section 2: National Improvement Framework

13. This section inserts new sections 3C and 3D into the 2000 Act. Section 3C requires the Scottish Ministers to prepare a statutory National Improvement Framework for Scottish education, to be published and annually reviewed by the Scottish Ministers. The National Improvement Framework is prepared in pursuance of the duty imposed on the Scottish Ministers by section 3(1) of the 2000 Act (duty to endeavour to secure improvement in the quality of school education provided in Scotland). In reviewing the Framework, the Scottish Ministers must seek and have regard to the views of specified

persons (education authorities, representatives of teachers, pupils and parents) and must evidence the way in which this has been achieved.

14. Section 3D of the 2000 Act requires that where education authorities endeavour to secure improvement in the quality of school education under section 3(2) of the 2000 Act, they must do so with a view to achieving the strategic priorities set out in the National Improvement Framework. In this context, school education requires to be education directed to the development of the personality, talents and mental and physical abilities of the child or young person to their fullest potential (as described in section 2 of the 2000 Act).
15. Finally, section 2(3) repeals section 4 (national priorities in education) and section 5 (education authority's annual statement of improvement objectives) of the 2000 Act and section 2(4) makes consequential amendments to the interpretation provisions in section 58(1) of the 2000 Act.

Section 3: Plans and reports

16. **Section 3** inserts new sections 3E, 3F, 3G, 3H and 3I into the 2000 Act.
17. Section 3E requires the Scottish Ministers, before the beginning of “the planning period”, to prepare and publish a plan describing the steps they intend to take during that period to reduce the inequalities of outcome experienced by pupils mentioned in section 3A(2) and the educational benefits they intend to secure as a result of taking those steps. This annual plan may form part of the National Improvement Framework. The “planning period” is defined as the period of 12 months beginning with such day as the Scottish Ministers may prescribe by regulations. The regulations would be subject to the negative procedure.
18. Section 3F requires education authorities, before the beginning of the planning period, to prepare and publish “annual plans” describing the steps they intend to take during the planning period in pursuance of the National Improvement Framework for Scottish education. The annual plan will also describe the steps they intend to take to reduce the inequalities of outcome experienced by pupils mentioned in section 3A(2) and the ways in which they will consult key partners when deciding how this should be achieved. Finally, the plan must set out any educational benefits they intend to secure as a result of taking all of these steps. Education authorities must give a copy of the annual plan to the Scottish Ministers as soon as reasonably practicable after publishing the plan. Where a new National Improvement Framework has been published, education authorities must review and, where necessary, revise their annual plan. Such a revised plan must be published and a copy given to the Scottish Ministers.
19. Sections 3G and 3H require both education authorities and the Scottish Ministers to prepare and publish “annual reports” setting out the steps they have taken in pursuance of the National Improvement Framework for Scottish education. These reports will also describe the steps they have taken to reduce the inequalities of outcome experienced by pupils mentioned in section 3A(2). Further, they will set out any educational benefits secured as a result of taking these steps. In preparing their annual report, Scottish Ministers must take account of relevant international benchmarking data. In addition, an education authority's annual report must set out the steps taken by the education authority to fulfil its duty under section 3B(3) of the 2000 Act (duty to seek and have regard to the views of, and provide appropriate advice and support to, specified persons). It may also set out steps taken by a person other than the education authority with a view to reducing inequalities of outcome experienced by pupils mentioned in section 3A(2) where that activity was included in the children's services plan for the authority's area (required by section 8 of the Children and Young People (Scotland) Act 2014). The education authority's annual report must be given to the Scottish Ministers as soon as reasonably practicable after publishing. The Scottish Ministers must, as soon as reasonably practicable after publishing an annual report, lay a copy before the Scottish Parliament.

20. Section 3I places a duty on education authorities to prepare and publish an annual statement which sets out the way in which they will encourage equal opportunities and, in particular, the observance of the “equal opportunity requirements and to report thereon. Section 3I restates the previous duty which was contained in section 5 of the 2000 Act and which is repealed by section 2(3) of the Act. “Equal opportunities” and “equal opportunity requirements” are defined for the purposes of section 3I by reference to the meanings given to those expressions in Schedule 5 to the Scotland Act 1998.
21. Subsections (3), (4), (6) and (7) of section 3 amend section 6, section 8 and section 58(1) of the 2000 Act, re-naming “school development plans” as “school improvement plans”, and requiring that those plans take account of the relevant education authority’s annual plan (including any revised plan) and annual report, thereby aligning those plans with the National Improvement Framework.
22. Subsection (5) amends section 7 of the 2000 Act, requiring that education authorities take into account both the National Improvement Framework and their annual plan (published under section 3F of the 2000 Act) when defining and publishing measures and standards of performance for schools in their area.

Section 4: Guidance

23. **Section 4** amends section 13 of the 2000 Act to require that the Scottish Ministers consult specified persons before issuing any guidance relating to an education authority’s duties under sections 3B (pupils experiencing inequalities of outcome) and 3D (carrying out of education authority duty under section 3(2)) of the 2000 Act (as inserted by sections 1 and 2 respectively of the Act). Those persons include education authorities, parents of pupils, voluntary organisations and any other persons that the Scottish Ministers think appropriate.

Section 5: Duties in relation to promotion of health

24. **Section 5** amends section 2A of the 2000 Act. New subsection (4A) requires an education authority to publish an annual statement setting out the ways in which the authority proposes to carry out its health-promoting duties in section 2A(2) of that Act. New subsection (4B) imposes a requirement on education authorities to prepare and publish an annual report describing the ways in which the education authority has fulfilled its health-promoting duties during the “relevant period” (defined in new subsection (4C) as meaning the period of 12 months beginning with the day after the day on which the annual statement is published). The section restates duties previously set out under section 5 of the 2000 Act (repealed by section 2(3) of this Act).

Section 6: Parental involvement

25. **Section 6** amends section 2 of the Scottish Schools (Parental Involvement) Act 2006 (the “2006 Act”) so as to insert a new subsection (4A), requiring an education authority to publish its strategy for parental involvement prepared under section 2(1) of that Act. An education authority must also publish any such strategy revised by it under section 2(3)(b) of the 2006 Act.
26. Subsection (3) inserts a new section 2A into the 2006 Act, requiring an education authority to prepare and publish an annual report on the activities undertaken by the authority during “the relevant period” in pursuance of the general policies contained within the strategy. The “relevant period” is defined as meaning the 12 month period ending with the day on which the annual report is published. The section restates duties previously set out under section 5 of the 2000 Act (repealed by section 2(3) of this Act).