

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

EDUCATION (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Miscellaneous

Section 19: Additional support for learning

New section 3B: Assessment of wellbeing

73. Paragraph 3 of the schedule to the Act also inserts new section 3B into the 2004 Act. This provides that where an education authority or Additional Support Needs Tribunal for Scotland is required to consider whether the wellbeing of a child aged 12 years or over would or would not be adversely affected, it is required to do so by reference to the extent to which the child is or would be safe, healthy, achieving, nurtured, active, respected, responsible and included (section 3B(2)). These factors replicate those specified in section 96 of the Children and Young People (Scotland) Act 2014, which are to be considered where any person is required to assess the wellbeing of a child under that Act. New section 3B(3) and (4) makes provision for Scottish Ministers to be able to adjust the list of factors determining wellbeing in section 3B(2) by regulation, and to require Scottish Ministers to consult such persons as they consider appropriate prior to making any such regulations, which will be considered through the affirmative procedure.