

EDUCATION (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: General

Section 31: Regulations

176. This section relates to the powers of the Scottish Ministers contained in the Act to make subordinate legislation. It provides standard powers for regulations to make such ancillary provision as the Scottish Ministers consider appropriate and to make different provision for different purposes. Subordinate legislation is subject to the negative procedure under the Act unless specific contrary provision is made in relation to particular sections of the Act (subsections (2) and (3)). This section does not apply to regulations made under section 33(2) (commencement). This prevents commencement regulations, which are made without any parliamentary procedure, from making incidental, consequential or supplementary provisions.

Section 32: Ancillary provision

177. This section allows the Scottish Ministers, by regulations, to make consequential, supplementary, incidental, transitional, transitory or savings provision as they consider appropriate for the purposes of, in consequence of, or for giving full effect to, any provision of the Act. Such regulations may modify any enactment (including the Act itself). If the regulations make textual changes to an Act, they will be subject to the affirmative procedure (in accordance with section 31(3)).

Section 33: Commencement

178. This section provides for Part 4 of the Act (other than section 30 (defining the “1980 Act”)) to come into force the day following Royal Assent, with the remaining sections of the Act being commenced by regulations made by the Scottish Ministers. Regulations made under subsection (2) may include transitional, transitory or saving provisions and appoint different days for different purposes.