



# Education (Scotland) Act 2016

## 2016 asp 8

### PART 3

#### MISCELLANEOUS

#### 21 Learning hours

- (1) The 1980 Act is amended as follows.
- (2) After section 2 insert—

##### “2ZA Learning hours

- (1) An education authority and the managers of a grant-aided school must secure that no fewer than the prescribed number of learning hours (the “prescribed hours”) are made available during each school year to each pupil for whose school education the authority is, or the managers are, responsible (but subject to subsection (3)).
- (2) For the purposes of subsection (1)—
  - (a) an education authority is “responsible” for the school education of a pupil if the pupil belongs to the authority's area and the pupil is, or is about to be, provided with school education—
    - (i) in a school which is under the management of the authority, or
    - (ii) by virtue of arrangements made or entered into by the authority,
  - (b) the managers of a grant-aided school are “responsible” for the school education of a pupil if the pupil is provided with school education in a grant-aided school which is under the management of the managers of the school (except where the education is provided for the pupil in the school by virtue of arrangements as mentioned in paragraph (a)(ii)).
- (3) Where any of the circumstances mentioned in subsection (4) (the “relevant circumstances”) apply to a pupil during a school year (the “relevant year”), an education authority may secure that fewer than the prescribed hours are made available to the pupil during the relevant year.

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*Changes to legislation: Education (Scotland) Act 2016, Section 21 is up to date with all changes known to be in force on or before 26 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (4) The relevant circumstances are—
- (a) that the authority is satisfied that the pupil's wellbeing would be adversely affected if the prescribed hours were to be made available to the pupil during the relevant year,
  - (b) that, because of matters outwith the control of the authority, it is impracticable for the authority to secure that the prescribed hours are made available to the pupil during the relevant year,
  - (c) that other prescribed circumstances apply.
- (5) Where an education authority exercises the power conferred by subsection (3) in relation to a pupil, the authority must secure that no fewer than the reduced hours are made available to the pupil during the relevant year.
- (6) In subsection (5), “reduced hours”, in relation to a pupil, means the prescribed hours less the number of learning hours that were not, by virtue of the application of the relevant circumstances in relation to the pupil, made available during the relevant year to the pupil.
- (7) For the purposes of subsection (4)(a), the education authority is to determine whether it is satisfied that a pupil's wellbeing would be adversely affected by reference to the extent to which the pupil is or would be—
- safe,
  - healthy,
  - achieving,
  - nurtured,
  - active,
  - respected,
  - responsible, and
  - included.
- (8) Subsections (3) to (7) apply in relation to the managers of a grant-aided school as they apply in relation to an education authority.
- (9) Regulations under subsection (1) or (4)(c), or under the definition of “learning hours” in subsection (12), may—
- (a) include transitional or transitory provision,
  - (b) make different provision for different purposes,
  - (c) make different provision for different types of pupil.
- (10) The Scottish Ministers may by regulations modify the list in subsection (7) so as to amend, remove or add to the matters for the time being mentioned in the list.
- (11) Before making any regulations under subsection (1), (4)(c) or (10) or under the definition of “learning hours” in subsection (12), the Scottish Ministers must consult such persons as they consider appropriate.
- (12) In this section—
- “learning hours” means hours of school education of such type as may be prescribed,
  - “prescribed” means prescribed by the Scottish Ministers by regulations,
  - “school education” does not include early learning and childcare,

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“school year” means the period of 12 months beginning on 1 August.”.

(3) In section 133 (regulations etc.)—

- (a) in subsection (2), for “(2YA)” substitute “(2XA)”,
- (b) after subsection (2) insert—

“(2XA) Subsection (2) does not apply to any regulations under section 2ZA(1), (4)(c) or (10), or under the definition of “learning hours” in section 2ZA(12); and such regulations are subject to the affirmative procedure.”,

(c) in subsection (4)—

(i) after paragraph (a) insert—

“(aa) in relation to regulations made under section 2ZA(1), by an education authority or the managers of a grant-aided school;”, and

(ii) for the words “that authority”, in each place where they occur, substitute “the authority, managers”, and

(d) in subsection (5)(c), after “authority” insert “, managers”.

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#### Commencement Information

- I1** S. 21(1)(2) in force at 1.8.2016 for specified purposes by [S.S.I. 2016/192](#), [reg. 2](#), [sch.](#)
- I2** S. 21(1)(2) in force at 29.3.2023 in so far as not already in force by [S.S.I. 2023/74](#), [reg. 2](#)
- I3** S. 21(3) in force at 29.3.2023 by [S.S.I. 2023/74](#), [reg. 2](#)

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.S.I.2017/164, sch. by [S.S.I. 2017/352 reg. 2](#)