



# Coronavirus (Recovery and Reform) (Scotland) Act 2022

2022 asp 8

## PART 2

### EDUCATION

#### CHAPTER 1

##### EDUCATIONAL ESTABLISHMENTS ETC.

#### **8 Regulations on continuing operation of educational establishments**

- (1) The Scottish Ministers may by regulations make provision relating to the continuing operation of an educational establishment for a specified period.
- (2) Regulations under [subsection \(1\)](#) may make provision applying to—
  - (a) the relevant operator of one or more named educational establishments,
  - (b) the relevant operators of all educational establishments,
  - (c) the relevant operators of a particular description of educational establishment.
- (3) Where regulations under subsection (1) apply to the relevant operator of a further education institution or higher education institution, they may not make provision relating to any non-educational functions of the operator.
- (4) For the purposes of subsection (3), “non-educational functions”—
  - (a) are functions of the operator which do not relate solely to the teaching and delivery of further education or higher education, but
  - (b) exclude any additional functions conferred on the operator by virtue of subsection (7)(a)(iii) relating to the use of the operator’s premises for the purpose of protecting public health.
- (5) Before making regulations under [subsection \(1\)](#), the Scottish Ministers—
  - (a) must have regard to any advice from the Chief Medical Officer of the Scottish Administration about protecting public health (or, as the case may be, from

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*Status: This is the original version (as it was originally enacted).*

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- another person designated for the purposes of this section by the Scottish Ministers), and
- (b) must be satisfied, in view of that advice, that making the regulations is a necessary and proportionate action for or in connection with the continued provision of education.
- (6) Regulations under [subsection \(1\)](#) may provide that any failure to comply with a duty or time limit imposed under any enactment or rule of law relating to education is to be disregarded to the extent that the failure would be attributable to the regulations.
- (7) Regulations under [subsection \(1\)](#) may—
- (a) confer additional functions on a relevant operator relating to—
    - (i) the provision of early learning and childcare, school education, further education or higher education,
    - (ii) the provision of related services,
    - (iii) where the relevant operator is an education authority or a further education institution or higher education institution, the use of the operator’s premises for the purpose of protecting public health,
  - (b) require an educational establishment to open, to stay open, to re-open, or to open at times when it would not usually be open,
  - (c) require a relevant operator to allow specified people or people of a specified description to attend an educational establishment or relevant premises for which the operator is responsible,
  - (d) provide for or require specified people or people of a specified description to attend a specified educational establishment or specified premises for the purposes of receiving early learning and childcare, school education, further education or higher education there,
  - (e) restrict or prohibit access in respect of the whole or a specified part of an educational establishment or of relevant premises,
  - (f) restrict or prohibit access in respect of the carrying on of all activities or in respect of the carrying on of specified activities,
  - (g) require measures to ensure safe standards of hygiene, and other measures to protect public health, to be put in place,
  - (h) require the alteration of term dates, holiday dates or examination dates,
  - (i) require the taking of actions in general terms, or require the taking of particular actions, that the Scottish Ministers consider appropriate,
  - (j) make different provision for different purposes (for example, for different descriptions of people attending an educational establishment),
  - (k) make transitional, transitory or saving provision.
- (8) Where early learning and childcare or out of school care is provided by a person acting as a child minder in premises used mainly as a private dwelling, regulations under [subsection \(1\)](#) may only make provision applying to the part of the premises in which such care is provided.
- (9) In this section—
- “relevant premises” means any premises (other than residential accommodation) which people attend in order to receive services provided by or on behalf of the relevant operator of an educational establishment there,
- “specified” means specified, or falling within a description specified, in regulations under [subsection \(1\)](#).