
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force section 22(1), (2), (4), (5) and (6) of the Education (Scotland) Act 2016 (asp 8) (“the 2016 Act”) on 1st April 2018 for all purposes.

Section 22(1) provides that the Education (Scotland) Act 1980 (c.44) (“the 1980 Act”) is amended in accordance with section 22(2) to (6).

Section 22(2) repeals and replaces section 53 of the 1980 Act. Section 53 imposes a duty on education authorities to provide a free school lunch to certain pupils in attendance at schools and other educational establishments managed by the education authority. It also provides education authorities with a power to provide food or drink other than a school lunch to pupils in attendance at such schools. The version of section 53 that will replace it from 1st April 2018 also covers children who receive their funded entitlement of Early Learning and Childcare under section 35 of the Standards in Scotland’s Schools etc. Act 2000.

Section 22(4) and (5) amend section 56A(2) (food and drink: nutritional requirements) and section 56E(1) (food and drink: guidance about sustainable development) of the 1980 Act to refer to the updated cross references in the new version of section 53 which will come into force on 1st April 2018 by virtue of regulation 2. Section 56A requires any food or drink provided for pupils in attendance at education authority managed schools to comply with the nutritional requirements specified by the Scottish Ministers by Regulations under that provision. Section 56E requires education authorities to have regard to any guidance issued by the Scottish Ministers about the application of the principles of sustainable development to any food or drink provided under section 53.

Section 22(6) amends section 133(2YA) (regulations, etc.) of the 1980 Act to refer to the updated cross references in the new version of section 53 and to specify when affirmative procedure applies. New section 53(8) allows the Scottish Ministers to modify subsection (7), which specifies the pupils who have to be provided with a free school lunch by education authorities, by regulations.

Regulations adding a description of pupil by reference to any benefit or allowance the pupil or their parent receives in such circumstances that may be prescribed, or to any tax credit or element of a tax credit (within the meaning of the Tax Credits Act 2002) received by the pupil or their parent in such circumstances as may be prescribed, may be made by negative procedure. Regulations adding a description of pupil by reference to the yearly stage of primary or secondary education of the pupil, or by any other description prescribed in the regulations, are subject to affirmative procedure.

Section 22(6) also amends section 133(2YA) of the 1980 Act to provide that Regulations under section 53(ZA) (power to require provision of meals other than school lunches) and section 54A (power to require education authorities to make clothing grants) are subject to affirmative procedure.

Regulation 3 provides that the following regulations, which were made under the version of section 53 of the 1980 Act in force prior to 1st April 2018, will continue in force: the Education (School Lunches) (Scotland) Regulations 2009 (S.S.I. 2009/178), the Education (School Lunches) (Scotland) Amendment Regulations 2013 (S.S.I. 2013/64) and the Education (School Lunches) (Scotland) Regulations 2015 (S.S.I. 2015/269).