



# Period Products (Free Provision) (Scotland) Act 2021

2021 asp 1

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Explanatory Notes have been produced to assist in the  
understanding of this Act and are available separately

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# Period Products (Free Provision) (Scotland) Act 2021 2021 asp 1

## CONTENTS

### Section

#### *Duties to ensure period products obtainable free of charge*

- 1 Local authorities to ensure period products generally obtainable free of charge
- 2 Education providers to ensure period products obtainable free of charge by pupils and students
- 3 Specified public service bodies to ensure period products obtainable free of charge by persons in their premises
- 4 Arrangements under sections 1, 2 and 3: particular requirements

#### *Guidance*

- 5 Guidance

#### *Additional duties on responsible bodies*

- 6 Statement on exercise of functions
- 7 Consultation
- 8 Information to be provided to public

#### *Final provisions*

- 9 Key definitions
- 10 Interpretation
- 11 Commencement
- 12 Short title





# Period Products (Free Provision) (Scotland) Act 2021 2021 asp 1

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 24th November 2020 and received Royal Assent on 12th January 2021**

An Act of the Scottish Parliament to secure the provision throughout Scotland of free period products.

## *Duties to ensure period products obtainable free of charge*

### **1 Local authorities to ensure period products generally obtainable free of charge**

- (1) Each local authority must ensure that, within its area, period products are obtainable free of charge (in accordance with arrangements established and maintained by the local authority) by all persons who need to use them.
- (2) The period products obtainable free of charge by a person under such arrangements (whether obtained under one or more than one local authority's arrangements) are to be sufficient products to meet the person's needs while in Scotland.
- (3) Arrangements established and maintained under subsection (1)—
  - (a) must include provision under which period products are obtainable by another person on behalf of the person who needs to use them,
  - (b) may, where they include provision under which period products may be delivered to a person, require the person to pay costs associated with packing and delivery (except where the person could not reasonably obtain products in accordance with the arrangements in any other way).
- (4) For the purposes of subsection (2), the needs of a person who lives in Scotland are to be regarded as all arising while in Scotland.

### **2 Education providers to ensure period products obtainable free of charge by pupils and students**

- (1) Each education provider must ensure that period products are obtainable free of charge (in accordance with arrangements established and maintained by the education provider) by the persons mentioned in subsection (5).

- (2) An education provider is to do so by providing period products, or securing their provision, in such locations within each institution in Scotland managed by the education provider as are specified in arrangements established and maintained under subsection (1).
- (3) The locations specified in the arrangements established and maintained under subsection (1) for an institution must include at least one location in each building which is normally used by pupils or, as the case may be, students at the institution.
- (4) But where the education provider considers, having consulted under section 7, that a building of the type mentioned in subsection (3) is not a suitable place for the provision of period products, no location in the building need be specified in the arrangements established and maintained under subsection (1).
- (5) The persons referred to in subsection (1) are persons who—
  - (a) need to use period products, and
  - (b) are—
    - (i) pupils at a school managed by the education provider, or
    - (ii) students undertaking, in Scotland, a course (or part of a course) of education at a further education institution or higher education institution managed by the education provider.
- (6) The period products obtainable free of charge by a pupil or, as the case may be, a student under the arrangements established and maintained under subsection (1) are to be sufficient products to meet—
  - (a) in the case of a school, the pupil’s needs during the school’s term times,
  - (b) in the case of a higher education institution or further education institution, the student’s needs during the term times for the course of education that the student is undertaking.
- (7) In this Act, “institution” (except in the terms “higher education institution” and “further education institution” and in the definitions of those terms in section 10) means—
  - (a) a school,
  - (b) a higher education institution,
  - (c) a further education institution.
- (8) The Period Products in Schools (Scotland) Regulations 2020 (S.S.I. 2020/183) are revoked.

### **3 Specified public service bodies to ensure period products obtainable free of charge by persons in their premises**

- (1) Each public service body specified in regulations made by the Scottish Ministers (a “specified public service body”) must ensure that period products are obtainable free of charge (in accordance with arrangements established and maintained by the body) by persons in its premises who need to use them.
- (2) A specified public service body is to do so by providing period products, or securing their provision, in such locations within those premises as are specified in arrangements established and maintained under subsection (1).

- (3) Where a specified public service body operates over a number of sites in Scotland, the locations specified in the arrangements established and maintained under subsection (1) must include locations in premises at each such site.
- (4) The period products obtainable free of charge by a person under the arrangements established and maintained under subsection (1) are to be sufficient products to meet the person's needs while the person is in the premises.
- (5) Before specifying a body under this section, the Scottish Ministers—
  - (a) must consult the body, and
  - (b) may consult any other body or person they think appropriate.
- (6) Bodies may be specified for the purposes of this section by reference to a class that they are in.
- (7) Where they are proposed to be so specified, subsection (5) applies in relation to each of those bodies.
- (8) Regulations under this section may specify that different provisions of this Act are, in relation to a public service body specified in the regulations, to take effect on different days.
- (9) Regulations under this section may—
  - (a) make incidental, supplementary, consequential, transitional, transitory or saving provision,
  - (b) make different provision for different purposes.
- (10) Regulations under this section are subject to the affirmative procedure.
- (11) In this section, “public service body” means a body—
  - (a) constituted by or under an enactment, and
  - (b) having functions that consist of or include providing public services or otherwise serving the public interest.

#### **4 Arrangements under sections 1, 2 and 3: particular requirements**

Arrangements established and maintained under section 1(1), 2(1) or, as the case may be, 3(1) must provide for—

- (a) period products to be obtainable—
  - (i) reasonably easily, and
  - (ii) in a way that respects the dignity of persons obtaining them,
- (b) a reasonable choice of different types of period products to be obtainable.

#### *Guidance*

#### **5 Guidance**

- (1) The Scottish Ministers must issue guidance to—
  - (a) local authorities and education providers about the exercise of the functions conferred on them by—
    - (i) section 1 or, as the case may be, 2, and
    - (ii) section 8,

- (b) any specified public service bodies about the exercise of the functions conferred on them by sections 3 and 8.
- (2) The first guidance issued—
  - (a) to local authorities and education providers under subsection (1)(a) is to be issued as soon as reasonably practicable after this section comes into force,
  - (b) to a particular specified public service body (or to a particular class of specified public service bodies) under subsection (1)(b) is to be issued as soon as reasonably practicable after the body (or class of bodies) is specified in regulations under section 3.
- (3) Guidance issued under subsection (1)—
  - (a) must in particular include guidance about the matters in relation to which section 4 imposes requirements,
  - (b) may also include guidance about the exercise of the functions conferred on responsible bodies by sections 6 and 7.
- (4) Each responsible body to which guidance is issued under this section must have regard to the guidance as it relates to that body.
- (5) Subsection (6) applies in relation to the first issue of guidance—
  - (a) to local authorities and education providers under subsection (1)(a),
  - (b) to a particular specified public service body (or a particular class of specified public service bodies) under subsection (1)(b).
- (6) Before issuing the guidance mentioned in subsection (5), the Scottish Ministers—
  - (a) must consult such persons or bodies as appear to them to represent the interests of each type of responsible body to which the guidance relates, and
  - (b) may consult any other person or body they think appropriate.
- (7) The Scottish Ministers must, as soon as reasonably practicable after issuing guidance under subsection (1), publish the guidance in such ways as they think appropriate.
- (8) In this Act, “responsible body” means, in relation to the function conferred—
  - (a) by section 1, each local authority,
  - (b) by section 2, each education provider,
  - (c) by section 3, each specified public service body.

*Additional duties on responsible bodies*

**6 Statement on exercise of functions**

- (1) Each responsible body—
  - (a) must, as soon as reasonably practicable after guidance is first issued to the body under section 5,
  - (b) may, at any other time,prepare a written statement describing the plans mentioned in subsection (2).
- (2) The plans are the responsible body’s plans for—
  - (a) the exercise of its functions under section 1, 2 or, as the case may be, 3 (including in particular a summary of the arrangements required, by subsection (1) of



whichever of those sections applies, to be established and maintained by the responsible body),

- (b) the provision of information under section 8.
- (3) A statement prepared under subsection (1) must also explain—
  - (a) the ways in which the arrangements mentioned in subsection (2)(a) comply with section 4, and
  - (b) how, in developing the plans and arrangements mentioned in subsection (2), the responsible body has had regard to guidance issued under section 5 (as the guidance is in force at the time the statement is prepared and as it relates to the body).
- (4) Subsection (5) applies where guidance issued to a responsible body under section 5 and in force at the time the responsible body prepares a statement under subsection (1) includes guidance about the exercise of the functions conferred by this section and section 7.
- (5) The statement must also explain how, in exercising the functions mentioned in subsection (4), the responsible body has had regard to that guidance (as it relates to the body).
- (6) A statement prepared under subsection (1) may include such other information as the responsible body thinks appropriate.
- (7) The responsible body must publish each statement prepared under subsection (1) in such ways as the body thinks appropriate.

## **7 Consultation**

- (1) Before preparing a statement under section 6, each responsible body—
  - (a) must consult the persons mentioned in subsection (2), and
  - (b) may consult any other body or person the body thinks appropriate,about the responsible body's exercise of the functions conferred on it by section 1, 2 or, as the case may be, 3 and by section 8.
- (2) The persons referred to in subsection (1)(a) are, in the case of a responsible body with functions under—
  - (a) section 1—
    - (i) such product users who live or are otherwise likely to be present in the local authority's area as the local authority thinks appropriate,
    - (ii) such persons who may seek to obtain period products on behalf of product users as the local authority thinks appropriate,
  - (b) section 2, such product users who are pupils or, as the case may be, students at institutions managed by the education provider as the education provider thinks appropriate,
  - (c) section 3, such product users who are likely to be in the premises of the specified public service body as the body thinks appropriate.
- (3) Consultation under subsection (1) must in particular include consultation—
  - (a) about the ways in which product users ought to be able to obtain period products free of charge,
  - (b) about the matters mentioned in subsection (4), and

- (c) about the types of period products which ought to be obtainable free of charge.
- (4) The matters referred to in subsection (3)(b) are—
- (a) where the consultation relates to the exercise of functions under section 1—
- (i) the premises, and
  - (ii) the locations in those premises,
- in which period products ought to be obtainable free of charge,
- (b) where the consultation relates to the exercise of functions under section 2—
- (i) the locations in buildings of the type mentioned in section 2(3), and
  - (ii) any other locations in the education provider’s premises,
- in which period products ought to be obtainable free of charge,
- (c) where the consultation relates to the exercise of functions under section 3, the locations in the specified public service body’s premises in which period products ought to be obtainable free of charge.
- (5) In this section, “product users” means—
- (a) persons who need to use period products, and
  - (b) except in subsections (2)(a)(ii) and (3)(a), persons who may need to use period products in the future.

## **8 Information to be provided to public**

- (1) In addition to complying with section 6, each responsible body must take such steps as it thinks appropriate to inform the persons mentioned in subsection (2) of the matters mentioned in subsection (3).
- (2) The persons referred to in subsection (1) are, in the case of a responsible body with functions under—
- (a) section 1, members of the public within the local authority’s area generally,
  - (b) section 2, pupils or, as the case may be, students at—
    - (i) each institution managed by the education provider,
    - (ii) where an institution managed by the education provider operates across a number of campuses within Scotland, each such campus,
  - (c) section 3, persons in the premises of the specified public service body.
- (3) The matters referred to in subsection (1) are—
- (a) that period products are obtainable free of charge, and
  - (b) the arrangements for obtaining products free of charge, including in particular how, where and when products may be obtained.

### *Final provisions*

## **9 Key definitions**

In this Act—

- (a) “period products” means manufactured articles the purpose of which is to absorb or collect menstrual flow,

- (b) types of period products include tampons, sanitary towels and articles which are reusable,
- (c) references to a person's needs (including to a pupil's or a student's needs) are references to the person's needs for period products arising from menstruation by the person.

## 10 Interpretation

(1) In this Act—

“education provider” means—

- (a) an education authority,
- (b) the proprietor of an independent school,
- (c) the managers of a grant-aided school,
- (d) the governing body of a higher education institution or a further education institution,

“further education institution” means—

- (a) a body listed in schedule 2 of the Further and Higher Education (Scotland) Act 2005 under the heading “*Institutions formerly eligible for funding by the Scottish Further Education Funding Council*”, or
- (b) a college of further education which is assigned to a regional strategic body by order made under section 7C(1) of that Act,

“higher education institution” means a body listed in schedule 2 of the Further and Higher Education (Scotland) Act 2005 under the heading “*Institutions formerly eligible for funding by the Scottish Higher Education Funding Council*” or under the heading “*Other institutions*”,

“institution” has the meaning given in section 2(7),

“pupil” has the meaning and construction given in section 135(1) of the Education (Scotland) Act 1980,

“responsible body” has the meaning given in section 5(8),

“school” has the meaning given in section 135(1) of the Education (Scotland) Act 1980,

“specified public service body” means a public service body specified in regulations made under section 3,

“student” means a person for whom education is being provided by a higher education institution or, as the case may be, a further education institution.

(2) In subsection (1)—

“education authority”, “grant-aided school”, “independent school”, “managers” and “proprietor” have the meanings given in section 135(1) of the Education (Scotland) Act 1980,

“governing body” has the meaning given in section 35(2) of the Further and Higher Education (Scotland) Act 2005.

**11 Commencement**

- (1) Sections 9, 10 and 12 and this section come into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force on such day within the period of 2 years beginning with the day of Royal Assent as the Scottish Ministers may by regulations appoint.
- (3) Regulations under subsection (2) may—
  - (a) include transitional, transitory or saving provision,
  - (b) make different provision for different purposes.

**12 Short title**

The short title of this Act is the Period Products (Free Provision) (Scotland) Act 2021.

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