
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 164 (C. 14)

EDUCATION

**The Education (Scotland) Act 2016
(Commencement No. 3) Regulations 2017**

<i>Made</i>	- - - -	<i>23rd May 2017</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>25th May 2017</i>
<i>Coming into force</i>	- -	<i>1st August 2017</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by section 33(2) and (3) of the Education (Scotland) Act 2016⁽¹⁾.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Education (Scotland) Act 2016 (Commencement No. 3) Regulations 2017 and come into force on 1st August 2017.

(2) In these Regulations—

“the 2000 Act” means the Standards in Scotland’s Schools etc. Act 2000⁽²⁾;

“the 2016 Act” means the Education (Scotland) Act 2016.

Appointed days

2.—(1) Subject to paragraph (2), the day appointed for the coming into force of the provisions of the 2016 Act specified in column 1 of the schedule (the subject matter of which is described in column 2 of the schedule), is specified in column 3 of the schedule.

(2) Where a purpose is specified in column 4 of the schedule, a provision specified in column 1 comes into force in accordance with paragraph (1) only for that purpose.

(1) 2016 asp 8.
(2) 2000 asp 6.

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St Andrew's House,
Edinburgh
23rd May 2017

JOHN SWINNEY
A member of the Scottish Government

SCHEDULE

Regulation 2

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Provisions of the 2016 Act</i>	<i>Subject matter</i>	<i>Appointed day</i>	<i>Purpose</i>
Section 1	Pupils experiencing inequalities of outcome	1st August 2017	For the purpose of inserting section 3B of the 2000 Act.
Section 2(1) and (2)	National Improvement Framework	1st August 2017	For the purpose of inserting section 3D of the 2000 Act.
Section 2(3)	National Improvement Framework	1st August 2017	For the purpose of repealing section 5 of the 2000 Act.
Section 2(4)(a)	National Improvement Framework	1st August 2017	For the purpose of repealing the definition of “annual statement of education improvement objectives”.
Section 3(1) and (2)	Plans and reports	1st August 2017	For the purpose of inserting section 3F of the 2000 Act, in so far as not already in force.
Section 3(1) and (2)	Plans and reports	1st August 2017	For the purpose of inserting section 3H of the 2000 Act.
Section 3(1) and (2)	Plans and reports	1st August 2017	For the purpose of inserting section 3I of the 2000 Act.
Section 3(3) to (7)	Plans and reports	1st August 2017	
Section 5	Duties in relation to promotion of health	1st August 2017	
Section 6	Parental involvement	1st August 2017	
Section 19	Additional support for learning	1st August 2017	For the purpose of commencing paragraph 15 of the schedule of the 2016 Act.
Section 24	Enforcement of statutory duties	17th November 2017	In so far as not already in force.
Schedule, paragraph 15	Modifications of the Education (Additional Support for Learning) (Scotland) Act 2004	1st August 2017	

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force the following provisions of the Education (Scotland) Act 2016 (asp 8) (“the 2016 Act”) for all purposes, unless otherwise stated.

Section 24 (Enforcement of statutory duties) of the 2016 Act, which amends section 70 of the Education (Scotland) Act 1980 (c. 44) (“the 1980 Act”), is commenced on 17th November 2017 in so far as not already in force. Section 70 of the 1980 Act allows the Scottish Ministers, either on a complaint by any person interested or otherwise, that an education authority or various other persons have failed to discharge any duty imposed on them by or for the purposes of the 1980 Act or of any other education related enactment, to make an order declaring them to be in default and requiring them before a date stated to discharge that duty. New subsections (3) and (4) provide that no order can be made under section 70 in respect of a failure by an education authority which may be considered by an Additional Support Needs Tribunal under the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) (“the 2004 Act”). New subsections (5) and (6) are already commenced, so far as necessary to enable the Scottish Ministers to make provision in relation to the procedure to be followed for investigations into alleged failures and for determinations as to whether to make an order and new subsection (7) is also already commenced to enable the Scottish Ministers to consult such persons as they consider appropriate before making such regulations.

These Regulations also bring into force the following provisions of the 2016 Act, on 1st August 2017:

- Section 1 (pupils experiencing inequalities of outcome), for the purpose of inserting section 3B of the Standards in Scotland’s Schools etc. Act 2000 (asp 6) (“the 2000 Act”). Section 3B imposes a duty on education authorities relative to pupils experiencing inequalities of outcome;
- Section 2(1) and (2) (National Improvement Framework), for the purpose of inserting section 3D of the 2000 Act. Section 3D requires education authorities when carrying out their duty to secure improvement in the quality of school education in a way that raises standards, to do so with a view to achieving the strategic priorities as set out in the National Improvement Framework (which is prepared and published by the Scottish Ministers under section 3C of the 2000 Act);
- Section 2(3) (National Improvement Framework), for the purpose of repealing section 5 of the 2000 Act. Section 5 (education authority’s annual statement of improvement objectives) is replaced by section 3F of the 2000 Act (annual plan: education authority);
- Section 2(4)(a), (National Improvement Framework), for the purpose of repealing the definition of “annual statement of education improvement objectives” from section 58(1) of the 2000 Act (interpretation);
- Section 3(1) and (2) (plans and reports), for the purpose of inserting section 3F of the 2000 Act (annual plan: education authority), in so far as not already in force. Section 3F requires education authorities to prepare and publish an annual plan, before the beginning of the planning period prescribed by the Scottish Ministers in terms of section 3F(4) of the 2000 Act;
- Section 3(1) and (2) (plans and reports), for the purpose of inserting section 3H of the 2000 Act. Section 3H requires education authorities to prepare and publish an annual report as soon as reasonably practicable after the end of the period to which the plan published under section 3F(1) relates;
- Section 3(1) and (2) (plans and reports), for the purpose of inserting section 3I of the 2000 Act. Section 3I requires education authorities to prepare and publish each year an annual statement

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setting out the ways in which they will encourage equal opportunities and in particular the observance of the equal opportunity requirements, in providing school education;

- Section 3(3) to (7) (plans and reports). Section 3(3), (4), (6) and (7) amend sections 6, 8 and 58(1) of the 2000 Act, to change references to “school development plans” to “school improvement plans”, and requiring that those plans take account of the relevant education authority’s annual plan (including any revised plan) and annual report, thereby aligning those plans with the National Improvement Framework. Section 3(5) amends section 7 of the 2000 Act (review of school performance), requiring that education authorities take into account both the National Improvement Framework and their annual plan (published under section 3F of the 2000 Act) when defining and publishing measures and standards of performance for schools in their area;
- Section 5 (duties in relation to promotion of health). Section 5 amends section 2A of the 2000 Act (duties in relation to promotion of health) to require education authorities to prepare and publish each year, an annual statement setting out the ways in which they propose to ensure that schools managed by them and hostels provided and maintained by them for pupils are health-promoting;
- Section 6 (parental involvement). Section 6 amends the Scottish Schools (Parental Involvement) Act 2006 ([asp 8](#)) (“the 2006 Act”) to require education authorities to publish the strategy of parental involvement they prepare under section 2(1) of the 2006 Act and any revisions to the strategy. It also inserts a new provision, section 2A, into the 2006 Act (strategy for parental involvement: annual report), which requires education authorities, each year, to prepare and publish an annual report on the activities undertaken by them during the relevant period in pursuance of the general policies set out in their strategy for parental involvement;
- Section 19 (additional support for learning), which introduces the schedule of the 2016 Act (the schedule contains modifications of the 2004 Act), is commenced on 1st August 2017 for the purpose of commencing paragraph 15 of the schedule of the 2016 Act. Paragraph 15 amends section 16(1) (dispute resolution) of the 2004 Act to provide that the Scottish Ministers may by regulations make provision about the resolution of disputes between any education authority and any child who has attained the age of 12 years (and who the authority is satisfied has capacity as respects views or decisions relating to the purposes of resolving such disputes), concerning the exercise by the education authority of any of their functions under the 2004 Act in relation to the child or young person.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

The Bill for the 2016 Act received Royal Assent on 8th March 2016. Section 33(1) brought Part 4 of the 2016 Act into force on the day after Royal Assent (apart from section 30). The provisions of the 2016 Act commenced by earlier commencement regulations are detailed in the table below.

<i>Provision</i>	<i>Date of Commencement</i>	<i>Instrument</i>
Section 1 (partially)	1st August 2016	2016/192
Section 2(1) and (2) (partially)	1st August 2016	2016/192
Section 2(3) (partially)	1st August 2016	2016/192
Section 2(4)(a) (partially)	1st August 2016	2016/192
Section 2(4)(b)	1st August 2016	2016/192
Section 3(1) and (2) (partially)	1st August 2016	2016/192

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<i>Provision</i>	<i>Date of Commencement</i>	<i>Instrument</i>
Section 3(1) and (2) (partially)	1st December 2016	2016/192
Section 4	1st August 2016	2016/192
Section 7 (partially)	1st August 2016	2016/192
Section 7 (in so far as not already in force)	1st February 2017	2016/386
Section 8	1st February 2017	2016/386
Section 9	1st February 2017	2016/386
Section 10	1st February 2017	2016/386
Section 11	1st February 2017	2016/386
Section 12	1st February 2017	2016/386
Section 13	1st February 2017	2016/386
Section 14	1st February 2017	2016/386
Section 15	1st February 2017	2016/386
Section 16	15th July 2016	2016/192
Section 17	15th July 2016	2016/192
Section 18	1st February 2017	2016/386
Section 19 (partially)	1st January 2017	2016/386
Section 20	1st January 2017	2016/386
Section 21(1) and (2) (partially)	1st August 2016	2016/192
Section 24 (partially)	1st January 2017	2016/386
Section 26	1st January 2017	2016/386
Section 27	1st January 2017	2016/386
Section 28(1)	1st January 2017	2016/386
Section 29	1st August 2016	2016/192
Section 30	1st August 2016	2016/192
Schedule, paragraph 20 (partially)	1st January 2017	2016/386