

## SCHEDULES

### SCHEDULE 17

Section 38

#### TEMPORARY CONTINUITY DIRECTIONS ETC: EDUCATION, TRAINING AND CHILDCARE

#### PART 1

#### ENGLAND AND WALES

##### *Temporary continuity directions: England*

- 1 (1) The Secretary of State may give a temporary continuity direction that applies to—
- (a) one or more named relevant institutions in England;
  - (b) all relevant institutions in England (or any part of England);
  - (c) relevant institutions in England (or any part of England) of a particular description.
- (2) A temporary continuity direction is a direction under this paragraph that—
- (a) is given—
    - (i) to the responsible body in relation to a relevant institution, or
    - (ii) in the case of a relevant institution without a responsible body, to the institution, and
  - (b) requires that body or institution to take steps specified in the direction in connection with the provision, for a specified period, of—
    - (i) education, training or childcare,
    - (ii) services relating to education, training or childcare, or
    - (iii) ancillary services or facilities.
- (3) Before giving a direction under this paragraph, the Secretary of State—
- (a) must have regard to any advice from the Chief Medical Officer or one of the Deputy Chief Medical Officers of the Department of Health and Social Care relating to the incidence or transmission of coronavirus, and
  - (b) must be satisfied that giving the direction is a necessary and proportionate action for or in connection with the continued provision of anything mentioned in sub-paragraph (2)(b)(i) to (iii) for the specified period for one or more persons.
- (4) A temporary continuity direction under this paragraph may—
- (a) require the taking of reasonable steps in general terms, or require the taking of particular steps that the Secretary of State considers reasonable, in relation to any of the matters mentioned in the following paragraphs;
  - (b) require a relevant institution to open, to stay open, to re-open, or to open at times when it would not usually be open;

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- (c) require a relevant institution to provide education, training or childcare, services relating to education, training or childcare or ancillary services or facilities;
  - (d) require a relevant institution to allow specified persons to attend that institution for the purpose of receiving education, training or childcare, services relating to education, training or childcare or ancillary services or facilities, provided by or on behalf of that institution;
  - (e) require the alteration of term dates;
  - (f) require a relevant institution to provide or make arrangements for the provision of transport or other services relating to the provision of education, training or childcare or to ancillary services or facilities;
  - (g) make different provision for different purposes, or be framed by reference to whatever matters the Secretary of State considers appropriate;
  - (h) make transitional, transitory or saving provision;
  - (i) make such other provision as the Secretary of State considers appropriate in connection with the giving of the direction.
- (5) Where a temporary continuity direction under this paragraph applies to a relevant institution—
- (a) any FE funding agreement in respect of that institution has effect, and
  - (b) any Academy arrangements in respect of that institution or its responsible body have effect,
- subject to any modifications necessary to enable the direction to be complied with.
- (6) The duty of a responsible body or relevant institution to which a temporary continuity direction is given under this paragraph to comply with the direction is enforceable against the body or (as the case may be) institution by the Secretary of State making an application to the High Court or the county court for an injunction.
- (7) An application made under sub-paragraph (6) may be made without notice being given to the responsible body or relevant institution.
- (8) In this paragraph—
- “Academy arrangements” has the meaning given by section 1(2) of the Academies Act 2010;
  - “ancillary services or facilities” means services or facilities that are arranged or provided for those attending a relevant institution to receive education, training or childcare (including residential accommodation, meals, laundry facilities, medical services, advice and pastoral support);
  - “childcare” has the same meaning as in section 18 of the Childcare Act 2006;
  - “FE funding agreement” means an agreement, in respect of education or training to which Chapter 3 of Part 8 of the Education and Inspections Act 2006 applies, that is entered into between—
    - (a) the Secretary of State, a local authority or a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009, and
    - (b) a relevant institution,
 but does not include an agreement that is Academy arrangements;
  - “local authority” has the same meaning as in section 579(1) of the Education Act 1996;

“registered childcare provider” means a person who provides childcare and is registered under Part 3 of the Childcare Act 2006, but does not include early years childminders or later years childminders within the meaning of section 96 of that Act;

“relevant institution” means—

- (a) a registered childcare provider;
- (b) a school;
- (c) a 16 to 19 Academy, within the meaning of section 1B of the Academies Act 2010;
- (d) an institution within the further education sector, within the meaning of section 91(3) of the Further and Higher Education Act 1992;
- (e) a provider of post-16 education or training—
  - (i) to which Chapter 3 of Part 8 of the Education and Inspections Act 2006 applies, and
  - (ii) in respect of which funding is provided by, or under, arrangements made by the Secretary of State, a local authority or a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009,

but does not include an employer who is a provider by reason only of the employer providing such education or training to its employees;

- (f) a higher education provider within the meaning of section 83(1) of the Higher Education and Research Act 2017;
- (g) a provider of higher education within the meaning of section 83(1) of that Act which is not an institution (within the meaning of that section) whether or not it is designated under section 84 of that Act;
- (h) a local authority;

“responsible body” means—

- (a) in relation to a school or a 16 to 19 Academy, the proprietor, within the meaning of section 579(1) of the Education Act 1996;
- (b) in relation to an institution within the further education sector, the governing body within the meaning of section 90(1) of the Further and Higher Education Act 1992;
- (c) in relation to a provider of post-16 education or training, the person with legal responsibility and accountability for the provider;
- (d) in relation to a higher education provider within the meaning of section 83(1) of the Higher Education and Research Act 2017 or a provider of higher education designated under section 84 of that Act, the governing body within the meaning of section 85(1) of that Act;
- (e) in relation to any other provider of higher education not mentioned in paragraph (d), any person responsible for the management of the provider;

“school” has the same meaning as in the Education Act 1996 (see section 4 of that Act);

“specified” means specified, or falling within a description specified, in a temporary continuity direction under this paragraph.

*Temporary continuity directions: Wales*

- 2 (1) The Welsh Ministers may give a temporary continuity direction that applies to—
- (a) one or more named relevant institutions in Wales;
  - (b) all relevant institutions in Wales (or any part of Wales);
  - (c) relevant institutions in Wales (or any part of Wales) of a particular description.
- (2) A temporary continuity direction is a direction that—
- (a) is given—
    - (i) to the responsible body in relation to a relevant institution, or
    - (ii) in the case of a relevant institution without a responsible body, to the institution, and
  - (b) requires that body or institution to take steps specified in the direction in connection with the provision, for a specified period, of—
    - (i) education, training or childcare,
    - (ii) services relating to education, training or childcare, or
    - (iii) ancillary services or facilities.
- (3) Before giving a direction under this paragraph, the Welsh Ministers—
- (a) must have regard to any advice from the Chief Medical Officer for Wales or one of the Deputy Chief Medical Officers for Wales relating to the incidence or transmission of coronavirus, and
  - (b) must be satisfied that giving the direction is a necessary and proportionate action for or in connection with the continued provision of anything mentioned in sub-paragraph (2)(b)(i) to (iii) for the specified period for one or more persons.
- (4) A temporary continuity direction under this paragraph may—
- (a) require the taking of reasonable steps in general terms, or require the taking of particular steps that the Welsh Ministers consider reasonable, in relation to any of the matters mentioned in the following paragraphs;
  - (b) require a relevant institution to open, to stay open, to re-open, or to open at times when it would not usually be open;
  - (c) require a relevant institution to provide education, training or childcare, services relating to education, training or childcare or ancillary services or facilities;
  - (d) require a relevant institution to allow specified persons to attend that institution for the purpose of receiving education, training or childcare, services relating to education, training or childcare or ancillary services or facilities, provided by or on behalf of that institution;
  - (e) require the alteration of term dates;
  - (f) require a relevant institution to provide or make arrangements for the provision of transport or other services relating to the provision of education, training or childcare or to ancillary services or facilities;
  - (g) make different provision for different purposes, or be framed by reference to whatever matters the Welsh Ministers consider appropriate;
  - (h) make transitional, transitory or saving provision;
  - (i) make such other provision as the Welsh Ministers consider appropriate in connection with the giving of the direction.

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- (5) The duty of a responsible body or relevant institution to which a temporary continuity direction is given under this paragraph to comply with the direction is enforceable against the body or (as the case may be) institution by the Welsh Ministers making an application to the High Court or the county court for an injunction.
- (6) An application made under sub-paragraph (5) may be made without notice being given to the relevant institution or responsible body.

- (7) In this paragraph—

“ancillary services or facilities” means services or facilities that are arranged or provided for those attending a relevant institution to receive education, training or childcare (including residential accommodation, meals, laundry facilities, medical services, advice, and pastoral support);

“childcare” means anything which amounts to child minding or day care for children for the purposes of Part 2 of the [Children and Families \(Wales\) Measure 2010 \(nawm 1\)](#) (see section 19(2) to (4) of that Measure);

“local authority” means a county council in Wales or a county borough council;

“registered childcare provider” means a person who provides childcare and is registered under Part 2 of the Children and Families (Wales) Measure 2010, but does not include a childminder who is registered to provide childcare on domestic premises;

“relevant institution” means—

- (a) a registered childcare provider;
- (b) a school;
- (c) an institution within the further education sector, within the meaning of section 91(3) of the Further and Higher Education Act 1992;
- (d) an institution within the higher education sector within the meaning of section 91(5) of that Act;
- (e) a provider of education or training within the meaning of section 31(1) (a) or (b) or 32(1)(a) or (b) of the Learning and Skills Act 2000 that—
  - (i) is not an institution within the meaning of paragraph (c) or (d), and
  - (ii) is in receipt of funding for provision of that education or training from the Welsh Ministers or a local authority;

but does not include an employer who is a provider by reason only of the employer providing such education or training to its employees;

- (f) a provider of a course of education within the meaning of Schedule 6 to the Education Reform Act 1988 that is not an institution within the meaning of paragraph (c) or (d);
- (g) a local authority;

“responsible body” means—

- (a) in relation to a school, the proprietor, within the meaning of section 579(1) of the Education Act 1996;
- (b) in relation to an institution within paragraph (c) or (d) of the definition of “relevant institution”, the governing body within the meaning of section 90(1) of the Further and Higher Education Act 1992;
- (c) in relation to a provider within paragraph (e) or (f) of that definition, the person with legal responsibility and accountability for the provider;

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“school” has the same meaning as in the Education Act 1996 (see section 4 of that Act);

“specified” means specified, or falling within a description specified, in a temporary continuity direction under this paragraph.

*Temporary continuity directions: authorisations*

- 3 (1) The Secretary of State may—
- (a) authorise a local authority to exercise any of the Secretary of State’s functions under paragraph 1 in relation to one or more of the following—
    - (i) a registered childcare provider in the local authority’s area;
    - (ii) a school in its area;
    - (iii) a 16 to 19 Academy, within the meaning of section 1B of the Academies Act 2010, in its area;
  - (b) authorise the Office for Students to exercise any of the Secretary of State’s functions under paragraph 1 in relation to one or more registered higher education providers within the meaning of section 3(10)(a) of the Higher Education and Research Act 2017.
- (2) The Welsh Ministers may—
- (a) authorise a local authority to exercise any of the Welsh Ministers’ functions under paragraph 2 in relation to one or more of the following—
    - (i) a registered childcare provider in the local authority’s area;
    - (ii) a school in its area;
  - (b) authorise the Higher Education Funding Council for Wales to exercise any of the Welsh Ministers’ functions under paragraph 2 in relation to one or more of the following—
    - (i) an institution within the higher education sector within the meaning of section 91(5) of the Further and Higher Education Act 1992;
    - (ii) a provider of a course of education within the meaning of Schedule 6 to the Education Reform Act 1988 which is not an institution within sub-paragraph (i).
- (3) An authorisation granted under this paragraph may be subject to the fulfilment of such terms and conditions as are specified in the authorisation.
- (4) In this paragraph—
- (a) in relation to England, “local authority” has the same meaning as in section 579(1) of the Education Act 1996, and
  - (b) in relation to Wales, “local authority” means a county council in Wales or a county borough council.

*Publication, duration and guidance in relation to temporary continuity directions*

- 4 (1) Subject to sub-paragraph (2), the appropriate authority must publish a temporary continuity direction under paragraph 1 or 2.
- (2) Where a direction relates to a person specified by name—
- (a) the appropriate authority must give a copy of the direction to that person, and
  - (b) the published version of the direction must not identify any individual without their consent.

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- (3) A temporary continuity direction under paragraph 1 or 2 has effect until the earlier of—
  - (a) the end of the period specified under paragraph 1(2)(b) or 2(2)(b) (as the case may be), or
  - (b) the revocation of the direction by a further direction given by the appropriate authority under the same paragraph.
- (4) A person to whom a temporary continuity direction under paragraph 1 or 2 is given must have regard to any guidance given by the appropriate authority about how to comply with a direction given by that authority under that paragraph.
- (5) In this paragraph, subject to sub-paragraph (6), “appropriate authority” means—
  - (a) the Secretary of State (in relation to a direction given under paragraph 1);
  - (b) the Welsh Ministers (in relation to a direction given under paragraph 2).
- (6) Where a person gives a direction by virtue of an authorisation under paragraph 3, “the appropriate authority”—
  - (a) in sub-paragraphs (1), (2) and (4), means that person, and
  - (b) in sub-paragraph (3)(b), includes that person.

*Notices temporarily removing or relaxing statutory provisions etc: England*

- 5 (1) The Secretary of State may by notice make provision in relation to England—
  - (a) disapplying, for a specified period, any enactment listed in sub-paragraph (5) or any similar Academy arrangements provision;
  - (b) modifying, for a specified period—
    - (i) any enactment listed in the table in sub-paragraph (6), in the manner described in that table, or
    - (ii) any similar Academy arrangements provision in the corresponding manner.
- (2) A notice under sub-paragraph (1) may limit the disapplication or modification of a provision by reference to—
  - (a) a specified person or description of persons;
  - (b) a specified area;
  - (c) any other matter.
- (3) A notice under sub-paragraph (1) may also make such consequential modifications of any other enactment, for the specified period, as the Secretary of State considers appropriate.
- (4) A notice under sub-paragraph (1) must state why the Secretary of State considers that the issuing of the notice is an appropriate and proportionate action in all the circumstances relating to the incidence or transmission of coronavirus.
- (5) This is the list referred to in sub-paragraph (1)(a)—
  - (a) section 512(3)(b) and (c)(ii) of the Education Act 1996 (provision of school meals);
  - (b) sections 437, 443 and 444(1) and (1A) of that Act (provisions relating to attendance at school);
  - (c) section 87 of the School Standards and Framework Act 1998 (no requirement to admit children permanently excluded from two or more schools);

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- (d) section 1(6) of the Care Standards Act 2000 (which provides that a school is a “children’s home” in specified circumstances);
- (e) sections 5(1), 13(2)(b), 15(3), 17(2), 48(3) and 49(1) and (2) of the Education Act 2005 (provisions relating to inspections);
- (f) section 1A(1)(b) of the Academies Act 2010 (requirement for academy to have broad and balanced curriculum);
- (g) section 43 of the Children and Families Act 2014 (schools and other institutions named in EHC plan: duty to admit);
- (h) section 44(1) of that Act (reviews and re-assessments).

(6) This is the table referred to in sub-paragraph (1)(b)—

<i>Act</i>	<i>Enactment</i>	<i>Authorised modification</i>
The Further and Higher Education Act 1992	Section 44 (collective worship)	Any duty imposed on a person by section 44 is to be treated as discharged if the person has used reasonable endeavours to discharge the duty.
The Further and Higher Education Act 1992	Section 51A (duty to provide for named individuals: England)	Any duty imposed by section 51A on a governing body of an institution within section 51A(1) is to be treated as discharged if the governing body has used reasonable endeavours to discharge the duty.
Education Act 1996	Section 3 (definition of “pupil”)	A person is not for the purposes of the Education Act 1996 to be treated as a pupil at a school merely because any education is provided for that person at the school on a temporary basis for reasons relating to the incidence or transmission of coronavirus.
Education Act 1996	Section 14 (functions in respect of primary and secondary schools)	Any duty imposed on a person by section 14 is to be treated as discharged if the person has used reasonable endeavours to discharge the duty.
Education Act 1996	Section 15ZA to 15ZC (duties on local authorities in respect of post-16 education and training)	Any duty imposed on a person by sections 15ZA to 15ZC is to be treated as discharged if the person has used reasonable endeavours to discharge the duty.
Education Act 1996	Section 19 (exceptional provision of education in pupil referral units or elsewhere)	Any duty imposed on a person by or under section 19 is to be treated as discharged if the



<i>Act</i>	<i>Enactment</i>	<i>Authorised modification</i>
Education Act 1996	Sections 508A to 508F and Schedule 35C (travel arrangements)	person has used reasonable endeavours to discharge the duty. Any duty imposed on a person by sections 508A to 508F or Schedule 35C is to be treated as discharged if the person has used reasonable endeavours to discharge the duty.
Education Act 1996	Sections 512 to 512ZB (school meals)	Any duty imposed on a person by sections 512 to 512ZB is to be treated as discharged if the person has used reasonable endeavours to discharge the duty.
School Standards Framework Act 1998	and Section 70 (requirements relating to collective worship)	Any duty imposed on a person by section 70 is to be treated as discharged if the person used reasonable endeavours to discharge the duty.
School Standards Framework Act 1998	and Section 88D (determination of admission numbers)	Section 88D has effect as if subsections (1) and (3) were omitted, and in subsection (2) for “Such a determination under section 88C may also” there were substituted “A determination under section 88C may” and paragraph (b) (and the preceding “and”) were omitted.
School Standards Framework Act 1998	and Section 99 (general restriction on selection by ability or aptitude)	Section 99 has effect as if subsections (2) and (4), and the words from “unless” to the end in subsection (3), were omitted.
Education Act 2005	Section 5 (duty of chief inspector to inspect certain schools)	The duty imposed by section 5(1)(a) is to be treated as discharged if the Chief Inspector has used reasonable endeavours to discharge the duty.
Education Act 2005	Section 13 (duty of chief inspector to consider comments on reports of schools causing concern)	The duty imposed by section 13(2)(b) is to be treated as discharged if the Chief Inspector has used reasonable endeavours to discharge the duty.

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<i>Act</i>	<i>Enactment</i>	<i>Authorised modification</i>
Education Act 2005	Section 15 (measures to be taken by local authority)	The duty imposed on a local authority by virtue of section 15(3) is to be treated as discharged if the local authority has used reasonable endeavours to discharge the duty.
Education Act 2005	Section 17 (statement to be prepared by proprietor of school)	The duty imposed on a person by virtue of section 17(2) is to be treated as discharged if the person has used reasonable endeavours to discharge the duty.
Education Act 2005	Section 48 (inspection of religious education: England)	Any duty imposed on a person by section 48(3) is to be treated as discharged if the person has used reasonable endeavours to discharge the duty.
Education Act 2005	Section 49 (procedure for inspection under section 48)	Any duty imposed on a person by section 49(1) or (2) is treated as discharged if the person has used reasonable endeavours to discharge the duty.
Childcare Act 2006	Sections 7 and 7A (duty to secure early years provision free of charge in accordance with regulations)	Any duty imposed on a person by or under section 7 or 7A is to be treated as discharged if the person has used reasonable endeavours to discharge the duty.
Childcare Act 2006	Section 12 (duty to provide information, advice and assistance)	Any duty imposed on a person by or under section 12 is to be treated as discharged if the person has used reasonable endeavours to discharge the duty.
Education and Skills Act 2008	Section 124(2) (time limit for appeal by proprietor against decision to deregister independent educational institution)	The period for bringing an appeal is to be treated as increased from 28 days to 3 months.
Education and Skills Act 2008	Section 125(2) (time limit for appeal by proprietor against other decisions relating to independent educational institution)	The period for bringing an appeal is to be treated as increased from 28 days to 3 months.

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<i>Act</i>	<i>Enactment</i>	<i>Authorised modification</i>
Children and Families Act 2014	Section 42 (duty to secure special educational provision and health care provision in accordance with EHC Plan)	Any duty imposed on a person by section 42 is to be treated as discharged if the person has used reasonable endeavours to discharge the duty.

- (7) The specified period in a notice under sub-paragraph (1) must not exceed one month.
- (8) The Secretary of State may by notice (a “cancellation notice”) cancel a notice under sub-paragraph (1) with effect from the time specified in the cancellation notice.
- (9) A cancellation notice may contain transitional or saving provision.
- (10) Where a notice under sub-paragraph (1) modifies section 124(2) or 125(2) of the Education and Skills Act 2008 in the manner specified in the table in sub-paragraph (6), that modification continues to have effect in relation to any decision notice served during the specified period in the notice (except that if the notice is cancelled, that specified period is treated as having ended at the time the cancellation of the notice takes effect under sub-paragraph (8)).
- (11) Nothing in sub-paragraph (7) or (8) prevents the making of a further notice in relation to any provision.
- (12) Subject to sub-paragraph (13), the Secretary of State must—
- (a) publish a notice under this paragraph, and
  - (b) take such other steps as the Secretary of State considers reasonable to bring the notice to the attention of those persons likely to be affected by it.
- (13) Where the notice relates to a person specified by name—
- (a) the Secretary of State must give a copy of the notice to that person, and
  - (b) the published version of the notice must not identify any individual without their consent.
- (14) In this paragraph—
- “Academy arrangements” has the meaning given by section 1(2) of the Academies Act 2010;
- “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978), and includes an enactment whenever passed or made;
- “similar Academy arrangements provision” means—
- (a) for the purposes of sub-paragraph (1)(a) any provision of Academy arrangements which is similar to any enactment listed in sub-paragraph (5), and
  - (b) for the purposes of sub-paragraph (1)(b) any provision of Academy arrangements which is similar to any enactment listed in the table in sub-paragraph (6);
- “specified”, in relation to a notice under sub-paragraph (1), means specified in the notice.
- 6 (1) The Secretary of State may by regulations amend the list in paragraph 5(5) or the table in paragraph 5(6) so as to add an enactment relating (directly or indirectly) to children, education or training, or to vary or remove an entry.

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- (2) The power to make regulations under this paragraph is exercisable by statutory instrument.
- (3) Regulations under this paragraph may—
  - (a) make different provision for different purposes;
  - (b) contain transitional, transitory or saving provision.
- (4) A statutory instrument containing regulations under this paragraph must be laid before Parliament as soon as reasonably practicable after being made.
- (5) Regulations contained in an instrument laid before Parliament by virtue of sub-paragraph (4) cease to have effect at the end of the period of 40 days beginning with the day on which the instrument is made, unless within that period the instrument is approved by a resolution of each House of Parliament.
- (6) In calculating the period of 40 days, no account is to be taken of any time during which—
  - (a) Parliament is dissolved or prorogued, or
  - (b) both Houses of Parliament are adjourned for more than 4 days.
- (7) Where regulations cease to have effect as a result of sub-paragraph (5), that does not—
  - (a) subject to sub-paragraph (8), affect anything previously done under or by virtue of the regulations, or
  - (b) prevent the making of new regulations.
- (8) Where a notice has been given under paragraph 5 by virtue of the regulations and the regulations cease to have effect during the specified period set out in that notice, the specified period is treated as ending at the time the regulations cease to have effect.

*Notices temporarily removing or relaxing statutory provisions: Wales*

- 7 (1) The Welsh Ministers may by notice make provision in relation to Wales—
  - (a) disapplying, for a specified period, any enactment listed in sub-paragraph (5);
  - (b) modifying, for a specified period, any enactment listed in the table in sub-paragraph (6), in the manner described in that table.
- (2) A notice under sub-paragraph (1) may limit the disapplication or modification of a provision by reference to—
  - (a) a specified person or description of persons;
  - (b) a specified area;
  - (c) any other matter.
- (3) A notice under sub-paragraph (1) may also make such consequential modifications of any other enactment, for the specified period, as the Welsh Ministers consider appropriate.
- (4) A notice under sub-paragraph (1) must state why the Welsh Ministers consider that the issuing of the notice is an appropriate and proportionate action in all the circumstances relating to the incidence or transmission of coronavirus.
- (5) This is the list referred to in sub-paragraph (1)(a)—

- (a) section 324(5)(a) and (b) of the Education Act 1996 (statement of special educational needs);
- (b) section 328(5) of that Act (review of education needs);
- (c) sections 437, 443 and 444(1) and (1A) of that Act (provisions relating to attendance at school);
- (d) section 87 of the School Standards and Framework Act 1998 (no requirement to admit children permanently excluded from two or more schools);
- (e) section 101(1) of the Education Act 2002 (basic curriculum for every maintained school);
- (f) sections 28(1), 39(2), 40, 42(2) and 50(4) of, and paragraph 2(1) and (2) of Schedule 6 to, the Education Act 2005 (provisions relating to inspections);
- (g) regulation 12 of the Childcare Act 2006 (Local Authority Assessment) (Wales) Regulations 2016 (S.I. 2016/88 (w.42)) (annual progress reports), so far as it requires an annual report for the years 2020 and 2021.

(6) This is the table referred to in sub-paragraph (1)(b)—

<i>Act, Measure or statutory instrument</i>	<i>Enactment</i>	<i>Authorised modification</i>
The Further and Higher Education Act 1992	Section 44 (collective worship)	Any duty imposed on a person by section 44 is to be treated as discharged if the person has used reasonable endeavours to discharge the duty.
Education Act 1996	Section 3 (definition of “pupil”)	A person is not for the purposes of the Education Act 1996 to be treated as a pupil at a school merely because any education is provided for that person at the school on a temporary basis for reasons relating to the incidence or transmission of coronavirus.
Education Act 1996	Section 14 (functions in respect of primary and secondary schools)	Any duty imposed on a person by section 14 is to be treated as discharged if the person has used reasonable endeavours to discharge the duty.
Education Act 1996	Section 19 (exceptional provision of education in pupil referral units or elsewhere)	Any duty imposed on a person by or under section 19 is to be treated as discharged if the person has used reasonable endeavours to discharge the duty.
Education Act 1996	Section 324 (statement of special educational needs)	Any duty imposed on a person by section 324(5)(a) or (b) is to be treated as discharged if the person has used reasonable

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<i>Act, Measure or statutory instrument</i>	<i>Enactment</i>	<i>Authorised modification</i>
Education Act 1996	Section 328 (review of educational needs)	endeavours to discharge the duty. Any duty imposed on a person by or under section 328 is to be treated as discharged if the person has used reasonable endeavours to discharge the duty.
Education Act 1996	Sections 512 to 512ZB (school meals)	Any duty imposed on a person by sections 512 to 512ZB is to be treated as discharged if the person has used reasonable endeavours to discharge the duty.
School Standards Framework Act 1998	and Section 70 (requirements relating to collective worship)	Any duty imposed on a person by section 70 is to be treated as discharged if the person has used reasonable endeavours to discharge the duty.
School Standards Framework Act 1998	and Section 89A (determination of admission numbers)	Section 89A has effect as if subsections (1) and (3) were omitted and in subsection (2) for “Such a determination under section 89 may also” there were substituted “A determination under section 89 may” and paragraph (b) (and the preceding “and”) were omitted.
School Standards Framework Act 1998	and Section 99 (general restriction on selection by ability or aptitude)	Section 99 has effect as if subsections (2) and (4), and the words from “unless” to the end in subsection (3), were omitted.
School Standards Framework Act 1998	and Section 118 (duty of local authority as respects availability of nursery education)	Any duty imposed on a local authority by section 118 is to be treated as discharged if the local authority has used reasonable endeavours to discharge the duty.
Learning and Skills Act 2000	Sections 31 and 32 (education and training for those aged 16 to 19 and those over 19)	Any duty imposed on the Welsh Ministers by section 31 or 32 is to be treated as discharged if the Welsh Ministers have

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<i>Act, Measure or statutory instrument</i>	<i>Enactment</i>	<i>Authorised modification</i>
Learning and Skills Act 2000	Section 35 (financial resources: conditions)	used reasonable endeavours to discharge the duty. Section 35 has effect, where a temporary closure direction or temporary continuity direction (under Schedule 16 or 17 to the Coronavirus Act 2020) applies in relation to a person, as if it authorised the Welsh Ministers to vary the conditions imposed, or impose additional conditions, under that section in relation to financial resources secured to that person under section 34.
Learning and Skills Act 2000	Section 140 (duty on the Welsh Ministers to arrange an assessment of a person with SEN in particular circumstances)	Any duty imposed on a person by section 140 is to be treated as discharged if the person has used reasonable endeavours to discharge the duty.
Education Act 2002	Section 108 (establishment of National Curriculum for Wales by Order)	Section 108 has effect as if it provided that any duty imposed on a person by an order under that section is to be treated as discharged if the person has used reasonable endeavours to discharge the duty.
Education Act 2002	Section 166(2) (time limit for appeals by proprietor against decisions relating to registered schools)	The period for bringing an appeal is to be treated as increased from 28 days to 3 months.
Education Act 2005	Section 28 (duty to arrange regular inspections)	The duty imposed by section 28(1) is to be treated as discharged if the Chief Inspector has used reasonable endeavours to discharge the duty.
Education Act 2005	Section 39 (measures to be taken by appropriate authority)	The duty imposed on a person by virtue of section 39(2) is to be treated as discharged if the person has used reasonable endeavours to discharge the duty.
Education Act 2005	Section 40 (statement prepared by a local authority)	Any duty imposed on a local authority by section 40 is

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<i>Act, Measure or statutory instrument</i>	<i>Enactment</i>	<i>Authorised modification</i>
Education Act 2005	Section 42 (statement to be prepared by proprietor of school)	to be treated as discharged if the local authority has used reasonable endeavours to discharge the duty.  The duty imposed on a person by virtue of section 42(2) is to be treated as discharged if the person has used reasonable endeavours to discharge the duty.
Education Act 2005	Section 50 (inspection of religious education: Wales)	The duty imposed on a person by section 50(4) is to be treated as discharged if the person has used reasonable endeavours to discharge the duty.
Education Act 2005	Paragraph 2(1) and (2) of Schedule 6 (procedure for inspections under section 50)	Any duty imposed on a person by paragraph 2(1) or (2) is treated as discharged if the person has used reasonable endeavours to discharge the duty.
Childcare Act 2006	Section 24 (arrangements between local authority and childcare providers)	Any duty imposed on a Welsh local authority by section 24 is to be treated as discharged if the Welsh local authority has used reasonable endeavours to discharge the duty; and section 24(2) has effect as if after “securing that” there were inserted “so far as reasonably practicable”.
Childcare Act 2006	Section 27 (duty to provide information, advice and assistance)	Any duty imposed on a Welsh local authority by section 27 is to be treated as discharged if the Welsh local authority has used reasonable endeavours to discharge the duty.
Children and Families (Wales) Measure 2010	Section 45 (supply of information to local authorities)	Any duty imposed on the Welsh Ministers under section 45(1) is to be treated as discharged if the Welsh Ministers have used reasonable endeavours to discharge the duty.
Childcare Act 2006 (Local Authority Assessment)	Regulation 3 (duty to prepare and publish assessments)	Regulation 3(3) has effect as if after “intervals” there



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<i>Act, Measure or statutory instrument</i>	<i>Enactment</i>	<i>Authorised modification</i>
(Wales) Regulations 2016 (S.I. 2016/88 (W.42))		were inserted “subject to any direction given by the Welsh Ministers to prepare and publish an assessment at another time”.
Child Minding and Day Care (Wales) Regulations 2010 (S.I. 2010/2574 (W.214))	The whole instrument	The Regulations have effect as if they included a Regulation in the following terms “The Welsh Ministers may, by notice in writing, relax any of the requirements of regulations 3, 4, 5, 12, 14, 15 or 16, or of paragraph 9 or 33 of Schedule 1, where to do so is a necessary and proportionate response to the incidence or transmission of coronavirus (and those requirements are to be read subject to any such relaxation).”

- (7) The specified period in a notice under sub-paragraph (1) must not exceed one month.
- (8) The Welsh Ministers may by notice (a “cancellation notice”) cancel a notice under sub-paragraph (1) with effect from the time specified in the cancellation notice.
- (9) A cancellation notice may contain transitional or saving provision.
- (10) Where a notice under sub-paragraph (1) modifies section 166(2) of the Education Act 2002 in the manner specified in the table in sub-paragraph (6), that modification continues to have effect in relation to any notice of a refusal, determination or order mentioned in section 166(2) of that Act served during the specified period in the notice under sub-paragraph (1) (except that if the notice under sub-paragraph (1) is cancelled, that specified period is treated as having ended at the time the cancellation of the notice takes effect under sub-paragraph (8)).
- (11) Nothing in sub-paragraph (7) or (8) prevents the making of a further notice in relation to any provision.
- (12) Subject to sub-paragraph (13), the Welsh Ministers must—
- (a) publish a notice under this paragraph, and
  - (b) take such other steps as the Welsh Ministers consider reasonable to bring the notice to the attention of those persons likely to be affected by it.
- (13) Where the notice relates to a person specified by name—
- (a) the Welsh Ministers must give a copy of the notice to that person, and
  - (b) the published version of the notice must not identify any individual without their consent.
- (14) In this paragraph—

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“enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978), and includes an enactment whenever passed or made;

“specified”, in relation to a notice under sub-paragraph (1), means specified in the notice.

- 8 (1) The Welsh Ministers may by regulations amend the list in paragraph 7(5) or the table in paragraph 7(6) so as to add an enactment relating (directly or indirectly) to children, education or training, or to vary or remove an entry.
- (2) The power to make regulations under this paragraph is exercisable by statutory instrument.
- (3) Regulations under this paragraph may—
- (a) make different provision for different purposes;
  - (b) contain transitional, transitory or saving provision.
- (4) A statutory instrument containing regulations under this paragraph must be laid before the National Assembly for Wales as soon as reasonably practicable after being made.
- (5) Regulations contained in an instrument laid before the National Assembly for Wales by virtue of sub-paragraph (4) cease to have effect at the end of the period of 40 days beginning with the day on which the instrument is made, unless within that period the instrument is approved by a resolution of the National Assembly for Wales.
- (6) In calculating the period of 40 days, no account is to be taken of any time during which the National Assembly for Wales is—
- (a) dissolved, or
  - (b) in recess for more than 4 days.
- (7) Where regulations cease to have effect as a result of sub-paragraph (5), that does not—
- (a) subject to sub-paragraph (8), affect anything previously done under or by virtue of the regulations, or
  - (b) prevent the making of new regulations.
- (8) Where a notice has been given under paragraph 7 by virtue of the regulations and the regulations cease to have effect during the specified period set out in that notice, the specified period is treated as ending at the time the regulations cease to have effect.

## PART 2

### SCOTLAND

#### *Interpretation*

- 9 In this Part—
- “the 1980 Act” means the Education (Scotland) Act 1980;
- “the 2005 Act” means the Further and Higher Education (Scotland) Act 2005 ([asp 6](#));
- “early learning and childcare” has the meaning given by section 46 of the Children and Young People (Scotland) Act 2014 ([asp 8](#));

“education” includes early learning and childcare, school education, further education and higher education;

“education authority”, “grant-aided school”, “independent school”, “public school”, “school” and “school education” have the meanings given by section 135(1) of the 1980 Act;

“educational establishment” means—

- (a) a school;
- (b) an education and training establishment approved by the Scottish Qualifications Authority under section 2 of the Education (Scotland) Act 1996 as suitable for presenting persons for SQA qualifications;
- (c) a further education institution;
- (d) a higher education institution,

and is also to be construed in accordance with paragraph 11(6) to (8);

“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;

“further education” has the meaning given by section 6 of the Further and Higher Education (Scotland) Act 1992;

“further education institution” means—

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

“higher education” has the meaning given by section 38 of the Further and Higher Education (Scotland) Act 1992;

“higher education institution” means—

- (a) a body listed under the heading “Institutions formerly eligible for funding by the Scottish Higher Education Funding Council” or under the heading “Other institutions” in schedule 2 of the Further and Higher Education (Scotland) Act 2005;
- (b) a person who provides a course of higher education designated by the Scottish Ministers under regulation 4(9) of the Education (Student Loans) (Scotland) Regulations 2007 ([S.S.I. 2007/154](#)) for the purposes of regulation 3(2) of those Regulations;

“managers”, in relation to a grant-aided school, has the meaning given by section 135(1) of the 1980 Act;

“out of school care” means any form of care provided—

- (a) outside school hours;
- (b) during school holidays;

to children who are in attendance at a school;

“proprietor”, in relation to an independent school, has the meaning given by section 135(1) of the 1980 Act.

#### *Duty to have regard to public health advice*

- 10 (1) A relevant operator of an educational establishment must have regard to any advice relating to coronavirus from the Chief Medical Officer of the Scottish Administration or such other person as may be designated for the purposes of this paragraph by the Scottish Ministers.

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- (2) Before giving a direction under paragraph 11, the Scottish Ministers—
- (a) must have regard to any such advice; and
  - (b) must be satisfied that the giving of the direction is a necessary and proportionate action for or in connection with the continued provision of education.
- (3) In this paragraph, “relevant operator”, in relation to an educational establishment, is to be construed in accordance with paragraph 11(6) to (8).

*Continuing operation of educational establishments*

- 11 (1) The Scottish Ministers may give a direction under this paragraph (an “educational continuity direction”) that applies to—
- (a) the relevant operator of one or more named educational establishments in Scotland;
  - (b) the relevant operators of all educational establishments in Scotland (or any part of Scotland);
  - (c) the relevant operators of a particular description of educational establishment in Scotland (or any part of Scotland).
- (2) An educational continuity direction is a direction relating to the continuing operation of an educational establishment for a specified period.
- (3) An educational continuity direction 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 it would be attributable to the direction.
- (4) An educational continuity direction 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 (for example, out of school care);
    - (iii) 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) prohibit access in respect of the whole or a specified part of an educational establishment or of relevant premises;
  - (f) 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 health, to be put in place;
  - (h) require the alteration of term dates, holiday dates or examination dates;

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- (i) require the taking of actions in general terms, or require the taking of particular actions, that the Scottish Ministers consider reasonable;
- (j) make different provision for different purposes (for example, for different descriptions of people attending an educational establishment);
- (k) be framed by reference to whatever matters the Scottish Ministers consider appropriate;
- (l) make transitional, transitory or saving provision;
- (m) make such other provision as the Scottish Ministers consider appropriate in connection with the giving of the direction.

(5) In this paragraph—

“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 (see also sub-paragraphs (8) and (9)),

“specified” means specified, or falling within a description specified, in a direction under this paragraph.

(6) In this paragraph, “relevant operator”—

(a) in relation to a school, means—

(i) where the school is a public school, the education authority by which it is managed;

(ii) where the school is an independent school, the proprietor;

(iii) where the school is a grant-aided school, the managers,

(but see also sub-paragraphs (7) and (8));

(b) in relation to a further education institution or a higher education institution, means the governing body of the institution (within the meaning of section 35(2) of the 2005 Act);

(7) Where out of school care is provided by a person in a school, “relevant operator” also includes such a person.

(8) Where school education, early learning and childcare or out of school care is provided by a person in premises other than a school—

(a) “relevant operator” also includes such a person, and

(b) references to “educational establishment” in this paragraph are to be read as if they were references to such premises.

(9) Where early learning and childcare or out of school care is provided by a person acting as a child minder (within the meaning of paragraph 12 of Schedule 12 to the Public Services Reform (Scotland) Act 2010 ([asp 8](#))) in premises used mainly as a private dwelling, an educational continuity direction may only apply to the part of the premises in which such care is provided.

### *Compliance and enforcement*

12 (1) A relevant operator of an educational establishment must comply with a direction under paragraph 11.

(2) A relevant operator must have regard to any guidance given by the Scottish Ministers about how to comply with a direction under paragraph 11.

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- (3) The duty imposed on a relevant operator to comply with a direction under paragraph 11 is enforceable, on an application made by the Scottish Ministers, by interdict or (as the case may be) by specific implement.
- (4) An application made under sub-paragraph (3) may be made without notice being given to the relevant operator.
- (5) In this paragraph, “relevant operator”, in relation to an educational establishment, is to be construed in accordance with paragraph 11(6) to (8).

#### *Publication, duration and review of directions*

- 13 (1) Subject to sub-paragraph (2), the Scottish Ministers must publish a direction under paragraph 11.
- (2) Where a direction relates to a person specified by name—
  - (a) the Scottish Ministers must give a copy of the direction to that person, and
  - (b) the published version of the direction must not identify any individual without their consent.
- (3) A direction under paragraph 11 has effect until the earlier of—
  - (a) the end of the period specified in the direction, or
  - (b) the revocation of the direction by a further direction given by the Scottish Ministers.
- (4) Where a direction under paragraph 11 makes provision mentioned in paragraph 11(3), the Scottish Ministers must, so long as it remains in effect, review the direction—
  - (a) before the end of the period of 21 days beginning with the date on which the direction was given; and
  - (b) before the end of each subsequent period of 21 days.

### **PART 3**

#### NORTHERN IRELAND

#### *Temporary continuity directions*

- 14 (1) The Department may give a temporary continuity direction that applies to—
  - (a) the Education Authority;
  - (b) one or more named schools in Northern Ireland;
  - (c) all schools in Northern Ireland (or any part of Northern Ireland);
  - (d) schools in Northern Ireland (or any part of Northern Ireland) of a particular description.
- (2) A temporary continuity direction under this paragraph is a direction that requires the Education Authority, or the managers of the school or schools to which it applies, to take steps specified in the direction in connection with the provision, for a specified period, of education or services relating to education.
- (3) Before giving a temporary continuity direction under this paragraph—

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- (a) the Department must have regard to any advice from the Chief Medical Officer or any of the Deputy Chief Medical Officers of the Department of Health in Northern Ireland relating to the incidence or transmission of coronavirus, and
  - (b) the Department must be satisfied that giving the direction is a necessary and proportionate action for or in connection with the continued provision of education or services relating to education for the specified period.
- (4) A temporary continuity direction under this paragraph may—
  - (a) require the taking of reasonable steps in general terms, or require the taking of particular steps that the Department considers reasonable;
  - (b) in the case of a school, require the school to open, to stay open, to re-open, or to open at times when it would not usually be open;
  - (c) in the case of a school, require the school to allow specified pupils to attend that school for the purpose of receiving education or services relating to education provided by or on behalf of that school;
  - (d) in the case of a school, require the alteration of term dates, holiday dates or examination dates;
  - (e) in the case of a school, require the school to provide or make arrangements for the provision of education or services relating to education;
  - (f) make different provision for different purposes, or be framed by reference to whatever matters the Department considers appropriate;
  - (g) make transitional, transitory or saving provision;
  - (h) make such other provision as the Department considers appropriate in connection with the giving of a direction.
- (5) Subject to sub-paragraph (6), the Department must publish a temporary continuity direction under this paragraph.
- (6) Where a direction relates to a person specified by name—
  - (a) the Department must give a copy of the direction to that person, and
  - (b) the published version of the direction must not identify any individual without their consent.
- (7) The Education Authority, or (as the case may be) the managers of a school or schools to which a temporary continuity direction under this paragraph applies, must have regard to any guidance given by the Department about how to comply with such a direction.
- (8) The duty of the Education Authority or the managers of a school to comply with a temporary continuity direction under this paragraph is enforceable, by the Department making an application to the High Court or a county court for an injunction.
- (9) An application under sub-paragraph (8) may be made without notice being given to the Education Authority or (as the case may be) the managers of the school.
- (10) Where a temporary continuity direction under this paragraph applies to a school, there is no breach of the following provisions to the extent that a breach is attributable to the direction—
  - (a) regulations 14 and 15 of the Primary Schools Regulations and regulations 11 and 12 of the Secondary Schools Regulations (terms and days of operation of school and dates of school holidays, etc);

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- (b) regulation 18 of the Primary Schools Regulations (child who is not a registered pupil at a school not permitted to attend the school).

(11) In this paragraph—

“child”, “managers” and “school” have the meaning given in the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3));

“the Department” means the Department of Education in Northern Ireland;

“the Education Authority” means the Authority established by section 1(1) of the Education Act (Northern Ireland) 2014 (c. 12 (N.I.));

“the Primary Schools Regulations” means the Primary Schools (General) Regulations (Northern Ireland) 1973 (S.R. & O. (N.I.) 1973 No. 402);

“the Secondary Schools Regulations” means the Secondary Schools (Grant Conditions) Regulations (Northern Ireland) 1973 (S.R. & O. (N.I.) 1973 No. 403);

“specified” means specified in a temporary continuity direction under this paragraph, or falling within a description specified in a temporary continuity direction under this paragraph.

- 15 (1) The Department may give a temporary continuity direction that applies to—
- (a) one or more named relevant institutions in Northern Ireland;
  - (b) all relevant institutions in Northern Ireland (or any part of Northern Ireland);
  - (c) relevant institutions in Northern Ireland (or any part of Northern Ireland) of a particular description.
- (2) A temporary continuity direction under this paragraph is a direction that requires the governing body of the relevant institution to which it applies to take steps specified in the direction in connection with the provision, for a specified period, of further or higher education or services relating to further or higher education.
- (3) Before giving a temporary continuity direction under this paragraph—
- (a) the Department must have regard to any advice from the Chief Medical Officer or any of the Deputy Chief Medical Officers of the Department of Health in Northern Ireland relating to the incidence or transmission of coronavirus, and
  - (b) the Department must be satisfied that giving the direction is a necessary and proportionate action for or in connection with the continued provision of further or higher education or services relating to further or higher education for the specified period.
- (4) A temporary continuity direction under this paragraph may—
- (a) require the taking of reasonable steps in general terms, or require the taking of particular steps that the Department considers reasonable;
  - (b) require the institution to open, to stay open, to re-open, or to open at times when it would not usually be open;
  - (c) require the institution to allow specified persons to attend that institution for the purpose of receiving further or higher education or services relating to further or higher education provided by or on behalf of that institution;
  - (d) require the alteration of term dates, holiday dates or examination dates;
  - (e) require the institution to provide or make arrangements for the provision of further or higher education or services relating to further or higher education;



- (f) make different provision for different purposes, or be framed by reference to whatever matters the Department considers appropriate;
- (g) make such other provision as the Department considers appropriate in connection with the giving of a direction.
- (5) Subject to sub-paragraph (6), the Department must publish a temporary continuity direction under this paragraph.
- (6) Where a direction relates to a person specified by name—
- (a) the Department must give a copy of the direction to that person, and
  - (b) the published version of the direction must not identify any individual without their consent.
- (7) The governing body of an institution to which a temporary continuity direction under this paragraph applies must have regard to any guidance given by the Department about how to comply with that direction.
- (8) The duty of the governing body of an institution to comply with a temporary continuity direction under this paragraph is enforceable by the Department making an application to the High Court or a county court for an injunction.
- (9) An application under sub-paragraph (8) may be made without notice being given to the governing body of the institution.
- (10) In this paragraph—
- “the Department” means the Department for the Economy in Northern Ireland;
- “governing body”, in relation to a higher education institution, has the same meaning as in Article 30 of the Education and Libraries (Northern Ireland) Order 1993 (S.I. 1993/2810 (N.I. 12)) (the “1993 Order”);
- “relevant institution” means—
- (a) a further education institution recognised by the Department under Article 8 of the Further Education (Northern Ireland) Order 1997 (S.I. 1997/1772 (N.I. 15)), or
  - (b) a higher education institution within the meaning of Article 30 of the 1993 Order;
- “specified” means specified in a temporary continuity direction under this paragraph, or falling within a description specified in a temporary continuity direction under this paragraph.
- 16 (1) The Department may give a temporary continuity direction that applies to—
- (a) one or more named persons registered under Article 118 of the 1995 Order (child minders and those who provide day care);
  - (b) all persons registered under that Article in Northern Ireland (or any part of Northern Ireland);
  - (c) persons registered under that Article of a particular description in Northern Ireland (or any part of Northern Ireland).
- (2) A temporary continuity direction under this paragraph is a direction that requires any person to whom it applies to take steps specified in the direction in connection with the provision, for a specified period, of child minding or day care or services relating to child minding or day care.
- (3) Before giving a temporary continuity direction under this paragraph—

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- (a) the Department must have regard to any advice from the Chief Medical Officer or any of the Deputy Chief Medical Officers of the Department relating to the incidence or transmission of coronavirus, and
  - (b) the Department must be satisfied that giving the direction is a necessary and proportionate action for or in connection with the continued provision of child minding or day care or services relating to child minding or day care for the specified period.
- (4) A temporary continuity direction under this paragraph may—
- (a) require the taking of reasonable steps in general terms, or require the taking of particular steps that the Department considers reasonable;
  - (b) require a person registered under Article 118 of the 1995 Order to provide services, to continue to provide services, to provide services again or to provide services when the person would not usually do so.
- (5) The references in sub-paragraph (4)(b) to providing services are to the provision of child minding or day care.
- (6) Subject to sub-paragraph (7), the Department must publish a temporary continuity direction under this paragraph.
- (7) Where a direction relates to a person specified by name—
- (a) the Department must give a copy of the direction to that person, and
  - (b) the published version of the direction must not identify any individual without their consent.
- (8) A person to whom a temporary continuity direction under this paragraph applies must have regard to any guidance given by the Department about how to comply with that direction.
- (9) The duty of a person registered under Article 118 of the 1995 Order to comply with a temporary continuity direction under this paragraph is enforceable by the Department making an application to the High Court or a county court for an injunction.
- (10) An application under sub-paragraph (9) may be made without notice being given to the registered person.
- (11) In this paragraph—
- “the 1995 Order” means the Children (Northern Ireland) Order 1995 ([S.I. 1995/755 \(N.I. 2\)](#));
  - “child minding” and “day care” have the same meaning as in the 1995 Order;
  - “the Department” means the Department of Health in Northern Ireland;
  - “specified” means specified in a temporary continuity direction under this paragraph, or falling within a description specified in a temporary continuity direction under this paragraph.

*Notices temporarily removing or relaxing education duties*

- 17 (1) The Department may by notice make provision disapplying or modifying, for a specified period, any one or more of the provisions listed in sub-paragraph (2).
- (2) This is the list referred to in sub-paragraph (1)—

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- (a) the following provisions of the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3))—
    - (i) Article 45(1) (duty of parents to secure full-time education);
    - (ii) Articles 58 and 59 (provision of milk, meals and related facilities);
    - (iii) paragraph 1(4) of Schedule 13 (duty of managers of grant-aided school to admit child in accordance with attendance order);
    - (iv) paragraph 3(1) of Schedule 13 (duty of parents to secure attendance of pupil at school);
  - (b) Articles 6 to 21B of the Education (Northern Ireland) Order 1996 (S.I. 1996/274 (N.I. 1)) (duties in relation to special educational needs);
  - (c) Article 16(2) of the Education (Northern Ireland) Order 1998 (S.I. 1998/1759 (N.I. 13)) (class size in primary schools);
  - (d) regulations 5 to 22 of the Education (Special Educational Needs) Regulations (Northern Ireland) 2005 (S.R. (N.I.) 2005 No. 384) (duties in relation to assessments and statements);
  - (e) any provision of, or made under, Part 2 of the Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)) (duties in relation to the curriculum).
- (3) The Department may by regulations amend the list in sub-paragraph (2).
- (4) A notice under sub-paragraph (1) may limit the disapplication or modification of a provision by reference to—
- (a) a specified person or description of persons;
  - (b) a specified area;
  - (c) any other matter.
- (5) In particular, a notice under sub-paragraph (1) that disapplies any provision of, or made under, Part 2 of the Education (Northern Ireland) Order 2006 may—
- (a) relate to the curriculum generally or to specified aspects of the curriculum;
  - (b) relate to all key stages or specified key stages;
  - (c) make different provision for different key stages;
  - (d) relate to all areas of learning or to contributory elements;
  - (e) be framed by reference to such other matters as the Department considers appropriate.
- (6) A notice under sub-paragraph (1) must state why the Department considers that the issuing of the notice is an appropriate and proportionate action in all the circumstances.
- (7) The specified period in a notice under sub-paragraph (1) must not exceed one month.
- (8) The Department may by notice (a “cancellation notice”) cancel a notice under sub-paragraph (1) with effect from the time specified in the cancellation notice.
- (9) A cancellation notice may contain transitional or saving provision.
- (10) Nothing in sub-paragraph (7) or (8) prevents the issuing of a further notice in relation to any provision.
- (11) Subject to sub-paragraph (12), the Department must—
- (a) publish a notice under this paragraph;
  - (b) take such other steps as the Department considers reasonable to bring the notice to the attention of those likely to be affected by it.

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

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- (12) Where the notice relates to a person specified by name—
- (a) the Department must give a copy of the notice to that person, and
  - (b) the published version of the notice must not identify any individual without their consent.
- (13) In this paragraph—
- “the Department” means the Department of Education in Northern Ireland;
- “specified”, in relation to a notice under sub paragraph (1), means specified in the notice.
- (14) The power to make regulations under sub-paragraph (3) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)) (and not by statutory instrument).
- (15) Regulations under sub-paragraph (3) may make different provision for different purposes.
- (16) Regulations under sub-paragraph (3) must be laid before the Northern Ireland Assembly as soon as reasonably practicable after being made.
- (17) Regulations laid before the Assembly by virtue of sub-paragraph (16) cease to have effect at the end of the period of 40 days beginning with the day on which the instrument is made, unless within that period the instrument is approved by a resolution of the Assembly.
- (18) In calculating the period of 40 days, no account is to be taken of any time during which the Assembly is dissolved or during which it is in recess for more than four days.
- (19) Where regulations cease to have effect as a result of sub-paragraph (17), that does not—
- (a) affect anything previously done under the regulations (except as set out in sub-paragraph (20)), or
  - (b) prevent the making of new regulations.
- (20) Where—
- (a) a notice has been given under sub-paragraph (1) disapplying or modifying a provision that has been added to the list in sub-paragraph (2) by virtue of the regulations, and
  - (b) the regulations cease to have effect during the specified period set out in that notice,
- the notice ceases to have effect at the time the regulations cease to have effect.