

Educational Continuity (No.3) Direction given under paragraph 11(1) of schedule 17 (Temporary Continuity Directions etc: Education, Training and Childcare: Scotland) of the Coronavirus Act 2020

1. The Scottish Ministers in exercise of their powers conferred by section 38(2) and paragraph 11(1) of schedule 17 of the Coronavirus Act 2020 (c.7) (“the 2020 Act”) give the following **Educational Continuity Direction**.
2. Before giving this direction, the Scottish Ministers had regard to the advice relating to coronavirus from the Chief Medical Officer of the Scottish Administration.
3. The Scottish Ministers are satisfied that giving the direction is a necessary and proportionate action for or in connection with the continued provision of education.

The Scottish Ministers direct as follows:

4. This Direction applies to every education authority in Scotland.

Planning and preparation for reopening of educational establishments

5. Each education authority is required to plan and prepare for pupils to resume attendance at schools (except nursery schools and nursery classes) under the management of the education authority at the earliest time it is safe to do so, having regard to relevant guidance issued by the Scottish Ministers. In doing so, education authorities should prioritise support for children and young people at key transition points (for example, those due to start P1 or S1 in August 2020).
6. Each education authority is required to plan and prepare for the resumption of the provision of early learning and childcare and out of school care in educational establishments under their management no sooner than 15 July, having regard to relevant guidance issued by the Scottish Ministers.
7. Subject to compliance with relevant advice and guidance relating to public health and workplace safety, teachers and other staff of, or other persons authorised by, an education authority may access educational establishments for the purposes of planning and preparing (including any alterations to premises) for the provision of:
 - a. learning and teaching to pupils on school premises and, if required, remotely from August 2020;
 - b. early learning and childcare;
 - c. out of school care.

Continuing provision of education and related matters

8. Each education authority is required to support in-home learning by pupils who normally attend schools under the management of the education authority during term time, in accordance with appropriate local arrangements. Where a pupil is provided with such education or childcare as is referred to in paragraph 9, this requirement applies to the

extent the education authority consider necessary to ensure the provision of education for the pupil.

9. Each education authority is required to provide education and childcare, pursuant to appropriate local arrangements, for—
 - a. children of key workers, including NHS and social care staff, having regard to relevant guidance issued by the Scottish Ministers; and
 - b. vulnerable children and young people, including those who are eligible for free school meals, those with complex additional support needs, and at-risk children and young people, having regard to relevant guidance issued by the Scottish Ministers.
10. Where an education authority is unable to secure the continued provision of free school meals to eligible pupils, the authority is required to secure the provision of such reasonable alternatives (for example, other food or drink, or vouchers or cash) as it may determine.
11. In making the provision or carrying on the activities set out in this Direction, an education authority must have regard to the objective of preventing the transmission of coronavirus, to the welfare of children and young people and staff, and to the importance of continuity of education.

Ancillary provision

12. Each education authority is required to restrict access to all educational establishments under their management (with the exception of any further education institution), except in so far as access to such establishments may be required for or in connection with any purpose referred to above, or the following activities:
 - a. support for children and young people's transitions, including for children due to start P1 or S1 in August 2020, which may include attendance at a school (except a nursery school or nursery class);
 - b. the provision of early learning and childcare which is delivered fully outdoors, having regard to relevant guidance issued by the Scottish Ministers;
 - c. the provision of early learning and childcare and out of school care from 15 July 2020, subject to confirmation that such provision may resume being given by the Scottish Ministers no later than 9 July 2020;
 - d. activities relating to providing pupil estimates and grade rankings to the Scottish Qualifications Authority, including accessing pupil achievement evidence;
 - e. maintenance of buildings and facilities as considered appropriate by the education authority, or any use of buildings and facilities for, or in relation to, other aspects of the local authority's response to coronavirus.

Effect of Direction on other provisions

13. The Scottish Ministers in exercise of their power under paragraph 11(3) of schedule 17 direct that any failure to comply with a duty or time limit imposed under the following provisions is to be disregarded to the extent the failure would be attributable to this Direction:

- a. section 53(2) (provision of free school lunches) of the 1980 Act (but see also paragraph 10 above);
- b. section 4(1) (provision for additional support needs) of the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) (“the 2004 Act”);
- c. any time limit prescribed in or under the 2004 Act, except any time limit set out in the Additional Support for Learning (Placing Requests and Deemed Decisions) (Scotland) Regulations 2005 (S.S.I. 2005/515);
- d. section 47(1) (duty to secure provision of early learning and childcare) of the Children and Young People (Scotland) Act 2014 (asp 8).

14. The Scottish Ministers further direct that any failure to comply with the duty under section 30(1) of the 1980 Act (duty of parents to provide education for their children), insofar only as that duty is discharged by causing the child to attend a public school, is to be disregarded to the extent the failure would be attributable to this Direction.

Duration, review and publication

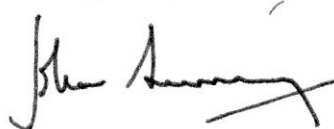
15. This Direction takes effect from 00:01 on 2 July 2020.

16. This Direction has effect until the earlier of the end of the period of 21 days beginning with the date on which it is given, or its revocation by a further Direction given by the Scottish Ministers.

17. In terms of paragraph 13(4) of schedule 17 of the 2020 Act this Direction will be reviewed within 21 days beginning with the date on which the Direction is given.

18. This Direction is published in accordance with paragraph 13(1) of schedule 17 of the 2020 Act.

Signed by



John Swinney MSP

**Deputy First Minister
and Cabinet Secretary
for Education and Skills**

| July 2020