

# Draft Education (Scotland) Bill

June 2018

# Draft Education (Scotland) Bill

[DRAFT 26 JUNE 2018]

==

## CONTENTS

Section

### PART 1

#### THE HEADTEACHERS' CHARTER

##### *The Headteachers' Charter*

- 1 The Headteachers' Charter
- 2 Role and functions of headteachers

##### *The Charter functions*

- 3 The Charter functions
- 4 The curriculum function
- 5 The improvement function
- 6 The budgetary function
- 7 The staffing function

##### *Other functions of headteachers*

- 8 Other staffing functions: education authority duties to involve headteachers
- 9 Delegation of Charter functions
- 10 Collaboration among headteachers and with others

##### *Education authority role in relation to Charter functions*

- 11 Duty on education authority to support headteachers and others exercising Charter functions
- 12 Education authority's liability for exercise of Charter functions
- 13 Education authority exercise of Charter functions

##### *Empowering schools schemes*

- 14 Empowering schools scheme
- 15 Empowering schools scheme: review

##### *Publication of information on school expenditure*

- 16 Education authority duty to publish information on school expenditure

*Guidance*

17 Guidance on exercise of Charter functions etc.

*General provisions*

18 Enforcement of duties of education authorities and other persons

19 Minor and consequential modifications

20 Interpretation of Part 1

**PART 2**

## REGIONAL IMPROVEMENT COLLABORATIVES

21 Regional Improvement Collaboratives

22 Regional improvement plans

23 Regional Improvement Collaboratives: guidance

24 Regional Improvement Collaboratives: consequential amendments

**PART 3**

## PARENTAL INVOLVEMENT AND ENGAGEMENT

25 Promotion of parental involvement and engagement

26 Functions of a Parent Council

27 Duties of education authority and headteacher to a Parent Council etc.

28 Duties of education authority and headteacher to parents generally

29 Parental involvement and engagement: complaints

30 Application of 2006 Act in relation to early learning and childcare

31 Guidance

32 Education authority's liability for exercise by headteachers of functions under the 2006 Act

33 Minor and consequential modifications

34 Interpretation of Part 3

**PART 4**

## PUPIL PARTICIPATION

35 Pupil participation functions

36 Guidance

37 Parent Council function in relation to pupil participation

**PART 5**

## GENERAL AND MISCELLANEOUS

38 Ancillary provision

39 Commencement

40 Short title

# Draft Education (Scotland) Bill

[DRAFT 26 JUNE 2018]

An Act of the Scottish Parliament to make provision for a Headteachers' Charter; to make provision for Regional Improvement Collaboratives; to amend the law on parental involvement and engagement in school education; to make provision to promote and support the participation of school pupils in school education; and for connected purposes.

## PART 1

### THE HEADTEACHERS' CHARTER

#### *The Headteachers' Charter*

#### **1 The Headteachers' Charter**

- (1) This Part of this Act is the Headteachers' Charter (the "Charter").
- (2) The Charter makes provision about certain matters in relation to public schools in Scotland, in particular, about certain functions of headteachers of those schools.

#### **2 Role and functions of headteachers**

- (1) The headteacher of a public school is the leader of learning and teaching for that school.
- (2) In fulfilling that role, each such headteacher is to exercise, on behalf of the education authority, the Charter functions in relation to the school.
- (3) Each education authority must delegate to the headteacher of each public school in their area such of the authority's functions as are necessary to enable headteachers to exercise the Charter functions.

#### *The Charter functions*

#### **3 The Charter functions**

- (1) The following functions are the Charter functions—
  - (a) the curriculum function,
  - (b) the improvement function,
  - (c) the budgetary function, and
  - (d) the staffing function.
- (2) In exercising the Charter functions, the headteacher must do so in a manner consistent with the education authority's statutory duties and contractual obligations as set out in the authority's empowering schools scheme by virtue of section 14(2)(d), including the duties under sections 3(2), 3B(2) and 3D of the Standards in Scotland's Schools etc. Act 2000 (the "2000 Act").

**4 The curriculum function**

- (1) The curriculum function is the function of—
  - (a) designing and developing the school curriculum, and
  - (b) facilitating learning and teaching in the school in accordance with that curriculum.
- (2) In exercising the curriculum function, the headteacher must act in accordance with the national framework on the curriculum in Scottish schools.

**5 The improvement function**

- (1) The improvement function is the function of—
  - (a) determining the improvement priorities for the school, and
  - (b) preparing the school improvement plan for the school under section 6 of the 2000 Act and reporting, under that section, on that plan.
- (2) In exercising the improvement function, the headteacher must do so with a view to achieving the strategic priorities set out in the National Improvement Framework.

**6 The budgetary function**

- (1) The budgetary function is the function of managing the budget for the headteacher's school.
- (2) In this section and in section 7, the budget for the headteacher's school is—
  - (a) the share of the education authority's budget for a financial year which is available for allocation to individual schools and is appropriated to the headteacher's school, arrived at through the processes set out in the education authority's empowering schools scheme by virtue of section 14(2)(a) and (b), and
  - (b) includes the staffing budget for the school.

**7 The staffing function**

- (1) The staffing function is the function of—
  - (a) designing and implementing the staffing structure within the headteacher's school, and
  - (b) selecting the teachers and other staff to be placed in the headteacher's school by the education authority.
- (2) In subsection (1)(a), "designing" the staffing structure of the school includes determining the number and type of promoted posts there are to be in the school.
- (3) In designing and implementing the staffing structure within the headteacher's school, the headteacher must have regard to the budget for the headteacher's school.

*Other functions of headteachers***8 Other staffing functions: education authority duties to involve headteachers**

- (1) Each education authority must ensure that the views of headteachers of public schools in the authority's area are sought and taken into account when exercising their functions relating to the recruitment and employment of teachers and other school staff.

- (2) Subsection (3) applies where an education authority is making a decision about the design of the recruitment process for teachers and for other school staff.
- (3) The education authority must—
  - (a) seek the views of headteachers of public schools in the authority's area about the design of the recruitment process, and
  - (b) have regard to any such views when making a decision relating to that design.

## **9 Delegation of Charter functions**

- (1) A headteacher may delegate the exercise of a Charter function to another member of the staff of the school.
- (2) But subsection (1) does not apply to so much of the staffing function as is mentioned in section 7(1)(a).
- (3) The delegation of any function under subsection (1) does not prevent the headteacher from exercising that function.

## **10 Collaboration among headteachers and with others**

- (1) Subject to subsection (2), where a headteacher is exercising their Charter functions, the headteacher must seek, where appropriate, to act collaboratively with—
  - (a) other headteachers,
  - (b) the school community,
  - (c) the relevant Regional Improvement Collaborative, and
  - (d) any other person the headteacher considers appropriate.
- (2) Where the headteacher is exercising the staffing function mentioned in section 7(1)(b), the headteacher must act collaboratively with the education authority for the headteacher's school.
- (3) In subsection (1)—
  - (a) the “relevant Regional Improvement Collaborative” is the Regional Improvement Collaborative of which the education authority for the headteacher's school is a member (and “Regional Improvement Collaborative” has the meaning given by section 3DA(3) of the 2000 Act),
  - (b) the “school community” is—
    - (i) the education authority for the headteacher's school,
    - (ii) the pupils of the school,
    - (iii) the parents of those pupils,
    - (iv) the teachers and other staff of the school.

*Education authority role in relation to Charter functions***11 Duty on education authority to support headteachers and others exercising Charter functions**

- (1) Each education authority must support headteachers of public schools in their area, and other members of school staff to whom headteachers delegate functions by virtue of section 9(1), in relation to the exercise of the Charter functions.
- (2) The education authority, in complying with subsection (1), must, in particular, take reasonable steps to ensure that headteachers and such other members of school staff have the resources, training and opportunities that are reasonably necessary to enable them to effectively exercise those functions.

**12 Education authority's liability for exercise of Charter functions**

The education authority remain liable for the exercise, by headteachers of public schools in their area, of the Charter functions.

**13 Education authority exercise of Charter functions**

- (1) Where subsection (2) or (3) applies, an education authority may exercise a Charter function instead of the headteacher.
- (2) This subsection applies where—
  - (a) the headteacher is temporarily unable to exercise the Charter function, and
  - (b) the exercise of that function has not been delegated to a member of the staff of the school by virtue of section 9(1).
- (3) This subsection applies where it is necessary to remedy or avoid the breach of an education authority's statutory duty or contractual obligation for the authority to exercise the Charter function.
- (4) The education authority may exercise a Charter function by virtue of subsection (1) only for so long as it is necessary to do so and only to the extent that it is necessary to do so.

*Empowering schools schemes***14 Empowering schools scheme**

- (1) Each education authority must prepare and publish a scheme (an “empowering schools scheme”) for all of the public schools in their area.
- (2) An empowering schools scheme is a scheme setting out—
  - (a) the process by which the authority's budget for school education is allocated between schools and central educational services,
  - (b) the process by which the part of the authority's budget allocated to schools (including the staffing budget) is appropriated to each individual school,
  - (c) how that appropriation is to be managed by headteachers by virtue of section 6(1),
  - (d) for the purposes of section 3(2), the statutory duties and contractual obligations to which the authority is subject,
  - (e) how the authority will comply with their duty under section 11 to support headteachers in the exercise of their Charter functions, and

- (f) any other matters the authority consider appropriate.
- (3) An empowering schools scheme may, in setting out the matters mentioned in subsection (2), set out those matters in relation to particular types of school as well as generally in relation to all schools.
- (4) Before publishing their empowering schools scheme, the education authority must—
  - (a) consult the persons mentioned in subsection (5), and
  - (b) have regard to any views expressed by those persons within the consultation period.
- (5) The persons are—
  - (a) headteachers of public schools in their area,
  - (b) other teachers and other staff of such schools,
  - (c) any trade union which appears to the education authority to be representative of the persons mentioned in paragraph (a) or (b),
  - (d) parents of pupils at such schools, and
  - (e) any other person the education authority consider appropriate.
- (6) In subsection (4)(b) and in section 15, the “consultation period” is such period as the education authority determine, being a continuous period of at least 6 weeks, the majority of which falls during term time.

## **15 Empowering schools scheme: review**

- (1) Each education authority must review their empowering schools scheme at least once during every 3 year period, beginning with the day the scheme is first published under section 14(1).
- (2) In carrying out the review, the education authority must—
  - (a) consult the persons mentioned in section 14(5), and
  - (b) have regard to any views expressed by those persons within the consultation period.
- (3) The education authority may, following a review, revise their empowering schools scheme and, if so, must publish the revised scheme.

### *Publication of information on school expenditure*

## **16 Education authority duty to publish information on school expenditure**

Each education authority must, as soon as reasonably practicable after the end of each financial year, publish information setting out, in relation to public schools in their area, the total expenditure attributable to each such school in that year.

### *Guidance*

## **17 Guidance on exercise of Charter functions etc.**

- (1) The Scottish Ministers may prepare and publish guidance in relation to—
  - (a) the Charter functions, and
  - (b) the functions of education authorities under this Part.

- (2) Headteachers must, in exercising their Charter functions, have regard to guidance under this section.
- (3) Education authorities must, in exercising their functions under this Part, have regard to guidance under this section.
- (4) Before publishing guidance under this section, the Scottish Ministers must consult the following persons about the proposed guidance—
  - (a) each education authority,
  - (b) headteachers of public schools,
  - (c) teachers and other staff of such schools,
  - (d) any trade union which appears to the Scottish Ministers to be representative of the persons mentioned in paragraph (b) or (c),
  - (e) the parents of any pupils of such schools that the Scottish Ministers think appropriate, and
  - (f) any other person that the Scottish Ministers think appropriate.
- (5) The Scottish Ministers may from time to time prepare and publish revised guidance.
- (6) Subsections (2) to (4) apply to revised guidance under subsection (5) as they apply to guidance under subsection (1).

*General provisions*

**18 Enforcement of duties of education authorities and other persons**

In section 70 (powers to enforce duty of education authorities and other persons) of the 1980 Act, after subsection (1) insert—

“(1A) Subsection (1) does not apply to headteachers of public schools.”.

**19 Minor and consequential modifications**

- (1) The 2000 Act is amended as follows.
- (2) In section 3(2) (education authority duty in relation to improving the quality of education), for “standards or education” substitute “standards of education”.
- (3) In section 6 (school improvement plans), in subsection (1)(a)—
  - (a) for “authority’s plan (or revised plan) under section 3F, report under section 3H and” substitute “National Improvement Framework and the authority’s”,
  - (b) “published by that date in the year in question” is repealed,
  - (c) for “education authority’s ambitions for the school” substitute “headteacher’s ambitions for the school (including the improvement priorities determined by the headteacher under section 5(1)(a) of the Education (Scotland) Act 2018)”.
- (4) Section 8 is repealed.
- (5) In section 13(1) (guidance to education authorities: raising standards and delegation schemes), for “sections 3 to 8” substitute “sections 3 to 7”.
- (6) The section title of section 13 becomes “Guidance to education authorities: raising standards”.

**20 Interpretation of Part 1**

- (1) Any expression used in this Part and in the 1980 Act or in the 2000 Act has the same meaning in this Part as it has in those Acts.
- (2) In this Part—
  - the “1980 Act” means the Education (Scotland) Act 1980,
  - the “2000 Act” means the Standards in Scotland’s Schools etc. Act 2000,
  - “budget for the headteacher’s school” has the meaning given by section 6(2),
  - “budgetary function” has the meaning given by section 6,
  - “the Charter” has the meaning given by section 1(1),
  - “Charter functions” are the functions set out in section 3,
  - “curriculum function” has the meaning given by section 4,
  - “education authority”, in relation to a school, means the education authority responsible for the management of that school,
  - “empowering schools scheme” means a scheme prepared and published under section 14(1), including a revised scheme published under section 15(3),
  - “improvement function” has the meaning given by section 5,
  - “National Improvement Framework” has the meaning given by subsection (1) of section 3C of the 2000 Act and includes a new National Improvement Framework published under subsection (6) of that section,
  - “Parent Council” and “Combined Parent Council” have the meanings given by the Scottish Schools (Parental Involvement) Act 2006,
  - “public school”—
    - (a) means any school under the management of an education authority,
    - (b) does not include a nursery school or a nursery class,
  - “staffing function” has the meaning given by section 7.

**PART 2**

## REGIONAL IMPROVEMENT COLLABORATIVES

**21 Regional Improvement Collaboratives**

- (1) The Standards in Scotland’s Schools etc. Act 2000 (the “2000 Act”) is amended as follows.
- (2) After section 3D (carrying out of education authority's duty under section 3(2)) insert—
 

**“3DA Regional Improvement Collaboratives**

  - (1) Each education authority must, for the purpose mentioned in subsection (4), collaborate with—
    - (a) one or more other education authorities, and
    - (b) the Scottish Ministers.
  - (2) The Scottish Ministers must, for that purpose, collaborate with each group of education authorities collaborating by virtue of subsection (1)(a).

- (3) Each group comprising—
  - (a) the education authorities collaborating with each other by virtue of subsection (1)(a), and
  - (b) the Scottish Ministers collaborating with those authorities by virtue of subsection (2),
 is a “Regional Improvement Collaborative”.
- (4) The purpose referred to in subsection (1) is endeavouring to secure improvement in the quality of school education which is provided in the schools managed by the education authority members of the Regional Improvement Collaborative—
  - (a) with a view to raising standards of education, and
  - (b) in a way designed to reduce inequalities of outcome for pupils mentioned in section 3A(2)(a) and (b).
- (5) Subsection (4) also applies in relation to school education which is provided by those education authority members in pursuance of any arrangements made, or entered into, by them under—
  - (a) section 14 of the 1980 Act, or
  - (b) section 35.
- (6) The members of a Regional Improvement Collaborative may, for the purpose mentioned in subsection (4), collaborate in the exercise of any of their functions relating to the provision of school education.
- (7) A Regional Improvement Collaborative may, for the purpose mentioned in subsection (4), collaborate with such other persons as the Collaborative considers appropriate (including with other Regional Improvement Collaboratives).
- (8) In this section, “school education” means school education directed as is described in section 2.
- (9) References in this section and in sections 3EA, 3GA and 14A to a Regional Improvement Collaborative are to the members of that Collaborative acting jointly.”.

## **22 Regional improvement plans**

- (1) The 2000 Act is further amended as follows.
- (2) After section 3E (annual plan: Scottish Ministers) insert—

### **“3EA Annual plan: Regional Improvement Collaboratives**

- (1) Each Regional Improvement Collaborative must, before the beginning of the planning period each year, prepare and publish a plan (a “regional improvement plan”) setting out—
  - (a) the steps that the Collaborative proposes to take during the planning period to collaborate for the purpose mentioned in section 3DA(4),
  - (b) the steps that the Collaborative proposes to take during the planning period to consult with—

- (i) headteachers of schools managed by the Collaborative's education authority members, and
    - (ii) other persons the Collaborative considers have an interest, about that collaboration,
  - (c) the steps that the Collaborative proposes to take during the planning period in pursuance of the National Improvement Framework, and
  - (d) any educational benefits for pupils that the Collaborative considers will result from taking those steps.
- (2) A Regional Improvement Collaborative must, in preparing its regional improvement plan, have regard to the school improvement plans prepared for the schools managed by the Collaborative's education authority members.
- (3) As soon as reasonably practicable after publishing a regional improvement plan, each Regional Improvement Collaborative must give a copy of the plan to the Scottish Ministers.
- (4) If a new National Improvement Framework is published by virtue of section 3C(6), each Regional Improvement Collaborative must—
- (a) review its regional improvement plan,
  - (b) make any revisions that are necessary in view of the new National Improvement Framework, and
  - (c) if the Collaborative makes any revisions under paragraph (b), publish a revised regional improvement plan and give a copy of it to the Scottish Ministers.
- (5) In subsection (1), “planning period” means the period of 12 months beginning with such day as the Scottish Ministers may prescribe by regulations.
- (6) Regulations under subsection (5) are subject to the negative procedure.”.
- (3) After section 3G (annual report: Scottish Ministers) insert—

**“3GA Annual report: Regional Improvement Collaboratives**

- (1) As soon as reasonably practicable after the end of the period to which a plan published under section 3EA(1) relates, each Regional Improvement Collaborative must prepare and publish a report setting out for that period—
- (a) the steps the Collaborative has taken to collaborate for the purpose mentioned in section 3DA(4),
  - (b) the steps the Collaborative has taken to consult as mentioned in section 3EA(1)(b),
  - (c) any steps the Collaborative has taken in pursuance of the National Improvement Framework, and
  - (d) any educational benefits for pupils that the Collaborative considers result from taking those steps.
- (2) As soon as reasonably practicable after publishing a report, a Regional Improvement Collaborative must give a copy of it to the Scottish Ministers.”.

**23 Regional Improvement Collaboratives: guidance**

- (1) The 2000 Act is further amended as follows.
- (2) After section 14 (guidance to education authorities as to home education) insert—

**“14A Guidance as to Regional Improvement Collaboratives**

- (1) The Scottish Ministers must prepare and publish guidance in relation to collaboration under section 3DA.
- (2) Guidance under this section may, in particular, include guidance on—
  - (a) the establishment of Regional Improvement Collaboratives,
  - (b) the operation of Regional Improvement Collaboratives, including—
    - (i) the leadership of and within Collaboratives,
    - (ii) the matters on which Collaboratives are to collaborate,
    - (iii) the ways in which collaboration is to take place within the Collaborative, including the sharing of best practice among the members of a Collaborative,
    - (iv) the matters on which Collaboratives may collaborate with others by virtue of section 3DA(7) and the ways in which that collaboration may take place, and
  - (c) the preparation by Regional Improvement Collaboratives of regional improvement plans.
- (3) Guidance under this section may be general or particular, and different guidance may be issued to different persons or for different purposes.
- (4) Education authorities must, in complying with their duty under section 3DA(1), have regard to guidance under this section.
- (5) Before publishing guidance under this section, the Scottish Ministers must consult the following persons about the proposed guidance—
  - (a) each education authority,
  - (b) headteachers of schools managed by education authorities,
  - (c) other teachers and other staff of such schools,
  - (d) any trade union which appears to the Scottish Ministers to be representative of the persons mentioned in paragraph (b) or (c),
  - (e) the parents of any pupils of such schools that the Scottish Ministers think appropriate, and
  - (f) any other persons that the Scottish Ministers think appropriate.
- (6) The Scottish Ministers may from time to time prepare and publish revised guidance.
- (7) Subsections (2) to (5) apply to revised guidance under subsection (6) as they apply to guidance under subsection (1).”.

**24 Regional Improvement Collaboratives: consequential amendments**

- (1) The 2000 Act is further amended as follows.

- (2) In section 13(1) (guidance to education authorities: raising standards and delegation schemes), before “of this Act” insert “(but not 3DA, 3EA and 3GA)”.
- (3) In section 58(1) (interpretation), after the definition of “pre-school children” insert—
  - ““Regional Improvement Collaborative” has the meaning given by section 3DA(3),”.

### PART 3

#### PARENTAL INVOLVEMENT AND ENGAGEMENT

#### **25 Promotion of parental involvement and engagement**

- (1) Section 1 (duty of Scottish Ministers and education authorities to promote parental involvement) of the Scottish Schools (Parental Involvement) Act 2006 (the “2006 Act”) is amended as follows.
- (2) For subsections (1) and (2) substitute—
  - “(1) It is the duty of the Scottish Ministers, in relation to the parents of pupils in attendance at public schools, to promote—
    - (a) the involvement of those parents in the education provided to those pupils by the schools, and
    - (b) the engagement of the parents of each such pupil with that pupil’s learning and development.
  - (2) It is the duty of an education authority, in relation to the parents of a pupil in attendance at a public school in the authority’s area, to promote—
    - (a) the involvement of those parents in the education provided by the school—
      - (i) to that pupil, and
      - (ii) to its pupils generally, and
    - (b) the engagement of those parents with that pupil’s learning and development.
- (2A) In subsection (2)—
  - (a) the reference in paragraph (a) to “involvement” includes—
    - (i) communication between the school and the parents of each pupil in attendance at the school about the education provided by the school to that pupil (for example, through the provision of information about the activities undertaken by the pupil and the pupil’s progress),
    - (ii) communication between the school and parents about the work of the school generally,
    - (iii) the participation of parents in relation to the making of decisions of the type mentioned in subsection (2B) in relation to the school (whether through participation in any Parent Council established for the school or otherwise), and
    - (iv) the provision of support by parents in relation to the work of the school generally,

- (b) the reference in paragraph (b) to “engagement” includes the provision of support by those parents to that pupil in relation to the pupil’s learning and development.
- (2B) The decisions referred to in subsection (2A)(a)(iii) are significant decisions about—
  - (a) the education provided by the school,
  - (b) such other matters in relation to the everyday running of the school as the education authority considers appropriate.
- (2C) In this section, “learning and development” includes learning and development activities which are connected to the education provided to the pupil by the school but undertaken independently of the school.”.

## **26 Functions of a Parent Council**

- (1) Section 8(1) (functions of a Parent Council) of the 2006 Act is amended as follows.
- (2) In paragraph (f), before sub-paragraph (i) insert—
  - “(ai) the Parent Forum,”.

## **27 Duties of education authority and headteacher to a Parent Council etc.**

- (1) Section 11 (duties of education authority and headteacher to a Parent Council etc.) of the 2006 Act is amended as follows.
- (2) For subsection (1) substitute—
  - “(1) An education authority are to provide to a Parent Council established for a school in their area such advice and information—
    - (a) as they consider the council reasonably requires in connection with the exercise of its functions,
    - (b) as the council reasonably requests from them on any matter.”.
- (3) After subsection (3) insert—
  - “(3A) The headteacher of a public school must, before making a decision of the type mentioned in subsection (3B)—
    - (a) consult any Parent Council established for the school in relation to the decision,
    - (b) decide (in collaboration with any Parent Council established for the school) whether to consult the school’s Parent Forum in relation to the decision, and
    - (c) have regard to any views expressed by the Parent Council and (where consulted) the Parent Forum.
  - (3B) The decisions referred to in subsection (3A) are significant decisions about—
    - (a) the education provided by the school,
    - (b) such other matters in relation to the everyday running of the school as the headteacher considers appropriate.”.
- (4) For subsection (6) substitute—

“(6) An education authority are to inform a Parent Council established for a school in their area about—

- (a) the Parent Council’s duty under section 8(1)(c),
- (b) the headteacher’s duties under subsection (3A), and
- (c) the school’s arrangements for consultation between parents and teachers.

(6A) Without prejudice to the generality of paragraph (b) of section 8(1), a Parent Council established for a school in the area of an education authority may make representations under that paragraph, concerning the arrangements mentioned in subsection (6)(c), to that authority or to the headteacher of the school.”.

(5) After subsection (7) insert—

“(8) Advice and information provided to a Parent Council under this section is to be provided in a way that is accessible to the council.”.

## **28 Duties of education authority and headteacher to parents generally**

(1) The 2006 Act is further amended as follows.

(2) In section 12 (duties of education authority to parents generally), after subsection (2) insert—

“(3) The headteacher of a public school must take such reasonably practicable steps as the headteacher considers appropriate to encourage and support members of the Parent Forum of the school to—

- (a) provide support to those members’ own children in relation to their learning and development,
- (b) engage with those children’s learning and development more generally.

(4) Advice and information provided to a parent under this section is to be provided in a way that is accessible to that parent.

(5) In this section, “learning and development” has the meaning given by section 1(2C).”.

(3) The title of section 12 becomes “Duties of education authority and headteacher to parents generally”.

## **29 Parental involvement and engagement: complaints**

In section 15(1) (complaints procedure) of the 2006 Act, for “by the authority of, or failure by them to exercise, any of their functions” substitute “of, or failure to exercise, any functions”.

## **30 Application of 2006 Act in relation to early learning and childcare**

After section 18 of the 2006 Act insert—

*“Early learning and childcare*

**18A Act to apply in respect of nursery classes in primary schools**

In this Act, “pupil” includes a child who is under school age only if that child is in attendance at a primary school (whether or not in a nursery class in such a school).

**18B Section 1 to apply in respect of certain other early learning and childcare**

- (1) Section 1 applies in relation to a child falling within subsection (2) as it applies to a pupil in attendance at a public school, with the modifications provided for in subsections (3) to (6).
- (2) A child falls within this subsection if the child is being provided with education by virtue of section 1(1) (as applied by section 1(1A)) of the Education (Scotland) Act 1980—
  - (a) at a nursery school managed by an education authority, or
  - (b) by an early learning and childcare provider.
- (3) In relation to a child falling within subsection (2)(a), “school” is to be read as including a nursery school managed by an education authority.
- (4) In relation to a child falling within subsection (2)(b), “school” is to be read (except in the cases mentioned in subsection (5)) as including an early learning and childcare provider.
- (5) In relation to a child falling with subsection (2)(b)—
  - (a) in section 1(2A)—
    - (i) in paragraphs (a)(ii) and (iv), “the work of the school generally” is to be read as “the work of the child’s early learning and childcare provider generally (in so far as that work is undertaken as part of arrangements entered into under section 35 of the Standards in Scotland’s Schools etc. Act 2000)”,
    - (ii) paragraph (a)(iii) is to be read as if the words “in relation to the school” were omitted,
  - (b) in section 1(2B)(b), “in relation to the everyday running of the school” is to be read as “connected to the provision of school education by virtue of arrangements entered into under section 35 of the Standards in Scotland’s Schools etc. Act 2000”.
- (6) In relation to a child falling within either subsection (2)(a) or (2)(b), section 1(2A)(a)(iii) is to be read as if the words from “(whether” to “otherwise)” were omitted.
- (7) In this section and section 18C, an “early learning and childcare provider” is a person with whom an education authority have entered into arrangements under section 35 of the Standards in Scotland’s Schools etc. Act 2000 for the provision by that person of education for children who are under school age or for pre-school children.

**18C Duty of education authority to parents generally**

- (1) It is the duty of an education authority to ensure that—
  - (a) the heads of nursery schools managed by the authority,

- (b) early learning and childcare providers,  
take the steps mentioned in subsection (2) in relation to the parents of children falling within section 18B(2).
- (2) Those steps are such reasonably practicable steps as the education authority consider appropriate to encourage and support those parents to—
  - (a) provide support to those parents' own children in relation to their learning and development,
  - (b) engage with those children's learning and development more generally.
- (3) In this section, "learning and development" has the meaning given by section 1(2C) (as modified by section 18B)."

### **31 Guidance**

For section 19 of the 2006 Act substitute—

#### **"19 Guidance**

- (1) The Scottish Ministers must issue guidance about the exercise of functions conferred by this Act on the persons mentioned in subsection (2).
- (2) Those persons are—
  - (a) education authorities,
  - (b) headteachers,
  - (c) Parent Councils and Combined Parent Councils.
- (3) Before issuing guidance under subsection (1), the Scottish Ministers must consult—
  - (a) each education authority,
  - (b) headteachers of public schools,
  - (c) Parent Councils and Combined Parent Councils,
  - (d) such parents of pupils in attendance at public schools as the Scottish Ministers consider appropriate,
  - (e) such pupils in attendance at public schools as the Scottish Ministers consider appropriate,
  - (f) such other persons as the Scottish Ministers consider appropriate.
- (4) A person exercising functions to which guidance under subsection (1) relates must, in doing so, have regard to that guidance.
- (5) The Scottish Ministers may from time to time issue revised guidance.
- (6) Subsections (3) and (4) apply to revised guidance under subsection (5) as they apply to guidance under subsection (1)."

### **32 Education authority's liability for exercise by headteachers of functions under the 2006 Act**

After section 19 (guidance) of the 2006 Act insert—

#### **"19A Education authority's liability for exercise of headteacher's functions**

An education authority remain liable for the exercise of functions conferred by this Act on the headteacher of a public school in their area.”.

### 33 Minor and consequential modifications

- (1) In section 6 (school improvement plans) of the Standards in Scotland’s Schools etc. Act 2000—
  - (a) in subsection (1)(a), for “strategy for parental involvement” substitute “strategy for parental involvement and engagement”,
  - (b) after subsection (6) insert—
    - “(7) In subsection (1), the “strategy for parental involvement and engagement” means the strategy prepared under section 2(1) of the Scottish Schools (Parental Involvement) Act 2006.”.
- (2) The 2006 Act is further amended in accordance with subsections (3) to (11).
- (3) In section 2 (strategies for parental involvement)—
  - (a) in subsection (1)—
    - (i) for ““strategy for parental involvement”” substitute ““strategy for parental involvement and engagement””,
    - (ii) after “sections 1” insert “(including as applied by section 18B)”,
    - (iii) for “and 12” substitute “, 12 and 18C”,
  - (b) in subsection (2), for “strategy for parental involvement” substitute “strategy for parental involvement and engagement”,
  - (c) in subsection (3), for paragraph (a), substitute—
    - “(a) are to review their strategy for parental involvement and engagement from time to time (but no later than 3 years after the previous review),”,
  - (d) in each of subsections (4) and (4A)(a) and (b), for “strategy for parental involvement” substitute “strategy for parental involvement and engagement”,
  - (e) subsection (6) is repealed.
- (4) The title of section 2 becomes “Strategies for parental involvement and engagement”.
- (5) In section 2A(1) (strategy for parental involvement: annual report), for “strategy for parental involvement” substitute “strategy for parental involvement and engagement”.
- (6) The title of section 2A becomes “Strategy for parental involvement and engagement: annual report”.
- (7) In section 8(1) (functions of a Parent Council), for paragraph (b) substitute—
  - “(b) to make representations—
    - (i) to the school’s headteacher and to the education authority about the arrangements made in the school in relation to the education authority’s duties under section 1(2),
    - (ii) to the education authority about the arrangements made in their area in relation to those duties,”.

- (8) In section 11 (duties of education authority and headteacher to a Parent Council etc.), in subsection (2)(a), for “to promote parental involvement in education there” substitute “in relation to the authority’s duties under section 1(2)”.
- (9) In section 13(2) (matters to which headteacher is to have regard in making report to Parent Council, Combined Parent Council or Parent Forum), in paragraph (a), for “development plan” substitute “improvement plan”.
- (10) In section 16(12) (application of certain provisions of the 2006 Act where Combined Parent Council established), after “Sections” insert “1(2A)(a)(iii)”.
- (11) In section 20(1) (interpretation), the words from “except” to the end are repealed.

### **34 Interpretation of Part 3**

In this Part, the “2006 Act” means the Scottish Schools (Parental Involvement) Act 2006.

## **PART 4**

### PUPIL PARTICIPATION

### **35 Pupil participation functions**

- (1) This section applies in relation to pupils in attendance at a public school in the area of an education authority.
- (2) The education authority must take such steps as are reasonable to—
  - (a) promote and support pupils’ participation in, and engagement with, the school education provided to those pupils,
  - (b) promote pupils’ participation in such other activities, not forming part of that education, as are considered appropriate.
- (3) The education authority must take such steps as are reasonable to promote and support pupil participation in relation to the making of decisions about—
  - (a) such matters relating to the school education provided by the school, and
  - (b) such other matters relating to the everyday running of the school,
 as are considered appropriate.
- (4) An education authority must, in carrying out their duties under subsections (2) and (3), ensure that the headteacher of each public school within the authority’s area takes such steps in relation to pupils in attendance at the headteacher’s school as the headteacher considers will contribute to those duties being complied with.
- (5) In this Part—
 

“pupils” includes children under school age only if those children are in attendance at a primary school (whether or not in a nursery class in such a school),

“school education” includes such provision as is made by an education authority in fulfilment of their duty under section 1(3)(b) of the 1980 Act.

**36 Guidance**

- (1) The Scottish Ministers must prepare and publish guidance about the exercise of the functions conferred by section 35.
- (2) Before publishing guidance under subsection (1), the Scottish Ministers must consult—
  - (a) each education authority,
  - (b) headteachers of public schools,
  - (c) such parents of pupils in attendance at public schools as the Scottish Ministers consider appropriate,
  - (d) such pupils in attendance at public schools as the Scottish Ministers consider appropriate,
  - (e) such other persons as the Scottish Ministers consider appropriate.
- (3) A person exercising functions to which guidance under subsection (1) relates must, in doing so, have regard to that guidance.
- (4) The Scottish Ministers may from time to time prepare and publish revised guidance.
- (5) Subsections (2) and (3) apply to revised guidance under subsection (4) as they apply to guidance under subsection (1).

**37 Parent Council function in relation to pupil participation**

In section 8 (functions of Parent Councils) of the 2006 Act, in subsection (1)(a)—

- (a) the word “and” immediately preceding sub-paragraph (iii) is repealed,
- (b) after that sub-paragraph, insert “and
  - (iv) to comply with the duties imposed by section 35 (pupil participation functions) of the Education (Scotland) Act 2018,”.

**PART 5**

## GENERAL AND MISCELLANEOUS

**38 Ancillary provision**

- (1) The Scottish Ministers may by regulations make such incidental, supplementary, consequential, transitional, transitory or saving provision as they consider appropriate for the purposes of or in connection with this Act.
- (2) Regulations under subsection (1) may—
  - (a) modify any enactment (including this Act),
  - (b) make different provision for different purposes.
- (3) Regulations under subsection (1)—
  - (a) that add to, replace or omit the text of an Act are subject to the affirmative procedure,
  - (b) are otherwise subject to the negative procedure.

**39 Commencement**

- (1) This section and sections 38 and 40 come into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may appoint by regulations.
- (3) Regulations under subsection (2) may—
  - (a) include transitional, transitory or saving provision,
  - (b) make different provision for different purposes.

**40 Short title**

The short title of this Act is the Education (Scotland) Act 2019.



Scottish Government  
Riaghaltas na h-Alba  
gov.scot

© Crown copyright 2018

**OGL**

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at [www.gov.scot](http://www.gov.scot)

Any enquiries regarding this publication should be sent to us at  
The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

ISBN: 978-1-78781-068-6 (web only)

Published by The Scottish Government, June 2018

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA  
PPDAS435946 (06/18)

W W W . G O V . S C O T