



# Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002

2002 asp 12

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 28th March 2002 and received Royal Assent on 30th April 2002**

An Act of the Scottish Parliament to require bodies responsible for schools to prepare and implement strategies relating to the accessibility, for pupils with a disability, of school education; and to make provision in respect of the educational records of school pupils.

## *Accessibility strategies*

### **1 Accessibility strategies**

- (1) Each responsible body shall prepare in relation to the school, or schools, in respect of which they are the responsible body—
  - (a) an accessibility strategy; and
  - (b) at such times as may by regulations be prescribed, further such strategies, and the strategy (or combination of strategies) in force from time to time is referred to in the following provisions of this section and in sections 2 and 3 of this Act as an “accessibility strategy”.
- (2) An accessibility strategy is a strategy for, over a period prescribed by regulations—
  - (a) increasing the extent to which pupils with a disability can participate in the school's curriculum or, as the case may be, the schools' curriculums;
  - (b) improving the physical environment of the school, or schools, in relation to which the strategy is prepared for the purpose of increasing the extent to which pupils with a disability are able to take advantage of education and associated services provided or offered by such school or schools; and
  - (c) improving communication with pupils with a disability and, in particular, improving the communication to pupils with a disability—
    - (i) within a reasonable time; and

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(ii) in ways which are determined after taking account of their disabilities and any preferences expressed by them or their parents, of information which is provided in writing for pupils, or persons who may be admitted as pupils, who do not have a disability.

- (3) An accessibility strategy shall be in writing.
- (4) Each responsible body shall keep their accessibility strategy under review during the period to which it relates and, if necessary, revise it.
- (5) It is the duty of each responsible body to implement their accessibility strategy.
- (6) The Scottish Ministers may by regulations prescribe services which shall, or services which shall not, be regarded for the purposes of this section as being—
  - (a) education; or
  - (b) an associated service.

## **2 Accessibility strategies: education of children under school age etc. outwith schools**

- (1) Each accessibility strategy prepared by an education authority shall, in relation to each place, other than a school, at which the authority provide school education for pupils, include a strategy for, over a period prescribed by regulations—
  - (a) increasing the extent to which pupils with a disability can participate in the school education provided at that place or those places;
  - (b) improving the physical environment of the place, or places, in relation to which the strategy is prepared for the purpose of increasing the extent to which pupils with a disability are able to take advantage of education and associated services provided or offered at such place or places; and
  - (c) improving communication with pupils with a disability and, in particular, improving the communication to pupils with a disability—
    - (i) within a reasonable time; and
    - (ii) in ways which are determined after taking account of their disabilities and any preferences expressed by them or their parents, of information which is provided in writing for pupils, or persons who may be admitted as pupils, who do not have a disability.
- (2) In subsection (1) above, the references to pupils and to pupils with a disability are references only to persons of that description—
  - (a) who are under school age; or
  - (b) who are of school age and are travelling people.
- (3) In subsection (2) above, “travelling people” means persons of nomadic habit of life, whatever their race or origin.

## **3 Accessibility strategies: procedure**

- (1) In preparing their accessibility strategy, a responsible body shall—
  - (a) have regard to the need to allocate adequate resources for implementing the strategy;
  - (b) consult such children, parents and young persons as they think fit; and
  - (c) have regard to any guidance issued by the Scottish Ministers as to—

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- (i) the content of an accessibility strategy;
  - (ii) the form in which it is to be produced; and
  - (iii) the persons to be consulted in its preparation.
- (2) Any guidance issued for the purposes of subsection (1)(c)(iii) above may refer to persons other than persons whom a responsible body is required, by subsection (1)(b) above, to consult.
- (3) A responsible body shall have regard to any guidance issued by the Scottish Ministers as to compliance with the requirements of section 1(4) of this Act.
- (4) A responsible body shall—
  - (a) as soon as they have prepared an accessibility strategy, provide the Scottish Ministers with a copy of it; and
  - (b) on being so required by the Scottish Ministers at any time after the body have revised their accessibility strategy, provide them with a copy of the strategy as revised.
- (5) If requested to do so, the responsible body shall—
  - (a) make a copy of their accessibility strategy available for inspection at such reasonable times as they may determine; and
  - (b) subject to subsection (6) below, make the information in their accessibility strategy available in any alternative form stipulated by the person requesting it.
- (6) For the purposes of subsection (5)(b) above, “alternative form” means any form or forms, other than writing, as may be prescribed by regulations.

#### *Educational records*

### **4 Educational records**

- (1) The Scottish Ministers may, by regulations, provide as to the keeping, transferring and disclosure of educational records about pupils.
- (2) The regulations may—
  - (a) define “educational records” for the purposes of the regulations;
  - (b) provide as to the supply of copies of such of those records to such persons, and in such circumstances, as may be determined by or under the regulations; and
  - (c) authorise persons who supply those copies to charge such fees as they think fit (not exceeding the cost of supply) in respect of each copy so supplied.

#### *General*

### **5 Regulations**

- (1) Any power conferred by this Act on the Scottish Ministers to make regulations is exercisable by statutory instrument; and any such statutory instrument is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (2) Regulations under this Act may make different provision for different cases and for different classes of case.

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- (3) Before making any regulations under this Act, the Scottish Ministers shall consult such persons as they think fit about the proposed regulations.

## 6 Interpretation

- (1) In this Act—

“the 1980 Act” means the Education (Scotland) Act 1980 (c.44);

“pupil with a disability” means a person who has a disability for the purposes of the [F1Equality Act 2010] who—

- (a) is a pupil;
- (b) may be admitted to a school as a pupil; or
- (c) being a child who is under school age, may be provided with school education at a place other than a school; and

“responsible body” means—

- (a) in relation to a school which is managed by an education authority, the education authority;
- (b) in relation to an independent school, the proprietor;
- (c) in relation to a school in respect of which the managers are for the time being receiving grants under section 73(c) or (d) of the 1980 Act, the managers of the school; and
- (d) in relation to a self-governing school, the board of management.

- (2) Any expression used in this Act and in the 1980 Act has, unless the contrary intention appears, the same meaning in this Act as in that Act.

- (3) The Scottish Ministers may, by order made by statutory instrument, repeal paragraph (d) of the definition of “responsible body” in subsection (1) above.

### Textual Amendments

- F1** Words in s. 6 substituted (1.10.2010) by 2010 c. 15, Sch. 26 Pt. 2 para. 101 (as inserted by [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010](#) (S.I. 2010/2279), art. 1(2), **Sch. 1 para. 6**) (see S.I. 2010/2317, art. 2)

## 7 Short title and commencement

- (1) This Act may be cited as the Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002.

- (2) Sections 1 to 3 above shall come into force on such day as the Scottish Ministers may by order made by statutory instrument appoint; and different days may be so appointed for different purposes

### Subordinate Legislation Made

- P1** [S. 7\(2\)](#) power fully exercised: 15.8.2002 appointed by [S.S.I. 2002/367](#), **art. 2**

**Changes to legislation:**

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