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## **Education and Skills Committee Comataidh Foghlam is Sgilean**

# **Subordinate Legislation**



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# Education and Skills Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Education and Skills.



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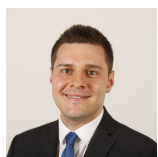
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Scottish National Party



**John Scott**  
Scottish Conservative  
and Unionist Party



**Liz Smith**  
Scottish Conservative  
and Unionist Party



**Ross Thomson**  
Scottish Conservative  
and Unionist Party

# Report

1. At its meeting on 22 February 2017, the Education and Skills Committee considered the Schools (Consultation) (Scotland) Act 2010 (Modification) Regulations 2017 [draft] and the Continuing Care (Scotland) Amendment Order 2017 [draft].

# The Schools (Consultation) (Scotland) Act 2010 (Modification) Regulations 2017 [draft]

2. The Regulations apply for an open-ended extension to the existing arrangement whereby proposals to establish a new nursery school or new nursery class and proposals to relocate a nursery school or nursery class do not require to comply with statutory consultation requirements within the Schools (Consultation) 2010 Act.
3. The [Policy note](#) states that:
  - ” The Children and Young People (Scotland) Act 2014 (“the 2014 Act”) introduced a requirement on education authorities to ensure that 600 hours of Early Learning and Childcare (ELC) in each year was made available for all eligible pre-school children. This requirement came into effect on 1st August 2014. In order for education authorities to be able to comply with this requirement, statutory consultation requirements under Section 1(2) of the 2010 Act were suspended from 1 August 2014 until 31 March 2017 in relation to the establishment of new nurseries and new nursery classes. This was achieved by the Children and Young People (Scotland) Act 2014 (Ancillary Provision) Order 2014/132 (“the Ancillary Order”). However, the suspension provided for in this Ancillary Order is due to expire on 31st March 2017. <sup>1</sup>
4. The [Delegated Powers and Law Reform Committee drew this instrument to the Education and Skills Committee's attention in its recent report.](#) <sup>2</sup>
5. The Education and Skills Committee took evidence on 22 February 2017 on the Regulations from—

Mark McDonald, Minister for Childcare and Early Years, and Jeff Maguire, Policy Manager, Scottish Government.
6. The Committee raised a number of points in relation to the Regulations and these can be viewed in the [Official Report of the meeting.](#) <sup>3</sup>
7. Mark McDonald, Minister for Childcare and Early Years, moved—

S5M-3791— That the Education and Skills Committee recommends that the Schools (Consultation) (Scotland) Act 2010 (Modification) Regulations 2017 [draft] be approved.
8. The motion was agreed to.

# The Continuing Care (Scotland) Amendment Order 2017 [draft]

9. The [Policy note on the Order](#) states that:
  - ” This instrument amends article 2 of the Continuing Care (Scotland) Order 2015 (S.S.I. 2015/158) with the effect that the higher age limit for “eligible persons” specified for the purposes of section 26A(2)(b) of the 1995 Act is nineteen years of age (increased from eighteen). This means that an “eligible person” for the purposes of the duty on local authorities to provide continuing care under section 26A of the 1995 Act is a person who is at least sixteen years of age and who has not yet reached the age of nineteen. <sup>4</sup>
10. The Delegated Powers and Law Reform Committee had no comments to make on the Order.
11. On 22 February 2017, the Education and Skills Committee took evidence on the Continuing Care (Scotland) Amendment Order 2017 [draft] from—  
  
Mark McDonald, Minister for Childcare and Early Years, Scottish Government.
12. Mark McDonald, Minister for Childcare and Early Years, moved—  
  
S5M-3892 —That the Education and Skills Committee recommends that the Continuing Care (Scotland) Amendment Order 2017 [draft] be approved.
13. The motion was agreed to.



- [1] Scottish Government. (2017). POLICY NOTE THE SCHOOLS (CONSULTATION) (SCOTLAND) ACT 2010 (MODIFICATION) REGULATIONS 2017 SSI 2017/xxx. Retrieved from [http://www.legislation.gov.uk/sdsi/2017/9780111034361/pdfs/sdsipn\\_9780111034361\\_en.pdf](http://www.legislation.gov.uk/sdsi/2017/9780111034361/pdfs/sdsipn_9780111034361_en.pdf) [accessed 28 February 2017]
- [2] Delegated Powers and Law Reform Committee. (2017, February 1). Subordinate Legislation. Retrieved from <https://sp-bpr-en-prod-cdnep.azureedge.net/published/DPLR/2017/2/1/Subordinate-Legislation-1/7th.pdf> [accessed 28 February 2017]
- [3] Education and Skills Committee. (n.d.) Official Report (22 February 2017). Retrieved from <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=10808&mode=pdf> [accessed 1 March 2017]
- [4] Scottish Government. (2017, January). POLICY NOTE THE CONTINUING CARE (SCOTLAND) AMENDMENT ORDER 2017 SSI 2017/. Retrieved from [http://www.legislation.gov.uk/sdsi/2017/9780111034491/pdfs/sdsipn\\_9780111034491\\_en.pdf](http://www.legislation.gov.uk/sdsi/2017/9780111034491/pdfs/sdsipn_9780111034491_en.pdf) [accessed 28 February 2017]

