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

# **Subordinate Legislation considered by the Education and Skills Committee on 22 and 29 May 2019**



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# Contents

<b>Introduction</b>	<b>1</b>
<b>Children and Young People (Scotland) Act 2014 (Modification) (No. 1) Order 2019</b>	<b>2</b>
Instrument overview	2
Delegated Powers and Law Reform Committee consideration	2
Education and Skills Committee consideration	2
<b>Children and Young People (Scotland) Act 2014 (Modification) (No. 2) Order 2019</b>	<b>4</b>
Instrument overview	4
Delegated Powers and Law Reform Committee consideration	4
Education and Skills Committee consideration	4
<b>Head Teachers Education and Training Standards (Scotland) Regulations 2019</b>	<b>6</b>
Instrument overview	6
Delegated Powers and Law Reform Committee consideration	6
Education and Skills Committee consideration	7

# Education and Skills Committee

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



<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/education-committee.aspx>



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**Tavish Scott**  
Scottish Liberal  
Democrats



**Liz Smith**  
Scottish Conservative  
and Unionist Party

# Introduction

1. At its meetings on 22 and 29 May 2019, the Education and Skills Committee considered three pieces of subordinate legislation subject to the affirmative procedure. This report summarises the purpose and scrutiny of these instruments as well as confirming the Committee's decision on each instrument.

# **Children and Young People (Scotland) Act 2014 (Modification) (No. 1) Order 2019**

## **Instrument overview**

2. The Children and Young People (Scotland) Act 2014 (Modification) (No. 1) Order 2019 was laid by the Scottish Government on 3 May 2019. It is subject to the affirmative procedure.
3. This Order modifies the Children and Young People (Scotland) Act 2014 ("the 2014 Act"). Part 6 of the 2014 Act makes provision for early learning and childcare. Article 2(2) modifies section 51(1)(b) of the 2014 Act (method of delivery of early learning and childcare) to require that early learning and childcare made available by education authorities is by way of sessions which are each of 10 hours or less in duration.

## **Delegated Powers and Law Reform Committee consideration**

4. The Delegated Powers and Law Reform Committee reported on the instrument on [14 May 2019](#) and determined that there were no issues within its remit to draw to the attention of the Parliament.

## **Education and Skills Committee consideration**

5. At its meeting on [22 May 2019](#), the Committee considered the Children and Young People (Scotland) Act 2014 (Modification) (No. 1) Order 2019. It was considered alongside the Children and Young People (Scotland) Act 2014 (Modification) (No. 2) Order 2019, which is covered elsewhere in this report.
6. The Minister for Children and Young People, Maree Todd MSP, outlined the purpose of the Children and Young People (Scotland) Act 2014 (Modification) (No. 1) Order 2019:

- ” The first order provides for changes to the maximum and minimum session lengths for the delivery of funded ELC, which are currently set at a minimum session length of 2.5 hours and a maximum session length of eight hours. The changes in the order will extend the maximum session length to 10 hours and will remove the minimum session length. The changes will support our efforts to ensure that Scotland's ELC offer is sufficiently flexible for families. Extending the maximum session length means that families can have the option of a full 10-hour session of funded ELC that is more closely tied to the working day. We understand that 10-hour sessions are commonplace for many families and that those who can do so purchase the additional two hours of ELC as wraparound care. We would like to ensure that parents can access the entirety of 10-hour sessions through their funded entitlement. The order removes the minimum session length, because we consider that to be unnecessary in the context of the expanded entitlement. Care Inspectorate registration requirements will continue to ensure that a high-quality service is delivered, regardless of the session length.

Source: *Education and Skills Committee 22 May 2019 [Draft]*, Maree Todd (Minister for Children and Young People), Col. 3: <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=12118&mode=pdf>

7. The Committee had no questions on the content of the instrument.

8. Maree Todd MSP, Minister for Children and Young People, moved -

S5M-17294 - That the Education and Skills Committee recommends that the Children and Young People (Scotland) Act 2014 (Modification) (No. 1) Order 2019 (SSI 2019/draft) be approved.

The motion was agreed to.



# Children and Young People (Scotland) Act 2014 (Modification) (No. 2) Order 2019

## Instrument overview


9. The Children and Young People (Scotland) Act 2014 (Modification) (No. 2) Order 2019 was laid by the Scottish Government on 3 May 2019. It is subject to the affirmative procedure.
10. This Order modifies the Children and Young People (Scotland) Act 2014 ("the 2014 Act"). Part 6 of the 2014 Act makes provision for early learning and childcare. Article 2(2) modifies section 48(1)(a) of the 2014 Act (mandatory amount of early learning and childcare) to increase the mandatory amount of early learning and childcare from 600 hours to 1140 hours each year.

## Delegated Powers and Law Reform Committee consideration

11. The Delegated Powers and Law Reform Committee reported on the instrument on [14 May 2019](#) and determined that there were no issues within its remit to draw to the attention of the Parliament.

## Education and Skills Committee consideration

12. At its meeting on [22 May 2019](#), the Committee considered the Children and Young People (Scotland) Act 2014 (Modification) (No. 2) Order 2019. It was considered alongside the Children and Young People (Scotland) Act 2014 (Modification) (No. 1) Order 2019, which is covered elsewhere in this report.
13. The Minister for Children and Young People, Maree Todd MSP, outlined the purpose of the instrument, confirming:

 The second order proposes that the mandatory amount of funded ELC to which eligible children are entitled be changed in legislation from 600 hours to 1,140 hours. Subject to parliamentary approval, that will come into force from 1 August 2020.

Source: *Education and Skills Committee 22 May 2019 [Draft]*, Maree Todd (Minister for Children and Young People), Col. 3: <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=12118&mode=pdf>

14. The Committee asked the Minister about the entitlement to funded childcare for children whose entry to Primary 1 is deferred, and whether the Scottish Government had conducted an equality impact assessment. The Minister committed to work with COSLA to analyse the number of children affected and whether they are provided with funded childcare, and to report back to the Committee on this matter.

15. Maree Todd MSP, Minister for Children and Young People, moved -

S5M-17295- That the Education and Skills Committee recommends that the Children and Young People (Scotland) Act 2014 (Modification) (No. 2) Order 2019 (SSI 2019/draft) be approved.

The motion was agreed to.

# Head Teachers Education and Training Standards (Scotland) Regulations 2019

## Instrument overview

16. The Head Teachers Education and Training Standards (Scotland) Regulations 2019 was laid by the Scottish Government on 7 May 2019. It is subject to the affirmative procedure.
17. Regulation 2(1) provides that only persons falling within section 90A(2) of the Education (Scotland) Act 1980 (c.44) ("the 1980 Act") may be appointed by education authorities or managers of grant-aided schools as head teachers of schools. Regulation 2(2) provides that a person falls within section 90A(2) of the 1980 Act if the person has achieved the Standard for Headship.

"The Standard for Headship" is defined in regulation 1(2) as meaning the professional standard awarded to a person by the General Teaching Council for Scotland ("the GTCS"), pursuant to the GTCS's functions under article 6 of the Public Services Reform (General Teaching Council for Scotland) Order 2011 (S.S.I. 2011/215) and rules made under article 15 of that Order. This instrument comes into force on 1 August 2010 and regulation 2 applies to appointments made on or after that date.

Regulation 3 provides for exemptions from the general requirement in regulation 2(1) that only persons who have achieved the Standard for Headship may be appointed as head teachers by education authorities or managers of grant-aided schools.

Regulation 3(1) provides that the general requirement does not apply to a person who on or before 1 August 2020 held a permanent appointment as a head teacher of a public school, a grant-aided school or an independent school.

Regulation 3(2) provides that the general requirement in regulation 2(1) does not prevent the appointment of a person as a head teacher, by an education authority or manager of a grant aided school, on or after the 1 August 2020 where that person has not yet achieved the Standard for Headship provided the appointment does not exceed 30 months.

## Delegated Powers and Law Reform Committee consideration

18. Delegated Powers and Law Reform Committee reported on the instrument on [14 May 2019](#) and determined that there were no issues within its remit to draw to the attention of the Parliament.

## Education and Skills Committee consideration

19. At its meeting on [29 May 2019](#), the Committee considered the Head Teachers Education and Training Standards (Scotland) Regulations 2019.
20. The Cabinet Secretary for Education and Skills, John Swinney MSP, outlined the purpose of the instrument:

” The draft regulations that are before the committee have been drafted to provide that, from 1 August 2020, only headteachers who have been awarded the standard for headship can be permanently appointed as a headteacher in an education authority or grant-aided school. There are two exemptions. The first applies to any permanent headteacher who has been appointed to a position in an education authority or grant-aided school or an independent school on or prior to 1 August 2020. For individuals in that category, holding of the standard for headship is not a requirement. The second exemption enables education authorities or managers of grant-aided schools to appoint a person who has not attained the standard for headship to a headteacher post on a temporary basis, for a period not exceeding 30 months after 1 August 2020.

*Source: Education and Skills Committee 29 May 2019 [Draft], John Swinney (The Deputy First Minister and Cabinet Secretary for Education and Skills), Col. 3: <http://www.parliament.scot/parliamentary/business/report.aspx?r=12127&mode=pdf>*
21. In response to questions from the Committee, the Cabinet Secretary confirmed that there is "no requirement for an existing headteacher to undertake the standard", and that work is ongoing to address workload issues. The Cabinet Secretary also confirmed that "eligibility for the programme is determined by local authorities, which identify candidates as part of their workforce planning".
22. John Swinney MSP, Cabinet Secretary for Education and Skills, moved-  
  
S5M-17293 - That the Education and Skills Committee recommends that the Head Teachers Education and Training Standards (Scotland) Regulations 2019 [draft] be approved.

The motion was agreed to.

