

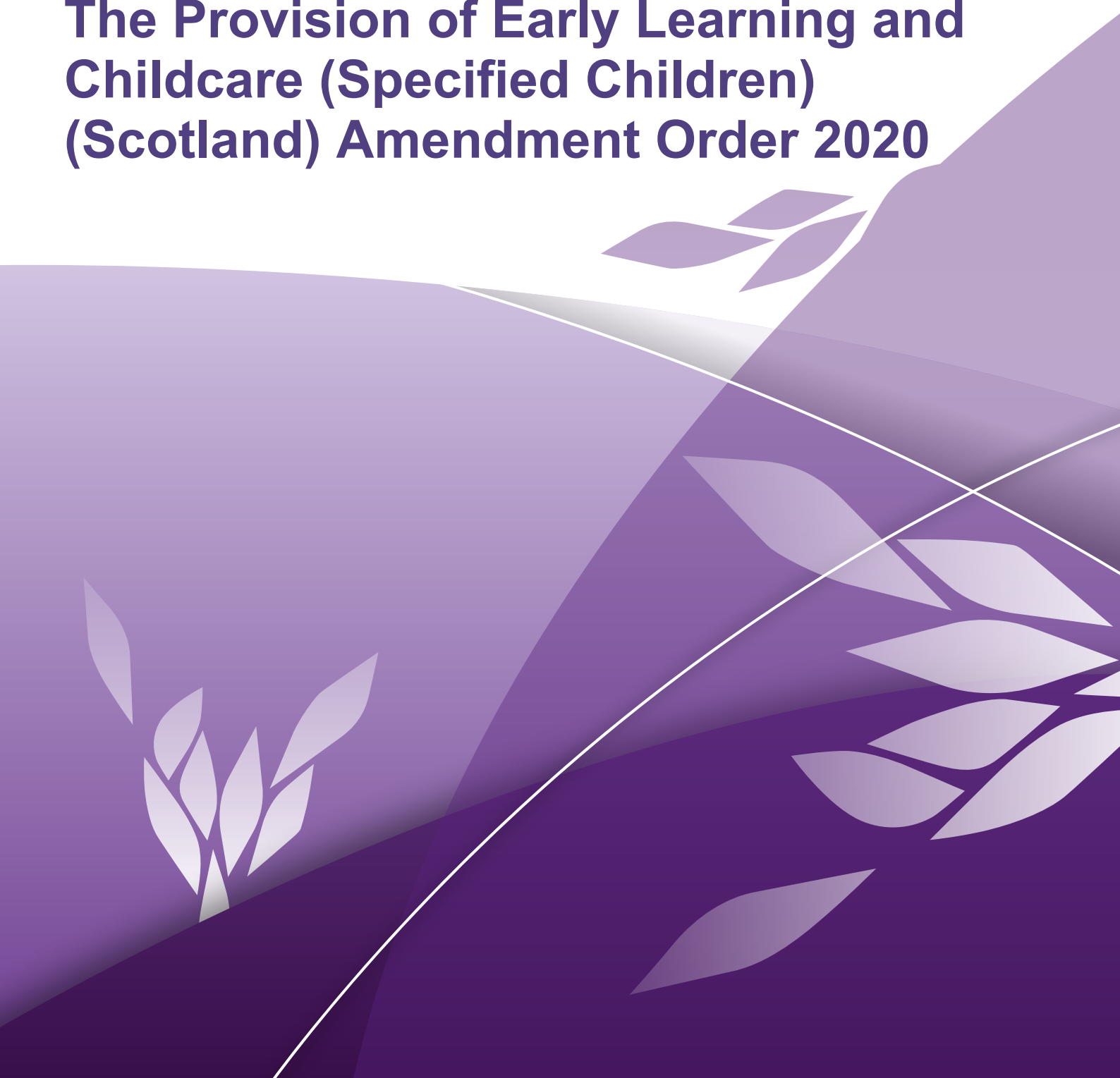


The Scottish Parliament
Pàrlamaid na h-Alba

Published 29 January 2021
SP Paper 918
1st Report, 2021 (Session 5)

Education and Skills Committee Comataidh Foghlam is Sgilean

The Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2020



Published in Scotland by the Scottish Parliamentary Corporate Body.

All documents are available on the Scottish
Parliament website at:
[http://www.parliament.scot/abouttheparliament/
91279.aspx](http://www.parliament.scot/abouttheparliament/91279.aspx)

For information on the Scottish Parliament contact
Public Information on:
Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@parliament.scot

Contents

Introduction	1
Instrument overview	2
Delegated Powers and Law Reform Committee	2
Education and Skills Committee Consideration	2
Conclusion	5
Bibliography	6

Education and Skills Committee

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



es.committee@parliament.scot



0131 348 5204

Committee Membership



Convener
Clare Adamson
Scottish National Party



Deputy Convener
Daniel Johnson
Scottish Labour



George Adam
Scottish National Party



Kenneth Gibson
Scottish National Party



Iain Gray
Scottish Labour



Jamie Greene
Scottish Conservative
and Unionist Party



Ross Greer
Scottish Green Party



Rona Mackay
Scottish National Party



Oliver Mundell
Scottish Conservative
and Unionist Party



Alex Neil
Scottish National Party



Beatrice Wishart
Scottish Liberal
Democrats

Introduction

1. At its meeting on 27 January 2021, the Education and Skills Committee considered a piece of subordinate legislation which is subject to the affirmative procedure. This report summarises the purpose and the scrutiny of the instrument as well as confirming the Committee's decision.

Instrument overview

2. [The Provision of Early Learning and Childcare \(Specified Children\) \(Scotland\) Amendment Order 2020 \(draft\)](#) was laid by the Scottish Government on 7 December 2020.

The purpose of the instrument as listed in the Policy Note is to amend the Provision of Early Learning and Childcare (Specified Children) Order 2014 (“the 2014 Order”) to amend the description of an eligible pre-school child so that it includes children whose 5th birthday falls in the period beginning on 1 August and ending on 31 December.

Delegated Powers and Law Reform Committee

3. The Delegated Powers and Law Reform Committee considered the instrument on [15 December 2020](#) and made no comment.

Education and Skills Committee Consideration

4. At its meeting on 27 January 2021, the Committee considered the Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2020 (Draft).
5. The Minister for Children and Young People, Maree Todd MSP, outlined the purpose of the Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2020 (Draft), confirming that the instrument would take effect from August 2023 and stating that the legislation will allow parents to make decisions about deferral based on the needs of their child, without facing uncertainty about financial barriers to ELC.
6. The Minister also stated that the Scottish Government is working with as many authorities as possible, within the funding available, and has established a deferral working group to gather and share useful information. The Minister expected, in the interim, that any decisions made by local authorities on deferral funding requests to continue to be based on the wellbeing of the individual child.
7. Committee members asked the Minister why the instrument would not take effect until 2023. The Minister replied:

” You will remember that Parliament asked us to legislate in this parliamentary session, and that is precisely what we are doing. We set a realistic timetable for the implementation of extended eligibility for all deferrals to ensure that the roll-out of 1,140 hours of funded ELC to all eligible children is not put at risk. It is just not possible for us to expect all local authorities to implement the new commitment at the same time as they are rolling out the 1,140 hours against the continued backdrop of the challenges that are imposed by the Covid-19 response. Therefore, we have set a realistic timetable for full implementation of extended eligibility for all deferrals.

It is important to note that the policy has the potential to have a significant impact on the number of new children who attend ELC. The total number of children who will become newly eligible for funded ELC in 2023 is around 20,000. Our pilot approach will help us to better understand the likely impact on numbers and to ensure that we have the space available in our ELC settings. We will work with all local authorities to consider what that means for their capacity.

Source: Education and Skills Committee 27 January 2021 [Draft], Maree Todd, contrib. 7¹

8. When asked about further details of the pilot approaches and funding, the Minister replied:

” This year, we are introducing only the pilots that have been announced, but we are considering expanding the pilots in the second year—next year. Our challenge is that we do not understand how the change will influence parental behaviour. We know that 20,000 children will become newly eligible, but we do not think that all parents with children in that age bracket will choose to defer. Estimating the deferral rates is really challenging, and we only have data for January and February at the moment. We cannot determine the relative importance of the offer of funded provision versus parental choice.

A further complication is that the extension of ELC—the expansion to 1,140 hours, which looks like a primary school week—will possibly influence parental choice for children who are born in January and February as deferral becomes more the norm, even though there will be no change in provision for those children. We are keen to understand the behavioural changes involved with the change before we continue the roll-out.

In terms of funding, I spoke to members of the Give Them Time campaign on 3 December. I met them, and that was one of their asks. I will certainly seek to ensure that, where possible, children are able to defer when their parents choose that. However, I refer back to the process: the child’s parents should be involved in the decision making, and the decision should be made in the best interests of the child. As things stand, the process should ensure that parents who seek deferral for their children are able to access it.

Source: Education and Skills Committee 27 January 2021 [Draft], Maree Todd, contrib. 12²

9. The Minister was asked to clarify whether the issue was capacity or funding. The Minister said:

” The main challenge in introducing the policy is capacity. When we confirmed the new date of August this year for the roll-out of the expansion of 1,140 hours, careful consideration was given to deciding on a date that could be reasonably met, and which would not require approaches to be taken that would provide less flexibility for families and a poorer experience for children until longer-term solutions could be delivered.

We know that a change to ELC availability, such as extending the obligation to fully fund deferrals, could impact on capacity locally, and we have therefore set a realistic timetable for full roll-out. In order to ensure that the policy is implemented smoothly, we have in the interim established a pilot scheme to monitor the impact of the policy, to better understand the likely uptake of the entitlement and to inform the wider roll-out of the legislation.

The financial impacts are not insignificant. The challenge is that we are currently unable to estimate those, so when we incorporate the additional duty, we will build that into the multi-year funding agreement that we reach with local authorities. There is real uncertainty around the uptake and therefore the annual additional revenue that is required; it could range from £33 million to £82.5 million per year. A pilot approach gives us the opportunity to monitor the likely uptake of the entitlement and improve our understanding of the consequent impact on available capacity and the financial implications.

Source: Education and Skills Committee 27 January 2021 [Draft], Maree Todd, contrib. 16³

Conclusion

10. Maree Todd MSP, Minister for Children and Young People, moved:

S5M-23665—That the Education and Skills Committee recommends that the Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2020 [draft] be approved.

11. After debate, the motion was agreed to by division (8 for, 3 against)ⁱ.

12. The Committee agreed Motion S5M-23665.

ⁱ Votes for: Clare Adamson, Daniel Johnson, George Adam, Kenneth Gibson, Iain Gray, Ross Greer, Rona Mackay, Alex Neil. Votes against: Jamie Greene, Oliver Mundell, Beatrice Wishart.

- [1] Education and Skills Committee 27 January 2021 [Draft], Maree Todd, contrib. 7,
<http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=13084&c=2314580>
- [2] Education and Skills Committee 27 January 2021 [Draft], Maree Todd, contrib. 12,
<http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=13084&c=2314585>
- [3] Education and Skills Committee 27 January 2021 [Draft], Maree Todd, contrib. 16,
<http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=13084&c=2314589>

Education and Skills Committee

The Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2020, 1st Report, 2021
(Session 5)

