

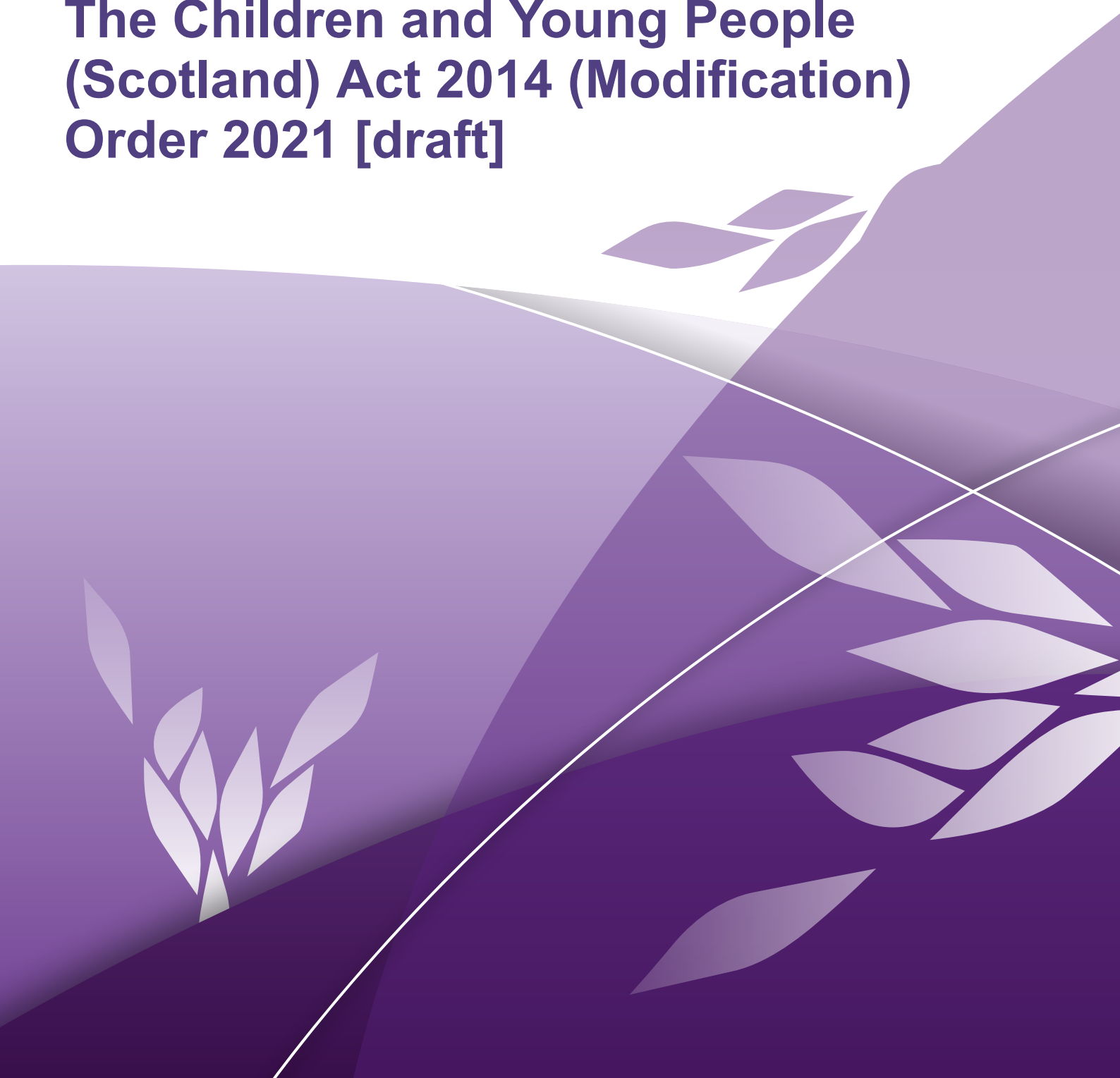


The Scottish Parliament  
Pàrlamaid na h-Alba

Published 23 February 2021  
SP Paper 951  
3rd Report, 2021 (Session 5)

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

# **The Children and Young People (Scotland) Act 2014 (Modification) Order 2021 [draft]**



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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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# Committee Membership



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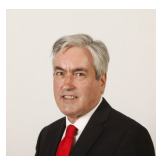
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**Daniel Johnson**  
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and Unionist Party



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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 17 February 2021, the Education and Skills Committee considered a piece of subordinate legislation which is subject to the affirmative procedure. The report summarises the purpose and the scrutiny of the instrument as well as confirming the Committee's decision.

# Instrument Overview

2. [The Children and Young People \(Scotland\) Act 2014 \(Modification\) Order 2021 \[draft\]](#) was laid by the Scottish Government on 22 January 2021.

3. The Purpose of the instrument as listed in the [policy note](#) is as follows -

*The purpose of the instrument is to increase the mandatory amount of funded early learning and childcare ('ELC') to be secured by education authorities for eligible children from 600 hours to 1140 hours in each year for which a child is eligible with a pro-rata amount for each part of a year.*

## Delegated Powers and Law Reform Committee

4. The Delegated Powers and Law Reform Committee considered the instrument on [2 February 2021](#), and made no comment on the instrument.

## Education and Skills Committee Consideration

5. At its meeting on 17 February 2021, the Committee considered the instrument.
6. The Minister for Children and Young People, Maree Todd MSP, outlined the purpose of the Children and Young People (Scotland) Act 2014 (Modification) Order 2021 [draft], confirming that the instrument would come into force on 1st August 2021.
7. The Minister for Children and Young People stated:

” When I attended the committee on 9 December, I reported that the early learning and childcare programme joint delivery board had recommended a new 1,140 hours delivery date of August 2021. Following careful consideration and agreement to that recommendation by the Scottish ministers and Convention of Scottish Local Authorities leaders, I confirmed that date to Parliament on 14 December. We took another important step towards the delivery of the transformational ELC expansion programme on 22 January, when I was pleased to lay the Children and Young People (Scotland) Act 2014 (Modification) Order 2021 in Parliament. That instrument will reinstate the duty on education authorities to make 1,140 hours of funded ELC available to eligible children in each year for which they are eligible, with a pro rata amount for each part of a year from August 2021.

I assure the committee that the Scottish Government continues to work closely with local government to assess the impact of the current lockdown on the delivery of 1,140 hours and address any emerging risks to the programme.

In spite of the difficulties of the pandemic, including the current restrictions on ELC provision, local authorities and early learning and childcare providers have continued to work extremely hard to progress the expansion. The Scottish Government also continues to support local authorities to deliver the new entitlement in advance of the new statutory date, where it is possible to do so. We have agreed with councils a shared commitment that, where they can deliver expanded hours ahead of August 2021, that will be offered to families.

I am pleased to report that, since I attended the committee on 9 December, the number of local authorities that are delivering the expanded 1,140 hours in full has increased from 14 to 15 and many more local authorities are providing part of the 1,140 hours where they can. By reinstating the duty on education authorities to provide 1,140 hours, the instrument is crucial to the expansion of funded ELC. We know that the ELC expansion programme can provide transformational benefits for children and families and we remain committed to delivering it.

Source: Education and Skills Committee 17 February 2021 [Draft], The Minister for Children and Young People (Maree Todd), contrib. 3<sup>1</sup>

8. The Minister was asked about the preparedness and readiness of buildings and on the capital requirements for meeting the requirement. The Minister responded:



” Data that was available in January 2020 showed that the ELC infrastructure programme was on track to deliver about 90 per cent of the forecast number of additional spaces that are required in August 2020. That, combined with contingency plans having been identified for 100 per cent of the critical capital projects, provided us with confidence this time last year that sufficient spaces would be available for the beginning of the academic year.

The pandemic has, of course, had an impact, which has largely been felt in construction and in recruitment. Although recruitment is very much on track, construction is not back to full pre-pandemic capacity. Despite that, we are confident that the construction that we require for the project will be completed in time for the reinstatement. We have worked closely with COSLA and the Association of Directors of Education in Scotland, and we have interrogated the evidence that we have in an extremely detailed way to assure ourselves that local authorities are ready.

That process included data and intelligence gathering across local authorities, and all the components of delivery were assessed. As you will remember me discussing at the committee in December, we requested that an independent health-check review be carried on the programme, and the findings of that review supported the readiness of assessment.

We do not underestimate the challenges ahead of us, particularly given the second wave of pandemic that we have faced, but we are confident that we can deliver the programme in August this year.

Source: Education and Skills Committee 17 February 2021 [Draft], Maree Todd, contrib. 5<sup>2</sup>

9. The Minister was also asked about the principle of the funding following the child. The Minister said:

” Funding follows the child is a cornerstone of the expansion and is underpinned by the national standard, which all providers have to meet in order to be signed up as funded partners. Thus far, local authorities have used more capacity from the private, voluntary and independent sector than they anticipated—the PVI sector is more involved than they predicted at the beginning of the expansion.

You are right in saying that that sector is precisely where we see the greatest flexibility. However, we are also seeing increased flexibility in local authority provision, with many more local authority nurseries open from 8 am until 6 pm, 52 weeks a year. I expect that aspect to continue to progress. At the moment, early learning and childcare are open only to key workers and vulnerable children. As we progress, I hope, towards a more normal, full opening, particularly come August 2021, I expect that flexibility to increase.

Mr Johnson mentioned how aware we all are of the need for early learning and childcare because of the pandemic. With the pandemic, we have learned just how vital that provision is and what an incredible support it is to families that our focus has always been on the quality of provision for children.

A secondary part of the programme has been ensuring that families get the support and the flexibility that they need. Funding follows the child will deliver those aspects when it is fully rolled out in August 2021. It will put the power into the hands of parents to choose the type of childcare—the hours and the provision, including childminding, which we have talked about many times previously—that suits their family.

Source: Education and Skills Committee 17 February 2021 [Draft], Maree Todd, contrib. 7<sup>3</sup>

# Conclusion

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

S5M-23949—That the Education and Skills Committee recommends that the Children and Young People (Scotland) Act 2014 (Modification) Order 2021 [draft] be approved.

11. The Committee agreed motion S5M-23949 unanimously.

- [1] Education and Skills Committee 17 February 2021 [Draft], The Minister for Children and Young People (Maree Todd), contrib. 3, <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=13137&c=2321075>
- [2] Education and Skills Committee 17 February 2021 [Draft], Maree Todd, contrib. 5, <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=13137&c=2321077>
- [3] Education and Skills Committee 17 February 2021 [Draft], Maree Todd, contrib. 7, <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=13137&c=2321079>



