



Education (Scotland) Bill

Bill Number:	SP Bill 64
Introduced on:	23 March 2015
Introduced by:	Angela Constance (Government Bill)
Passed:	02 February 2016
Royal Assent:	08 March 2016

Passage of the Bill

The Education (Scotland) Bill was introduced on 23 March 2015. It completed stage 1 on 29 October, stage 2 on 8 December and was passed at stage 3 on 2 February 2016.

Purpose and objective of the Bill

The purpose of the Bill is to make provision across a range of different school policy areas. The policy memorandum describes the objectives of the Bill which include:

- To promote equity in education and to raise attainment for all
- To strengthen Gaelic education
- To ensure children have rights to question any support needs they may have at school
- To ensure that all children and young people have highly qualified and trained teachers and that education authorities have an appropriately qualified and experienced Chief Education Officer with responsibility for delivering their education functions
- To introduce a clear process for parents to make complaints to Ministers with regard to the delivery of educational duties by education authorities

Provisions of the Bill

Reflecting the range of objectives listed above, the Bill makes changes across a variety of school education policy. The Bill's main provisions will:

- Require local authorities and Scottish Ministers to have due regard to the need to reduce inequalities of educational outcome that result from socio-economic deprivation, and creates associated reporting duties

- Place the National Improvement Framework for education on a statutory footing
- Create a process for parents to request Gaelic Medium Primary Education. This includes a presumption that a request will be granted where it is reasonable to do so
- Give rights to 12 to 15 year olds, who are assessed as having capacity, in relation to additional support for learning legislation
- Prevent complaints going to Ministers under s.70 of the Education (Scotland) Act 1980, if they might also be taken to the Additional Support Needs Tribunal.
- Require local authorities to employ a Chief Education Officer
- Enable Ministers to introduced regulations in relation to: school hours, teacher registration, head teacher qualifications and local authority school clothing grants.

Parliamentary consideration

SPICe briefings SB 15/19 and SB 16/05 provide more detail on the Bill as introduced and as amended at Stage 2.

There were 174 amendments lodged at stage 2 and a further 76 at stage 3. At stage 2, all Government amendments were agreed to, 12 by division. Non-government amendments were successful in relation to Gaelic education and requirements on Ministers to consult stakeholders.

At stage 3, all the Government amendments were agreed to. Non-government amendments were successful in relation to local authority reporting requirements (Liam McArthur) and Gaelic education (Michael Russell and John Finnie).

Main changes to the Bill

There were substantial changes to the Bill at stage 2 but only minor changes at stage 3. Changes included:

- A presumption in favour of granting a request for Gaelic Medium Primary Education where there is reasonable demand.
- Removal of the requirement (in the Bill as introduced) that young people (16 and over) be assessed in relation to capacity and best interests before exercising their existing rights under the 2004 Act
- Inclusion of the National Improvement Framework
- Regulation making powers to set the number of hours in the school year and the level of and eligibility for school clothing grants
- Regulation making powers to set out the experience and qualifications required by head teachers.

The costs of the Bill increased from £0.6m to around £12m and a supplementary financial memorandum was issued. See: [http://www.scottish.parliament.uk/S4_Bills/Education%20\(Scotland\)%20Bill/S_PBill64AFMS042016.pdf](http://www.scottish.parliament.uk/S4_Bills/Education%20(Scotland)%20Bill/S_PBill64AFMS042016.pdf) All these costs were on the Scottish Administration, and reflect additions to the Bill in relation to the National

Improvement Framework, learning hours, school meals, clothing grants and head teacher qualifications.

Main areas of debate

“Attainment Gap”

Throughout parliamentary consideration of the Bill, the provisions related to the attainment gap were the most discussed. Much of the discussion related to wider policy work on reducing the attainment gap. At stage 1, the concerns in relation to the Bill were about whether the provisions would have much practical effect. At stages 2 and 3, the focus was on the introduction of the National Improvement Framework and the role of standardised assessment within this. Standardised tests are not specified in the Bill. The Bill requires a Framework to be published and reported on, but the detail of its content is left to policy. The Cabinet Secretary said: “I do not think it is right to legislate for such a level of detail.” While not legislative, the Cabinet Secretary considered that standardised tests are intended to be a “crucial part of the framework”. At stage 3 Liam McArthur said: “I urge the government to heed the calls of teaching unions, teachers and parents to drop plans for national standardised testing in primary schools.” (OR col 21, 2nd Feb 2016).

Presumption in favour of Gaelic

At stage 2, the provisions on Gaelic were strengthened. At stage 3, the Minister for Learning, Science and Scotland’s Languages (Alasdair Allan) said that: “the Bill delivers on our manifesto commitment for parents to have an entitlement to Gaelic medium primary education where reasonable demand exists” (OR 2nd Feb 2016, col 51). However, Liam McArthur expressed concerns that due to: “...a lack of resources, including teachers, that commitment looks increasingly like a hostage to fortune” (OR 2nd Feb 2016 col 51).

Capacity of children with additional support needs

One area that created particular concern amongst some stakeholder groups was the approach taken in the Bill to extending additional support needs rights to 12 to 15 year olds. See SCYP, EHRC and others stage 3 briefing at: [http://www.cypcs.org.uk/ufiles/Education-\(Scotland\)-Bill-Stage-3-MSP-Briefing.pdf](http://www.cypcs.org.uk/ufiles/Education-(Scotland)-Bill-Stage-3-MSP-Briefing.pdf)). At stage 3, Liam McArthur described the Bill as requiring: “children successfully to negotiate two assessments before they can even begin to exercise their rights” (OR 2nd Feb 2016 col 56). He quoted the Children’s Commissioner who had said: “the bill places children in a position where they are given the impression that they can exercise their rights independently, yet in reality they are beholden to adults to assess that they are capable of doing so.” (OR 2nd Feb 2016 col 62). Alasdair Allan described the assessments required as safeguards which: “ensure that children will not have to cope with information, processes and decisions that could be detrimental to their well-being.” He also noted that there was provision for appeals (OR 2nd Feb 2016 col 60).

School Hours

At stage 2, provision was added to the Bill to make regulations that would set the annual number of school learning hours. There was concern, particularly from COSLA, that there had been no prior consultation on the measure. At stage 3 the Cabinet Secretary, Angela Constance confirmed that: “regulations made under section 17B will be underpinned by a robust and inclusive consultation exercise” (OR 2nd Feb 2016 col 64).

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