

Schools (Residential Outdoor Education) (Scotland) Bill

Explanatory Notes

Introduction

1. As required under Rule 9.3.2A of the Parliament's Standing Orders, these Explanatory Notes are published to accompany the Schools (Residential Outdoor Education) (Scotland) Bill, introduced in the Scottish Parliament on 20 June 2024.
2. The following other accompanying documents are published separately:
 - a Financial Memorandum (SP Bill 50–FM);
 - a Policy Memorandum (SP Bill 50–PM);
 - a Delegated Powers Memorandum (SP Bill 50–DPM);
 - statements on legislative competence made by the Presiding Officer and the Member in Charge of the Bill (SP Bill 50–LC).
3. These Explanatory Notes have been prepared by the Non-Government Bills Unit on behalf of Liz Smith MSP, the Member who introduced the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.
4. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So, where a section does not seem to require any explanation or comment, none is given.

Overview

5. The Bill makes provision for residential outdoor education for school children by amending the Education (Scotland) Act 1980 (“the 1980 Act”)¹. Part 1 of that Act makes provision in relation to school education, including for social activities and physical education (section 6) and therefore the Bill amends that Part to include residential outdoor education. The Bill makes provision for every school pupil in local authority or grant-aided schools to have the opportunity to attend a course of residential outdoor education that consists of four overnight stays and five days. This course can be provided all at once or on separate occasions as long as it amounts to the same length.

¹ [Education \(Scotland\) Act 1980 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

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6. The Bill also provides that the Scottish Ministers must prepare and publish guidance for education authorities and managers of grant-aided schools, and sets out what that guidance must cover.

7. The Bill requires the Scottish Ministers to provide funding for this by paying education authorities and the managers of grant-aided schools sufficient amounts to enable them to provide this residential outdoor education. The Bill also places a duty on education authorities to consider whether this residential outdoor education will be made available if they make provision for a child to attend an independent school.

8. The Bill is in five sections.

Commentary on Sections

Section 1 – Provision of residential outdoor education

9. Section 1 inserts three new sections into the 1980 Act. These are: Section 6A (Provision of residential outdoor education); Section 6B (Guidance on residential outdoor education); and section 6C (Funding for residential outdoor education).

Section 6A – Provision of residential outdoor education

10. Subsections (1) and (2) of section 6A place a duty on education authorities and managers of grant-aided schools to make one course of residential outdoor education available to each pupil. Grant-aided schools are schools which are supported financially directly by the Scottish Ministers and are independent of education authorities.

11. Subsection (3) sets out that “one course of residential outdoor education” must have outdoor education as its main focus, include at least four overnight stays and five days (which may be non-consecutive) and be suitable to a pupil’s age, ability, aptitude and any additional support needs. This subsection also provides a non-exhaustive list of facilities where this might take place.

Section 6B – Guidance on residential outdoor education

12. Subsection (1) of section 6B requires the Scottish Ministers to provide guidance to education authorities and managers of grant-aided schools about their duty to provide residential outdoor education. Subsection (2) in turn requires education authorities and managers of grant-aided schools to have regard to this guidance.

13. Subsection (3) provides that guidance must be issued within three months of section 1 coming into force. Section 4 of the Bill provides that this section comes into force on 7 July following the date of Royal Assent. Therefore, guidance under subsection (3) must be issued by 6 October in that same year.

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14. Subsection (4) lists eight matters that must be covered in the guidance and Scottish Ministers may include other matters that they consider appropriate, that list being non-exhaustive. Subsection (5) provides for the Scottish Ministers to revise the guidance, and requires the Scottish Ministers to publish any such revised guidance. Subsection (6) provides that subsections (2) and (4) apply to revised guidance as well as the original guidance.

15. Subsection (7) requires the Scottish Ministers to consult education authorities, managers of grant-aided schools, parents, providers of residential outdoor education or their representatives, other voluntary organisations as the Scottish Ministers think appropriate, along with any other persons that the Scottish Ministers think appropriate. This might include, for example, representatives of outdoor education establishments who would be providing residential outdoor education, representatives of teachers and parents, school leaders and other relevant decision makers within education authorities and grant-aided schools.

Section 6C – Funding for residential outdoor education

16. Subsection (1) requires the Scottish Ministers to provide sufficient funding to education authorities and the managers of grant-aided schools to enable them to carry out their duties under the Bill. This means that education authorities and managers of grant-aided schools will receive funding from the Scottish Ministers to provide one course of residential outdoor education for each pupil who takes it up.

17. Part 3 of the 1980 Act provides for the administration and finance of school education. As specific provision is made for the funding for residential outdoor education in subsection (1), subsection (2) makes it clear that this does not impact on the general provisions in Part 3.

Section 2 – Education authorities’ arrangements with independent schools

18. Section 2 inserts new provision into the 1980 Act so that education authorities must have regard to the provision of residential outdoor education by independent schools before placing a pupil in such a school (and covering their fees).

Section 3 – Ancillary provision

19. Subsection (1) allows the Scottish Ministers, by regulations, to make ‘standalone’ ancillary provision in relation to the Act or any provision made under it. This type of power is used to ensure that the Bill has its full intended effect. Under subsection (2) regulations under this section may modify an existing enactment, subsection (3) provides that such regulations are subject to the affirmative procedure. This means that regulations under subsection (1) must be laid in draft before the Parliament for approval by resolution.

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Section 4 – Commencement

20. Section 4 sets out when the provisions of the Bill will come into force. It provides that sections 3, 4 and 5 (on ancillary provision, commencement and short title) will automatically come into force on the day after the Bill receives Royal Assent. Sections 1 and 2 of the Bill come into force on 7 July following Royal Assent. The reason for this date is to ensure that the provisions are in force in time for the start of a new school year.

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