

Educational Continuity (No. 8) Direction given under paragraph 11(1) of schedule 17 (Temporary Continuity Directions etc: Education, Training and Childcare: Scotland) of the Coronavirus Act 2020

1. The Scottish Ministers in exercise of their powers conferred by section 38(2) and paragraph 11(1) of schedule 17 of the Coronavirus Act 2020 (c.7) (“the 2020 Act”) give the following **Educational Continuity Direction**.
2. Before giving this direction, the Scottish Ministers had regard to the advice relating to coronavirus from the Chief Medical Officer of the Scottish Administration.
3. The Scottish Ministers are satisfied that giving the direction is a necessary and proportionate action for or in connection with the continued provision of education.

The Scottish Ministers direct as follows:

4. This Direction applies to every education authority in Scotland.

Closure of educational establishments, and exceptions

5. Each education authority is required to restrict access to all educational establishments under its management (except any further education institution), except in so far as access is required for or in connection with any of the following:
 - a. the provision of early learning and childcare in terms of paragraph 6, school age education in terms of paragraph 7 or childcare for those children for whom education is being provided pursuant to paragraph 7;
 - b. the provision of education by way of remote learning in terms of paragraph 8;
 - c. planning and preparation for the provision mentioned in sub-paragraphs (a) and (b), and for the resumption of in-person attendance by pupils in terms of paragraph 9;
 - d. maintenance of buildings and facilities as considered appropriate by the education authority, or any use of buildings and facilities for, or in relation to, other aspects of the local authority’s response to coronavirus;
 - e. a Scottish Parliamentary, local government or United Kingdom Parliament election, if reasonable alternative arrangements cannot be made.

Continuing provision of education and childcare and related matters

6. Each education authority is required to provide early learning and childcare, pursuant to appropriate local arrangements and having regard to the guidance issued by the Scottish Ministers, for—
 - a. children of key workers; and
 - b. vulnerable children and young people.

But an education authority is not required to open outwith term time any establishment which would normally be open during term time only.

7. Each education authority is required to provide school age education during term time, pursuant to appropriate local arrangements and having regard to the guidance issued by the Scottish Ministers, for—
 - a. children of key workers; and
 - b. vulnerable children and young people.
8. Each education authority is required to provide education by way of remote learning to pupils who normally attend schools (except nursery schools or nursery classes) under the management of the education authority during term time. Where a pupil is provided with education under paragraph 7, this requirement applies only to the extent the education authority considers necessary to ensure the provision of adequate and efficient school education for the pupil.
9. Each education authority is required to plan and prepare for children to resume attendance at schools (including nursery schools and nursery classes) under the management of the education authority at the earliest time it is safe to do so, having regard to any guidance issued by the Scottish Ministers.
10. Where an education authority is unable to secure the provision of free school meals to eligible pupils in terms of section 53(2) of the Education (Scotland) Act 1980 (c.44) (“the 1980 Act”), the authority is required to secure the provision of such reasonable alternatives (for example, other food and drink, or vouchers or cash) as it may determine.

Effect of Direction on other provisions of law

11. The Scottish Ministers in exercise of their power under paragraph 11(3) of schedule 17 of the 2020 Act direct that any failure to comply with a duty or time limit imposed under the following provisions is to be disregarded to the extent the failure would be attributable to this Direction:
 - a. section 53(2) (provision of free school lunches) of the 1980 Act (but see paragraph 10 above);
 - b. section 30(1) (duty of parents to provide education for their children) of the 1980 Act insofar only as that duty is discharged by causing the child to attend a public school regularly;
 - c. section 4(1) (provision for additional support needs) of the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) (“the 2004 Act”);
 - d. any time limit prescribed in or under the 2004 Act, except any time limit set out in the Additional Support for Learning (Placing Requests and Deemed Decisions) (Scotland) Regulations 2005 (S.S.I. 2005/515);
 - e. section 47(1) (duty to secure provision of early learning and childcare) of the Children and Young People (Scotland) Act 2014 (asp 8).

Requirement to have regard to certain matters, and to guidance

12. In making the provision or carrying on the activities set out in this Direction, an education authority must have regard to the objective of preventing the transmission of coronavirus, to the welfare of children and young people and staff, and to the importance of continuity of education.

13. In making the provision or carrying on the activities set out in this Direction, an education authority must have regard to relevant guidance issued by the Scottish Ministers.

Revocation

14. The Education Continuity (No. 7) Direction given under paragraph 11(1) of schedule 17 of the 2020 Act on 8 January 2021 is revoked.

Duration and publication

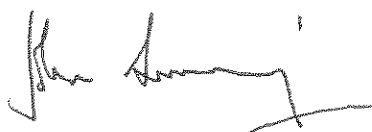
15. This Direction takes effect from 00:01 on 1 February 2021.

16. This Direction has effect until the earlier of 23:59 on 17 February 2021 or its revocation by a further Direction given by the Scottish Ministers.

17. In terms of paragraph 13(4) of schedule 17 of the 2020 Act this Direction will be reviewed within 21 days beginning with the date on which the Direction is given.

18. This Direction is published in accordance with paragraph 13(1) of schedule 17 of the 2020 Act.

Signed by

A handwritten signature in black ink, appearing to read 'John Swinney', is written over a horizontal line.

John Swinney MSP

**Deputy First Minister and
Cabinet Secretary for
Education and Skills**

28 January 2021