



# Education (Scotland) Act 2016

## 2016 asp 8

### PART 3

#### MISCELLANEOUS

#### 22 Provision of school meals

- (1) The 1980 Act is amended as follows.
- (2) For section 53 (provision of school meals) substitute—

##### “53 Provision of school meals

- (1) This section applies to—
  - (a) pupils in attendance at public schools and other educational establishments under the management of an education authority, and
  - (b) pupils who receive school education under arrangements entered into by an education authority under section 35 of the Standards in Scotland's Schools etc. Act 2000 (provision of school education by persons other than education authorities).
- (2) The authority must provide or secure the provision of a school lunch, free of charge, to pupils falling within subsection (7).
- (3) The authority may provide or secure the provision of—
  - (a) other food or drink to pupils falling within subsection (7),
  - (b) food or drink to other pupils.
- (4) Where the authority provides or secures the provision of food or drink under subsection (3)(a) or (b) to pupils, it may—
  - (a) do so free of charge, or
  - (b) charge the pupils.
- (5) The authority may exercise the power under subsection (4) to provide or secure the provision of food or drink free of charge—
  - (a) in relation to pupils who satisfy such conditions as the authority thinks fit,

---

**Changes to legislation:** Education (Scotland) Act 2016, Section 22 is up to date with all changes known to be in force on or before 26 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

- (b) at such times of the day as the authority thinks fit.
  - (6) Any charge under subsection (4) must be the same for the same quantity of the food or drink provided.
  - (7) A pupil falls within this subsection if—
    - (a) the pupil is, or the parents of the pupil are, in receipt of—
      - (i) income support,
      - (ii) an income-based jobseeker's allowance (payable under the Jobseekers Act 1995),
      - (iii) an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance),
    - (b) the parents of the pupil are in receipt of support provided under Part 6 of the Immigration and Asylum Act 1999.
  - (8) The Scottish Ministers may by regulations modify subsection (7) by—
    - (a) adding a description of pupil by reference to—
      - (i) any benefit or allowance received by the pupil, or the parents of the pupil, in such circumstances as may be prescribed in the regulations,
      - (ii) any tax credit, or element of a tax credit, within the meaning of the Tax Credits Act 2002 received by the pupil, or the parents of the pupil, in such circumstances as may be so prescribed,
      - (iii) the yearly stage of primary or secondary education of the pupil,
    - (b) adding such other description of pupil as may be prescribed in the regulations.
  - (9) An education authority must provide such facilities as the authority considers appropriate for the consumption of food or drink brought by pupils to schools or other educational establishments as mentioned in subsection (1)(a) under the management of the authority.
  - (10) An education authority may provide or secure the provision of food or drink (including a school lunch) under this section—
    - (a) on the premises of the schools or other establishments as mentioned in subsection (1)(a) where education is provided,
    - (b) at any place where school education is provided under arrangements mentioned in subsection (1)(b), or
    - (c) at any other place.
  - (11) For the purposes of this section, a pupil for whom an education authority has made special arrangements under section 14 may, at the discretion of the authority, be deemed to be in attendance at a public school.
  - (12) In this section and sections 53A and 53B, “school lunch” means anything provided, or the provision of which is secured, by an education authority under subsection (2) in the middle of the day which the education authority considers is appropriate for consumption as a meal at that time of the day.”.
- (3) After section 53 insert—

---

**Changes to legislation:** Education (Scotland) Act 2016, Section 22 is up to date with all changes known to be in force on or before 26 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

### **“53ZA Power to require provision of meals other than school lunches**

- (1) The Scottish Ministers may by regulations make provision for or in connection with imposing a duty on education authorities to provide, or secure the provision of, a free meal (other than a school lunch) of a prescribed description at prescribed times of the day to each pupil mentioned in subsection (2).
- (2) The pupil is an eligible pre-school child who falls within section 53(7).
- (3) Regulations under subsection (1) may in particular—
  - (a) make such modifications of section 53 as the Scottish Ministers consider necessary or expedient,
  - (b) apply any of the provisions of section 53 (with or without prescribed modifications),
  - (c) modify sections 53A and 53B in consequence of any provision made by the regulations.
- (4) In this section—
  - “eligible pre-school child” has the same meaning as in section 47(2) of the Children and Young People (Scotland) Act 2014,
  - “prescribed” means prescribed by the Scottish Ministers by regulations,
  - “school lunch” has the same meaning as in section 53(12).”.
- (4) In section 56A (food and drink: nutritional requirements), in subsection (2)—
  - (a) in paragraph (a), for “53(1)(a)” substitute “ 53(2) or (3) ”, and
  - (b) in paragraph (b)(i), for “53(1)(a)” substitute “ 53(2) or (3) ”.
- (5) In section 56E (food and drink: guidance about sustainable development), in subsection (1)—
  - (a) in paragraph (a), for “section 53(1)(a)” substitute “ subsection (2) or (3) of section 53 to pupils mentioned in subsection (1)(a) of that section ”,
  - (b) in paragraph (b), for “that section” substitute “ section 53(2) or (3) to such pupils ”, and
  - (c) in paragraph (c)(i), for “that section” substitute “ section 53(2) or (3) to such pupils ”.
- (6) In section 133 (regulations, etc.), in subsection (2YA), for “section 53(3)(c) of this Act” substitute “ subsection (8) of section 53 that modify subsection (7) of that section as mentioned in subsection (8)(a)(iii) or (b) of that section, nor to any regulations under section 53ZA(1) or 54A(1) ”.

---

#### **Commencement Information**

**II** S. 22(1)(2)(4)-(6) in force at 1.4.2018 by S.S.I. 2018/36, **reg. 2** (with **reg. 3**)

**Changes to legislation:**

Education (Scotland) Act 2016, Section 22 is up to date with all changes known to be in force on or before 26 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.S.I.2017/164, sch. by [S.S.I. 2017/352 reg. 2](#)