

EXPLANATORY NOTES

Restraint and Seclusion in Schools (Scotland) Act 2026 (asp 19)

£8.90

These notes relate to the Restraint and Seclusion in Schools (Scotland) Act 2026 (asp 19) which received Royal Assent on 26 May 2026

RESTRAINT AND SECLUSION IN SCHOOLS (SCOTLAND) ACT 2026

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes have been prepared by the Scottish Parliament's Non-Government Bills Unit on behalf of Daniel Johnson MSP, the member who introduced the Bill for this Act in the Parliament, in order to assist the reader of the Restraint and Seclusion in Schools (Scotland) Act. They do not form part of the Act and have not been endorsed by the Parliament.

2. The Notes should be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section, or a part of a section, does not seem to require any explanation, none is given.

THE ACT

3. The Act makes provision about the use of restraint and seclusion in schools by individuals acting under the authority of education providers (which includes education authorities, grant-aided schools and independent schools). The policy intention of the Member is to ensure that appropriate techniques of restraint and seclusion are used in schools only as a last resort.

4. The Act imposes a duty on Scottish Ministers to issue guidance on the use of restraint and seclusion and requires education providers to have regard to this guidance.

5. The Act requires schools to inform parents of a pupil subjected to restraint or seclusion as soon as possible, and in any event by the end of the school day on which the incident occurred, or where that is not reasonably practicable, within 24 hours of the incident. The Act also places a duty on education providers to record all incidents of restraint and seclusion in their schools. Education authorities must report the number of incidents of restraint or seclusion in schools under their management to the Scottish Ministers who must, in turn, report to the Scottish Parliament.

6. The Act enables the Scottish Ministers to develop training standards for restraint and seclusion, recognise standards developed by others, and maintain lists of providers who meet those standards.

7. The Act consists of 10 sections.

COMMENTARY ON SECTIONS

Section 1 – Restraint and seclusion

8. Section 1 defines "restraint" and "seclusion" establishing, in broad terms, the activities that are being regulated under the Act. The definition of restraint captures physical contact by a member of staff of an education provider "which has the intention of significantly restricting the physical movement of a pupil". The use of "significantly" in the definition is intended to make clear that only meaningful or material restrictions of movement amount to restraint, and to exclude minor or incidental physical contacts from the statutory definition. Seclusion covers anything done by a member of staff with the intention of isolating a pupil from other pupils.

9. The definitions relate to the actions of a member of staff of an education provider. Where a school is under the management of an education authority, the education authority is the 'education provider'. In the case of an independent school, the education provider is the proprietor of that school; and for a grant-aided school it will be the manager of the school. There are eight grant-aided schools in Scotland, seven of which are special schools.

10. Section 1(3) provides that a member of staff of an education provider includes anyone 'acting under the authority of an education provider'. In addition to covering all teachers, assistants and support staff, it would also cover any contractors or other persons allowed into schools to provide services or work at events. Tying the definitions to things done by members of staff makes clear that the Act does not cover the use of seclusion or restraint by pupils on each other.

11. Subsection (4) allows the Scottish Ministers, through regulations, to modify the definitions in this section in order to exclude actions that do not carry a significant risk of harm, or to include additional actions that do carry a significant risk of harm. Any such regulations will be subject to the affirmative procedure and a consultation requirement.

Section 2 – Guidance on restraint and seclusion in schools

12. Section 2(1) requires the Scottish Ministers to issue guidance to education providers about the use of restraint and seclusion in schools. The guidance will apply to publicly funded primary schools, secondary schools and special schools. It will also apply to independent and grant-aided schools. However, it will not apply to nursery schools or to nursery classes within schools. The definition of "school" is provided in section 6. Subsection (2) sets out the matters that must be covered in the guidance, including an explanation of what is meant by "significantly restricting physical movement". Subsection (4) provides that the guidance may "elaborate" on the definitions in section 1. While the guidance cannot alter the statutory definitions, it may supplement them by giving examples of what constitutes seclusion or restraint.

13. Subsection (6) provides for consultation before issuing guidance and lists the bodies and individuals whom the Scottish Ministers must consult. This applies to the initial guidance produced and any revised version of the guidance produced as a result of the terms of the guidance being kept under review. Subsection (7) allows the Scottish Ministers to begin such consultation prior to the section coming into force.

14. Subsection (8) places a duty on education providers to "have regard to" the guidance.

Section 3 – Duty to inform parents of use of restraint or seclusion

15. Section 3(1) places a duty on a 'responsible person' for a school to inform the parent of a pupil subjected to restraint or seclusion about the incident and to provide details of it. This must be done as soon as possible and in any event by the end of the school day on which the incident occurred, or where that is not reasonably practicable, within 24 hours of the incident. "End of the school day" is defined in subsection (5). The responsible person is the proprietor for independent schools, the manager for grant-aided schools and the headteacher or another authorised member of staff in schools run by the education authority. Section 6(2) applies the definition of "parent" in section 135(1) of the Education (Scotland) Act 1980, which includes a guardian or a person who is responsible for the care of a child or young person. A parent may also indicate that another person should be given the information, in which case the responsible person may comply with the duty by informing that other person.

16. Subsection (4) provides that there is no requirement to inform parents of any types of restraint or seclusion that have been exempted from recording and reporting requirements by regulations made under section 4(9).

Section 4 – Duty to record and report on use of restraint and seclusion

17. Section 4 requires each education provider to record all incidences of restraint or seclusion in its schools. Each education authority must inform the Scottish Ministers of the number of incidences of restraint and seclusion in schools under its management. Where the education provider is a grant-aided or independent school, it must report the number of incidences to the Scottish Ministers.

18. Subsection (4) contains a regulation-making power which allows the Scottish Ministers to require education providers to report incidences of restraint or seclusion to a person specified in the regulations, and subsection (5) allows those regulations to set out operational detail such as timescales, format and onward reporting duties. Its intention is to retain flexibility to establish a national reporting system in future, including the option of involving HM Inspectorate of Education in Scotland (HMIE). Regulations under subsection (4) may make different provision for different types of education provider and modify primary legislation. Subsection (8) requires the Scottish Ministers to prepare a report on the number of incidences of the use of restraint and seclusion each year and to lay the report after the end of each year. Subsection (9) enables the Scottish Ministers to specify, by regulations subject to consultation and affirmative procedure, types of restraint or seclusion that need not be recorded or reported. The effect is to allow proportionate exemptions where certain minimal or low risk interventions would not warrant formal data collection.

19. Under subsection (11) the end of each year will fall during school summer holidays, on 31 July.

Section 5 – Training standards

20. Section 5 enables the Scottish Ministers to develop training standards for restraint and seclusion, recognise standards developed by others, and maintain lists of providers who meet those standards. Subsection (2) requires the Scottish Ministers to publish

any training standards and lists they maintain. These lists are intended to be the authoritative source of appropriate training for school staff, particularly those in roles involving contact with pupils who are likely to be subject to restraint or seclusion.

Section 6 – Interpretation

21. Section 6 defines "education provider" and applies certain definitions in section 135(1) of the Education (Scotland) Act 1980. The term "pupil" is used throughout the Act for consistency with other education legislation and to ensure that all children who attend school fall within the scope of the Act and the associated statutory guidance.

Section 7 – Regulation-making powers

22. This section provides that regulations under the Act may make different provision for different purposes or areas and (other than regulations under section 8(1)) are subject to affirmative procedure. This section does not apply to commencement regulations.

Section 8 – Ancillary provision

23. This section gives the Scottish Ministers power to make incidental, supplementary, consequential, transitional, transitory or saving provision for the purposes of, or in connection with, the Act or any provision made under it. Regulations under this section are subject to the affirmative procedure where they amend primary legislation.

Section 9 – Commencement

24. Section 9 provides for the commencement of sections 6, 7, 8, 9 and 10 on the day after Royal Assent, with the substantive provisions (sections 1 to 5) commenced by regulations which must be made no later than 31 July 2028.

Section 10 – Short title

25. Section 10 provides that the short title of the Act is the Restraint and Seclusion in Schools (Scotland) Act 2026.

PARLIAMENTARY HISTORY

26. The following table sets out, for each Stage of the proceedings in the Scottish Parliament on the Bill for this Act, the dates on which the proceedings at that Stage took place, and references to the Official Report of those proceedings. It also shows the dates on which Committee reports and other papers relating to the Bill were published, and gives references to those reports and other papers.

PROCEEDINGS AND REPORTS	**REFERENCE**
BEFORE INTRODUCTION	
Draft proposal – lodged 19 June 2023 Final proposal – lodged 17 September 2024	Proposed Restraint and Seclusion (Prevention in Schools) (Scotland) Bill
INTRODUCTION	
Bill (as introduced) – 17 March 2025	SP Bill 61, Session 6 (2025)
SPICe briefing on Bill (as introduced) – published 9 September 2025	SPICe briefing SB 25-39

PROCEEDINGS AND REPORTS	REFERENCE
STAGE 1	
(a) Lead committee – Education, Children and Young People Committee	
27th Meeting, 2025, 24 September	Columns 1-72
28th Meeting, 2025, 1 October	Columns 81-104
30th Meeting, 2025, 29 October	Columns 1-37
32nd Meeting, 2025, 12 November	Columns 2-30
Stage 1 report – published 16 January 2026	2nd Report, 2026 (Session 6)
(b) Delegated Powers and Law Reform Committee	
Report	53rd Report, 2025 (Session 6)
(c) Consideration by the Parliament	
Stage 1 debate – 29 January 2026	Columns 59-86
STAGE 2	
Education, Children and Young People Committee	
Stage 2 proceedings – 4 March 2026	Columns 1-14
Bill (as amended at Stage 2) – 4 March 2026	SP Bill 61A, Session 6 (2026)
AFTER STAGE 2	
Delegated Powers and Law Reform Committee	
Report	34th Report, 2026 (Session 6)
STAGE 3	
Consideration by the Parliament	
Stage 3 proceedings (amendments) – 19 March 2026	Columns 64-70
Stage 3 debate – 24 March 2026	Columns 61-82
Bill (as passed) – 24 March 2026	SP Bill 61B, Session 6 (2026)
ROYAL ASSENT	
26 May 2026	Restraint and Seclusion in Schools (Scotland) Act 2026 (asp 19)

© Crown Copyright 2026

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Saul Nassé, the King's Printer for Scotland.

williams lea | tso
An RRD Company

Published by TSO (The Stationery Office), part of Williams Lea, and available from:

Online
www.tsoshop.co.uk

Mail, Telephone & E-mail
TSO
PO Box 29, Norwich, NR3 1GN
Telephone orders/General enquiries: 0333 202 5070
E-mail: customer.services@tso.co.uk
Textphone: 0333 202 5077

ISBN 978-0-10-592602-3

9 780105 926023