

## **Coronavirus Act 2020 Modification of section 3 of the Education Act 1996 (England) Notice 2021**

The Secretary of State for Education, in exercise of the powers conferred by section 38(1) of, and paragraph 5 of Schedule 17 to, the Coronavirus Act 2020<sup>1</sup>, issues the following notice.

### *Modification of section 3 of the Education Act 1996*

1. The Secretary of State for Education by this notice modifies in relation to England section 3 (definition of pupil etc.) of the Education Act 1996<sup>2</sup> in the manner described in the table in paragraph 5 of Schedule 17 to the Coronavirus Act 2020 so that, for the purposes of the Education Act 1996, a person is not to be treated as a pupil at a school merely because any education is provided for that person at the school on a temporary basis, for reasons relating to the incidence or transmission of coronavirus during the period specified in this notice.
2. The modification in paragraph 1 has effect only for the purposes of section 434 of the Education Act 1996 (registration of pupils) and any regulations made under that section.
3. The Secretary of State for Education considers that the issuing of this notice is an appropriate and proportionate action in all the circumstances relating to the incidence or transmission of coronavirus for the following reasons:
  - (a) From 20th March 2020 until the end of the summer term, educational institutions and registered childcare settings in England limited attendance to certain children and young people in order to reduce the spread of coronavirus. Over the course of the summer term they welcomed back more children and young people in stages. In the government's Guidance for full opening: schools, published on 2nd July 2020 (updated on 3rd December 2020)<sup>3</sup>, the government asked schools to prepare for all pupils to return to school from the beginning of the autumn term (except where public health advice indicates that they should remain at home).
  - (b) Since the start of the 2020 autumn term, education institutions, including primary and secondary schools and further education settings, alternative provision settings and special schools, and registered childcare settings have been asked to remain open during term time for all year groups/children. Government intends for this to remain the case in January.
  - (c) The Secretary of State for Education has previously issued eight notices modifying section 3 of the Education Act 1996 in the manner described in

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<sup>1</sup> 2020 c.7.

<sup>2</sup> 1996 c.56.

<sup>3</sup> The guidance can be viewed at this link: <https://www.gov.uk/government/publications/actions-for-schools-during-the-coronavirus-outbreak/guidance-for-full-opening-schools>

paragraphs 1 and 2<sup>4</sup>. The most recent notice was issued on 26th November 2020. The specified time period of that notice was 1st December to 31st December 2020.

- (d) This modification, for the purposes of section 434 of the Education Act 1996, facilitates the temporary attendance of a pupil at a school they do not usually attend by removing the obligation on that school to register the pupil and removing any obligation thereafter to make permanent provision for the pupil that may otherwise arise as a result of registration.
- (e) The limitation to this modification by paragraph 2 preserves other, important, duties and responsibilities that exist with regards to pupils in general that need to and will continue to apply in relation to pupils who are attending a school other than the school at which they are registered as pupils.
- (f) The government expects all pupils to attend their normal school. Schools are expected to remain open but a small minority of pupils may still need to attend a school other than the school at which they are registered, for example as a result of any attendance restrictions imposed in response to increases in coronavirus incidence and transmission. In such cases, this notice will facilitate the attendance of pupils at a different school, as a temporary measure. These situations are liable to arise unpredictably in localities across England given the changing pattern of coronavirus incidence, so a territorial or other limitation would not be appropriate. It is therefore appropriate to make this notice both in relation to the whole of England and for the period specified.

#### *Specified period*

- 4. The specified period in this notice starts at the beginning of 1st January 2021 and finishes at the end of 31st January 2021.

Signed by or on behalf of the Secretary of State for Education:



Date of signature: 12 December 2020

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<sup>4</sup> The notices can be viewed at this link: <https://www.gov.uk/government/publications/modification-notice-school-registration-legislation-changes>