

Coronavirus Act 2020 Modification of section 3 of the Education Act 1996 (England) (No. 2) 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 2020¹, 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 1996² 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) High rates of coronavirus have made it necessary to take appropriate measures to reduce transmission. On 4th January 2021, the Prime Minister announced a national lockdown in England to begin on 5th January 2021. In light of the level and seriousness of risk and having considered advice and information from the Scientific Advisory Group on Emergencies, the Chief Medical Officer, the Joint Biosecurity Committee and Public Health England, the Secretary of State has decided that it is appropriate for most pupils to temporarily cease to attend school until after the half-term holidays. The purpose of this measure is to reduce rates of transmission by reducing the number of contacts among pupils and between pupils and staff at school, and between pupils and others while travelling to and from school and while at home and in the community.
 - (b) In the government's guidance, Restricting attendance during the national lockdown: schools³, published on 7th January 2021, the government asked schools, alternative provision, special schools, colleges and wraparound childcare and other out-of-school activities for children to limit attendance to vulnerable children and children of critical workers. All other children should not attend, and all other pupils and students should learn remotely until February half-term.

¹ 2020 c.7.

² 1996 c.56.

³The guidance can be viewed at this link: [Actions for schools during the coronavirus outbreak - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/actions-for-schools-during-the-coronavirus-outbreak)

- (c) The Secretary of State for Education has previously issued nine notices modifying section 3 of the Education Act 1996 in the manner described in paragraphs 1 and 2⁴. The most recent notice was issued on 12th December 2020. The specified time period of that notice was 1st January 2021 to 31st January 2021.
- (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 strongly encourages all vulnerable children, to attend school (recognising that the characteristics of the cohorts in special schools and alternative provision will mean these settings continue to offer face to face provision for all pupils, where appropriate). The children of critical workers should be allowed to attend school, where necessary. Whilst schools are expected to remain open for vulnerable children and children of critical workers, 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 a school needing to temporarily close for reasons relating to coronavirus. 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 February 2021 and finishes at the end of 28th February 2021.

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



Date of signature: 23 January 2021

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