

STANDARDS IN SCOTLAND'S SCHOOLS ETC. ACT 2000

EXPLANATORY NOTES

THE ACT

Provision of school education : right of child and duty of education authority

Section 1 – Right of child to school education

5. In terms of section 1 of the Education (Scotland) Act 1980, education authorities are under a duty to provide education in their area. Section 1 of the Act establishes a complementary statutory right in favour of every child to have a “school education”. The establishment of the statutory right to education reflects in the domestic law of Scotland the right to education which is enshrined in the European Convention on Human Rights and in the UN Convention on the Rights of the Child, the United Kingdom being a signatory to these 2 instruments. “School education” is defined in section 1(5)(a) of the Education (Scotland) Act 1980. “School age” is defined in section 31 of the Education (Scotland) Act 1980, broadly in terms of a person being of school age if he has attained the age of 5 years and has not attained the age of 16 years. These definitions in the Education (Scotland) Act 1980 apply to the Standards in Scotland's Schools etc. Act 2000 by virtue of section 58(2) of the Act.

Section 2 – Duty of education authority in providing school education

6. The provision in section 2 adopts wording from Article 29(1)(a) of the UN Convention on the Rights of the Child. It describes a key aim towards which “school education” must be directed by the education authorities. The aim is to make the development of the personality, talents etc. of the child or young person central to the direction of school education. Section 1(1) of the Education (Scotland) Act 1980, which imposes a general duty on authorities to secure adequate and efficient provision of school education for their area, is left unamended. This new provision puts education authorities under a statutory duty to look beyond general provision to the development of the individual child. Authorities will also be required, in carrying out their duty under this provision, to take account of the child's views when making decisions that would significantly affect them.