

STANDARDS IN SCOTLAND'S SCHOOLS ETC. ACT 2000

EXPLANATORY NOTES

THE ACT

Pre-school children

Section 40 – Education outwith school

83. Section 14 of the 1980 Act gives an education authority a discretionary power to educate a pupil elsewhere than at an educational establishment if they are satisfied that by reason of any extraordinary circumstances, the pupil is unable to attend a suitable educational establishment. Section 40 re-enacts that provision in a substituted new section 14 of the 1980 Act as section 14(1)(a). The ambit of that provision is extended to include also circumstances where it would be unreasonable to expect the pupil to attend a suitable educational establishment. In addition, the new section 14 introduces a new statutory duty on education authorities to educate “without undue delay” pupils who are not receiving education in the usual way at an educational establishment.
84. There are 3 categories of pupil covered by this new duty inserted in the re-enacted section 14:
- (i) pupils suffering from prolonged ill-health;
 - (ii) pupils exempted under section 34(1) of the 1980 Act from attending school because they are required to give assistance as carers to ill or infirm members of their families; and
 - (iii) pupils who have been excluded from school by the education authority.
85. In the case of the first 2 categories, the education authority is under a duty to make special arrangements to educate these children away from an educational establishment, which would normally be at home. In the second category, where pupils are caring for a family member, the duty is to make arrangements “in so far as is practicable”. This is to ensure that the arrangements made will fit with the pupil’s caring responsibilities. In the case of excluded children, the duty is without undue delay to find an alternative educational establishment to provide education, failing which to educate them under similar special arrangements to the first 2 categories.