



Antisocial Behaviour etc. (Scotland) Act 2004

2004 asp 8

PART 12

CHILDREN'S HEARINGS

Failure to provide education for excluded pupils

137 Failure to provide education for excluded pupils: reference

- (1) The Children (Scotland) Act 1995 (c. 36) shall be amended as follows.
 - (2) In subsection (4) of section 56 (steps where no reference to children's hearing)—
 - (a) the word “and” where it occurs immediately after paragraph (a) shall be repealed; and
 - (b) after paragraph (b) there shall be inserted “; and
 - (c) he may, where it appears to him that—
 - (i) an education authority have a duty under section 14(3) of the Education (Scotland) Act 1980 (c. 44) in relation to the child; and
 - (ii) the authority are not complying with that duty, refer the matter to the Scottish Ministers.
 - (4A) A reference made under subsection (4)(c) above shall be in writing.
 - (4B) A copy of a reference made under subsection (4)(c) above shall be sent by the Principal Reporter to the education authority in respect of which the reference is made.”.
- (3) After section 75 there shall be inserted—

“Failure to provide education for excluded pupils

75B Failure to provide education for excluded pupils: reference to Scottish Ministers

- (1) Where it appears to the children’s hearing to whom a child’s case has been referred under section 65(1) of this Act that—
 - (a) an education authority have a duty under section 14(3) of the Education (Scotland) Act 1980 (c. 44) in relation to the child; and
 - (b) the authority are not complying with that duty,they may require the Principal Reporter to refer the matter to the Scottish Ministers.
 - (2) The Principal Reporter shall comply with any requirement made under subsection (1) above.
 - (3) A reference made by virtue of subsection (1) above shall be in writing.
 - (4) A copy of a reference made by virtue of subsection (1) above shall be sent by the Principal Reporter to the education authority in respect of which the reference is made.”.
- (4) In subsection (1) of section 93 (interpretation of Part II), after the definition of “disabled” there shall be inserted—
- ““education authority” has the meaning given by section 135(1) of the Education (Scotland) Act 1980 (c. 44);”.