



Education (Scotland) Act 1980

1980 CHAPTER 44

PART II

RIGHTS AND DUTIES OF PARENTS AND FUNCTIONS OF EDUCATION AUTHORITIES IN RELATION TO INDIVIDUAL PUPILS

General principle

28 Pupils to be educated in accordance with the wishes of their parents.

- (1) In the exercise and performance of their powers and duties under this Act, the Secretary of State and education authorities shall have regard to the general principle that, so far as is compatible with the provision of suitable instruction and training and the avoidance of unreasonable public expenditure, pupils are to be educated in accordance with the wishes of their parents.

(2) ^{F1}

Textual Amendments

F1 Ss. 5, 28(2), 59, 66(2), 111(4)(5), 129(5)(6), 132(1), Sch. 2 paras. 1, 3 repealed by [Education \(Scotland\) Act 1981 \(c. 58\)](#), [Sch. 9](#)

[^{F2} 28A Duty to comply with parents' requests as to schools.

- (1) Where the parent of a [^{F3}qualifying child] makes a written request to an education authority to place his child in the school specified in the request, being a school [^{F4}(other than a nursery school or a nursery class in a school)] under their management, it shall be the duty of the authority, subject to subsections (2) [^{F5}, (3) [^{F6}, (3A) and (3F)]] below, to place the child accordingly.

Such a request so made is referred to in this Act as a “placing request” and the school specified in it is referred to in this Act as the “specified school”.

Status: Point in time view as at 10/03/2008.

Changes to legislation: Education (Scotland) Act 1980, Part II is up to date with all changes known to be in force on or before 27 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- [The education authorities shall—
- ^{F7}(1A) (a) in carrying out the duty imposed on them by subsection (1) above; and
 (b) in deciding when that duty does not apply,
 have regard to such guidance as the Scottish Ministers may give in that respect.]
- (2) Where a placing request relates to two or more schools under the management of the education authority to whom it was made, the duty imposed by subsection (1) above shall apply in relation to the first mentioned such school, which shall be treated for the purposes of this Act as the specified school.
- (3) The duty imposed by subsection (1) above does not apply—
- (a) if placing the child in the specified school would—
- (i) make it necessary for the authority to take an additional teacher into employment;
- (ii) give rise to significant expenditure on extending or otherwise altering the accommodation at or facilities provided in connection with the school;
- (iii) be seriously detrimental to the continuity of the child’s education;
 [be likely to be seriously detrimental to order and discipline in the
- ^{F8}(iv) school; ^{F9} ...
- (v) be likely to be seriously detrimental to the educational well-being of pupils attending the school;]
- [assuming that pupil numbers remain constant, make it necessary, at
- ^{F10}(vi) the commencement of a future stage of the child’s primary education, for the authority to elect either to create an additional class (or an additional composite class) in the specified school or to take an additional teacher into employment at that school;][^{F11}or
- (vii) though neither of the tests set out in sub-paragraphs (i) and (ii) above is satisfied, have the consequence that the capacity of the school would be exceeded in terms of pupil numbers;]
- (b) if the education normally provided at the specified school is not suited to the age, ability or aptitude of the child;
- (c) if the education authority have already required the child to discontinue his attendance at the specified school;
- (d) if, where the specified school is a special school, the child does not have [^{F12}additional support needs] requiring the education or special facilities normally provided at that school; or
- (e) if the specified school is a single sex school (within the meaning given to that expression by section 26 of the ^{M1} Sex Discrimination Act 1975) and the child is not of the sex admitted or taken (under that section) to be admitted to the school,

but an education authority may place a child in the specified school notwithstanding paragraphs (a) to (e) above.

- ^{F13} [^{F15} . . . the duty imposed by subsection (1) above does not apply where the acceptance
- ^{F14}(3A) of a placing request in respect of a child who is resident outwith the catchment area of the specified school would prevent the education authority from retaining reserved places at the specified school or in relation to any particular stage of education at the school; but nothing in this subsection shall prevent an education authority from placing a child in the specified school.

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^{F16}(3B)

(3C) In subsection (3A) above, “reserved places” means such number of places (not exceeding such number or, as the case may be, such percentage of places at the school or relating to the particular stage of education as may be prescribed by regulations) as are in the opinion of the education authority reasonably required to accommodate pupils likely to become resident in the catchment area of the school in the period from the time of consideration of the placing request up to and during the year from 1 August to which the placing request relates; and different numbers or, as the case may be, percentages may be prescribed under this subsection for the purpose of different cases or circumstances.

(3D) In subsections (3A) and (3C) above, “catchment area” means the area from which pupils resident therein will be admitted to the school in terms of any priority based on residence in accordance with the guidelines formulated by the authority under section 28B(1)(c) of this Act.

^{F16}(3E)]

^{F14}[Where an education authority are carrying out the duty imposed on them by subsection (1) above in respect of a child such as is mentioned in subsection (6)(c) below, they shall place the child in the specified school—

- (a) on the date (being the date fixed for that school under section 32(1) and (2) of this Act) next following the making of the placing request; or
- (b) where that date has passed, as soon after that date as is reasonably practicable.]

(4) An education authority shall inform a parent in writing of their decision on his placing request and, where they decide to refuse it, shall give him written reasons for their decision and inform him of his right to refer it under section 28C of this Act to an appeal committee.

(5) The Secretary of State may, by regulations, make provision for deeming an education authority to have refused a placing request in the event of their not having informed the parent in writing of their decision on it in accordance with subsection (4) above within such period or before such date as may be prescribed in the regulations and different periods or dates may be so prescribed for different purposes.

^{F17}[In this section—

- (6) “primary school” does not include a nursery school or a nursery class; and “qualifying child” means—
 - (a) a child of school age;
 - (b) a child who has commenced attendance at a primary school but is not of school age; or
 - (c) a child who is not of school age and who, on the date (being the date fixed under subsections (1) and (2) of section 32 of this Act for the purposes of subsection (6) of that section) next following the making of the request under subsection (1) above, will be eligible under this Act to commence attendance at a primary school.]]

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Textual Amendments

- F2** Ss. 28A–28G inserted by [Education \(Scotland\) Act 1981 \(c. 58\), s. 1\(1\)](#) (the insertion being in force on or before 1.1.1983 except as regards s. 28G which came into force for some purposes prior to that date and for all remaining purposes on 9.3.1983)
- F3** Words in s. 28A(1) substituted (26.2.2002) by [School Education \(Amendment\) \(Scotland\) Act 2002 \(asp 2\), s. 1\(1\)\(a\)\(i\)\(2\)](#); S.S.I. 2002/74, [art. 2](#)
- F4** Words in s. 28A(1) inserted (13.10.2000) by [2000 asp 6, s. 43\(2\)\(4\)](#); S.S.I. 2000/361, [art. 3\(1\)\(2\)](#), **Sch. Pt. I**
- F5** Words in s. 28A(1) substituted (18.9.1996) by [1996 c. 43, s. 33\(2\)](#); S.I. 1996/2250, [art. 2](#).
- F6** Words in s. 28A(1) substituted (26.2.2002) by [School Education \(Amendment\) \(Scotland\) Act 2002 \(asp 2\), s. 1\(1\)\(a\)\(ii\)\(2\)](#); S.S.I. 2002/74, [art. 2](#)
- F7** S. 28A(1A) inserted (13.10.2000) by [2000 asp 6, s. 44\(3\)](#); S.S.I. 2000/361, [art. 3\(1\)\(2\)](#), **Sch. Pt. I**
- F8** S. 28A(3)(a)(iv)(v) and the word preceding it substituted (18.9.1996) for s. 28A(3)(a)(iv) by [1996 c. 43, s. 33\(3\)](#); S.I. 1996/2250, [art. 2](#).
- F9** Word in s. 28A(3)(a)(iv) repealed (31.12.2004) by [Standards in Scotland’s Schools etc. Act 2000 \(asp 6\), s. 61\(2\), sch. 3](#); S.S.I. 2004/528, [art. 2\(b\)](#)
- F10** S. 28A(3)(a)(vi) added (13.10.2000) by [2000 asp 6, s. 44\(4\)](#); S.S.I. 2000/361, [art. 3\(1\)\(2\)](#), **Sch. Pt. I**
- F11** S. 28A(3)(a)(vii) and word added (31.12.2004 in so far as not already in force) by [Standards in Scotland’s Schools etc. Act 2000 \(asp 6\), ss. 44\(4\), 61\(2\)](#); S.S.I. 2004/528, [art. 2\(a\)](#)
- F12** Words in s. 28A(3)(d) substituted (14.11.2005) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2004 \(asp 4\), s. 35\(1\), sch. 3 para. 3\(5\)](#); S.S.I. 2005/516, [arts. 1, 4](#); S.S.I. 2005/564, [art. 2](#)
- F13** S. 28A(3A)-(3E) inserted (18.9.1996) by [1996 c. 43, s. 33\(4\)](#); S.I. 1996/2250, [art. 2](#).
- F14** S. 28A(3F) inserted (26.2.2002) by [School Education \(Amendment\) \(Scotland\) Act 2002 \(asp 2\), s. 1\(1\)\(b\)\(2\)](#); S.S.I. 2002/74, [art. 2](#)
- F15** Words in s. 28A(3A) repealed (13.10.2000) by [2000 asp 6, s. 44\(5\)](#); S.S.I. 2000/361, [art. 3\(1\)\(2\)](#), **Sch. Pt. I**
- F16** S. 28A(3B)(3E) repealed (13.10.2000) by [2000 asp 6, s. 44\(6\)](#); S.S.I. 2000/361, [art. 3\(1\)\(2\)](#), **Sch. Pt. I**
- F17** S. 28A(6) added (26.2.2002) by [School Education \(Amendment\) \(Scotland\) Act 2002 \(asp 2\), s. 1\(1\)\(c\)\(2\)](#); S.S.I. 2002/74, [art. 2](#)

Modifications etc. (not altering text)

- C1** S. 28A excluded (14.11.2005) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2004 \(asp 4\), s. 35\(1\), sch. 2 para. 1](#); S.S.I. 2005/564, [art. 2](#)

Marginal Citations

- M1** [1975 c. 65](#).

28B Information as to placing in schools and other matters.

- (1) Every education authority shall—
- (a) publish or otherwise make available information as to—
 - (i) their arrangements for the placing of children in schools under their management;
 - (ii) such matters as may be prescribed by regulations;
 - (iii) such other matters as the authority consider necessary or expedient for the purposes of their functions under this Act;
 - (b) where a child falls, in accordance with those arrangements, to be placed in a school under their management—

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- (i) in a case where the authority propose to place the child in a particular school, inform his parent of the school; and
- (ii) in every case, subject to subsection (4) below, inform the parent of the general effect of section 28A (1) and (2) of this Act and of his right to make a placing request;
- (c) in making arrangements for the performance of their functions under this Act, formulate guidelines to be followed by them as respects placing in schools generally or, if they think it necessary, in any particular school in the event of there being more placing requests made in respect of certain schools or, as the case may be, that school or in respect of any stage or stages of school education provided there than there are places available;
- (d) on a request to that effect made to them at any time by a parent of a child, supply the parent with any prescribed or determined information about any school under their management.

In paragraph (d) above, “prescribed or determined information” means information prescribed or determined under subsection (3)(c) below.

[^{F18}(1A) In the application of subsection (1)(b)(ii) above in relation to a child who has additional support needs—

- (a) for the reference to section 28A(1) and (2) of this Act there shall be substituted a reference to paragraph 2 of schedule 2 to the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4), and
 - (b) “placing request” means a placing request within the meaning of that Act.]
- (2) An education authority shall, in performing the duties imposed on them by subsection (1) above, comply with any regulations made under subsection (3) below.
- (3) The Secretary of State may by regulations prescribe or make provision for the determining of—
- (a) the procedure in accordance with which education authorities are to perform the duties imposed on them by subsection (1) above and when they are to do so;
 - (b) how education authorities are to go about publishing or otherwise making available information under subsection (1) above or informing parents under that subsection;
 - (c) the kind of information which is to be so published or which is to comprise the information so made available or supplied to parents.
- (4) The duty imposed by subsection (1)(b)(ii) above arises only when the existence of the child and the fact that he falls to be placed in a school under their management are known to the education authority.

Textual Amendments

F18 S. 28B(1A) inserted (14.11.2005) by Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4), s. 35(1), **sch. 3 para. 3(6)**; S.S.I. 2005/564, art. 2

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- (1) Subject to subsections (2) and (3) below, a parent who has made a placing request may refer a decision of the education authority refusing his request to an appeal committee set up under section 28D of this Act.

^{F19}(2)

- (3) Where a reference under this section has been made in respect of a child, no further such reference in respect of the child shall be competent during the period of 12 months beginning with the day on which the immediately preceding such reference was lodged.
- (4) A reference under this section shall be lodged with the appeal committee within 28 days of the receipt by the parent of the decision of the education authority (which, if posted, shall, unless the contrary is proved, be presumed to have been received on the day after the date on which it was posted except that a decision posted on a Friday or Saturday shall, unless the contrary is proved, be presumed to have been received on the Monday next following), but the committee shall, on good cause being shown, have power to hear such a reference notwithstanding that it was not lodged within that time.

Textual Amendments

F19 S. 28C(2) repealed (13.10.2000) by 2000 asp 6, s. 43(3); S.S.I. 2000/361, art. 3(1)(2), Sch. Pt. I

Modifications etc. (not altering text)

C2 S. 28C excluded (during period of 3 years beginning with 1.1.1983) by Education (Scotland) Act 1981 (c. 58), Sch. 8 para. 4(d)

C3 S. 28C excluded (14.11.2005) by Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4), s. 35(1), sch. 2 para. 1; S.S.I. 2005/564, art. 2

28D Appeal committees.

- (1) Every education authority shall—
- (a) set up and maintain such number of appeal committees; and
 - (b) make such other arrangements
- as are necessary to enable references to be made under sections 28C, 28E(6), 28F(7), 28H and 63 of this Act [^{F20}and paragraph 5 of schedule 2 to the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4)] and heard by the committees.
- (2) An appeal committee set up under subsection (1) above shall be constituted in accordance with Schedule A1 to this Act.
- (3) The Secretary of State may by regulations make provision for procedure in relation to references under section 28C of this Act and regulations made under this subsection may include provision—
- (a) requiring the education authority to make information relevant to their decision available to the committee and to the parent referring that decision to the committee;
 - (b) deeming, for the purposes of this Act, an appeal committee to have confirmed the decision of an education authority on a placing request in the event of the committee's not having complied with section 28E(3) of this Act within

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such period or before such date as may be prescribed in the regulations and different periods or dates may be so prescribed for different purposes;

- (c) ancillary to or consequential upon provision made under paragraphs (a) and (b) above.

Textual Amendments

F20 Words in s. 28D(1) inserted (14.11.2005) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2004 \(asp 4\)](#), s. 35(1), [sch. 3 para. 3\(7\)\(b\)](#); S.S.I. 2005/564, art. 2

28E Appeal committees: supplementary provisions.

- (1) An appeal committee may, on a reference under section 28C of this Act, confirm the education authority’s decision if they are satisfied—
 - (a) that one or more of the grounds of refusal specified in section 28A(3) of this Act exists or exist; and
 - (b) that, in all the circumstances, it is appropriate to do so
 but otherwise shall refuse to confirm the authority’s decision and shall, where they so refuse, require the education authority to place the child to whom the reference relates in the specified school.

^{F21}(2)

- (3) An appeal committee shall notify their decision under this section and the reasons for it in writing to the parent who made the reference and to the education authority and, where they confirm the authority’s decision, they shall inform the parent of his right of appeal to the sheriff under section 28F of this Act.
- (4) Where, on a reference under section 28C of this Act, an appeal committee refuse to confirm an education authority’s decision, the authority shall give effect to the placing request to which the reference relates.
- (5) Where a decision of an appeal committee under this section is inconsistent with any decision of the education authority refusing a placing request to place another child at the same time and at the same stage of education and in the same school as that at and in which the child to whom the appeal committee’s decision relates is to be placed, the education authority shall review their decision so to refuse and shall inform the parent of the other child in writing of their decision upon that review and the reasons for it.
- (6) The decision of an education authority upon a review under subsection (5) above not to reverse their decision to refuse the placing request in respect of the other child may be referred to an appeal committee by the parent of the other child as if the decision upon the review were a decision refusing his placing request and the provisions of this Act relating to references of decisions upon placing requests and appeals therefrom (including those relating to appeal committees) shall apply accordingly.

^{F22}(7)

- ^{X1}(8) In section 23 of the Local Government (Scotland) Act 1975 (authorities subject to investigation by Local Commissioner), at the end of subsection (2), there shall be inserted the following paragraph—

“(f) any appeal committee set up under section 28D of the Education (Scotland) Act 1980.”.

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Editorial Information

- X1** The text of s. 28E(8) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Textual Amendments

- F21** S. 28E(2) repealed (14.11.2005) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2004 \(asp 4\)](#), s. 35(1), [sch. 3 para. 3\(8\)](#); S.S.I. 2005/564, art. 2
- F22** S. 28E(7) repealed (1.10.1992) by [Tribunals and Inquiries Act 1992 \(c. 53\)](#), ss. 18(2), 19(2), [Sch. 4 Pt. I](#)

Modifications etc. (not altering text)

- C4** S. 28E excluded (during period of 3 years beginning with 1.1.1983) by [Education \(Scotland\) Act 1981 \(c. 58\)](#), [Sch. 8 para. 4\(d\)](#)
- C5** S. 28E excluded (14.11.2005) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2004 \(asp 4\)](#), s. 35(1), [sch. 2 para. 1](#); S.S.I. 2005/564, art. 2

28F Appeal to sheriff from appeal committee.

- (1) A parent who has made a reference under section 28C of this Act may appeal to the sheriff having jurisdiction where the specified school is situated against the decision of an appeal committee on that reference.
- (2) The education authority may, but the appeal committee shall not, be a party to an appeal under this section.
- (3) An appeal under this section—
 - (a) shall be made by way of summary application;
 - (b) shall be lodged with the sheriff clerk within 28 days from the date of receipt of the decision of the appeal committee (which, if posted, shall, unless the contrary is proved, be presumed to have been received on the day after the date on which it was posted, except that a decision posted on a Friday or Saturday shall, unless the contrary is proved, be presumed to have been received on the Monday next following); and
 - (c) shall be heard in chambers.
- (4) On good cause being shown, the sheriff may hear an appeal under this section notwithstanding that it was not lodged within the time mentioned in subsection (3) above.
- (5) The sheriff may on an appeal under this section confirm the education authority's decision if he is satisfied—
 - (a) that one or more of the grounds of refusal specified in section 28A(3) of this Act exists or exist; and
 - (b) that, in all the circumstances, it is appropriate to do so
 but shall otherwise refuse to confirm their decision and shall, where he so refuses, require the authority to give effect to the placing request to which the appeal relates.
- (6) Where the judgment of the sheriff on an appeal under this section is inconsistent with any decision of the education authority (whether confirmed by the appeal committee or not) refusing a placing request to place another child at the same time and at the same stage of education and in the same school as that at and in which the child to

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whom the judgment relates is to be placed, the education authority shall review their decision so to refuse and shall inform the parent of the other child of their decision upon that review and the reasons for it.

- (7) The decision of an education authority upon a review under subsection (6) above not to reverse their decision to refuse the placing request in respect of the other child may be referred to an appeal committee by the parent of the other child as if the decision upon the review were a decision refusing his placing request and the provisions of this Act relating to references of decisions upon placing requests and appeals therefrom (including those relating to appeal committees) shall apply accordingly.
- (8) The sheriff may make such order as to the expenses of an appeal under this section as he thinks proper.
- (9) The judgment of the sheriff on an appeal under this section shall be final.

Modifications etc. (not altering text)

- C6** S. 28F excluded (during period of 3 years beginning with 1.1.1983) by [Education \(Scotland\) Act 1981 \(c. 58\)](#), [Sch. 8 para. 4\(d\)](#)
- C7** S. 28F excluded (14.11.2005) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2004 \(asp 4\)](#), s. 35(1), [sch. 2 para. 1](#); S.S.I. 2005/564, art. 2

28G Application of sections 28A to 28F and Schedule A1 to young persons.

—Sections 28A to 28F of this Act and Schedule A1 to this Act shall apply in relation to a young person who is a pupil and in that application references in those sections to the parent of a [^{F23}qualifying] child as well as references to the [^{F23}qualifying] child himself shall be construed as references to the young person.

Textual Amendments

- F23** Word in s. 28G inserted (26.2.2002) by [School Education \(Amendment\) \(Scotland\) Act 2002 \(asp 2\)](#), [s. 1\(3\)\(a\)\(b\)](#); S.S.I. 2002/74, [art. 2](#)

Modifications etc. (not altering text)

- C8** S. 28G excluded (14.11.2005) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2004 \(asp 4\)](#), s. 35(1), [sch. 2 para. 1](#); S.S.I. 2005/564, art. 2

[^{F24}28H Reference to appeal committee, and appeal therefrom of decision to exclude pupil.

- (1) Where an education authority decide to exclude a pupil from a school under their management which he attends, the parent of the pupil or, where the pupil is a young person, the pupil may refer the decision to an appeal committee set up under section 28D of this Act.
- (2) An appeal committee may, on a reference under this section, confirm or annul the decision of the education authority excluding the pupil and, in confirming a decision of the authority to exclude a pupil until certain conditions stipulated by them are complied with, the committee may modify the conditions.

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- (3) The decision of an appeal committee on a reference under this section and the reasons for it shall be notified by the committee in writing to the parent or, as the case may be, the pupil making the reference and to the education authority.
- (4) A decision of an appeal committee on a reference under this section annulling a decision of an education authority or modifying the conditions subject to which an education authority have excluded a pupil from a school shall be complied with by the authority.
- (5) The Secretary of State may by regulations make provision for procedure in relation to references under this section and regulations made under this subsection may include provision—
 - (a) requiring the education authority to make information relevant to their decision available to the appeal committee and to the parent or, as the case may be, pupil referring that decision to the committee;
 - (b) deeming, for the purposes of this Act, an appeal committee to have confirmed the education authority's decision to exclude a pupil from a school under their management which he attends in the event of the appeal committee's not having complied with subsection (3) above within such period as may be prescribed in the regulations and different periods may be so prescribed for different purposes.
- (6) The decision of an appeal committee confirming an education authority's decision to exclude a pupil or modifying conditions under subsection (2) above may be appealed against by the parent of the pupil or, where the pupil is a young person, the pupil to the sheriff having jurisdiction where the school from which the pupil has been excluded is situated, and subsections (2), (3), (4), (8) and (9) of section 28F of this Act shall apply to an appeal under this subsection.
- (7) The sheriff may, on an appeal under subsection (6) above, confirm or annul the decision of the education authority excluding the pupil and, in confirming a decision excluding the pupil until certain conditions stipulated by them are complied with, he may modify the conditions.]

Textual Amendments

F24 S. 28H inserted (5.4.1983) by [Education \(Scotland\) Act 1981 \(c. 58\)](#), s. 1(1)

Modifications etc. (not altering text)

C9 S. 28H extended (13.10.2000) by [2000 asp 6](#), s. 41; [S.S.I. 2000/361](#), art. 3((1)(2), Sch. Pt. I

Information as to schools and pupils

[^{F25}28I Information as to schools.

- (1) The Secretary of State may by regulations make provision requiring—
 - (a) in respect of every school for the management of which an education authority is responsible, the education authority; and
 - (b) in respect of every other school—
 - (i) where the school has a board of management, the board of management;

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- (ii) in any other case, the managers,
- to provide to him and to such persons (including education authorities) as may be prescribed such information as regards the school and pupils attending the school as may be prescribed.
- (2) For the purposes of this section information about the continuing education of pupils leaving a school, or the employment or training taken up by such pupils on leaving, is to be treated as information about the school.
- (3) Where the Secretary of State exercises his power to make regulations under this section he shall do so with a view to making available information which is likely to—
- (a) assist parents in choosing schools for their children;
 - (b) increase public awareness of the quality of the education provided by the schools concerned and the educational standards achieved in those schools; or
 - (c) assist in assessing the degree of efficiency with which the financial resources of those schools are managed.
- (4) Information which is required by virtue of regulations made under this section shall be provided—
- (a) in such form and manner; and
 - (b) on such occasions,
- as may be prescribed.
- (5) No information provided in accordance with regulations made under this section shall name any pupil to whom it relates.
- (6) The Secretary of State may—
- (a) publish information provided in accordance with regulations made under this section in such form and manner as he considers appropriate;
 - (b) require an education authority to publish such information at such times and in such form and manner as he may specify for the purposes of this section; or
 - (c) make arrangements for such information to be published in such form and manner, and by such persons, as he may specify for the purposes of this section.
- (7) The powers given to the Secretary of State by this section and section 28J of this Act may be exercised so as to make different provision in relation to different areas.
- (8) This section and sections 28J and 28K of this Act are not to be taken as restricting, or otherwise affecting, any other powers that the Secretary of State may have to make regulations with respect to, or otherwise require, the provision of information by any person.
- (9) Regulations made under this section and sections 28J and 28K of this Act may make different provision for different cases or classes of case.
- (10) This section does not apply to nursery schools.]

Textual Amendments

F25 Ss. 28I-28K inserted (1.5.1993) by [Education \(Schools\) Act 1992 \(c. 38\), s.17](#); [S.I. 1993/1190, art.3](#) (with [art. 4](#))

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28J ^{F26} **Requirement to provide information as to school education.**

- (1) The Secretary of State may make regulations requiring education authorities, boards of management and managers of grant-aided schools to provide to prescribed persons such information or documents or categories of information or documents relating to school education as may be prescribed.
- (2) Information or documents provided in pursuance of regulations made under subsection (1) above shall be provided—
 - (a) in such form and manner; and
 - (b) on such occasions,
 as may be prescribed.

Textual Amendments

F26 Ss. 28I-28K inserted (1.5.1993) by [Education \(Schools\) Act 1992 \(c. 38\), s.17](#); S.I. 1993/1190, [art.3](#) (with [art. 4](#))

28K ^{F27} **Information as to pupils.**

- (1) The Secretary of State may by regulations make provision requiring that such information and reports as may be prescribed as regards pupils attending schools to which this section applies shall be supplied to the parents of such pupils at such times and in such form and manner as may be determined by or in accordance with the regulations.
- (2) This section applies to any school which is not a grant-aided school, an independent school or a nursery school.
- (3) Regulations made under this section may contain provision as to—
 - (a) the means of involvement of parents in consideration of such reports; and
 - (b) the extent to which any information relating to general standards of performance in examinations or other forms of assessment of any group of pupils shall be supplied to parents of other pupils.

Textual Amendments

F27 Ss. 28I-28K inserted (1.5.1993) by [Education \(Schools\) Act 1992 \(c. 38\), s.17](#); S.I. 1993/1190, [art.3](#) (with [art. 4](#))

[^{F28}28L Use of electronic communications

- (1) This section applies for the purposes of doing anything in writing under—
 - (a) section 28A(1) or (4);
 - (b) section 28E(3) or (5);
 - (c) section 28H(3); or
 - (d) regulations made under section 28A(5), 28D(3) or 28H(5),
 of this Act.
- (2) Subject to subsection (3) below, any request, information, notification or other thing which must be in writing may be done by means of a document—

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- (i) transmitted by electronic means;
 - (ii) received in legible form; and
 - (iii) capable of being used for subsequent reference.
- (3) An education authority shall be bound to accept receipt of a request made under section 28A(1) of this Act by way of electronic communication only if that authority—
- (a) has passed a resolution to accept receipt of requests so transmitted; and
 - (b) has, under section 28B(1)(a) of this Act, published or otherwise made that resolution available.]

Textual Amendments

F28 S. 28L inserted (23.6.2006) by [Electronic Communications \(Scotland\) Order 2006 \(S.S.I. 2006/367\)](#), arts. 1(1), 4

^{F29}**29**

Textual Amendments

F29 S. 29 repealed with saving by [Education \(Scotland\) Act 1981 \(c. 58\)](#), s. 8(2)(3), [Sch. 9](#)

Duty of parents to provide education for their children

30 Duty of parents to provide education for their children.

[^{F30}(1)] It shall be the duty of the parent of every child of school age to provide efficient education for him suitable to his age, ability and aptitude either by causing him to attend a public school regularly or by other means.

[^{F31}(2) Section 1 of the Standards in Scotland's Schools etc. Act 2000 (asp 6) (right of child to be provided with school education by, or by virtue of arrangements made by, an education authority) is without prejudice to the choice afforded a parent by subsection (1) above.]

Textual Amendments

F30 S. 30 renumbered as s. 30(1) (13.10.2000) by [2000 asp 6](#), s. 60(1), [Sch. 2 para. 3\(5\)](#); S.S.I. 2000/361, art. 3(1)(2), [Sch. Pt. I](#)

F31 S. 30(2) added (13.10.2000) by [2000 asp 6](#), s. 60(1), [Sch. 2 para. 3\(5\)](#); S.S.I. 2000/361, art. 3(1)(2), [Sch. Pt. I](#)

31 School age.

Subject to sections 32(3) and 33(2) and (4) of this Act, a person is of school age if he has attained the age of five years and has not attained the age of sixteen years.

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Modifications etc. (not altering text)

- C10** S. 31 applied (1.11.1996) by 1995 c. 36, s. 93(1); S.I. 1996/2203, art. 3(3), **Sch.**
 S. 31 applied (1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 10(a)** (which substituted definition in 1961 c. 34, s. 176(1)); S.I. 1996/3201, **art. 3(7)** (Sch. 4 para. 10(a) was repealed (1.9.1997) by 1996 c. 56, s. 582(2), **Sch. 38 Pt. II**).
- C11** S. 31 applied (1.9.1997) by 1996 c. 56, ss. 582(1)(4), 583(2), **Sch. 37 Pt. II para. 135**(substituting the definition of "child" in 1961 c. 34, s. 176(1)), Sch. 40 para. 1 (with ss. 1(4), 561, 562, Sch. 39); S.I. 1997/1623, **art. 2**.
- C12** S. 31 applied (1.11.1998) by 1998 c. 39, s. 55(4) (with s. 36); S.I. 1998/2574, art. 2(1), **Sch. 1**.

32 Dates for commencement of school attendance.

- (1) Subject to subsection (7) below, an education authority shall fix a date or dates (any such fixed date being hereinafter referred to as a “school commencement date”) for the commencement of attendance at primary schools in their area; and any such date may be either a calendar date or fixed by reference to the occurrence of a particular annual event.
- (2) Subject to subsection (7) below, an education authority may, under subsection (1) above—
 - (a) fix different school commencement dates for different primary schools in their area;
 - (b) at any time fix a different school commencement date in substitution for any date previously fixed by them under the said subsection (1).
- (3) A child who does not attain the age of five years on a school commencement date shall, for the purposes of section 31 of this Act, be deemed not to have attained that age until the school commencement date next following the fifth anniversary of his birth.
- (4) Subject to subsection (7) below, an education authority shall, in respect of each school commencement date fixed by them under subsection (1) above and applicable to a public primary school, fix the latest following date (any such fixed date being hereinafter referred to as an “appropriate latest date”) on or before which a child must attain the age of five years in order to come within the category of children whom the authority consider of sufficient age to commence attendance at a public primary school at that school commencement date.
- (5) Subject to subsection (7) below, an education authority may, under subsection (4) above—
 - (a) where a school commencement date is applicable to more than one public primary school in their area, fix in respect of that school commencement date different appropriate latest dates for those different schools;
 - (b) at any time fix a different appropriate latest date in substitution for any date previously fixed by them under the said subsection (4).
- (6) The education authority shall carry out their duty under section 1 of this Act as if a child who is under school age on a school commencement date, but who will attain the age of five years on or before the next following appropriate latest date fixed in respect of the school commencement date, has attained the age of five years on the school commencement date; but nothing in this subsection or in subsection (4) above shall, in respect of a child under school age,—

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- (a) impose any duty on his parent; or
 - (b) require an education authority to take any action under section 36 or 37 of this Act.
- (7) The period between an appropriate latest date applicable to a school and the next following school commencement date applicable to that school (whether or not the school commencement date is that in respect of which the appropriate latest date is fixed) shall not, except with the approval of the Secretary of State on an application to him by the education authority, exceed six months by more than seven days:
- Provided that no such application shall be made, nor approval given, in respect of any such period which commences after 31st December 1979.
- (8) In relation to any child, “school commencement date”—
- (a) in subsection (3) above—
 - (i) means, where the child is a pupil in attendance at a primary school, a school commencement date of that school;
 - (ii) in any other case has the same meaning as in subsection (6) above;
 - (b) in subsection (6) above means a school commencement date of the public primary school to which a child of his religious denomination and from his place of residence would normally be admitted.
- (9) In this section, “primary school” does not include a nursery school or a nursery class.

33 School leaving dates.

- (1) The last day of May (hereinafter referred to as the “summer leaving date”) and the appropriate day in December (hereinafter referred to as the “winter leaving date”) shall be the school leaving dates in each year.
- (2) Subject to subsection (4) below, for the purposes of section 31 of this Act a person shall, if the date of his attaining the age of sixteen years is—
- (a) on or after 1st March but before the next summer leaving date, be deemed not to have attained that age until the summer leaving date;
 - (b) after the summer leaving date but before 1st October next following that date, be deemed to have attained that age on the summer leaving date;
 - (c) on or after 1st October but before the next winter leaving date, be deemed not to have attained that age until the winter leaving date;
 - (d) after the winter leaving date but before 1st March next following that date, be deemed to have attained that age on the winter leaving date.
- (3) In subsection (1) above, “the appropriate day in December” means—
- (a) in the case of a person who is a pupil in attendance at a school, the first day of the Christmas holiday period;
 - (b) in any other case, 21st December,
- and in paragraph (a) of this subsection, “Christmas holiday period” means a period of consecutive days which includes 25th December and in which the school does not meet for the purpose of providing school education.
- (4) F32

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Textual Amendments

F32 S. 33(4) repealed by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(2), **Sch. 11**

Modifications etc. (not altering text)

C13 S. 33 applied (1.11.1998) by 1998 c. 39, s. 55(4) (with s. 36); S.I. 1998/2574, art. 2(1), **Sch. 1**.

34 Exemption from school attendance.

- (1) Where after due inquiry an education authority are satisfied that by reason of any circumstances existing at his home it would cause exceptional hardship to require a child over fourteen years of age to attend school, they may grant exemption from the obligation to attend school to enable the said child to give assistance at home upon such conditions, if any, as to the amount and manner of further attendance at school until the child reaches the upper limit of the school age as the authority think fit.
- (2) No exemption granted under subsection (1) above shall extend beyond the date for commencing school attendance next following the date upon which the exemption was granted.

 Provided that the authority may if they think fit renew an exemption, so however that the provisions of this section shall apply to such renewal in like manner as they apply to the original grant.
- (3) An exemption granted under this section shall exempt the parent of the child concerned from any prosecution or other proceeding under this Act for neglecting to provide for the education of the said child.
- (4) The education authority shall keep a register of exemptions granted under this section wherein shall be entered the name of each child so exempted and a statement of the circumstances in which and the conditions upon which such exemption was granted.

Failure of parents to provide education for their children

35 Failure by parent to secure regular attendance by his child at a public school.

- (1) Where a child of school age who has attended a public school on one or more occasions fails without reasonable excuse to attend regularly at the said school, then, unless the education authority have consented to the withdrawal of the child from the school (which consent shall not be unreasonably withheld), his parent shall be guilty of an offence against this section.
- (2) For the purposes of this section, a child who has been required to discontinue for any period his attendance at a school on account of his parent's refusal or failure to comply with the rules, regulations or disciplinary requirements of the school, shall, unless the court otherwise determines, be deemed to have failed without reasonable excuse to attend regularly at the school.

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36 Power of education authority in relation to irregular attendance of child at a public school.

- (1) It shall be the duty of the education authority if they consider that a parent has committed an offence against section 35 of this Act in respect of a child resident in their area, to serve a notice on the parent requiring him, within such time as may be specified in the notice (not being less than forty-eight hours or more than seven days from the service thereof) to appear (with or without the child) before the authority and explain the reason for the absence of the child from school. If the parent fails to satisfy the authority that he had a reasonable excuse, the authority may
- [^{F33}(a) instruct that he be prosecuted forthwith under section 43 of this Act, [^{F34}in the court of summary jurisdiction in which proceedings may be taken for the offence ^{F35}...; or
- (b) report the circumstances to the procurator fiscal or] warn the parent and postpone for a period not exceeding six weeks a decision as to whether [^{F36}so to report].
- (2) Where an education authority in the exercise of the powers conferred upon them by subsection (1) above postpone a decision as to whether to prosecute a parent, they may, if the child is still of school age, make an attendance order in respect of the child in accordance with the provisions of section 38 of this Act requiring the parent to cause the child to attend the public school which he has been attending, or, if the child has changed his residence, a school attended by children residing in the same neighbourhood as the child.
- (3) Without prejudice to the institution of proceedings for an offence against section 35 of this Act or the exercise of the power conferred by section 44(1) of this Act, where a child of school age has failed to attend a public school regularly, the education authority [^{F37}, where no requirement arises under section 53(1) of the Children (Scotland) Act 1995 to give information about the child to the Principal Reporter, may under this subsection provide the Principal Reporter with such information.]

Textual Amendments

- F33** S. 36(1): “(a)” inserted (9.8.2000) by 2000 asp 9, s. 12, **Sch. para. 3(1)(a)(i)**
- F34** Words and paragraph (b) substituted for words in s. 36(1) (9.8.2000) by 2000 asp 9, s. 12, **Sch. para. 3(1)(a)(ii)**
- F35** Words in s. 36(1)(a) repealed (10.3.2008 for specified purposes, 2.6.2008 for specified purposes, 8.12.2008 for specified purposes, 23.2.2009 for specified purposes, 14.12.2009 for specified purposes, 22.2.2010 in so far as not already in force) by **Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), s. 84(1), sch. para. 4(a); S.S.I. 2008/42, art. 3, sch.; S.S.I. 2008/192, art. 3, sch.; S.S.I. 2008/329, art. 3, sch.; S.S.I. 2008/362, art. 3, sch.; S.S.I. 2009/432, art. 3, schs. 1, 2**
- F36** Words in s. 36(1) substituted (9.8.2000) by 2000 asp 9, s. 12, **Sch. para. 3(1)(b)**
- F37** Words in s. 36(3) substituted (1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 28(2); S.I. 1996/3201, art. 3(7).**

37 Power of education authority where not satisfied that parent is providing efficient education for his child.

- (1) Where a child of school age has not attended a public school in the area in which his parent is residing, or has attended such a school and has been withdrawn therefrom with the consent of, or excluded by, the education authority, then, if the authority are

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not satisfied that the parent is providing efficient education for him suitable to his age, ability and aptitude, it shall be the duty of the authority to serve a notice on the parent requiring him within such time as may be specified in the notice (not being less than seven or more than fourteen days from the service thereof) either—

- (a) to appear (with or without the child) before the authority and give such information as the authority may require regarding the means, if any, he has adopted for providing education, or
 - (b) in the option of the parent, to give such information to the authority in writing.
- (2) If a parent on whom a notice has been served in pursuance of subsection (1) above fails to satisfy the authority that he is providing efficient education for the child suitable to his age, ability and aptitude or that there is reasonable excuse for his failure to do so, the authority shall make an attendance order in respect of the child in accordance with the provisions of section 38 of this Act.

Attendance orders

38 Making of attendance orders.

- (1) References in sections 36 and 37 of this Act, and in the following provisions of this Act, to an attendance order in respect of a child are references to an order in writing requiring the parent of the child to cause the child to attend a school named in the order, being either a public school, or a school (other than a public school) the managers of which are willing to receive the child.
- (2) In an attendance order in respect of a child—
 - (a) a school at which the parent will be required to pay fees shall not be named except at the request of the parent; and
 - ^{F38}(b) a special school shall not be named unless the child ^{F39}has additional support needs requiring the education or special facilities normally provided at the school].]
- (3) Before making an attendance order under section 36 or 37 of this Act, the education authority shall consider any views expressed by the parent as to the school which he desires his child to attend.
- (4) The authority shall cause a copy of any attendance order made by them under section 36 or 37 of this Act to be served upon the parent, and it shall thereupon be the duty of the parent, subject to an appeal to the sheriff under subsection (5) below, to cause the child to attend regularly at the school named in the order.
- (5) A parent aggrieved by the making of an attendance order by an education authority may within fourteen days after the date upon which a copy of the order was served upon him under subsection (4) above appeal against it to the sheriff, who may confirm, vary or annul the order and whose decision shall be final.

Textual Amendments

- F38** S. 38(2)(b) substituted by [Education \(Scotland\) Act 1981 \(c. 58\), Sch. 2 Pt. II para. 5, Sch. 8](#)
- F39** Words in s. 38(2)(b) substituted (14.11.2005) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2004 \(asp 4\), s. 35\(1\), sch. 3 para. 3\(9\)](#); S.S.I. 2005/564, art. 2

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39 Amendment and revocation of attendance orders.

- (1) An education authority who have made an attendance order in respect of any child may at any time while the order is in force serve upon the parent of the said child a notice of their intention to amend the order by substituting the name of another school for that named in the order.
- (2) Where a child in respect of whom an attendance order is in force moves his residence, the education authority of the area to which the child has moved may serve upon the parent of the said child a notice of their intention to amend that order by substituting for the name of the school appearing in the order the name of a school attended by children residing in the same neighbourhood as the child.
- (3) The parent may within fourteen days of the service of a notice under subsection (1) or (2) above intimate in writing to the authority any objections he may have to the proposed amendment. After the expiry of the said period of fourteen days and after considering any objections made by the parent, the authority may amend the attendance order, and subsections (2), (4) and (5) of section 38 of this Act shall apply in the case of the amended attendance order as they apply in the case of an attendance order.
- (4) If at any time while an attendance order is in force with respect to any child the parent of the child makes application to the authority by whom the order was made or amended requesting—
 - (a) that another school be substituted for that named in the order, or
 - (b) that the order be revoked on the ground that arrangements have been made for the child to receive efficient education suitable to his age, ability and aptitude at a school other than that named in the order or elsewhere than at school,

the authority shall amend or revoke the order in compliance with the request unless they are of opinion that the proposed change of school is unreasonable or inexpedient in the interests of the child, or that the arrangements made for the education of the child at a school other than that named in the order or elsewhere than at school are not satisfactory, as the case may be; and, if a parent is aggrieved by a failure of the authority to reach a decision upon his application within one month after the date thereof or by refusal of the authority to comply with any such request, he may appeal to the sheriff, who shall give such direction as he thinks fit.

40 Period of operation of attendance orders.

An attendance order made in respect of any child shall, subject to any amendment thereof made by an education authority or variation made by the sheriff, and unless revoked by an authority or annulled by the sheriff, continue in force so long as the child is of school age:

F40

Textual Amendments

F40 S. 40 proviso repealed (14.11.2005) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2004 \(asp 4\)](#), s. 35(1), [sch. 3 para. 3\(10\)](#); S.S.I. 2005/564, art. 2

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41 Failure to comply with attendance order.

Where an attendance order has been made and is in force in respect of any child, and a copy of such order has been served on the parent of the child, the parent shall, if the order is not complied with, be guilty of an offence against this section unless he satisfies the court that he has a reasonable excuse.

Reasonable Excuses

42 Reasonable excuses.

- (1) For the purposes of sections 35, 36, 37, 41 and 44 of this Act, there shall [^{F41}, subject to subsection (1A) below,] be deemed to be a reasonable excuse if—
- (a) there is within walking distance of the child's home measured by the nearest available route no public or other school the managers of which are willing to receive the child and to provide him with free education, and either—
 - (i) no arrangements have been made by the education authority under section 50 or 51 of this Act with regard to the child; or
 - (ii) any arrangements so made are such as to require the child to walk more than walking distance in the course of any journey between his home and school; or
 - (b) the child has been prevented by sickness from attending school or receiving education as the case may be; or
 - (c) there are other circumstances which in the opinion of the education authority or the court afford a reasonable excuse.

[^{F42}(1A) Subsection (1) above shall not apply in a case where—

- (a) the education authority have, in accordance with their arrangements as published or otherwise made available under section 28B(1)(a) of this Act, proposed to place the child in a particular school or in one of a number of schools named by them and, where the particular or named school is more than walking distance from the pupil's home measured by the nearest available route, they have offered to make for him suitable arrangements of the kind referred to in section 50 or 51 of this Act under which he would not require to walk more than walking distance, so measured, in the course of any journey between his home and the school; but
 - (b) in consequence of a placing request, the child has been placed by them in a school other than a school referred to in paragraph (a) above,
- and in such a case, for the purposes of sections 35, 36, 37, 41 and 44 of this Act, there shall be deemed to be a reasonable excuse if—
- (i) the child has been prevented by sickness from attending school or receiving education as the case may be; or
 - (ii) there are other circumstances which in the opinion of the education authority or the court afford a reasonable excuse.]
- (2) The fact that an application to an education authority, or an appeal to the sheriff, has been made under section 39(4) of this Act in relation to an attendance order in respect of a child shall not be deemed to be a reasonable excuse for failure to cause the child to attend regularly at the school named in the order.
- (3) Where a parent alleges that his child has been prevented by sickness from attending school or receiving education as the case may be, the parent shall, if required by

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the education authority, permit a medical officer of the appropriate Health Board to examine the child, and any parent who fails to do so shall be guilty of an offence against this section.

(4) In this section—

“walking distance” means, in the case of a child who has not attained the age of eight years, two miles, and in the case of any other child, three miles;

“the appropriate Health Board”, in relation to any child, means—

- (a) where an attendance order is in force in respect of the child, the Health Board in whose area the school named in the order is situated;
- (b) in any other case, the Health Board in whose area the place of residence of the child is situated.

Textual Amendments

F41 Words inserted by [Education \(Scotland\) Act 1981 \(c. 58\), s. 2\(1\)\(a\)](#)

F42 [S. 42\(1A\)](#) inserted by [Education \(Scotland\) Act 1981 \(c. 58\), s. 2\(1\)\(b\)](#)

Prosecutions

43 Prosecutions and penalties.

- (1) Any person guilty of an offence against section 35, 41 or 42 of this Act shall be liable, on conviction by a court of summary jurisdiction, [^{F43}to a fine not exceeding level 3 on the standard scale] or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.
- (2) Proceedings under this section ^{F44}... may be taken at the instance either of the public prosecutor of the court of summary jurisdiction in which the proceedings are to be taken or of another person authorised by the education authority to institute proceedings on their behalf.

Textual Amendments

F43 Words in s. 43(1) substituted (1.4.1996) by [1995 c. 40, ss. 3, 7\(2\), Sch. 1 para. 10, Sch. 2 Pt. III.](#)

F44 Words in s. 43(2) repealed (10.3.2008 for specified purposes, 2.6.2008 for specified purposes, 8.12.2008 for specified purposes, 23.2.2009 for specified purposes, 14.12.2009 for specified purposes, 22.2.2010 in so far as not already in force) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\), s. 84\(1\), sch. para. 4\(b\); S.S.I. 2008/42, art. 3, sch.; S.S.I. 2008/192, art. 3, sch.; S.S.I. 2008/329, art. 3, sch.; S.S.I. 2008/362, art. 3, sch.; S.S.I. 2009/432, art. 3, schs. 1, 2](#)

44 Powers of Courts in relation to child.

^{F45}(1)

- (2) If the court before which a prosecution is brought for an offence against section 35 of this Act is satisfied that a child has failed without reasonable excuse to attend regularly at school, but does not, in the exercise of the powers conferred upon it by [^{F46}section 54(1) of the Children (Scotland) Act 1995, refer the matter to the Principal Reporter], the court may, if the child is still of school age, make an attendance order in respect of the child requiring the parent to cause the child to attend the public

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school which he has been attending or, if the child has changed his residence, a school attended by children residing in the same neighbourhood as the child; and subsections (2) and (3) of section 38 and sections 39 to 41 of this Act shall apply with any necessary modifications to an attendance order made by a court under this section as they apply to an attendance order made by an education authority.

Textual Amendments

- F45** S. 44(1) repealed (1.4.1997) by 1995 c. 36, s. 105(4)(5), Sch. 4 para. 28(3)(a), **Sch. 5**; S.I. 1996/3201, **art. 3(7)**.
- F46** Words in s. 44(2) substituted (1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 28(3)(b)**; S.I. 1996/3201, **art. 3(7)**.

45— **F47**
48.

Textual Amendments

- F47** Ss. 45–48 repealed by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(2), **Sch. 11**

^{F48} Corporal Punishment

Textual Amendments

- F48** S. 48A inserted by Education (No. 2) Act 1986 (c. 61, SIF 41:2), s. 48

^{F49}48A]

Textual Amendments

- F49** S. 48A repealed (13.10.2000) by 2000 asp 6, s. 16(6); S.S.I. 2000/361, art. 3(1)(2), **Sch. Pt. I**

Provision to assist pupils to take advantage of educational facilities

49 Power of education authorities to assist persons to take advantage of educational facilities.

(1) Subject to the following provisions of this section, an education authority shall have power to grant, on such conditions as may be prescribed, and make payments in pursuance of, bursaries, scholarships or other allowances to persons over school age attending courses of full-time or part-time education (whether held in Scotland or elsewhere) which are not courses of school education or (in the case of courses held outside Scotland) are not courses of education comparable to school education in Scotland.

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(2) Subject to the following provisions of this section, an education authority shall have power, for the purpose of enabling persons to take advantage without hardship to themselves or their parents of the facilities for school education available to them, to grant, on such conditions as may be prescribed, and make payments in pursuance of, allowances for the purpose of defraying in whole or in part—

- (a) such expenses of persons attending any school as may be expedient to enable them to take full part in the activities of the school;
- (b) the fees and expenses payable in respect of persons attending schools at which fees are payable;
- (c) the maintenance expenses of persons over school age who are attending schools.

[^{F50}(2A) In subsection (2) above, references to attending school are to so attending not only where the school is in Scotland, but also where it is in England and Wales or in Northern Ireland (“school education” being construed accordingly).]

(3) The Secretary of State may make regulations providing that the powers conferred on an education authority by subsections (1) and (2) above—

- (a) shall be exercised in accordance with such provisions as may be prescribed by or under the regulations; and
- (b) shall not be exercised in relation to a person who does not fulfil such requirements as to residence in the area of the authority, or as to other matters, as may be specified in the regulations;

and regulations made under this subsection may contain provision for the determination by the Secretary of State of any question whether any such requirements are fulfilled in any particular case.

Textual Amendments

F50 S. 49(2A) inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(9)**

Modifications etc. (not altering text)

C14 S. 49(1) modified (1.8.1995) by S.I. 1995/1739, **reg. 3(1)(a)**.

S. 49(1) restricted (1.8.1995) by S.I. 1995/1739, **reg. 3(1)(b)**.

C15 S. 49(2) modified (1.8.1995) by S.I. 1995/1739, **reg. 3(1)(a)**.

S. 49(2) restricted (1.8.1995) by S.I. 1995/1739, **reg. 3(1)(b)**.

50 Education of pupils in exceptional circumstances.

(1) Where in the opinion of an education authority—

- (a) any pupil is, owing to the remoteness of his home or the conditions under which he is living or other exceptional circumstances, unable to receive the full benefit of school education unless special arrangements are made for him, or
- (b) school education suitable to the age, ability and aptitude of any pupil can best be provided for him at any particular school, ^{F51}
- (c) ^{F52}

the authority [^{F53}, in a case where subsection (3) applies, may and, in any other case, subject to subsection (4) below,] shall, after consultation with the parent ^{F54}, make such

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arrangements of either a temporary or a permanent character as they think best suited to the purpose of enabling that pupil to attend [F55, in any case falling under—

- (i) paragraph (a) of this subsection, an appropriate school; and
- (ii) paragraph (b) thereof, the particular school.]

[F56(1A) In subsection (1) above, references to an appropriate school and to a particular school are references not only to schools in Scotland but also to schools in England and Wales or in Northern Ireland (“school education” being construed accordingly).]

(2) The arrangements made under subsection (1) above may include—

- (a) the provision of travelling facilities or the payment of travelling expenses under [F57 subsection (1) of section 51 of this Act (for the purposes of this paragraph, any reference in that section to a school being construed as a reference not only to a school in Scotland but also to a school in England and Wales or in Northern Ireland)]; or
- (b) the accommodation of the pupil at a boarding school F54 or in a hostel, home or other institution; or
- (c) other provision of board and lodging, provided that the education authority shall, so far as practicable, give effect to the wishes of the parent with respect to the religious denomination of the person with whom the pupil will reside; or
- (d) provision for the travelling, board and lodging of teachers.

[F58(3) This subsection applies where—

- (a) the education authority have, in accordance with [F59— (i)]their arrangements as published or otherwise made available under section 28B(1)(a) of this Act [any arrangements made by them under section 23(1A) of this Act; or F60(ii)
- (iii) the arrangements subsisting before the establishment of new local government areas under Part I of the Local Government etc. (Scotland) Act 1994 and continuing by virtue of section 23(1C) of this Act], proposed to place the pupil in a particular school or in one of a number of schools named by them and have, in connection with that proposal, made or offered to make for the pupil suitable arrangements of the kind referred to in subsection (2) above; but
- (b) in consequence of a placing request, the pupil has been placed by them [F61 or another education authority]in a school other than a school referred to in paragraph (a) above.

(4) The duty imposed by subsection (1)(a) or (b) above does not apply where the pupil belongs (in accordance with section 23(3) of this Act) to the area of some other education authority or of a local education authority in England and Wales.]

Textual Amendments

- F51** Word repealed by [Self-Governing Schools etc. \(Scotland\) Act 1989 \(c. 39, SIF 41:2\)](#), s. 82(2), [Sch. 11](#)
- F52** S. 50(1)(c) repealed by [Self-Governing Schools etc. \(Scotland\) Act 1989 \(c.39, SIF 41:2\)](#), s. 82(2), [Sch. 11](#)
- F53** Words inserted by [Education \(Scotland\) Act 1981 \(c.58\)](#), s. 2(2)(a)
- F54** Words repealed by [Self-Governing Schools etc. \(Scotland\) Act 1989 \(c. 39, SIF 41:2\)](#), s. 82(2), [Sch. 11](#)
- F55** Words substituted by [Self-Governing Schools etc. \(Scotland\) Act 1989 \(c. 39, SIF 41:2\)](#), s. 82(1), [Sch. 10 para. 8\(10\)\(a\)](#)

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- F56** S. 50(1A) inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(10)(b)**
- F57** Words substituted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(10)(c)**
- F58** S. 50(3)(4) inserted by Education (Scotland) Act 1981 (c. 58), s. 2(2)(b)
- F59** Words in s. 50(3)(a) inserted (1.4.1996) by 1994 c. 39, s. 145(2)(a)(i); S.I. 1996/323, art. 4(1)(a), **Sch. 1.**
- F60** S. 50(3)(a)(i)(ii) inserted (1.4.1996) by 1994 c. 39, s. 145(2)(a)(ii); S.I. 1996/323, art. 4(1)(a), **Sch. 1.**
- F61** Words in s. 50(3)(b) inserted (1.4.1996) by 1994 c. 39, s. 145(2)(b); S.I. 1996/323, art. 4(1)(a), **Sch. 1.**

51 Provision of transport and other facilities.

(1) An education authority [^{F62}, in a case to which subsection (2A) ^{F63}... below applies, may and, in any other case, subject to subsection (2B) below] shall make such arrangements as they consider necessary for the provision of any of the following facilities in respect of pupils attending schools or other educational establishments—

- (a) for their conveyance without charge for the whole or part of the journey between their homes and the schools or other educational establishments which they are attending;
- (b) for making bicycles or other suitable means of transport available to the pupils, or to their parents for the use of the pupils, upon such terms and conditions as may be arranged, or for paying money allowances in lieu thereof;
- (c) for paying the whole or any part, as the authority think fit, of their reasonable travelling expenses,

and any such arrangement may in respect of any pupil make provision for more than one of the facilities specified in the foregoing paragraphs of this subsection.

(2) Where the requirements of pupils, for the conveyance of whom arrangements have been made by an education authority under subsection (1)(a) above, have been met, it shall be the duty of that authority, where there are any vacant places in any vehicle used for such conveyance, to allow such vacant places to be used ^{F64}... by other pupils to be selected by the authority.

[^{F65}(2AA) An education authority may—

- (a) subject to subsection (2BB) below, charge the parent of a pupil using a vacant place by virtue of subsection (2) above such sum as the authority consider appropriate; or
- (b) allow a vacant place to be so used without charge,

and the authority may make different charges for different cases or different classes of case.

(2BB) An education authority may not charge any sum under subsection (2AA)(a) above unless, having had regard to the financial circumstances of the parent to be charged, the authority consider that the charge can be paid by the parent without undue hardship.]

[^{F66}(2A) This subsection applies where—

- (a) the education authority have, in accordance with [^{F67}—
 - (i)] their arrangements as published or otherwise made available under section 28B(1)(a) of this Act
 - ^{F68}[any arrangements made by them under section 23(1A) of this Act; or
 - (ii)

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- (iii) the arrangements subsisting before the establishment of new local government areas under Part I of the Local Government etc. (Scotland) Act 1994 and continuing by virtue of section 23(1C) of this Act], proposed to place the pupil in a particular school or in one of a number of schools named by them and, where the particular or named school is more than walking distance from the pupil's home measured by the nearest available route, they have offered to make for him suitable arrangements of the kind referred to in subsection (1) above under which he would not require to walk more than walking distance, so measured, in the course of any journey between his home and the school; but
- (b) in consequence of a placing request, the pupil has been placed by them [^{F69}or another education authority] in a school other than a school referred to in paragraph (a) above.

In this subsection “walking distance” has the same meaning as in section 42 of this Act.

^{F70}(2AB)

^{F70}(2AC)

^{F71}[Without prejudice to the generality of subsection (1) above, the duty imposed by that (2AD) subsection applies in cases where a pupil attends a school or educational establishment under the management of another education authority—

- (a) in accordance with any arrangements made by them under section 23(1A) of this Act;
- (b) in accordance with the arrangements subsisting before the establishment of new local government areas under Part I of the Local Government etc. (Scotland) Act 1994 and continuing by virtue of section 23(1C) of this Act; or
- (c) if at the time when the pupil was placed in that school or educational establishment it was under the management of the education authority for the area to which the pupil belonged, and is under the management of another education authority as a consequence of the establishment of such new local government areas.]

(2B) The duty imposed by subsection (1) above does not apply where the pupil belongs (in accordance with section 23(3) of this Act) to the area of some other education authority or of a local education authority in England and Wales.]

^{F72}[(2C) In considering whether to make any arrangements under subsection (1) above in respect of pupils attending schools, an education authority shall have regard to the safety of such pupils.]

(3) Where as a condition of admission to any educational institution a person is required to attend for examination or interview at a particular place, the education authority may pay the whole or part of the expenses necessarily incurred by that person in respect of such attendance.

[^{F73}(4) In this section “school” does not include a nursery school or a nursery class in a school.]

Textual Amendments

F62 Words inserted by [Education \(Scotland\) Act 1981 \(c. 58\), s. 2\(3\)\(a\)](#)

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- F63** Words in s. 51(1) repealed (31.12.2004) by Standards in Scotland's Schools etc. Act 2000 (asp 6), s. 61(2), **sch. 3**; S.S.I. 2004/528, art. 2(b)
- F64** Words in s. 51(2) repealed (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), **ss. 45(1), 62(2)**; S.S.I. 2003/134, art. 2(1), sch.
- F65** S. 51(2AA)(2BB) inserted (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), **ss. 45(2), 62(2)**; S.S.I. 2003/134, art. 2(1), sch.
- F66** S. 51(2A)(2B) inserted by Education (Scotland) Act 1981 (c. 58), **s. 2(3)(b)**
- F67** Words in s. 51(2A)(a) inserted (1.4.1996) by 1994 c. 39, **s. 145(3)(a)(i)(A)**; S.I. 1996/323, art. 4(1)(a), **Sch. 1**.
- F68** S. 51(2A)(a)(ii)(iii) inserted (1.4.1996) by 1994 c. 39, **s. 145(3)(a)(i)(B)**; S.I. 1996/323, art. 4(1)(a), **Sch. 1**.
- F69** Words in s. 51(2A)(b) inserted (1.4.1996) by 1994 c. 39, **s. 145(3)(a)(ii)**; S.I. 1996/323, art. 4(1)(a), **Sch. 1**.
- F70** S. 51(2AB)(2AC) repealed (31.12.2004) by Standards in Scotland's Schools etc. Act 2000 (asp 6), s. 61(2), **sch. 3**; S.S.I. 2004/528, art. 2(b)
- F71** S. 51(2AD) inserted (1.4.1996) by 1994 c. 39, **s. 145(3)(b)**; S.I. 1996/323, art. 4(1)(a), **Sch. 1**.
- F72** S. 51(2C) inserted (18.9.1996) by 1996 c. 43, s. 36, **Sch. 5 para. 2**; S.I. 1996/2250, **art. 2**.
- F73** S. 51(4) added (4.3.2002) by 2000 asp 6, s. 37(3); S.S.I. 2002/72, **art. 2(1)(f)**

52 Recovery of cost of board and lodging.

—Where an education authority have provided a pupil with board and lodging, whether at a school, ^{F74} hostel or elsewhere, the authority may, in their discretion, require the parent to pay to them in respect thereof such sums if any not exceeding the cost of such board and lodging as in the opinion of the authority he is able without financial hardship to pay:

Provided that—

- (i) where the board and lodging provided for any pupil were so provided under arrangements made by the authority for any of the reasons specified in section 50(1) of this Act, no sum shall be recoverable in respect thereof under this section; and
- (ii) where the board and lodging have been so provided for a young person ^{F74} under section 13 of this Act, at [^{F75}an] educational establishment, the authority, if satisfied that he is in a financial position to pay the whole or any part of a sum recoverable from his parent under this section, may recover that sum or that part thereof from the young person instead of from the parent.

Textual Amendments

- F74** Words repealed by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(2), **Sch. 11**
- F75** Word substituted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(11)**

Provision of food and clothing

53 Provision of school meals.

- (1) An education authority—

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- (a) may provide [^{F76}food or drink] for pupils in attendance at public schools and other educational establishments under their management [^{F77}and may do so either on the premises or at any place other than the school premises where education is being provided]; and
 - (b) shall provide such facilities as the authority consider appropriate for the consumption of any [^{F78}food or drink] brought to the school or other educational establishment by such pupils.
- [^{F79}(2) Where an education authority provide school lunches under subsection (1)(a), they must, subject to subsection (3), charge pupils for the lunches.
- (2A) Subsection (2B) applies where an education authority provide, under subsection (1)(a), anything other than school lunches.
- (2B) The authority may—
- (a) provide any food or drink free of charge, or
 - (b) charge pupils for any food or drink.
- (2C) An education authority may exercise the power conferred by subsection (2B)(a) in relation to—
- (a) pupils who satisfy such conditions as the authority think fit,
 - (b) the provision of food or drink at such times of the day (other than in the middle of the day) as they think fit.
- (2D) Where, by virtue of subsection (2) or (2B)(b), an education authority charge for a particular food or drink, they must charge the same price for the same quantity of the food or drink.]
- [^{F80}(3) Subsection (3AA) below applies in relation to a pupil—
- (a) whose parents are in receipt of—
 - (i) income support;
 - (ii) an income-based jobseeker’s allowance (payable under the ^{M2} Jobseekers Act 1995); ^{F81} ...
 - (iii) support provided under Part VI of the Immigration and Asylum Act 1999; [^{F82}or
 - (iv) any other benefit or allowance or any tax credit or element of such a tax credit (within the meaning of the Tax Credits Act 2002 (c. 21)) that the Scottish Ministers may by regulations prescribe, in such circumstances as may be so prescribed;] or
 - (b) who is himself in receipt of
 - [^{F83}(i) income support;
 - (ii) an income-based jobseeker’s allowance; or
 - (iii) any other benefit or allowance or any tax credit or element of such a tax credit (within the meaning of the Tax Credits Act 2002 (c. 21)) that the Scottish Ministers may by regulations prescribe, in such circumstances as may be so prescribed]
- (3AA) An authority shall so exercise the power conferred by subsection (1)(a) above as to ensure that [^{F84}a school lunch is provided for the pupil] free of charge.]
- ^{F85}(3A)

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(4) For the purposes of this section, a pupil for whom an education authority have made special arrangements under section 14 of this Act may, at the discretion of the authority, be deemed to be in attendance at a public school under their management.

[^{F86}(5) In this section and sections 53A and 53B, “school lunch” means anything provided under subsection (1)(a) in the middle of the day which the education authority consider is appropriate for consumption as a meal at that time of day.]

Textual Amendments

- F76** Words in s. 53(1)(a) substituted (10.8.2007) by [Schools \(Health Promotion and Nutrition\) \(Scotland\) Act 2007 \(asp 15\)](#), **ss. 6(2)(a)**, 11(2); S.S.I. 2007/372, art. 2(a)
- F77** Words inserted by [Social Security Act 1986 \(c. 50, SIF 113:1\)](#), **s. 77(1)(b)**
- F78** Words in s. 53(1)(b) substituted (10.8.2007) by [Schools \(Health Promotion and Nutrition\) \(Scotland\) Act 2007 \(asp 15\)](#), **ss. 6(2)(b)**, 11(2); S.S.I. 2007/372, art. 2(a)
- F79** S. 53(2)-(2D) substituted (10.8.2007) for s. 53(2) by [Schools \(Health Promotion and Nutrition\) \(Scotland\) Act 2007 \(asp 15\)](#), **ss. 6(3)**, 11(2); S.S.I. 2007/372, art. 2(a)
- F80** S. 53(3)(3AA) substituted (3.4.2000) for the words in s. 53(3) by [1999 c. 33, s. 169\(1\)](#), **Sch. 14 para. 74(a)(i)**; S.I. 2000/464, art. 2, **Sch.**
- F81** Word in s. 53(3)(a)(ii) repealed (retrospective to 6.4.2003) by [Education \(School Meals\) \(Scotland\) Act 2003 \(asp 18\)](#), **s. 1(2)(a)(4)**
- F82** S. 53(3)(a)(iv) and word inserted (retrospective to 6.4.2003) by [Education \(School Meals\) \(Scotland\) Act 2003 \(asp 18\)](#), **s. 1(2)(b)(4)**
- F83** S. 53(3)(b)(i)-(iii) substituted (retrospective to 6.4.2003) for words by [Education \(School Meals\) \(Scotland\) Act 2003 \(asp 18\)](#), **s. 1(3)(4)**
- F84** Words in s. 53(3AA) substituted (10.8.2007) by [Schools \(Health Promotion and Nutrition\) \(Scotland\) Act 2007 \(asp 15\)](#), **ss. 6(4)**, 11(2); S.S.I. 2007/372, art. 2(a)
- F85** S. 53(3A) repealed (31.12.2004) by [Standards in Scotland’s Schools etc. Act 2000 \(asp 6\)](#), s. 61(2), **sch. 3**; S.S.I. 2004/528, art. 2(b)
- F86** S. 53(5) added (10.8.2007) by [Schools \(Health Promotion and Nutrition\) \(Scotland\) Act 2007 \(asp 15\)](#), **ss. 6(5)**, 11(2); S.S.I. 2007/372, art. 2(a)

Modifications etc. (not altering text)

- C16** S. 53(2) disappplied (temp. until 30.6.2008) (10.10.2007) by [Provision of School Lunches \(Disapplication of the Requirement to Charge\) \(Scotland\) Order 2007 \(S.S.I. 2007/451\)](#), arts. 1, 3

Marginal Citations

- M2** 1995 c. 18.

54 Provision of clothing for pupils at public schools.

(1) When it is brought to the notice of an education authority that a pupil attending a school under their management ^{F87}... is unable by reason of the inadequacy or unsuitability of his clothing to take full advantage of the education provided, the education authority shall make such provision for the pupil for the purpose of ensuring that he is sufficiently and suitably clad as they may deem necessary during such period while the pupil is attending school (including days when the school does not meet) as they may determine.

(2) Where an education authority make provision for a pupil in pursuance of this section, they shall be entitled to recover from the parent of the pupil the expense thereby incurred or, if the authority are satisfied that the parent is unable without financial

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hardship to pay the whole of that expense, such part thereof, if any, as he is, in the opinion of the authority, able without financial hardship to pay.

- (3) Without prejudice to any powers conferred upon them by subsections (1) and (2) above, an education authority may provide clothing free of charge—
- (i) for any pupil who is a boarder at a school, or
 - (ii) for any pupil in attendance at a nursery school or a nursery class, under the management of the authority^{F88}
- (4) For the purposes of this section—
- (a) a pupil on attaining the age of five years shall, pending his admission to school, be deemed to be attending a school under the management of the education authority in whose area he is ordinarily resident; and
 - [^{F89}(b) a child or young person—
 - (i) having additional support needs, and
 - (ii) who is, for the purposes of the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4), a child or young person for whose school education an education authority are responsible by virtue of section 29(3)(b) of that Act,
 shall be deemed to be attending a school under the management of that authority.]

Textual Amendments

- F87** Words in s. 54(1) repealed (31.12.2004) by [Standards in Scotland's Schools etc. Act 2000 \(asp 6\)](#), s. 61(2), [sch. 3](#); S.S.I. 2004/528, art. 2(b)
- F88** Words in s. 54(3) repealed (31.12.2004) by [Standards in Scotland's Schools etc. Act 2000 \(asp 6\)](#), s. 61(2), [sch. 3](#); S.S.I. 2004/528, art. 2(b)
- F89** S. 54(4)(b) substituted (14.11.2005) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2004 \(asp 4\)](#), s. 35(1), [sch. 3 para. 3\(11\)](#); S.S.I. 2005/564, art. 2

55 Provision of food and clothing for pupils at schools other than public schools.

An education authority may, with the consent of the managers of any school in their area which is not a public school, and upon such financial and other terms, if any, as may be determined by agreement between the authority and the managers, make arrangements for securing—

- (a) the provision of milk, meals and other refreshment for pupils in attendance at the school; and
- (b) ^{F90}... the provision, for any pupil in attendance at the school who is unable by reason of the inadequacy or unsuitability of his clothing to take full advantage of the education (including physical exercise) provided by the school, of such clothing as is necessary for the purpose of ensuring that he is sufficiently and suitably clad while he remains a pupil at the school.

Textual Amendments

- F90** Words in s. 55(b) repealed (31.12.2004) by [Standards in Scotland's Schools etc. Act 2000 \(asp 6\)](#), s. 61(2), [sch. 3](#); S.S.I. 2004/528, art. 2(b)

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56 Condition of provision of clothing by education authorities.

Save as may be otherwise prescribed, provision of clothing by an education authority under any of the powers conferred by this Act may be made in such a way as to confer, at the option of the authority, either a right of property in the clothing or a right to use it only.

Health and cleanliness of pupils

57 Medical and dental examination and inspection.

(1) The Secretary of State may make regulations as to the conduct of medical and dental examinations and medical and dental inspections for the purposes of the performance of his duties under section 39 of the ^{M3}National Health Service (Scotland) Act 1978.

[^{F91}(2) For the purpose of securing the proper medical or dental inspection of the pupils and young persons for whom there is a duty under the said section 39 to provide such inspection, an education authority may require the parent of any pupil in attendance at any school under their management to submit the pupil for medical or dental inspection in accordance with arrangements made by the appropriate Health Board in agreement with the authority; and the authority may require any young person in attendance at any educational establishment under their management to submit for such medical or dental inspection.]

(3) If any [^{F92}parent] fails without reasonable excuse to comply with a requirement made by an education authority ^{F93}... under subsection (2) above, he shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding [^{F94}£10][^{F94}level 1 on the standard scale].

(4) In this section “the appropriate Health Board”, in relation to any pupil or young person, means the Health Board in whose area is situated the school, ^{F95} or other educational establishment at which the pupil or young person is in attendance.

Textual Amendments

F91 S. 57(2) substituted (13.10.2000) by 2000 asp 6, s. 60(1), **Sch. 2 para. 3(6)(a)**; S.S.I. 2000/361, art. 3(1)(2), **Sch. Pt. I**

F92 Words in s. 57(3) substituted (13.10.2000) by 2000 asp 6, s. 60(1), **Sch. 2 para. 3(6)(b)**; S.S.I. 2000/361, art. 3(1)(2), **Sch. Pt. I**

F93 Words in s. 57(3) repealed (31.12.2004) by Standards in Scotland’s Schools etc. Act 2000 (asp 6), s. 61(2), **sch. 3**; S.S.I. 2004/528, art. 2(b)

F94 Words from “level 1” to “scale” substituted (11.4.1983) for word “£10” by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 289F, 289G** (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**)

F95 Words repealed by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(2), **Sch. 11**

Marginal Citations

M3 1978 c. 29.

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58 Power to ensure cleanliness.

- (1) An education authority may, by directions in writing issued with respect to all schools, ^{F96} and other educational establishments under their management or with respect to any of such schools, ^{F97} or establishments named in the directions ^{F98} ... authorise a medical officer of the appropriate Health Board to cause examinations to be made of the bodies and clothing of all or any of the pupils in attendance at such schools ^{F98} ... and young persons in attendance at such ^{F96} establishments whenever in his opinion such examinations are necessary in the interests of cleanliness.
- (2) Any such examination as aforesaid shall be made by such medical officer or by a person authorised in writing by him to make such examinations (in this section referred to as an “authorised person”), and, if the body or clothing of any pupil or young person is found upon such an examination to be infested with vermin or in a foul condition, the authority ^{F99} ... may serve upon the parent of such pupil or upon the young person a notice requiring the parent to cause the body and clothing of the pupil to be cleansed or the young person to cause himself and his clothing to be cleansed as the case may be.
- (3) A notice served under subsection (2) above shall inform the person upon whom it is served that, unless within the period limited by the notice, not being more than twenty-four hours after the service thereof, the body and clothing of the pupil or young person to whom the notice relates are cleansed to the satisfaction of the medical officer or an authorised person as may be specified in the notice, the cleansing thereof will be carried out under arrangements made by the education authority ^{F100} ...; and, if at the expiration of that period the medical officer or an authorised person is not satisfied that the body and clothing of the pupil or young person have been properly cleansed, the medical officer or an authorised person may issue an order directing that the body and clothing of the pupil or young person be cleansed under such arrangements. The order shall be sufficient to authorise any officer of the authority ^{F100} ... to cause the body and clothing of the pupil or young person named in the order to be cleansed in accordance with such arrangements, and for that purpose to convey him to the premises where the cleansing is to be carried out and to detain him there until such time as the cleansing has been completed.
- (4) It shall be the duty of the education authority ^{F101} ... to make arrangements for securing that any cleansing under this section, whether at the request of a parent or young person or in pursuance of an order issued under this section, may be carried out in suitable premises by suitable persons and with suitable appliances.
- (5) If after the cleansing of the body or clothing of any pupil or young person has been carried out under this section his body or clothing is again found to be infested with vermin or in a foul condition at any time while he is in attendance at such school, ^{F96} or other educational establishment, and it is proved that the condition of his body or clothing is due to neglect on the part of his parent, or, in the case of a young person in attendance at [^{F102}an] educational establishment, to his own neglect, the parent or the young person, as the case may be, shall be liable on conviction by a court of summary jurisdiction in the case of a first conviction to a fine not exceeding £1, in the case of a second conviction to a fine not exceeding £5, and in the case of a third or subsequent conviction to a fine not exceeding £10 or to a term of imprisonment not exceeding one month or to both such fine and such imprisonment.
- (6) Where such a medical officer or authorised person has reason to believe that the body or clothing of any pupil or young person in attendance at such school, ^{F96} or other educational establishment is infested with vermin or in a foul condition, but action for the examination or cleansing thereof cannot immediately be taken, he shall so advise

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the authority ^{F103} ..., who may, if they consider it necessary so to do in the interests either of the pupil or young person or of other children or young persons in attendance at the school, ^{F97} or other educational establishment, direct that the pupil or young person be excluded from the school, ^{F97} or other educational establishment until such action has been taken; and such a direction shall be a defence to any proceedings under this Act in respect of the failure of the pupil or young person to attend school or to comply with the requirements of an attendance notice, as the case may be, on any day on which he is excluded in pursuance of the direction, unless it is proved that the issue of the direction was necessitated by the wilful default of the parent or of the young person.

(7) No female shall be examined or cleansed under the powers conferred by this section except by a registered medical practitioner or by a woman authorised for that purpose by a medical officer of a Health Board.

(8) In this section “the appropriate Health Board” has the same meaning as in section 57 of this Act.

Textual Amendments

- F96** Words repealed by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(2), **Sch. 11**
- F97** Word repealed by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(2), **Sch. 11**
- F98** Words in s. 58(1) repealed (31.12.2004) by Standards in Scotland’s Schools etc. Act 2000 (asp 6), s. 61(2), **sch. 3**; S.S.I. 2004/528, art. 2(b)
- F99** Words in s. 58(2) repealed (31.12.2004) by Standards in Scotland’s Schools etc. Act 2000 (asp 6), s. 61(2), **sch. 3**; S.S.I. 2004/528, art. 2(b)
- F100** Words in s. 58(3) repealed (31.12.2004) by Standards in Scotland’s Schools etc. Act 2000 (asp 6), s. 61(2), **sch. 3**; S.S.I. 2004/528, art. 2(b)
- F101** Words in s. 58(4) repealed (31.12.2004) by Standards in Scotland’s Schools etc. Act 2000 (asp 6), s. 61(2), **sch. 3**; S.S.I. 2004/528, art. 2(b)
- F102** Word substituted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 8(13)**
- F103** Words in s. 58(6) repealed (31.12.2004) by Standards in Scotland’s Schools etc. Act 2000 (asp 6), s. 61(2), **sch. 3**; S.S.I. 2004/528, art. 2(b)

Modifications etc. (not altering text)

- C17** S. 58(5): **Criminal Procedure (Scotland) Act 1975 (c. 21), s. 289E** (in relation to liability on first and subsequent convictions) (as inserted by **Criminal Justice Act 1982 (c. 48), s. 54**) applies (11.4.1983)

Children requiring special education

59 ^{F104}

Textual Amendments

- F104** Ss. 5, 28(2), 59, 66(2), 111(4)(5), 129(5)(6), 132(1), Sch. 2 paras. 1, 3 repealed by **Education (Scotland) Act 1981 (c. 58), Sch. 9**

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F105 60 Functions of education authority in relation to children and young persons with certain special educational needs.

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Textual Amendments
F105 Ss. 60-65G repealed (14.11.2005) by Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4), s. 35(1), sch. 3 para. 3(12); S.S.I. 2005/516, arts. 3, 4, 7, 8, 10, 11, sch; S.S.I. 2005/564, art. 2

F105 61 Examination and assessment of children and young persons.

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Textual Amendments
F105 Ss. 60-65G repealed (14.11.2005) by Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4), s. 35(1), sch. 3 para. 3(12); S.S.I. 2005/516, arts. 3, 4, 7, 8, 10, 11, sch; S.S.I. 2005/564, art. 2

F105 62 Recording of children and young persons.

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Textual Amendments
F105 Ss. 60-65G repealed (14.11.2005) by Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4), s. 35(1), sch. 3 para. 3(12); S.S.I. 2005/516, arts. 3, 4, 7, 8, 10, 11, sch; S.S.I. 2005/564, art. 2

F105 63 Appeals against decisions about recorded children or young persons.

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Textual Amendments
F105 Ss. 60-65G repealed (14.11.2005) by Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4), s. 35(1), sch. 3 para. 3(12); S.S.I. 2005/516, arts. 3, 4, 7, 8, 10, 11, sch; S.S.I. 2005/564, art. 2

F105 64 Provisions supplementary to section 63.

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Textual Amendments
F105 Ss. 60-65G repealed (14.11.2005) by Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4), s. 35(1), sch. 3 para. 3(12); S.S.I. 2005/516, arts. 3, 4, 7, 8, 10, 11, sch; S.S.I. 2005/564, art. 2

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F105 65 Appeal to sheriff on the placing in a school of a recorded child or young person.

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Textual Amendments

F105 Ss. 60-65G repealed (14.11.2005) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#) (asp 4), s. 35(1), [sch. 3 para. 3\(12\)](#); S.S.I. 2005/516, arts. 3, 4, 7, 8, 10, 11, sch; S.S.I. 2005/564, art. 2

F105 65A Review by education authority of decision to record and information in Record.

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Textual Amendments

F105 Ss. 60-65G repealed (14.11.2005) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#) (asp 4), s. 35(1), [sch. 3 para. 3\(12\)](#); S.S.I. 2005/516, arts. 3, 4, 7, 8, 10, 11, sch; S.S.I. 2005/564, art. 2

F105 65B Future provision for recorded children.

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Textual Amendments

F105 Ss. 60-65G repealed (14.11.2005) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#) (asp 4), s. 35(1), [sch. 3 para. 3\(12\)](#); S.S.I. 2005/516, arts. 3, 4, 7, 8, 10, 11, sch; S.S.I. 2005/564, art. 2

F105 65C Continuance of Record of young persons.

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Textual Amendments

F105 Ss. 60-65G repealed (14.11.2005) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#) (asp 4), s. 35(1), [sch. 3 para. 3\(12\)](#); S.S.I. 2005/516, arts. 3, 4, 7, 8, 10, 11, sch; S.S.I. 2005/564, art. 2

F105 65D Regulations regarding Records.

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Textual Amendments

F105 Ss. 60-65G repealed (14.11.2005) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#) (asp 4), s. 35(1), [sch. 3 para. 3\(12\)](#); S.S.I. 2005/516, arts. 3, 4, 7, 8, 10, 11, sch; S.S.I. 2005/564, art. 2

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F105 65E Application of certain provisions of this Act to recorded children and young persons.

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Textual Amendments

F105 Ss. 60-65G repealed (14.11.2005) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#) (asp 4), s. 35(1), [sch. 3 para. 3\(12\)](#); S.S.I. 2005/516, arts. 3, 4, 7, 8, 10, 11, sch; S.S.I. 2005/564, art. 2

F105 65F Secretary of State may prescribe standards etc. for special schools.

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Textual Amendments

F105 Ss. 60-65G repealed (14.11.2005) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#) (asp 4), s. 35(1), [sch. 3 para. 3\(12\)](#); S.S.I. 2005/516, arts. 3, 4, 7, 8, 10, 11, sch; S.S.I. 2005/564, art. 2

F105 65G Attendance of certain children and young persons with special educational needs at establishments outwith United Kingdom.

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Textual Amendments

F105 Ss. 60-65G repealed (14.11.2005) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#) (asp 4), s. 35(1), [sch. 3 para. 3\(12\)](#); S.S.I. 2005/516, arts. 3, 4, 7, 8, 10, 11, sch; S.S.I. 2005/564, art. 2

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