



# Education (Scotland) Act 1996

## 1996 CHAPTER 43

### PART IV U.K.

#### MISCELLANEOUS

#### 32 Assessment of secondary school pupils. S

After section 2 of the <sup>M1</sup>Education (Scotland) Act 1980 (Secretary of State may prescribe standards etc. for education authorities) there shall be inserted the following section—

**“2A Assessment of secondary school pupils.**

- (1) The Secretary of State may by regulations make provision for the testing and assessment of pupils undertaking the first or second year of secondary education in public or self-governing schools.
- (2) It shall be the duty of an education authority or a board of management to comply with the provisions of regulations made in pursuance of subsection (1) above.
- (3) Regulations made in pursuance of subsection (1) above may make different provision as to different cases or circumstances.”

**Marginal Citations**

M1 1980 c. 44.

#### 33 Placing requests. S

- (1) Section 28A of the <sup>M2</sup>Education (Scotland) Act 1980 (which sets out the duties of education authorities in relation to placing requests),<sup>F1</sup>... shall be amended in accordance with this section.

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- (2) In subsection (1) for the words “and (3)” there shall be substituted the words “, (3) and (3A)”.
- (3) In subsection (3) for sub-paragraph (iv) of paragraph (a) and the word “or” immediately preceding it there shall be substituted the following sub-paragraphs—
- “(iv) be likely to be seriously detrimental to order and discipline in the school; or
  - (v) be likely to be seriously detrimental to the educational well-being of pupils attending the school;”.
- (4) After subsection (3) there shall be inserted the following subsections—
- “(3A) Subject to subsection (3B) below, the duty imposed by subsection (1) above does not apply where the acceptance 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.
- (3B) An education authority shall not be entitled to refuse a placing request on the ground mentioned in subsection (3A) above where there is another equivalent school managed by the authority within—
- (a) in the case of a request relating to any stage of primary education, 3.2 kilometres (2 miles); and
  - (b) in any other case, 4.8 kilometres (3 miles),
- walking distance by the nearest available route of the specified school; and in paragraphs (a) and (b) the references to imperial measurements are supplementary indications of distance.
- (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.
- (3E) In subsection (3B) above, “equivalent school” means—
- (a) where the specified school is a denominational school, a school of the same denomination;
  - (b) where the specified school is a special school, another special school; and
  - (c) where the specified school is neither a denominational school nor a special school, another such school,

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being a school which provides school education at the stage sought in the placing request.”

#### Textual Amendments

**F1** Words in s. 33(1) repealed (14.11.2005) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2004 \(asp 4\)](#), s. 35(1), **Sch. 3 para. 10(b)**; S.S.I. 2005/564, art. 2

#### Marginal Citations

**M2** 1980 c. 44.

### 34 Stamp duty. **S**

Stamp duty shall not be chargeable in respect of any agreement made or any transfer effected in pursuance of any of the provisions of this Act.

### 35 Regulations and orders. **S**

- (1) Any power under this Act of the Secretary of State to make regulations or orders shall, subject to subsection (2) below, be exercisable by statutory instrument subject, except in the case of an order made under section 37(2) of this Act, to annulment in pursuance of a resolution of either House of Parliament.
- (2) Regulations and orders made under this Act may make different provisions as to different cases or circumstances; and such regulations or orders may contain such incidental, supplementary or transitional provision as the Secretary of State thinks fit.

### 36 Transitional provisions, miscellaneous amendments and repeals. **S**

- (1) The enactments specified in Schedule 5 to this Act shall have effect subject to the amendments specified in that Schedule.
- (2) The enactments specified in Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) The Secretary of State may in relation to any particular functions of the Scottish Examination Board, the Scottish Vocational Education Council or SQA under sections 19 and 20 of and Schedules 2 or 3 to this Act by order—
  - (a) exclude, modify or supplement any of those provisions; and
  - (b) make such other transitional provision as he considers necessary or expedient.

### 37 Short title, commencement and extent. **U.K.**

- (1) This Act may be cited as the Education (Scotland) Act 1996.
- (2) This Act shall come into force on such date as the Secretary of State may by order made by statutory instrument appoint; and different dates may be so appointed for different provisions or for different purposes.
- (3) An order under subsection (2) above may make such transitional and saving provisions as appear to the Secretary of State necessary or expedient in connection with the provision brought into force by the order.

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- (4) Subject to subsections (5) and (6) below, this Act extends to Scotland only.
- (5) Section 26 of this Act extends to England, Wales and Northern Ireland as well as Scotland.
- (6) The amendment by this Act of an enactment which extends to England and Wales or Northern Ireland extends also to England and Wales or, as the case may be, Northern Ireland.

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**Subordinate Legislation Made**

- P1** [S. 37\(2\)](#) power partly exercised (22.8.1996): 18.9.1996 appointed for specified provisions by [S.I. 1996/2250, art. 2.](#)

**Changes to legislation:**

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