



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

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—

Changes to legislation: *Education (Scotland) Act 1980, Section 28F is up to date with all changes known to be in force on or before 04 July 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) View outstanding changes*

- (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 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)

- C1** 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)**
- C2** 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

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 48A(5)(a)(I) words repealed by [2000 asp 6 Sch. 3](#)
- s. 53(3)(b)(i)-(iia) repealed by [2012 c. 5 Sch. 14 Pt. 1](#)
- s. 53(3)(b)(iii) words repealed by [2012 c. 5 Sch. 14 Pt. 1](#)
- s. 53ZA inserted by [2016 asp 8 s. 22\(3\)](#)
- s. 54A inserted by [2016 asp 8 s. 23](#)
- s. 98DA inserted by [2016 asp 8 s. 28\(2\)](#)
- s. 99(1A)(g)(ii) word substituted by [2020 asp 13 sch. 5 para. 8\(3\)](#)
- s. 99(1A)(h)(ii) word substituted by [2020 asp 13 sch. 5 para. 8\(3\)](#)