



Education (Scotland) Act 1980

1980 CHAPTER 44

PART II

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

[^{F1} Corporal Punishment]

Textual Amendments

F1 S. 48A inserted by Education (No. 2) Act 1986 (c. 61, SIF 41:2), s. 48

48A Abolition of corporal punishment of pupils.

(1) Where, in any proceedings, it is shown that corporal punishment has been given to a pupil [^{F2}to whom this subsection applies] by or on the authority of a member of the staff, giving the punishment cannot be justified on the ground that it was done in pursuance of a right exercisable by the member of the staff by virtue of his position as such.

[^{F3}(1A) Where, in any proceedings, it is shown that corporal punishment has been given to a pupil by or on the authority of a member of the staff, giving the punishment cannot be justified if the punishment was inhuman or degrading.

(1B) In determining whether punishment is inhuman or degrading regard shall be had to all the circumstances of the case, including the reason for giving it, how soon after the event it is given, its nature, the manner and circumstances in which it is given, the persons involved and its mental and physical effects.]

(2) Subject to subsection (3) below, references in this section to giving corporal punishment are references to doing anything for the purposes of punishing the pupil concerned (whether or not there are also other reasons for doing it) which, apart from any justification, would constitute physical assault upon the person.

Status: Point in time view as at 09/08/2000.

Changes to legislation: Education (Scotland) Act 1980, Cross Heading: Corporal Punishment is up to date with all changes known to be in force on or before 17 June 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)

- (3) A person is not to be taken for the purposes of this section as giving corporal punishment by virtue of anything done for reasons which include averting an immediate danger of personal injury to, or an immediate danger to the property of, any person (including the pupil concerned).
- (4) A person does not commit an offence by reason of any conduct relating to a pupil which would, apart from this section, be justified on the ground that it was done in pursuance of a right exercisable by a member of the staff by virtue of his position as such.
- (5) ^{F4}In this section “pupil” means a person for whom education is provided at a school or for whom school education is provided by an education authority otherwise than at a school.
- (5A) Subsection (1) above applies to a pupil-]
- (a) for whom education is provided—
 - (i) at a public ^{F5}, or self-governing,] school,
 - (ii) at a grant-aided school, or
 - (iii) at an independent school, maintained or assisted by a Minister of the Crown, which is a school prescribed by regulations made under this section or falls within a category of schools so prescribed.
 - (b) for whom school education is provided by an education authority otherwise than at a school, or
 - (c) to whom subsection (6) below applies and for whom education is provided at an independent school which does not fall within paragraph (a)(iii) above.
- (6) This subsection applies to a person if—
- (a) he holds an assisted place under a scheme operated by the Secretary of State under section 75A of this Act.
 - (b) any of the fees or expenses payable in respect of his attendance at school are paid by the Secretary of State under section 73(f) of this Act.
 - (c) any of the fees payable in respect of his attendance at school are paid by an education authority under section 24(1)(c), 49(2)(b), 50(1) or 64(3) of this Act, or
 - (d) he falls within a category, prescribed by regulations made under this section, of persons appearing to the Secretary of State to be persons in respect of whom any fees are paid out of public funds.
- (7) In this section “member of the staff” means—
- (a) in relation to a person who is a pupil by reason of the provision of education for him at any school, any teacher who works at the school and any other person who has lawful control or charge of the pupil and works there, and
 - (b) in relation to a person who is a pupil by reason of the provision of school education for him by an education authority at a place other than a school, any teacher employed by the authority who works at that place and any other person employed by the authority who has lawful control or charge of the pupil and works there.
- (8) The Secretary of State may, by order made by statutory instrument, prescribe—
- (a) schools or categories of school for the purposes of subsection ^{F6}(5A)(a)(iii)] above; and
 - (b) categories of persons for the purposes of subsection (6)(d) above.

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- (9) A person shall not be debarred from receiving education (whether by refusing him admission to, or excluding him from, a school or otherwise) by reason of the fact that this section applies in relation to him, or if he were admitted might so apply.
- (10) The power conferred on the Secretary of State by paragraph 4 of Schedule 1A to this Act to revoke a determination under section 75A of this Act if he is not satisfied that appropriate educational standards are being maintained includes power to do so if he is not satisfied that subsection (9) above is being complied with.

Textual Amendments

- F2** Words in s. 48A inserted (1.10.1993) by 1993 c. 35, s. 294(2); S.I. 1993/1975, art. 9, Sch.1; and expressed to be inserted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para. 48(2) (with ss. 1(4), 561, 562, Sch. 39) after the repeal of 1993 c. 35 by the aforementioned Act.
- F3** S. 48A(1A)(1B) inserted (1.10.1993) by 1993 c. 35, s. 294(2); S.I. 1993/1975, art. 9, Sch.1; and s. 48A (1A)(1B) was expressed to be inserted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para. 48(2) (with ss. 1(4), 561, 562, Sch. 39) (after the repeal of 1993 c. 35 by the aforementioned 1996 Act).
- F4** Words and para. (5A) substituted (1.10.1993) for the words in s. 48A(5) by 1993 c. 35, s. 294(3); S.I. 1993/1975, art. 9, Sch.1; and the same was expressed to be substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para. 48(3) (with ss. 1(4), 561, 562, Sch. 39) after the repeal of 1993 c. 35 by the aforementioned 1996 Act.
- F5** Words inserted by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), Sch. 10 para. 8(8)
- F6** Words in s. 48A(8)(a) substituted (1.10.1993) by 1993 c. 35, s. 294(4); S.I. 1993/1975, art. 9, Sch.1; and the same was expressed to be substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para. 48(4) (with ss. 1(4), 561, 562, Sch. 39) (after the repeal of 1993 c. 35 by the aforementioned 1996 Act)

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