



Education (Scotland) Act 1980

1980 CHAPTER 44

PART II

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

Failure of parents to provide education for their children

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
- [^{F1}(a)] instruct that he be prosecuted forthwith under section 43 of this Act, [^{F2}in the court of summary jurisdiction in which proceedings may be taken for the offence ^{F3}...; 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 [^{F4}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.

Status: Point in time view as at 22/02/2010. This version of this provision has been superseded.

Changes to legislation: Education (Scotland) Act 1980, Section 36 is up to date with all changes known to be in force on or before 25 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) 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 [F5, 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

- F1** S. 36(1): “(a)” inserted (9.8.2000) by 2000 asp 9, s. 12, **Sch. para. 3(1)(a)(i)**
- F2** 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)**
- F3** 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
- F4** Words in s. 36(1) substituted (9.8.2000) by 2000 asp 9, s. 12, **Sch. para. 3(1)(b)**
- F5** 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)**.

Status:

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