

SCHOOL EDUCATION (AMENDMENT) (SCOTLAND) ACT 2002

EXPLANATORY NOTES

THE ACT

Section 1 - Placing requests: children under school age

5. The statutory placing request regime contained in sections 28A to 28G of the 1980 Act enables a person to make a written request to an education authority to place his or her child in a particular school. Section 31 of the 1980 Act defines “school age” as being 5 years of age and over, but under 16 years of age. Section 32 of the 1980 Act also provides that children who are not 5 years of age by the “school commencement date” (as defined in that section), but whose 5th birthday falls before the next “appropriate latest date” (also as defined in that section), can be treated as if they were 5 years of age and be admitted to school on the commencement date before their 5th birthday. In practice, this means that the annual August intake includes children from 4 years and 6 months to 5 years and 11 months old.
6. Section 44(2) of the 2000 Act amended section 28A(1) of the 1980 Act by providing that placing requests may be made only for children of “school age”. As a result, parents were unable to make placing requests for children under school age who had started school, or who were eligible to start school at the next intake since their children were not deemed to be of “school age” until the school commencement date following their 5th birthday.
7. Subsection (1) remedies this while at the same time continuing to allow placing requests by parents of children of school age. The subsection provides for the substitution of the expression “qualifying child” for “child of school age” in section 28A(1) of the 1980 Act and inserts new subsection (6) into that section to define what is meant by that expression.
8. The definition of “qualifying child” is broken down into three parts as follows: first, a child who is of school age at the time of the placing request in August; second, a child who has started school, but who is not yet of school age; and third, a child who is not of school age, but who is entitled under the 1980 Act to start school on the next school commencement date by virtue of section 32(6) of the 1980 Act.
9. Subsection (1) also provides for the insertion of a new subsection (3F) into section 28A of the 1980 Act to clarify that, where a placing request is made for a child who is due to commence school for the first time but will be under school age, and where that request is granted, the education authority will place the child in the specified school only on the next school commencement date following the request. Where a decision on a placing request is not made in time for the child to be placed on the next school commencement date, the education authority must place the child in the specified school as soon as is reasonably practicable.
10. Subsection (1B) provides for an amendment of section 28G of the 1980 Act in consequence of the introduction of the expression “qualifying child”. Section 28G

*These notes relate to the School Education (Amendment) (Scotland)
Act 2002 (asp 2) which received Royal Assent on 22 January 2002*

enables "young persons" (that is, those over school age but under 18) to make placing requests in their own right.