

CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5 – Child’s plan

Section 37 – Responsible authority: special cases

89. As noted above, section 37 makes provision about who the responsible authority is in relation to special cases. Subsection (1) provides that where a pre-school child resides in the area of a health board, by virtue of a placement by another health board or local authority, the health board for the area in which the child resides immediately before that placement is the responsible authority in relation to the child. “Pre-school child” has the meaning given by section 36(3).
90. Subsection (2) provides that where the child is at a public school managed by a local authority other than the one for the area in which the child lives, that other authority is the responsible authority in relation to the child.
91. Subsection (3) provides that where the child is a pupil at a grant-aided or independent school, the directing authority of that school is the responsible authority in relation to that child.
92. Subsection (4) provides that subsection (3) does not apply where the child is a pupil at a grant aided or independent school by virtue of a placement by a local authority.
93. Subsection (5) provides that where a child’s residence is displaced by virtue of their falling within any of the categories set out in subsection (6), the local authority for the area in which they would normally reside is the responsible authority in relation to the child. Subsection (6) specifies these categories as: where, in pursuance of a local authority’s duties under the Education (Scotland) Act 1980, a child is a pupil at a grant-aided or independent school and resides in accommodation provided for the purpose of attending that school; where the child is placed in a residential establishment by virtue of Chapter 1 of Part 2 of the Children (Scotland) Act 1995; where the child resides at a residential establishment by virtue of an order under the Children’s Hearing (Scotland) Act 2011; or where the child is detained in residential accommodation in pursuance of an order under the Criminal Procedure (Scotland) Act 1995.
94. Subsection (7) provides that the Scottish Ministers may, by order (subject to affirmative procedure), modify this section so as to make further or different provision as to the circumstances in which section 36(1) does not apply in relation to a child.