

EDUCATION (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Miscellaneous

Section 20: Children unable to attend early learning and childcare

113. Section 14 of the 1980 Act gives the Scottish Ministers the power (where a pupil is unable, or it would be unreasonable to expect a pupil, to attend a suitable educational establishment to receive education due to some extraordinary circumstance) and the duty (where a pupil is unable, or it would be unreasonable to expect a pupil, to attend a suitable educational establishment to receive education due to the child's prolonged ill health) to make special arrangements for the pupil to receive education elsewhere than at an educational establishment.
114. Section 20 of the Act inserts a new subsection (4) into section 14 of the 1980 Act, to provide that this power and duty also apply in relation to eligible pre-school children who receive their early learning and childcare entitlement under section 35 of the Standards in Scotland's Schools etc. Act 2000; that is, those children receiving their early learning and childcare entitlement at a partner provider setting. Section 35 allows education authorities to enter in to arrangements with providers in the private or third sector to deliver the funded statutory entitlement to early learning and childcare.
115. New subsection (4)(a) provides that section 14(1)(a) applies in relation to eligible pre-school children receiving their early learning and childcare entitlement at partner provider settings, but as if the reference in that section to "a suitable educational establishment for the purpose of receiving education" were a reference to "a place where early learning and childcare is provided for the purposes of receiving early learning and childcare". This change is required as not all eligible pre-school children will be attending "educational establishments" as defined in section 135 of the 1980 Act: some of them will attend childminders and playgroups, which are not covered by the expression "educational establishment".
116. New subsection (4)(b) provides that section 14(1)(b) applies in relation to eligible pre-school children receiving their early learning and childcare entitlement at partner provider settings, but as if the reference in subsection (1)(b) to "an establishment" were a reference to "a place", and is required for the same reason.
117. New subsection (4)(c) provides that section 14(1) applies in relation to eligible pre-school children receiving their early learning and childcare entitlement at partner provider settings, but as if the reference in that section to "education elsewhere than at an educational establishment" were a reference to "early learning and childcare at a place other than a place where such learning and childcare is normally provided". This amendment is also required for the same reason.