



Education (Scotland) Act 1980

1980 CHAPTER 44

PART VII

MISCELLANEOUS PROVISIONS

Savings and exceptions

130 Saving as to persons in the service of the Crown.

No power or duty conferred or imposed by this Act on the Secretary of State, on education authorities, on parents or on young persons shall be construed as relating to any child or young person who is employed by or under the Crown in any service or capacity with respect to which the Secretary of State certifies that, by reason of the arrangements made for the education of children and young persons employed therein, the exercise and performance of those powers and duties with respect to such children and young persons is unnecessary.

131 Saving as to persons suffering from mental disorder and persons detained by order.

- (1) Unless the context otherwise requires, no power or duty conferred or imposed by this Act on the Secretary of State, on education authorities or on parents or young persons shall be construed as relating to any person to whom this section applies:

Provided that nothing in this section shall prevent an education authority from providing or securing the provision of education for any such person if he is in their opinion capable of deriving benefit therefrom.

- (2) The persons to whom this section applies are—
- (a) any person who is detained in pursuance of an order made by any court^{F1} (other than an order so made under the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13))] or of an order of recall made by the Secretary of State;

Changes to legislation: Education (Scotland) Act 1980, Cross Heading: Savings and exceptions is up to date with all changes known to be in force on or before 16 April 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) View outstanding changes

- (b) any child subject to a [^{F2}compulsory supervision order] requiring him to reside in a residential establishment where education is provided.

[^{F3}(3) In this section—

“compulsory supervision order” has the meaning given by section 83 of the Children’s Hearings (Scotland) Act 2011 (asp 1),

“residential establishment” has the meaning given by paragraph (a) of the definition of that expression in section 202(1) of that Act.]

Textual Amendments

- F1** Words in s. 131(2)(a) inserted (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), **ss. 277(3)**, 333(2); S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)
- F2** Words in s. 131(2)(b) substituted (24.6.2013) by [The Children's Hearings \(Scotland\) Act 2011 \(Modification of Primary Legislation\) Order 2013 \(S.S.I. 2013/211\)](#), art. 1, **sch. 1 para. 4(4)(a)**
- F3** s. 131(3) inserted (24.6.2013) by [The Children's Hearings \(Scotland\) Act 2011 \(Modification of Primary Legislation\) Order 2013 \(S.S.I. 2013/211\)](#), art. 1, **sch. 1 para. 4(4)(b)**

[^{F4}131A Consent of child to medical procedures

- (1) Nothing in this Act shall prejudice any capacity of a child enjoyed by virtue of section 2(4) of the Age of Legal Capacity (Scotland) Act 1991 (c.50) (capacity of child with sufficient understanding to consent to surgical, medical or dental procedure or treatment); and without prejudice to that generality, where under or by virtue of this Act a child is required to submit, or to be submitted, to any medical or dental examination, inspection or treatment but the child has the capacity mentioned in the said section 2(4), the examination, inspection or treatment shall only be carried out if the child consents.
- (2) In subsection (1) above, without prejudice to the generality of the expression in question, “medical examination” includes an examination under section 58 of this Act and “medical treatment” includes cleansing under that section.]

Textual Amendments

- F4** [S. 131A](#) inserted (13.10.2000) by [2000 asp 6](#), **s. 57**; S.S.I. 2000/361, art. 3(1)(2), **Sch. Pt. I**

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 48A(5)(a)(I) words repealed by [2000 asp 6 Sch. 3](#)
- s. 53(3)(b)(i)-(iia) repealed by [2012 c. 5 Sch. 14 Pt. 1](#)
- s. 53(3)(b)(iii) words repealed by [2012 c. 5 Sch. 14 Pt. 1](#)
- s. 53ZA inserted by [2016 asp 8 s. 22\(3\)](#)
- s. 54A inserted by [2016 asp 8 s. 23](#)
- s. 98DA inserted by [2016 asp 8 s. 28\(2\)](#)
- s. 99(1A)(g)(ii) word substituted by [2020 asp 13 sch. 5 para. 8\(3\)](#)
- s. 99(1A)(h)(ii) word substituted by [2020 asp 13 sch. 5 para. 8\(3\)](#)