



# Education (Scotland) Act 1980

## 1980 CHAPTER 44

### PART II

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

##### *Reasonable Excuses*

#### **42 Reasonable excuses.**

- (1) For the purposes of sections 35, 36, 37, 41 and 44 of this Act, there shall <sup>[F1]</sup>, subject to subsection (1A) below,] be deemed to be a reasonable excuse if—
- (a) there is within walking distance of the child's home measured by the nearest available route no public or other school the managers of which are willing to receive the child and to provide him with free education, and either—
    - (i) no arrangements have been made by the education authority under section 50 or 51 of this Act with regard to the child; or
    - (ii) any arrangements so made are such as to require the child to walk more than walking distance in the course of any journey between his home and school; or
  - (b) the child has been prevented by sickness from attending school or receiving education as the case may be; or
  - (c) there are other circumstances which in the opinion of the education authority or the court afford a reasonable excuse.

<sup>[F2]</sup>(1A) Subsection (1) above shall not apply in a case where—

- (a) the education authority have, in accordance with their arrangements as published or otherwise made available under section 28B(1)(a) of this Act, proposed to place the child in a particular school or in one of a number of schools named by them and, where the particular or named school is more than walking distance from the pupil's home measured by the nearest available route, they have offered to make for him suitable arrangements of the kind referred to in section 50 or 51 of this Act under which he would not require to

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**Changes to legislation:** *Education (Scotland) Act 1980, Section 42 is up to date with all changes known to be in force on or before 23 May 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*

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walk more than walking distance, so measured, in the course of any journey between his home and the school; but

- (b) in consequence of a placing request, the child has been placed by them in a school other than a school referred to in paragraph (a) above,

and in such a case, for the purposes of sections 35, 36, 37, 41 and 44 of this Act, there shall be deemed to be a reasonable excuse if—

- (i) the child has been prevented by sickness from attending school or receiving education as the case may be; or  
 (ii) there are other circumstances which in the opinion of the education authority or the court afford a reasonable excuse.]

- (2) The fact that an application to an education authority, or an appeal to the sheriff, has been made under section 39(4) of this Act in relation to an attendance order in respect of a child shall not be deemed to be a reasonable excuse for failure to cause the child to attend regularly at the school named in the order.

- (3) Where a parent alleges that his child has been prevented by sickness from attending school or receiving education as the case may be, the parent shall, if required by the education authority, permit a medical officer of the appropriate Health Board to examine the child, and any parent who fails to do so shall be guilty of an offence against this section.

- (4) In this section—

“walking distance” means, in the case of a child who has not attained the age of eight years, two miles, and in the case of any other child, three miles;

“the appropriate Health Board”, in relation to any child, means—

- (a) where an attendance order is in force in respect of the child, the Health Board in whose area the school named in the order is situated;  
 (b) in any other case, the Health Board in whose area the place of residence of the child is situated.

#### **Textual Amendments**

**F1** Words inserted by [Education \(Scotland\) Act 1981 \(c. 58\), s. 2\(1\)\(a\)](#)

**F2** S. 42(1A) inserted by [Education \(Scotland\) Act 1981 \(c. 58\), s. 2\(1\)\(b\)](#)

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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\(3\)](#)