

*These notes relate to the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) which received Royal Assent on 7 May 2004*

# **EDUCATION (ADDITIONAL SUPPORT FOR LEARNING) (SCOTLAND) ACT 2004**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### ***Schedule 2 – Children and young persons with additional support needs: placing requests***

72. This schedule is distinct from the provision relating to placing requests and appeals in the 1980 Act (sections 28A, 28C, 28E to 28G) and relates to placing requests for children or young people with additional support needs. The schedule starts with a duty on the education authority to comply with a parent's (or young person's) request to place the child or young person with additional support needs in a specified school. The request can be for a special school (public or independent) or a mainstream school. If the specified school is an independent special school, in Scotland or elsewhere in the United Kingdom, the education authority must meet the fees and other costs. Paragraph 3 sets out the circumstances where the duty to comply is not applicable.
73. These circumstances include the requirement in section 15 of the Standards in Scotland's Schools etc. Act 2000. That section provides an assumption that education will be provided in a mainstream school unless this would not be suited to the ability or aptitude of the child or young person; or it would be incompatible with providing efficient education to the other children at the mainstream school; or it would result in unreasonable public expenditure. A further circumstance is where the request is for an independent special school, but the education authority can make provision for the child in another school and this school is more suitable, including with regard to cost, than the specified school.
74. Where an education authority do not comply with a request, parents or a young person may appeal the decision to the education authority's appeal committee (established under section 28D of the 1980 Act). They may then appeal the decision of the appeal committee to the sheriff.
75. Where a child or young person has a co-ordinated support plan, appeals regarding placing requests will be referred to the Additional Support Needs Tribunals rather than to an education authority appeal committee. Where an appeal on a refused placing request has been made to the appeal committee or the sheriff and before it has been disposed of, a reference is made to a Tribunal over the decision that a co-ordinated support plan is not required, the placing request appeal must be transferred to the Tribunal for disposal.