

These notes relate to the Education (Additional Support for Learning) (Scotland) Act (asp 7) which received Royal Assent on 25 June 2009 (asp 7) which received Royal Assent on 25 June 2009

EDUCATION (ADDITIONAL SUPPORT FOR LEARNING) (SCOTLAND) ACT (ASP 7) WHICH RECEIVED ROYAL ASSENT ON 25 JUNE 2009

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Section 5: Arrangements between education authorities

31. Section 29(3) of the 2004 Act provides the definition of “a child or young person for whose school education an education authority are responsible”. However Lord Brailsford’s Court of Session ruling in the case of *RB v. a decision of an Additional Support Needs Tribunal* [2007] CSOH 126, which concerned a child who was being educated at home, stated that if, as a matter of fact, a particular authority controlled the education of the child, then that authority was responsible within the terms of section 29(3). Section 5 amends section 29(3) of the 2004 Act to provide that where arrangements are entered into between two authorities in respect of the school education of a child or young person, it will always be the authority for the area to which the child or the young person belongs (known as the “home authority”) that are the responsible authority.
32. A successful out of area placing request does not involve any arrangements being made between authorities. Therefore, where a child is being educated outwith his or her home authority as a result of a successful out of area placing request, the host authority will be the education authority with responsibility for the child’s or young person’s education and carrying out all of the duties under the 2004 Act (see section 29(3)(a) of the 2004 Act).