



Education (Scotland) Act 2016

2016 asp 8

PART 3 **S**

MISCELLANEOUS

24 Enforcement of statutory duties **S**

In section 70 of the 1980 Act (powers to enforce duty of education authorities and other persons), after subsection (2) insert—

- “(3) Despite subsection (2), no order under subsection (1) may be made in respect of a failure by an education authority that is of a type mentioned in subsection (4).
- (4) The types of failure are—
- (a) a failure mentioned in section 18(3) of the Education (Additional Support for Learning) (Scotland) Act 2004 (“the 2004 Act”) (references to an Additional Support Needs Tribunal for Scotland),
 - (b) a failure in relation to a decision or information mentioned in section 18(3) of the 2004 Act,
 - (c) a failure mentioned in section 18(5A) or (5B) of the 2004 Act,
 - (d) where a failure mentioned in paragraph (a), (b) or (c) also constitutes a failure to discharge the duty imposed by section 4 of the 2004 Act, a failure under that section that is so constituted.
- (5) The Scottish Ministers may by regulations make provision for or in connection with the procedure to be followed in relation to—
- (a) the investigation of an alleged failure by an education authority, the managers of a school or educational establishment or other person to discharge a duty mentioned in subsection (1),
 - (b) the determination of whether to make an order under that subsection.
- (6) Regulations under subsection (5) may—
- (a) include transitional, transitory or saving provision,
 - (b) make different provision for different purposes.
- (7) Before making any regulations under subsection (5), the Scottish Ministers must consult such persons as they consider appropriate.”

Changes to legislation: Education (Scotland) Act 2016, Section 24 is up to date with all changes known to be in force on or before 25 September 2023. 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](#)

Commencement Information

- I1** [S. 24](#) in force at 1.1.2017 for specified purposes by [S.S.I. 2016/386, reg. 2, sch.](#)
- I2** [S. 24](#) in force at 10.1.2018 in so far as not already in force by [S.S.I. 2017/164, reg. 2, sch.](#) (as amended by [S.S.I. 2017/352, reg. 2](#))

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.S.I.2017/164, sch. by [S.S.I. 2017/352 reg. 2](#)