

SCHEDULE 1

Regulation 4

Transitional and savings provisions

References, claims and proceedings in progress before the Additional Support Needs Tribunals for Scotland immediately before 12th January 2018 to transfer to the First-tier Tribunal

1. Any reference or claim to the Additional Support Needs Tribunals for Scotland in progress immediately before 12th January 2018 but not yet determined and any proceedings of the Additional Support Needs Tribunals for Scotland in progress immediately before that date shall be transferred to and be completed by the First-tier Tribunal but with so far as possible the same persons hearing and determining the case before the First-tier Tribunal as members of that tribunal as were prior to 12th January 2018 hearing the case as members of the Additional Support Needs Tribunals for Scotland.

Decisions, directions and orders of the Additional Support Needs Tribunals for Scotland to continue in force

2. Any decision (whether or not called a decision), direction or order given or made in or in respect of a reference or claim to, and proceedings before, the Additional Support Needs Tribunals for Scotland which is in force immediately before 12th January 2018 remains in force on and after that date as if it were a decision, direction or order of the First-tier Tribunal.

Time limits in respect of references and claims to, and proceedings before, the Additional Support Needs Tribunals for Scotland to carry over to the First-tier Tribunal

3. Any time limit which has started to run before 12th January 2018 in respect of references and claims to, and proceedings before, the Additional Support Needs Tribunals for Scotland (and which has not expired) shall continue to apply where references, claims and proceedings are transferred to the First-tier Tribunal.

Application for assistance by way of representation made to the Scottish Legal Aid Board to carry over to the First-tier Tribunal.

4. Any application for assistance by way of representation made to the Scottish Legal Aid Board immediately before 12th January 2018 in relation to a claim made to an Additional Support Needs Tribunal for Scotland in accordance with Part 3 of schedule 17 of the 2010 Act (which provides for claims to be made to a tribunal that a responsible body of a school has contravened Chapter 1 of Part 6 of that Act because of a person's disability) which is still to be determined or has been approved, shall be treated on or after 12th January 2018 as if it had been made, or approved, in relation to a claim made to the First-tier Tribunal for Scotland Health and Education Chamber in accordance with Part 3 of Schedule 17 of the 2010 Act.

Unexercised right of appeal to Court of Session, if exercised, is an appeal to the Upper Tribunal

5. Where in respect of a decision of the Additional Support Needs Tribunals for Scotland before 12th January 2018, there lies a right of appeal to the Court of Session, which has not been exercised before that date but is still exercisable, any appeal on or after 12th January 2018 shall be to the Upper Tribunal as if the decision had been made by the First-tier Tribunal and the appeal shall be an appeal from the First-tier Tribunal for the purposes of section 46(1) of the 2014 Act.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: *The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 No. 4*

Exercised right of appeal to the Court of Session shall be completed by the Court of Session

6. Where in respect of a decision of the Additional Support Needs Tribunals for Scotland before 12th January 2018, there lies a right of appeal to the Court of Session which has been exercised before that date, the appeal shall not be affected by these Regulations and be completed by the Court of Session except that any reference in the 2004 or 2010 Act to the Court of Session remitting such a reference to it back to the Tribunal shall be construed as a reference to remitting the reference back to the First-tier Tribunal.