
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 266

The Additional Support for Learning (Co-ordinated Support Plan) (Scotland) Regulations 2005

Discontinuance, retention and destruction of the plan

11.—(1) This regulation applies where an education authority discontinue a plan in pursuance of—

- (a) an exercise of their function to review a plan under section 10 of the Act;
- (b) their ceasing to be responsible for the school education of the child or young person to whom the plan relates; or
- (c) a decision of an Additional Support Needs Tribunal under section 19(2)(b) of the Act overturning the decision of an education authority that a plan is required or following a review continues to be required.

(2) Where a plan falls to be discontinued as mentioned in paragraph (1)(a) above and the education authority have informed those persons in section 11(3) of the Act of their decision to discontinue the plan, the authority must not discontinue the plan before the expiry of any prescribed period during which the persons mentioned in section 18(2) of the Act can refer the decision to a Tribunal⁽¹⁾.

(3) Where a plan falls to be discontinued as mentioned in paragraph (1)(a) or (b) above, the education authority must—

- (a) retain the plan for a period of 5 years from the date of discontinuance of the plan, which date must be noted on the plan;
- (b) on the expiry of that period destroy the plan; and
- (c) if the whereabouts of the persons mentioned in paragraph (8) below are known to the education authority inform them that the plan has been destroyed.

(4) Where a plan falls to be discontinued as mentioned in paragraph (1)(c) above, the education authority must in writing—

- (a) notify the persons mentioned in paragraph (8) below of the date of discontinuance; and
- (b) require such persons to indicate in writing within 21 days beginning on the date of such notice is sent either—
 - (i) that they wish the plan to be retained by the education authority for a period of 5 years immediately following the date of discontinuance; or
 - (ii) that they do not wish the plan to be so retained.

(5) Where any of the persons mentioned in paragraph (8) below indicate that they wish the plan to be retained as mentioned in paragraph (4)(b)(i) above, the education authority must retain the plan accordingly.

(6) Where any of the persons mentioned in paragraph (8) below indicate that they do not wish the plan to be retained as mentioned in paragraph (4)(b)(ii) above, or otherwise fail to indicate their wishes the education authority must—

(1) “prescribed” means any period prescribed in rules of procedure made under paragraph 11(2) of Schedule 1 to the Act.

- (a) on the expiry of the period of 21 days referred to in paragraph (4)(b) above destroy the plan; and
 - (b) intimate in writing to such persons that the plan has been destroyed.
- (7) Regulation 10 applies to a plan during any period in which a plan is retained.
- (8) The persons referred to in paragraphs (3), (4), (5) and (6) above are–
- (a) in the case of a child to whom the plan relates, the child’s parent; and
 - (b) in the case of a young person to whom the plan relates–
 - (i) the young person, or
 - (ii) if the education authority are satisfied that the young person lacks capacity to understand the information provided or to make a decision for the purposes of retention, the young person’s parent.
- (9) Where an education authority discontinues a plan in pursuance of paragraph (1) above that authority must as soon as reasonably practicable inform any person named in the plan as providing additional support and such other persons as they consider appropriate of the discontinuance and its date.