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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 144**

**EDUCATION**

**The Additional Support for Learning Dispute Resolution (Scotland) Amendment Regulations 2010**

<i>Made</i>	- - - -	<i>8th April 2010</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>12th April 2010</i>
<i>Coming into force</i>	- -	<i>16th August 2010</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 16 of the Education (Additional Support for Learning) (Scotland) Act 2004<sup>(1)</sup> and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Additional Support for Learning Dispute Resolution (Scotland) Amendment Regulations 2010 and come into force on 16th August 2010.

**Amendment to the Additional Support for Learning Dispute Resolution (Scotland) Regulations 2005**

2. The Additional Support for Learning Dispute Resolution (Scotland) Regulations 2005<sup>(2)</sup> are amended as follows.

3. In regulation 3 (application for referral to dispute resolution) in paragraph (1)—

- (a) for “education authority” substitute “Scottish Ministers”; and
- (b) after “matter,” insert—

“the Scottish Ministers must, within 5 working days of receipt of the application, refer the application to the appropriate education authority and”.

4. In the Schedule (specified matters)—

- (a) in sub-paragraph 1(d) omit “or”;
- (b) after sub-paragraph 1(e) insert—

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(1) 2004 asp 4. Section 16 was amended by s.12 of the Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7).  
(2) S.S.I. 2005/501.

- “(f) to refuse a request for an assessment or examination as referred to in section 8A(1)(3) of the Act, or
- (g) as to the person, or to the means used, or to be used, to carry out the process of assessment or examination referred to in that section.”; and
- (c) in paragraph 2(a) after “person” insert—
  - “except where—
    - (i) the additional support required is contained in a co-ordinated support plan prepared under section 9(1) of the Act; or
    - (ii) the education authority have failed to comply with their duties under sections 12(6) and 13 of the Act;”.

St Andrew’s House,  
Edinburgh  
8th April 2010

*ADAM INGRAM*  
Authorised to sign by the Scottish Ministers

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Additional Support for Learning Dispute Resolution (Scotland) Regulations 2005 (“the principal Regulations”). The principal Regulations make provision under sections 16 and 34 of the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) (“the 2004 Act”) for the resolution of disputes specified in the Schedule to the principal Regulations between an education authority and a parent of a child, a young person or, where the young person lacks capacity, their parent, concerning the exercise of the authority’s functions under the Act.

Regulation 3 amends regulation 3 of the principal Regulations to provide that an application for referral to dispute resolution must be made to the Scottish Ministers. The Scottish Ministers must, within 5 working days of receipt of the application, refer the application to the appropriate education authority.

Regulation 4 amends the Schedule to the principal Regulations to provide that the following additional matters may be referred to dispute resolution—

- (a) a decision of the education authority to refuse a request for an examination or an assessment as referred to in section 8A(1) of the 2004 Act;
- (b) a decision of the education authority as to who is going to carry out that process of assessment or examination and the means of carrying it out.

Regulation 4 also amends the Schedule to exclude a reference to dispute resolution where the additional support is identified in a co-ordinated support plan prepared under section 9(1) of the 2004 Act or there is a failure by an education authority to comply with their duties under section 12(6) and 13 of that Act in respect of children or young persons on ceasing to receive school education.