

EXECUTIVE NOTE

THE EDUCATION (ADDITIONAL SUPPORT FOR LEARNING) (SCOTLAND) ACT 2009 (COMMENCEMENT NO. 2) ORDER 2010

SSI 2010/ 277 (C. 14)

The above Order was made in exercise of the powers conferred by section 26(3) of the Education (Additional Support for Learning) (Scotland) Act 2009 and all other powers enabling them to do so.

Policy Objectives

The purpose of this Order is to set the date on which the remaining provisions of the Education (Additional Support for Learning) (Scotland) Act 2009 (“the Act”) with the exception of section 23 (collection of data on additional support needs) come into force. The provisions will be commenced on 14 November 2010. The Scottish Government introduced the Education (Additional Support for Learning) (Scotland) Act 2009 to strengthen and build on the Education (Additional Support for Learning) (Scotland) Act 2004. One of the key aims of the legislation was to clarify the position in relation to placing requests and to ensure that the parents of children with a co-ordinated support plan could make placing requests for their child to attend a school outwith the local authority area in which the child or young person lives. The 2009 act was passed by the Scottish Parliament on 20 May and received Royal Assent on 25 June 2009.

Article 2(3) specifically brings section 18(2) into force immediately after section 19(2). Both sections 18(2) and sections 19(2) make changes to section 19(3) of the 2004 Act. Section 18(2) accurately refers to the appropriate provisions as opposed to the reference in section 19(2). In order to ensure that there is no room for confusion we therefore propose to commence 18(2) after 19(2) so that the accurate reference has precedence.

The following provisions of the 2009 Act came into force on 2 April 2010:

- a) Section 1(5) (co-ordinated support plan: further provision);
- b) Section 12 (dispute resolution);
- c) Section 16 (power to specify additional sources of information)
- d) Section 20 (power to make rules in respect of Tribunal practice and procedure)

The provisions already commenced relate to powers which enable Scottish Ministers to make orders or regulations.

Consultation

The commencement date of 14 November 2010 has been determined as a result of consultation with stakeholders and particularly the Additional Support for Learning Implementation Group, which has been consulted on all aspects of the implementation of the Act. The Additional Support for Learning Implementation Group includes COSLA, local authorities, unions, front line staff, voluntary sector organisations, representatives of partner agencies such as colleges and Health Boards as well as parental representatives.

Financial Effects

This instrument is to set the date on which the remaining provisions of the Education (Additional Support for Learning) (Scotland) Act 2009 with the exception of section 23 (collection of data on additional support needs) come into force. There are costs associated with the Act itself, which were considered during Parliamentary scrutiny of the Bill, but the setting of the commencement date has no separate financial effects on the Scottish Executive, local government or on business.

Scottish Executive Learning Directorate
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