



# Education (Additional Support for Learning) (Scotland) Act 2004

2004 asp 4

## *Appeals*

### <sup>F1</sup>17 Additional Support Needs Tribunals for Scotland

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#### Textual Amendments

- F1** S. 17 repealed (12.1.2018) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Additional Support Needs Tribunals for Scotland\) Regulations 2018 \(S.S.I. 2018/4\)](#), reg. 1(1), [sch. 2 para. 3\(7\)](#)

### 18 [<sup>F2</sup>References to the First-tier Tribunal]

- (1) Any of the persons specified in subsection (2) may refer to [<sup>F3</sup>the First-tier Tribunal] any decision, failure or information specified in subsection (3) relating to any child or young person for whose school education an education authority are responsible.
- (2) The persons referred to in subsection (1) are—
- (a) where the decision, failure or information relates to a child, the parent of the child,
  - [<sup>F4</sup>(aa) where the decision, failure or information relates to a child mentioned in subsection (2A), the child,]
  - (b) where the decision, failure or information relates to a young person—
    - (i) the young person, or
    - (ii) where the young person lacks capacity to make the reference, the young person's parent.
- [<sup>F5</sup>(2A) The child is a child who has attained the age of 12 years and—
- (a) who the [<sup>F6</sup>First-tier Tribunal] is satisfied has capacity to make the reference, and

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- (b) whose wellbeing would, in the opinion of the <sup>F7</sup>First-tier Tribunal], not be adversely affected were the child to make the reference.]
- (3) The decisions, failures and information referred to in subsection (1) are—
  - (a) a decision of the education authority that the child or young person—
    - (i) requires a co-ordinated support plan, or
    - (ii) following a review carried out under section 10, still requires such a plan,
  - (b) a decision of the education authority that the child or young person—
    - (i) does not require such a plan, or
    - (ii) following a review carried out under section 10, no longer requires such a plan,
  - (c) where it has been established that the child or young person does require a co-ordinated support plan, failure by the education authority to prepare a plan by the time required by regulations made in pursuance of subsection (8)(f)(i) of section 11,
  - (d) where a co-ordinated support plan has been prepared (and not discontinued) for the child or young person—
    - (i) any of the information contained in the plan by virtue of subsection (2) (a) of section 9,
    - <sup>F8</sup>(ia) failure by the education authority to provide, or make arrangements for the provision of, the additional support (whether relating to education or not) identified by virtue of section 9(2)(a)(iii),]
    - (ii) failure by the education authority to carry out a review of the plan as required by subsection (2) of section 10,
    - (iii) where such a review is carried out, failure by the education authority to complete the review by the time required by regulations made in pursuance of subsection (8)(f)(ii) of section 11, or
    - (iv) a decision of the education authority to refuse a request referred to in subsection (4) of section 10,
  - <sup>F9</sup>(da) a decision of an education authority refusing a placing request made in respect of a child or young person (including such a decision in respect of a child or young person for whose school education the authority refusing the request are not responsible)—
    - (i) made under sub-paragraph (1) of paragraph 2 of schedule 2 in relation to a special school, or
    - (ii) made under sub-paragraph (2) of paragraph 2 of schedule 2 in relation to a school mentioned in paragraph (a) or (b) of that sub-paragraph,]
  - (e) where subsection (4) applies, a decision of <sup>F10</sup>an] education authority refusing a placing request <sup>F11</sup>other than a placing request mentioned in paragraph (da)] made in respect of <sup>F12</sup>a] child or young person <sup>F13</sup>(including such a decision in respect of a child or young person for whose school education the authority refusing the request are not responsible)].
  - <sup>F14</sup>(ea) a decision of an education authority in relation to the capacity of a child who has attained the age of 12 years to exercise a right under this Act,
  - (eb) a decision of an education authority that it is, or is not, satisfied as respects a matter relating to the wellbeing of such a child,]
  - <sup>F15</sup>(f) a decision of an appeal committee on a reference made to them under paragraph 5 of schedule 2 but only where the things mentioned in any of paragraphs (a), (b), (ba) and (c) of subsection (4) occur—

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- (i) after the decision of the appeal committee, but
  - (ii) before the time by which any appeal must be lodged in accordance with paragraph 7(3) of schedule 2.]
- [<sup>F16</sup>(g) failure by the education authority to comply with their duties under section 12(6) and 13 in respect of the child or young person (except where consent for information to be provided under section 13(2)(a) or (4) has not been given under section 13(5)) .]
- (4) This subsection applies where<sup>F17</sup>...—
  - (a) a co-ordinated support plan has been prepared (and not discontinued) for the child or young person,
  - (b) no such plan has been prepared, but it has been established by the education authority that the child or young person requires such a plan, or
  - [<sup>F18</sup>(ba) no such plan has been prepared, but under subsection (2)(a) of section 11 the education authority have informed the persons mentioned in subsection (3) of that section of their proposal to establish whether the child or young person requires, or would require, such a plan,]
  - (c) the education authority have decided that the child or young person does not require such a plan and that decision has been referred to [<sup>F19</sup>the First-tier Tribunal] under subsection (1).
- (5) A decision of an education authority not to comply with a request referred to in section 6(2)(b) made in relation to any child or young person is to be treated for the purposes of this section as a decision of the authority that the child or young person does not require a co-ordinated support plan.
- [<sup>F20</sup>(5A) Where an education authority fail, in response to a request referred to in section 6(2)(b)—
  - (a) to inform under subsection (2)(a) of section 11 the persons mentioned in subsection (3) of that section of their proposal to establish whether a child or young person requires, or would require, a co-ordinated support plan by the time required by regulations made in pursuance of subsection (8) of that section, or
  - (b) to inform those persons of any decision not to comply with the request by the time required by such regulations,that failure is to be treated for the purposes of this section as a decision of the authority that the child or young person does not require a co-ordinated support plan.
- (5B) Where under subsection (2)(a) of section 11 the education authority have informed the persons mentioned in subsection (3) of that section of their proposal to establish whether the child or young person requires, or would require, a co-ordinated support plan, failure by the authority so to establish by the time required by regulations made in pursuance of subsection (8) of that section is to be treated for the purposes of this section as a decision of the authority that the child or young person does not require a co-ordinated support plan.]
- (6) Where, in respect of any child or young person for whom a co-ordinated support plan has been prepared (and not discontinued), any of the information referred to in subsection (3)(d)(i) has been referred under subsection (1) to [<sup>F21</sup>the First-tier Tribunal] , a further reference under that subsection in respect of the same information is not competent unless, since the last such reference was disposed of, a review of the plan has been carried out under section 10.

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- (7) Where a decision referred to in subsection [F22 (3)(da) or (e)] in respect of a child or young person has been referred under subsection (1) to [F23the First-tier Tribunal] , a further reference under that subsection of such a decision in respect of the child or young person is not competent during the period of 12 months beginning with the day on which the last such reference of such a decision was made, unless, during that period—
- (a) a review of any co-ordinated support plan prepared for the child or young person has been carried out under section 10,
  - (b) any such plan prepared for the child or young person has been amended pursuant to a requirement made by [F23the First-tier Tribunal] under section 19(4)(b), or
  - (c) where the last such reference of such a decision was made by virtue of subsection (4)(c), a co-ordinated support plan has been prepared for the child or young person.
- [F24(8) For the purposes of subsection (7), it is irrelevant whether the further reference, and the last reference, mentioned in that subsection relate to the same or to different specified schools (which expression is to be construed in accordance with paragraph 2(3) of schedule 2).
- (9) Nothing in subsection (7) prevents a further reference being made during the period mentioned in that subsection if the last reference so mentioned is, by virtue of rules under paragraph 11 of schedule 1, withdrawn before any hearing by [F25the First-tier Tribunal] in relation to the last reference is held.
- (10) But where a further reference is made in the circumstances mentioned in subsection (9), the [F26Chamber President] may, if satisfied that there is good reason to do so, decide that the reference is not to proceed to consideration by [F27the First-tier Tribunal] .
- (11) Subsection (7) applies in relation to a decision referred to in subsection (3)(ea) or (eb) as it applies in relation to a decision referred to in subsection (3)(da) or (e); but only where any further reference would relate to—
- (a) the same right as mentioned in subsection (3)(ea) as the last such reference relates to, or
  - (b) the same matter as mentioned in subsection (3)(eb) as the last such reference relates to.]

#### Textual Amendments

- F2** S. 18 title substituted (12.1.2018) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Additional Support Needs Tribunals for Scotland\) Regulations 2018 \(S.S.I. 2018/4\)](#), reg. 1(1), **sch. 2 para. 3(8)(h)(iii)**
- F3** Words in s. 18(1) substituted (12.1.2018) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Additional Support Needs Tribunals for Scotland\) Regulations 2018 \(S.S.I. 2018/4\)](#), reg. 1(1), **sch. 2 para. 3(8)(a)**
- F4** S. 18(2)(aa) inserted (10.1.2018) by [Education \(Scotland\) Act 2016 \(asp 8\)](#), s. 33(2), **sch. para. 16(a)**; [S.S.I. 2017/354](#), reg. 2(a)
- F5** S. 18(2A) inserted (10.1.2018) by [Education \(Scotland\) Act 2016 \(asp 8\)](#), s. 33(2), **sch. para. 16(b)**; [S.S.I. 2017/354](#), reg. 2(a)

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- F6** Words in s. 18(2A)(a) substituted (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **sch. 2 para. 3(8)(b)**
- F7** Words in s. 18(2A)(b) substituted (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **sch. 2 para. 3(8)(c)**
- F8** S. 18(3)(d)(ia) inserted (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 18(1)(a)**, 26(3); S.S.I. 2010/277, art. 2
- F9** S. 18(3)(da) inserted (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 1(7)(a)**, 26(3); S.S.I. 2010/277, art. 2
- F10** Word in s. 18(3)(e) substituted (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 1(7)(b)(i)**, 26(3); S.S.I. 2010/277, art. 2
- F11** Words in s. 18(3)(e) inserted (14.11.2010) by virtue of Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 1(7)(b)(ii)**, 26(3); S.S.I. 2010/277, art. 2
- F12** Word in s. 18(3)(e) substituted (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 1(7)(b)(iii)**, 26(3); S.S.I. 2010/277, art. 2
- F13** Words in s. 18(3)(e) added (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 1(7)(b)(iv)**, 26(3); S.S.I. 2010/277, art. 2
- F14** S. 18(3)(ea)(eb) inserted (10.1.2018) by Education (Scotland) Act 2016 (asp 8), s. 33(2), **sch. para. 16(c)**; S.S.I. 2017/354, reg. 2(a)
- F15** S. 18(3)(f) inserted (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 1(7)(c)**, 26(3); S.S.I. 2010/277, art. 2
- F16** S. 18(3)(g) inserted (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 19(1)(b)**, 26(3); S.S.I. 2010/277, art. 2
- F17** Words in s. 18(4) repealed (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 1(7)(d)(i)**, 26(3); S.S.I. 2010/277, art. 2
- F18** S. 18(4)(ba) inserted (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 1(7)(d)(ii)**, 26(3); S.S.I. 2010/277, art. 2
- F19** Words in s. 18(4)(c) substituted (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **sch. 2 para. 3(8)(d)**
- F20** S. 18(5A)(5B) inserted (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 18(1)(b)**, 26(3); S.S.I. 2010/277, art. 2
- F21** Words in s. 18(6) substituted (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **sch. 2 para. 3(8)(e)**
- F22** Words in s. 18(7) substituted (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 1(7)(e)**, 26(3); S.S.I. 2010/277, art. 2
- F23** Words in s. 18(7) substituted (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **sch. 2 para. 3(8)(f)**
- F24** S. 18(8)-(11) inserted (10.1.2018) by Education (Scotland) Act 2016 (asp 8), s. 33(2), **sch. para. 16(d)**; S.S.I. 2017/354, reg. 2(a)
- F25** Words in s. 18(9) substituted (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **sch. 2 para. 3(8)(g)**
- F26** Words in s. 18(10) substituted (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **sch. 2 para. 3(8)(h)(i)**
- F27** Words in s. 18(10) substituted (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **sch. 2 para. 3(8)(h)(ii)**

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### Commencement Information

**II** S. 18 in force at 14.11.2005 by [S.S.I. 2005/564](#), [art. 2](#)

## 19 <sup>[F28]</sup> Powers of First-tier Tribunal in relation to reference

- (1) This section specifies the powers of <sup>[F29]</sup>the First-tier Tribunal] in relation to a reference made under section 18.
- (2) Where the reference relates to a decision referred to in subsection (3)(a), (b) <sup>[F30]</sup>, (d) (iv), (ea) or (eb)] of that section, the <sup>[F31]</sup>First-tier Tribunal] may—
  - (a) confirm the decision, or
  - (b) overturn the decision and require the education authority to take such action as the <sup>[F31]</sup>First-tier Tribunal] considers appropriate by such time as the <sup>[F31]</sup>First-tier Tribunal] may require.
- (3) Where the reference relates to a failure referred to in subsection (3)(c)<sup>[F32]</sup>, <sup>[F33]</sup>(d) (ia), (ii)] or (iii) or (g)] of that section, the <sup>[F34]</sup>First-tier Tribunal] may require the education authority to take such action to rectify the failure as the <sup>[F34]</sup>First-tier Tribunal] considers appropriate by such time as the <sup>[F34]</sup>First-tier Tribunal] may require.
- (4) Where the reference relates to information referred to in subsection (3)(d)(i) of that section, the <sup>[F35]</sup>First-tier Tribunal] may—
  - (a) confirm the information, or
  - (b) require the education authority to make such amendment of the information as the <sup>[F35]</sup>First-tier Tribunal] considers appropriate by such time as the <sup>[F35]</sup>First-tier Tribunal] may require.
- <sup>[F36]</sup>(4A) Where the reference relates to a decision referred to in subsection (3)(da) of that section the <sup>[F37]</sup>First-tier Tribunal] may—
  - (a) confirm the decision if satisfied that—
    - (i) one or more grounds of refusal specified in paragraph 3(1) or (3) of schedule 2 exists or exist, and
    - (ii) in all the circumstances it is appropriate to do so,
  - (b) overturn the decision and require the education authority to—
    - (i) place the child or young person in the school specified in the placing request to which the decision related by such time as the <sup>[F37]</sup>First-tier Tribunal] may require, and
    - (ii) make such amendments to any co-ordinated support plan prepared for the child or young person as the <sup>[F37]</sup>First-tier Tribunal] considers appropriate by such time as the <sup>[F37]</sup>First-tier Tribunal] may require.]
- (5) Where the reference relates to a decision referred to in subsection (3)(e) of that section, the <sup>[F38]</sup>First-tier Tribunal] may—
  - (a) confirm the decision if satisfied that—
    - (i) one or more of the grounds of refusal specified in paragraph 3(1) or (3) of schedule 2 exists or exist, and
    - (ii) in all the circumstances it is appropriate to do so,
  - (b) overturn the decision and require the education authority to—
    - (i) place the child or young person in the school specified in the placing request to which the decision related, and<sup>[F39]</sup> by such time as the <sup>[F38]</sup>First-tier Tribunal] may require]

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- (ii) make such amendments to the co-ordinated support plan prepared for the child or young person as the [F38First-tier Tribunal] considers appropriate by such time as the [F38First-tier Tribunal] may require, or
- [F40](ba) where—
  - (i) the decision was referred to the [F38First-tier Tribunal] by virtue of the application of subsection (4)(ba) of that section, and
  - (ii) the education authority have decided the child or young person does not require a co-ordinated support plan and that decision has not been referred to the [F38First-tier Tribunal] under subsection (1) of that section by the time within which such references are to be made,refer the decision to an appeal committee set up under section 28D of the 1980 Act,
- (c) where—
  - (i) the decision was referred to the [F38First-tier Tribunal] by virtue of the application of subsection (4)(c) of that section, and
  - (ii) the [F38First-tier Tribunal] has confirmed the decision of the education authority that the child or young person does not require a co-ordinated support plan,refer the decision to an appeal committee set up under section 28D of the 1980 Act.
- [F41](d) where—
  - (i) the decision was transferred from an appeal committee to the [F38First-tier Tribunal] by virtue of paragraph 6(4) and (5) of schedule 2 because the thing described in subsection (4)(ba) of that section occurred, and
  - (ii) the education authority have decided the child or young person does not require a co-ordinated support plan and that decision has not been referred to the [F38First-tier Tribunal] under subsection (1) of that section by the time within which such references are to be made,refer the decision back to the appeal committee,
- (e) where—
  - (i) the decision was transferred from an appeal committee to the [F38First-tier Tribunal] by virtue of paragraph 6(4) and (5) of schedule 2 because the things described in subsection (4)(c) of that section occurred, and
  - (ii) the [F38First-tier Tribunal] has confirmed the decision of the education authority that the child or young person does not require a co-ordinated support plan,refer the decision back to the appeal committee,
- (f) where—
  - (i) the decision was transferred from the sheriff to the [F38First-tier Tribunal] by virtue of paragraph 7(8) and (9) of schedule 2 because the thing described in subsection (4)(ba) of that section occurred, and
  - (ii) the education authority have decided the child or young person does not require a co-ordinated support plan and that decision has not been referred to the [F38First-tier Tribunal] under subsection (1) of that section by the time within which such references are to be made,refer the decision back to the sheriff,
- (g) where—



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- (i) the decision was transferred from the sheriff to the [<sup>F38</sup>First-tier Tribunal] by virtue of paragraph 7(8) and (9) of schedule 2 because the things described in subsection (4)(c) of that section occurred, and
- (ii) the [<sup>F38</sup>First-tier Tribunal] has confirmed the decision of the education authority that the child or young person does not require a co-ordinated support plan,

refer the decision back to the sheriff.]

[<sup>F41</sup>(5A) Where the reference relates to a decision referred to in subsection (3)(f) of that section the [<sup>F42</sup>First-tier Tribunal] has the powers as mentioned in paragraphs (a) and (b) of subsection (5) of this section.]

- (6) Paragraphs 6 and 7 of schedule 2 apply to a reference made to an appeal committee under [<sup>F43</sup>paragraph (ba) or (c) of subsection (5)] as they apply to a reference made to an appeal committee under paragraph 5 of that schedule.
- (7) In exercising its powers under this section, [<sup>F44</sup>the First-tier Tribunal] must take account, so far as relevant, of any code of practice published by the Scottish Ministers under section 27(1).

#### Textual Amendments

- F28** S. 19 title substituted (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **sch. 2 para. 3(9)(ix)**
- F29** Words in s. 19(1) substituted (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **sch. 2 para. 3(9)(i)**
- F30** Words in s. 19(2) substituted (10.1.2018) by Education (Scotland) Act 2016 (asp 8), s. 33(2), **sch. para. 17**; S.S.I. 2017/354, reg. 2(a)
- F31** Words in s. 19(2) substituted (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **sch. 2 para. 3(9)(ii)**
- F32** Words in s. 19(3) substituted (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 19(2), 26(3)**; S.S.I. 2010/277, art. 2
- F33** Words in s. 19(3) substituted (14.11.2010 immediately after 2009 asp 7, s. 19(2) comes into force) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 18(2), 26(3)**; S.S.I. 2010/277, art. 2
- F34** Words in s. 19(3) substituted (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **sch. 2 para. 3(9)(iii)**
- F35** Words in s. 19(4) substituted (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **sch. 2 para. 3(9)(iv)**
- F36** S. 19(4A) inserted (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 1(8)(a), 26(3)**; S.S.I. 2010/277, art. 2
- F37** Words in s. 19(4A) substituted (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **sch. 2 para. 3(9)(v)**
- F38** Words in s. 19(5) substituted (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **sch. 2 para. 3(9)(vi)**



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- F39** Words in s. 19(5)(b)(i) inserted (14.11.2010) by virtue of Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7) , **ss. 1(8)(b)(i)** , 26(3) ; S.S.I. 2010/277 , art. 2
- F40** S. 19(5)(ba) inserted (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7) , **ss. 1(8)(b)(ii)** , 26(3) ; S.S.I. 2010/277 , art. 2
- F41** S. 19(5)(d)-(g) , (5A) added (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7) , **ss. 1(8)(b)(iii)** , 26(3) ; S.S.I. 2010/277 , art. 2 ; S.S.I. 2010/277 , art. 2
- F42** Words in s. 19(5A) substituted (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **sch. 2 para. 3(9)(vii)**
- F43** Words in s. 19(6) substituted (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7) , **ss. 1(8)(c)** , 26(3) ; S.S.I. 2010/277 , art. 2
- F44** Words in s. 19(7) substituted (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **sch. 2 para. 3(9)(viii)**

#### Commencement Information

- I2** S. 19 in force at 14.11.2005 by S.S.I. 2005/564 , **art. 2**

PROSPECTIVE

#### 20 **[<sup>F45</sup>References to First-tier Tribunal and powers of First-tier Tribunal: further provision]**

- (1) The Scottish Ministers may by order extend the categories of decision, failure or information in respect of which a reference to the [<sup>F46</sup>First-tier Tribunal] under section 18(1) may be made; and without prejudice to the generality such further categories of decision, failure or information may include—
- (a) a decision of the education authority—
    - (i) that the child or young person has, or does not have, additional support needs,
    - (ii) that a child or young person has additional support needs of a type that the person making the referral considers are not an accurate reflection of the child or young person's additional support needs,
    - (iii) to refuse an assessment request as referred to in section 8,
    - (iv) 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 section 8,
  - (b) failure by—
    - (i) the education authority,
    - (ii) any person identified in any co-ordinated support plan prepared for the child or young person as a person by whom additional support should be provided, or
    - (iii) a combination of these persons,to provide the additional support required by the child or young person.
- (2) Any order made under subsection (1) may also include provision to allow the [<sup>F47</sup>Chamber President] to reject references to the [<sup>F48</sup>First-tier Tribunal] arising from any further category of decision, failure or information referred to in the order without a hearing where the [<sup>F47</sup>Chamber President] is satisfied that the reference prima facie raises no substantial issue.

**Status:** Point in time view as at 12/01/2018. This version of this cross heading contains provisions that are prospective.

**Changes to legislation:** There are currently no known outstanding effects for the Education (Additional Support for Learning) (Scotland) Act 2004, Cross Heading: Appeals. (See end of Document for details)

- (3) Orders made under subsection (1) may also make such consequential provision as the Scottish Ministers consider necessary or expedient, including provision as to the [F49First-tier Tribunal's] powers in relation to any new category of decision, failure or information that may be referred to it.

#### Textual Amendments

- F45** S. 20 title substituted (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **sch. 2 para. 3(10)(d)**
- F46** Words in s. 20(1) substituted (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **sch. 2 para. 3(10)(a)**
- F47** Words in s. 20(2) substituted (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **sch. 2 para. 3(10)(b)(ii)**
- F48** Words in s. 20(2) substituted (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **sch. 2 para. 3(10)(b)(i)**
- F49** Words in s. 20(3) substituted (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **sch. 2 para. 3(10)(c)**

#### <sup>F50</sup>21 Appeal to Court of Session against Tribunal decision

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#### Textual Amendments

- F50** S. 21 repealed (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **sch. 2 para. 3(11)**

**Status:**

Point in time view as at 12/01/2018. This version of this cross heading contains provisions that are prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Education (Additional Support for Learning) (Scotland) Act 2004, Cross Heading: Appeals.