



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

2004 asp 4

Main definitions

1 Additional support needs

(1) A child or young person has additional support needs for the purposes of this Act where, for whatever reason, the child or young person is, or is likely to be, unable without the provision of additional support to benefit from school education provided or to be provided for the child or young person.

[^{F1}(1A) Without prejudice to the generality of subsection (1), a child or young person has additional support needs if the child or young person is looked after by a local authority (within the meaning of section 17(6) of the Children (Scotland) Act 1995 (c. 36)).

(1B) But where, in the course of identifying (in accordance with the arrangements made by them under section 6(1)(b)) the particular additional support needs of a child or young person who is looked after by a local authority (within the meaning of section 17(6) of the Children (Scotland) Act 1995 (c. 36)), an education authority form the view that the child or young person is, or is likely to be, able without the provision of additional support to benefit from school education provided to or to be provided for the child or young person, subsection (1A) ceases to apply.]

(2) In subsection (1), the reference to school education includes, in particular, such education directed to the development of the personality, talents and mental and physical abilities of the child or young person to their fullest potential.

(3) In this Act, “additional support” means—

- (a) in relation to [^{F2}an eligible] pre-school child, a child of school age or a young person receiving school education, provision [^{F3}(whether or not educational provision)] which is additional to, or otherwise different from, the educational provision made generally for children or, as the case may be, young persons of the same age in schools (other than special schools) under the management of the education authority [^{F4}responsible for the school education of the child or young person, or in the case where there is no such authority, the education authority],

*Status: Point in time view as at 01/08/2014.**Changes to legislation: There are currently no known outstanding effects for the Education (Additional Support for Learning) (Scotland) Act 2004, Cross Heading: Main definitions. (See end of Document for details)*

- (b) in relation to a child under school age other than [^{F5}an eligible] pre-school child, such [^{F6}provision (whether or not educational provision)] as is appropriate in the circumstances.

Textual Amendments

- F1** S. 1(1A)(1B) inserted (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 8(1)**, 26(3); S.S.I. 2010/277, art. 2
- F2** Words in s. 1(3)(a) substituted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), s. 102(3), **Sch. 5 para. 10(2)(a)**; S.S.I. 2014/131, art. 2(2)(3), Sch.
- F3** Words in s. 1(3)(a) inserted (14.11.2010) by virtue of Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 6(a)**, 26(3); S.S.I. 2010/277, art. 2
- F4** Words in s. 1(3)(a) inserted (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 1(2)**, 26(3); S.S.I. 2010/277, art. 2
- F5** Words in s. 1(3)(b) substituted (1.8.2014) by Children and Young People (Scotland) Act 2014 (asp 8), s. 102(3), **Sch. 5 para. 10(2)(b)**; S.S.I. 2014/131, art. 2(2)(3), Sch.
- F6** Words in s. 1(3)(b) substituted (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 6(b)**, 26(3); S.S.I. 2010/277, art. 2

Commencement Information

- I1** S. 1 in force at 14.11.2005 by S.S.I. 2005/564, **art. 2**

2 Co-ordinated support plans

- (1) For the purposes of this Act, a child or young person requires a plan (referred to in this Act as a “co-ordinated support plan”) for the provision of additional support if—
- an education authority are responsible for the school education of the child or young person,
 - the child or young person has additional support needs arising from—
 - one or more complex factors, or
 - multiple factors,
 - those needs are likely to continue for more than a year, and
 - those needs require significant additional support to be provided—
 - by the education authority in the exercise of any of their other functions as well as in the exercise of their functions relating to education, or
 - by one or more appropriate agencies (within the meaning of section 23(2)) as well as by the education authority themselves.
- (2) For the purposes of subsection (1)—
- a factor is a complex factor if it has or is likely to have a significant adverse effect on the school education of the child or young person,
 - multiple factors are factors which—
 - are not by themselves complex factors, but
 - taken together, have or are likely to have a significant adverse effect on the school education of the child or young person.

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Commencement Information

I2 S. 2 in force at 14.11.2005 by [S.S.I. 2005/564, art. 2](#)

3 Children and young persons who lack capacity

- (1) For the purposes of this Act, a child or young person lacks capacity to do something if the child or young person is incapable of doing it by reason of mental illness, developmental disorder or learning disability or of inability to communicate because of a physical disability.
- (2) However, a child or young person is not to be treated as lacking capacity by reason only of a lack or deficiency in a faculty of communication if that lack or deficiency can be made good by human or mechanical aid (whether of an interpretative nature or otherwise).

Commencement Information

I3 S. 3 in force at 14.11.2005 by [S.S.I. 2005/564, art. 2](#)

Status:

Point in time view as at 01/08/2014.

Changes to legislation:

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