



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.
- (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 a prescribed pre-school child, a child of school age or a young person receiving school education, 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 for the area to which the child or young person belongs,
 - (b) in relation to a child under school age other than a prescribed pre-school child, such educational provision as is appropriate in the circumstances.

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—
 - (a) an education authority are responsible for the school education of the child or young person,
 - (b) the child or young person has additional support needs arising from—
 - (i) one or more complex factors, or
 - (ii) multiple factors,
 - (c) those needs are likely to continue for more than a year, and

- (d) those needs require significant additional support to be provided—
 - (i) 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
 - (ii) 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) 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,
 - (b) multiple factors are factors which—
 - (i) are not by themselves complex factors, but
 - (ii) taken together, have or are likely to have a significant adverse effect on the school education of the child or young person.

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).