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

SCHEDULE 2

CHILDREN AND YOUNG PERSONS WITH ADDITIONAL SUPPORT NEEDS: PLACING REQUESTS

References to appeal committees: supplementary provisions

- 6 (1) An appeal committee may, on a reference made to them under paragraph 5,^[F1] (including such a reference relating to a decision which has been referred back under section 19(5)(d) or (e)) confirm the education authority's decision if they are satisfied that—
- (a) in relation to the placing request, one or more of the grounds of refusal specified in paragraph 3(1) or (3) exists or exist, and
 - (b) in all the circumstances it is appropriate to do so, but otherwise must refuse to confirm the authority's decision.
- (2) Where they so refuse, the appeal committee shall require the education authority—
- (a) in the case of a placing request made under paragraph 2(1), to place the child in the specified school,
 - (b) in the case of a placing request made under paragraph 2(2), to meet the fees and other necessary costs of the child's attendance at the specified school, and the authority must comply with that requirement.
- (3) An appeal committee must notify their decision under this paragraph and the reasons for it in writing to the parent who made the reference and to the education authority and, where they confirm the authority's decision, they must inform the parent of the right of appeal to the sheriff under paragraph 7.
- (4) Sub-paragraph (5) applies where—
- (a) after a reference is made to an appeal committee under paragraph 5, but
 - (b) before the committee has disposed of the reference,
- ^[F2] the things mentioned in any of paragraphs (a), (b), (ba) and (c) of section 18(4) occur.]
- (5) Where this sub-paragraph applies—
- (a) the appeal committee must transfer the reference to the ^[F3]First-tier Tribunal, and
 - (b) on being so transferred, the reference is to be treated as if made to the ^[F3]First-tier Tribunal under section 18(1).
- (6) The Scottish Ministers may by regulations make provision for procedure in relation to references under paragraph 5 and any such regulations may, in particular, include provision—
- (a) requiring an education authority to make information relevant to their decision available to the appeal committee and to the parent referring the decision to the committee,
 - (b) deeming, for the purposes of this Act, an appeal committee to have confirmed the decision of an education authority on a placing request if the committee has not complied with sub-paragraph (3) of this paragraph within such period or before such date as may be prescribed in the regulations.

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Textual Amendments

- F1** Words in Sch. 2 para. 6(1) inserted (14.11.2010) by virtue of [Education \(Additional Support for Learning\) \(Scotland\) Act 2009 \(asp 7\)](#), **ss. 1(9)(c)(i)**, 26(3); S.S.I. 2010/277, art. 2
- F2** Words in Sch. 2 para. 6(4) substituted (14.11.2010) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2009 \(asp 7\)](#), **ss. 1(9)(c)(ii)**, 26(3); S.S.I. 2010/277, art. 2
- F3** Words in sch. 2 para. 6(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(15)(b)**

Commencement Information

- I1** Sch. 2 para. 6(1)-(5) in force at 14.11.2005 by [S.S.I. 2005/564](#), **art. 2**
- I2** Sch. 2 para. 6(6) in force at 18.5.2005 for specified purposes by [S.S.I. 2005/263](#), **art. 2**, **Sch.**
- I3** Sch. 2 para. 6(6) in force at 14.11.2005 in so far as not already in force by [S.S.I. 2005/564](#), **art. 2**

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