



Education (Scotland) Act 2016

2016 asp 8

PART 3

MISCELLANEOUS

24 Enforcement of statutory duties

In section 70 of the 1980 Act (powers to enforce duty of education authorities and other persons), after subsection (2) insert—

- “(3) Despite subsection (2), no order under subsection (1) may be made in respect of a failure by an education authority that is of a type mentioned in subsection (4).
- (4) The types of failure are—
- (a) a failure mentioned in section 18(3) of the Education (Additional Support for Learning) (Scotland) Act 2004 (“the 2004 Act”) (references to an Additional Support Needs Tribunal for Scotland),
 - (b) a failure in relation to a decision or information mentioned in section 18(3) of the 2004 Act,
 - (c) a failure mentioned in section 18(5A) or (5B) of the 2004 Act,
 - (d) where a failure mentioned in paragraph (a), (b) or (c) also constitutes a failure to discharge the duty imposed by section 4 of the 2004 Act, a failure under that section that is so constituted.
- (5) The Scottish Ministers may by regulations make provision for or in connection with the procedure to be followed in relation to—
- (a) the investigation of an alleged failure by an education authority, the managers of a school or educational establishment or other person to discharge a duty mentioned in subsection (1),
 - (b) the determination of whether to make an order under that subsection.
- (6) Regulations under subsection (5) may—
- (a) include transitional, transitory or saving provision,
 - (b) make different provision for different purposes.
- (7) Before making any regulations under subsection (5), the Scottish Ministers must consult such persons as they consider appropriate.”