



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

2004 asp 4

## *Miscellaneous*

### **23 Other agencies etc. to help in exercise of functions under this Act**

- (1) Where it appears to an education authority that an appropriate agency could, by doing certain things, help in the exercise of any of the education authority's functions under this Act, the authority may, specifying what those things are, request the help of that agency.
- (2) For the purposes of this Act, each of the following is, in relation to any education authority, an appropriate agency, namely—
  - (a) any other local authority,
  - (b) any Health Board, and
  - (c) any person, or a person of any description, specified for the purposes of this subsection in an order made by the Scottish Ministers.
- (3) An appropriate agency must comply with a request made to it under subsection (1) unless it considers that the request—
  - (a) is incompatible with its own statutory or other duties, or
  - (b) unduly prejudices the discharge of any of its functions.
- (4) The Scottish Ministers may by regulations provide that, where an appropriate agency is under a duty by virtue of subsection (3) to comply with a request made to it under subsection (1), the agency must, subject to such exceptions as may be provided in the regulations, comply with the request within such period as is specified in the regulations.
- (5) Where it appears to an education authority that, by doing certain things in the exercise of any of their other functions (whether relating to education or not), they could help the exercise by them of their functions under this Act, the authority must do those things unless they consider that to do so would—
  - (a) be incompatible with any of their statutory or other duties, or
  - (b) unduly prejudice the discharge by them of any of their functions.

*Status: 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: Miscellaneous. (See end of Document for details)*

#### Commencement Information

- I1** S. 23(1)(2)(a)(2)(b)(3)(5) in force at 14.11.2005 by [S.S.I. 2005/564, art. 2](#)
- I2** S. 23(2)(c)(4) in force at 18.5.2005 for specified purposes by [S.S.I. 2005/263, art. 2, Sch.](#)
- I3** S. 23(2)(c)(4) in force at 14.11.2005 in so far as not already in force by [S.S.I. 2005/564, art. 2](#)

#### PROSPECTIVE

### 24 Power to prescribe standards etc. for special schools

- (1) The Scottish Ministers may make regulations prescribing standards and requirements relating to the conduct of special schools.
- (2) Subsection (1) is without prejudice to section 2 (power to prescribe standards etc. for education authorities) of the 1980 Act.

### 25 Attendance at establishments outwith the United Kingdom

- (1) An education authority may make such arrangements as they consider appropriate to enable a child or young person having additional support needs to attend an establishment (whether or not a school) outwith the United Kingdom if that establishment makes provision wholly or mainly for persons having such needs.
- (2) Such arrangements may, in particular, include paying, whether wholly or partly—
  - (a) the fees payable, and any travelling, maintenance and other expenses, in respect of the child or young person's attendance at the establishment,
  - (b) where in the opinion of the authority it would be to the advantage of the child or young person if—
    - (i) one or both of the parents of the child or young person, or
    - (ii) some other person,
 were present with the child or young person at the establishment during the period of the child or young person's attendance at the establishment, any travelling, maintenance or other expenses of the parent, parents or other person (as the case may be) so present.
- (3) This section is without prejudice to sections 49 (power to assist persons to take advantage of educational facilities) and 50 (education of pupils in exceptional circumstances) of the 1980 Act.

#### Commencement Information

- I4** S. 25 in force at 14.11.2005 by [S.S.I. 2005/564, art. 2](#)

### 26 Publication of information by education authority

- (1) Every education authority must—
  - (a) publish information with respect to the matters specified in subsection (2),
  - (b) keep that information under review, <sup>F1</sup>...

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- (c) where necessary or appropriate, revise the information and publish that revised information <sup>F2</sup>, and
- (d) provide the persons mentioned in subsection (2A) with any information published under paragraph (a) or (c).]
- <sup>F3</sup>(e) ensure that a summary of the information published by the authority under this subsection is available—
  - (i) on request, from each place in the authority's area where school education is provided,
  - (ii) in any handbook or other publications provided by any school in the authority's area or by the authority for the purposes of providing general information about the school or, as the case may be, the services provided by the authority, and
  - (iii) on any website maintained by any such school or the authority for that purpose (whether or not the website is also maintained for any other reason).]
- (2) The information referred to in subsection (1)(a) is information as to—
  - (a) the authority's policy in relation to provision for additional support needs,
  - (b) the arrangements made by the authority in pursuance of sections 4(1)(b) and 6(1),
  - (c) the other opportunities available under this Act for the identification of children and young persons who—
    - (i) have additional support needs,
    - (ii) require, or would require, a co-ordinated support plan,
  - (d) the role of parents, children and young persons in the arrangements referred to in paragraph (b),
  - (e) the mediation services provided in pursuance of section 15(1), and
  - <sup>F4</sup>(ea) any dispute resolution procedures established by the authority in pursuance of section 16,]
  - (f) the officer or officers of the authority from whom—
    - (i) parents of children having additional support needs, <sup>F5</sup> ...
    - <sup>F6</sup>(ia) children having additional support needs and who have attained the age of 12 years, and]
    - (ii) young persons having such needs,can obtain advice and further information about provision for such needs.
  - <sup>F7</sup>(g) any Health Board for the area or any part of the area of the authority from which the persons referred to in subsection (2)(f)(i) and (ii) can obtain advice, further information and support in relation to the provision for their additional support needs; and
  - (h) any other persons which the authority think appropriate from which the persons referred to in subsection (2)(f)(i) and (ii) can obtain advice, further information and support in relation to the provision for such needs, including such support and advocacy as is referred to in section 14]<sup>F8</sup>, and
  - (i) any other persons specified by the Scottish Ministers by order as persons from which the persons referred to in subsection (2)(f)(i) and (ii) can obtain advice, further information and support in relation to the provision for such needs, including such support and advocacy as is referred to in section 14]
- <sup>F9</sup>(2A) The persons referred to in subsection (1)(d) are—

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- (a) in the case of a child with additional support needs for whose school education the authority are responsible, the child's parent,  
 [ in the case of such a child who has attained the age of 12 years, the child,]  
 F10(aa)
- (b) in the case of a young person with additional support needs for whose school education the authority are responsible—  
 (i) the young person, or  
 (ii) if the authority are satisfied that the young person lacks capacity to understand the information published under this subsection by the authority, the young person's parent.]
- (3) The Scottish Ministers may by regulations make further provision as to the publication of information under subsection (1) including, in particular, provision—  
 (a) amending subsection (2) so as to add further matters,  
 (b) as to—  
 (i) the time or times by which, and  
 (ii) the form and manner in which,  
 the information is to be published.

#### Textual Amendments

- F1** Word in s. 26(1) omitted (14.11.2010) by virtue of Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 13(a)(i)**, 26(3); S.S.I. 2010/277, art. 2
- F2** S. 26(1)(d) and preceding word inserted (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 13(a)(ii)**, 26(3); S.S.I. 2010/277, art. 2
- F3** S. 26(1)(e) inserted (14.11.2010) by virtue of Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 14**, 26(3); S.S.I. 2010/277, art. 2
- F4** S. 26(2)(ea) inserted (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 15**, 26(3); S.S.I. 2010/277, art. 2
- F5** Word in s. 26(2)(f) repealed (10.1.2018) by Education (Scotland) Act 2016 (asp 8), s. 33(2), **sch. para. 18(a)(i)**; S.S.I. 2017/354, reg. 2(a)
- F6** S. 26(2)(f)(ia) inserted (10.1.2018) by Education (Scotland) Act 2016 (asp 8), s. 33(2), **sch. para. 18(a)(ii)**; S.S.I. 2017/354, reg. 2(a)
- F7** S. 26(2)(g)(h) added (14.11.2005) by Additional Support for Learning (Publication of Information) (Scotland) Regulations 2005 (S.S.I. 2005/267), regs. 1(1), **2**
- F8** S. 26(2)(i) and preceding word inserted (2.4.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 16**, 26(3); S.S.I. 2010/129, art. 2(c)
- F9** S. 26(2A) inserted (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 13(b)**, 26(3); S.S.I. 2010/277, art. 2
- F10** S. 26(2A)(aa) inserted (10.1.2018) by Education (Scotland) Act 2016 (asp 8), s. 33(2), **sch. para. 18(b)**; S.S.I. 2017/354, reg. 2(a)

#### Commencement Information

- I5** S. 26(1)(2) in force at 14.11.2005 by S.S.I. 2005/564, **art. 2**
- I6** S. 26(3) in force at 18.5.2005 for specified purposes by S.S.I. 2005/263, art. 2, **Sch.**
- I7** S. 26(3) 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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## [<sup>F11</sup>26A Availability of information on additional support needs

The Scottish Ministers must report to the Scottish Parliament in each of the five years following the commencement of this section on what progress has been made in each of those years in ensuring that sufficient information relating to children and young persons with additional support needs is available to effectively monitor the implementation of this Act.]

### Textual Amendments

**F11** S. 26A inserted (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), ss. 22, 26(3); S.S.I. 2010/277, art. 2

## 27 Code of practice and directions

- (1) The Scottish Ministers must publish, and may from time to time revise and re-publish, a code of practice providing guidance as to the exercise by education authorities and appropriate agencies of the functions conferred on them by virtue of this Act.
- (2) Such a code of practice may, in particular, include provision as to—
  - (a) the particular circumstances or factors which may give rise to additional support needs,
  - (b) the identification of complex and multiple factors for the purposes of section 2,
  - (c) the nature of the additional support referred to in section 2(1)(d),
  - (d) the nature of the additional support to be provided in pursuance of a co-ordinated support plan,
  - [<sup>F12</sup>(da) the carrying out of assessments under paragraph (a) of subsection (3) of section 3A,
  - (db) the consideration of whether something would adversely affect the wellbeing of a child as mentioned in paragraph (b) of that subsection,
  - (dc) the assessment of whether there has been a significant change in the circumstances of a child as mentioned in section 8(2A)(a),]
  - (e) the arrangements to be made in pursuance of sections 4(1)(b) and 6(1),
  - (f) the seeking of information, advice and views under section 12,
  - (g) the arrangements to be made under section 15(1),
  - (h) the carrying out of the duties under paragraph 2(1) and (2) of schedule 2,
  - (i) the particular circumstances when those duties do not apply.
- (3) Before publishing a code of practice under subsection (1), the Scottish Ministers must consult—
  - (a) each education authority and appropriate agency, and
  - (b) such other persons as they think fit.
- (4) The Scottish Ministers must lay before the Scottish Parliament a draft of any code of practice they propose to publish under subsection (1).
- (5) The Scottish Ministers must not publish the code until after the expiry of the period of 40 days beginning with the day on which the draft was laid before the Parliament.
- (6) The Scottish Ministers must, in the published code of practice, take account of any comments on the draft expressed by the Parliament within that period.

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- (7) In calculating any period of 40 days for the purposes of subsections (5) and (6), no account is to be taken of any time during which the Parliament is dissolved or is in recess for more than 4 days.
- (8) Education authorities and appropriate agencies must, in exercising their functions under this Act, have regard to a code of practice published under this section.
- (9) The Scottish Ministers may give to education authorities directions (whether general or specific) as to the exercise of their functions under this Act.
- (10) Such directions may be given to all education authorities, to a particular authority or to authorities of a particular description.
- (11) Education authorities must comply with any directions given to them under this section.
- (12) References in this Act to a code of practice published under this section include any revised code of practice re-published under this section.

#### Textual Amendments

**F12** S. 27(2)(da)-(dc) inserted (10.1.2018) by [Education \(Scotland\) Act 2016 \(asp 8\)](#), s. 33(2), **sch. para. 19**; [S.S.I. 2017/354](#), reg. 2(a)

#### Commencement Information

**I8** S. 27 in force at 18.5.2005 by [S.S.I. 2005/263](#), art. 2, **Sch.**

### [<sup>F13</sup>27A **Collection of data on additional support needs**

- [<sup>F14</sup>(1) The Scottish Ministers must each year collect from each education authority such information as is specified in regulations made by the Scottish Ministers relating to children and young persons having additional support needs for whose school education the authority is responsible.
- (1A) Before making regulations under subsection (1), the Scottish Ministers must consult such persons as they consider appropriate.]
- (2) The Scottish Ministers must publish the information collected each year under subsection (1).
  - (3) The Scottish Ministers may (after consulting such persons as they consider appropriate) by regulations specify the format in and method by which the information mentioned in subsection (1) is to be—
    - (a) provided to, and
    - (b) published by,
 them.]

#### Textual Amendments

**F13** S. 27A inserted (14.11.2010) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2009 \(asp 7\)](#), **ss. 23, 26(3)**; [S.S.I. 2010/368](#), art. 2

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**F14** S. 27A(1)(1A) substituted for s. 27A(1) (1.1.2017 for specified purposes, 10.1.2018 in so far as not already in force) by Education (Scotland) Act 2016 (asp 8), s. 33(2), **sch. para. 20**; S.S.I. 2016/386, reg. 2, sch.; S.S.I. 2017/354, reg. 2(a)

**Status:**

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**Changes to legislation:**

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