



# 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.

**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.

**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, and
  - (c) where necessary or appropriate, revise the information and publish that revised information.
- (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
  - (f) the officer or officers of the authority from whom—

- (i) parents of children having additional support needs, and
  - (ii) young persons having such needs,can obtain advice and further information about provision for such needs.
- (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.

## **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,
  - (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.
- (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.

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*Status: This is the original version (as it was originally enacted).*

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- (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.