Education (Additional Support for Learning) (Scotland) Act 2009

2009 asp 7

Additional Support Needs Tribunals for Scotland

18 References to Tribunal in relation to co-ordinated support plan

(1) In section 18 of the 2004 Act (references to Tribunal in relation to co-ordinated support plan)—

(a) after subsection (3)(d)(i) insert—

"(ia) failure by the education authority to provide, or make arrangements for the provision of, the additional support (whether relating to education or not) identified by virtue of section 9(2)(a)(iii),",

(b) after subsection (5) insert—

"(5A) Where an education authority fail, in response to a request referred to in section 6(2)(b)—

(a) to inform under subsection (2)(a) of section 11 the persons mentioned in subsection (3) of that section of their proposal to establish whether a child or young person requires, or would require, a co-ordinated support plan by the time required by regulations made in pursuance of subsection (8) of that section, or

(b) to inform those persons of any decision not to comply with the request by the time required by such regulations,

that failure is to be treated for the purposes of this section as a decision of the authority that the child or young person does not require a co-ordinated support plan.

(5B) Where under subsection (2)(a) of section 11 the education authority have informed the persons mentioned in subsection (3) of that section of their proposal to establish whether the child or young person requires, or would require, a co-ordinated support plan, failure by the authority so to establish by the time required by regulations made in pursuance of subsection (8) of that section is to be treated for the

purposes of this section as a decision of the authority that the child or young person does not require a co-ordinated support plan.”.

(2) In section 19(3) of the 2004 Act (powers of Tribunal in relation to reference) for “(d)(ii)” substitute “ (d)(ia), (ii) ”.

Commencement Information

I1 S. 18(1) in force at 14.11.2010 by S.S.I. 2010/277, **art. 2**

I2 S. 18(2) in force at 14.11.2010 by S.S.I. 2010/277, **art. 2**

19 References to Tribunal in relation to duties under section 12(6) and 13

(1) In section 18 of the 2004 Act—

(a) in the title, omit “in relation to co-ordinated support plan”, and

(b) in subsection (3), after paragraph (f) (as inserted by section 1(7)(c) of this Act), insert—

“(g) failure by the education authority to comply with their duties under section 12(6) and 13 in respect of the child or young person (except where consent for information to be provided under section 13(2)(a) or (4) has not been given under section 13(5)) .”.

(2) In section 19(3) of the 2004 Act, for “or (d)(ii) or (iii)”, substitute “ , (d)(ii) or (iii) or (g) ”.

Commencement Information

I3 S. 19 in force at 14.11.2010 by S.S.I. 2010/277, **art. 2**

20 Power to make rules in respect of Tribunal practice and procedure

In paragraph 11(2) of schedule 1 to the 2004 Act (Additional Support Needs Tribunals for Scotland)—

(a) after paragraph (k) insert—

“(ka) enabling specified matters relating to the failure by an education authority to comply with time limits required by virtue of this Act to be determined by the convener of a Tribunal alone,”,

(b) after paragraph (t) add—

“(u) enabling a Tribunal, in specified circumstances, to—

(i) review,

(ii) vary or revoke,

any of its decisions, orders or awards,

(v) enabling a Tribunal, in specified circumstances, to review the decisions, orders or awards of another Tribunal and take such action (including variation and revocation) in respect of those decisions, orders or awards as it thinks fit.”.

Commencement Information

I4 S. 20 in force at 2.4.2010 by S.S.I. 2010/129, **art. 2(d)**

21 Power to monitor implementation of Tribunal decisions

In schedule 1 of the 2004 Act (Additional Support Needs Tribunals for Scotland) after paragraph 11, insert—

"**Power to monitor implementation of Tribunal decisions**

11A The President may, in any case where a decision of a Tribunal required an education authority to do anything, keep under review the authority's compliance with the decision and, in particular, may—

(a) require the authority to provide information about the authority's implementation of the Tribunal decision,

(b) where the President is not satisfied that the authority is complying with the decision, refer the matter to the Scottish Ministers.".

Commencement Information

I5 S. 21 in force at 14.11.2010 by S.S.I. 2010/277, **art. 2**

Changes to legislation:
There are currently no known outstanding effects for the Education (Additional Support for Learning) (Scotland) Act 2009, Cross Heading: Additional Support Needs Tribunals for Scotland.