
Changes to legislation: Education (Scotland) Act 2016, Paragraph 16 is up to date with all changes known to be in force on or before 17 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULE
MODIFICATIONS OF THE EDUCATION (ADDITIONAL
SUPPORT FOR LEARNING) (SCOTLAND) ACT 2004

- 16 In section 18 (references to Tribunal)—
- (a) in subsection (2), after paragraph (a) insert—
 - “(aa) where the decision, failure or information relates to a child mentioned in subsection (2A), the child,”
 - (b) after subsection (2) insert—
 - “(2A) The child is a child who has attained the age of 12 years and—
 - (a) who the Tribunal is satisfied has capacity to make the reference, and
 - (b) whose wellbeing would, in the opinion of the Tribunal, not be adversely affected were the child to make the reference.”
 - (c) after subsection (3)(e) insert—
 - “(ea) a decision of an education authority in relation to the capacity of a child who has attained the age of 12 years to exercise a right under this Act,
 - (eb) a decision of an education authority that it is, or is not, satisfied as respects a matter relating to the wellbeing of such a child,” and
 - (d) after subsection (7) insert—
 - “(8) For the purposes of subsection (7), it is irrelevant whether the further reference, and the last reference, mentioned in that subsection relate to the same or to different specified schools (which expression is to be construed in accordance with paragraph 2(3) of schedule 2).
 - (9) Nothing in subsection (7) prevents a further reference being made during the period mentioned in that subsection if the last reference so mentioned is, by virtue of rules under paragraph 11 of schedule 1, withdrawn before any hearing by a Tribunal in relation to the last reference is held.
 - (10) But where a further reference is made in the circumstances mentioned in subsection (9), the President may, if satisfied that there is good reason to do so, decide that the reference is not to proceed to consideration by a Tribunal.
 - (11) Subsection (7) applies in relation to a decision referred to in subsection (3)(ea) or (eb) as it applies in relation to a decision referred to in subsection (3)(da) or (e); but only where any further reference would relate to—
 - (a) the same right as mentioned in subsection (3)(ea) as the last such reference relates to, or
 - (b) the same matter as mentioned in subsection (3)(eb) as the last such reference relates to.”

Commencement Information

II Sch. para. 16 in force at 10.1.2018 by S.S.I. 2017/354, reg. 2(a)

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.S.I.2017/164, sch. by [S.S.I. 2017/352 reg. 2](#)