
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 265

The Additional Support for Learning (Changes in School Education) (Scotland) Regulations 2005

Seeking and taking account of information and advice

3.—(1) Every education authority must—

- (a) no later than twelve calendar months (or, in respect of a child under school age, as referred to in regulation 2(a), no later than six calendar months) before a child or young person is likely to have a change in school education, as specified in regulation 2; or
- (b) where the education authority only become aware that there is likely to be such a change in school education less than twelve calendar months before the likely occurrence of that change (or, in respect of such a child under school age, less than six calendar months before the likely occurrence of that change), as soon as reasonably practicable after they become so aware,

take the action specified in paragraph (2).

(2) That action is action to—

- (a) seek relevant advice and information from such appropriate agencies and other persons as the authority think appropriate;
- (b) subject to paragraph (4) below, where the authority seek advice and information under paragraph (a), seek and take account of the views of—
 - (i) in the case of a child, the child (unless the authority are satisfied that the child lacks capacity to express a view) and the child's parent; and
 - (ii) in the case of a young person, that young person or, if the authority are satisfied that the young person lacks capacity to express a view, the young person's parent; and
- (c) take account of any relevant advice and information provided by any appropriate agency or other person pursuant to seeking it under paragraph (a) above,

in making appropriate arrangements for each such child or young person before that change in school education takes place.

(3) Advice and information is relevant for the purposes of paragraph (2) above if it is likely to assist the education authority in—

- (a) establishing the additional support needs of the child or young person;
- (b) determining what provision to make for such additional support as is required by the child or young person; or
- (c) considering the adequacy of the additional support provided for the child or young person.

(4) In making appropriate arrangements for each such child or young person before that change in school education takes place, the duty described in sub paragraph 2(b) above shall apply only in relation to such children and young persons as the authority consider appropriate.

(5) This regulation is without prejudice to section 4(1)(b) of the Act.