SCOTTISH STATUTORY INSTRUMENTS

2005 No. 266

EDUCATION

The Additional Support for Learning (Co-ordinated Support Plan) (Scotland) Regulations 2005

Made - - - -	*19th May 2005*
Laid before the Scottish Parliament - - - -	*19th May 2005*
Coming into force - -	*14th November 2005*

The Scottish Ministers, in exercise of the powers conferred by sections 11(8) and 34(2) of the Education (Additional Support for Learning) (Scotland) Act 2004(**1**), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Additional Support for Learning (Co-ordinated Support Plan) (Scotland) Regulations 2005 and shall come into force on 14th November 2005.

Interpretation

2.—(1) In these Regulations–

"the Act" means the Education (Additional Support for Learning) (Scotland) Act 2004;

"the 1980 Act" means the Education (Scotland) Act 1980(**2**);

"Additional Support Co-ordinator" means the person named in the plan for the purposes of section 9(2)(c) of the Act;

"a plan" means a co-ordinated support plan within the meaning of section 2(1) of the Act, and, as the context requires, includes the plan as continued with or without amendment following completion of the review of the then current plan under section 10 of the Act (reviews of co ordinated support plans);

"a proposal" means a proposal by the education authority to establish whether any child or young person requires, or would require a plan;

"a review proposal" means a proposal by the education authority to review under section 10 of the Act any plan prepared for any child or young person;

(**1**) 2004 asp 4.
(**2**) 1980 c. 44.

"time limit" means the time limit prescribed in regulation 4 except where the education authority are carrying out a review under section 10 of the Act where the time limit is that prescribed in regulation 5;

(2) Any reference in these Regulations to the doing of anything in writing shall be construed in accordance with section 29(5) of the Act except where a parent or young person reasonably requires a particular form of communication, being a form which, by reason of its having some permanence, is capable of being used for subsequent reference (as, for example, an audio or video recording).

The plan

3.—(1) Every plan must–

(a) be in the form set out in the Schedule to these Regulations or a form substantially to the same effect;

(b) contain information on:–

(i) the name, address, contact telephone number, date of birth, gender, preferred language or form of communication, school currently attended and date of entry to that school of the child or young person to whom the plan relates;

(ii) the name, address, contact telephone number and relationship to the child or young person to whom the plan relates of each parent and that parent's preferred language or form of communication;

(iii) a profile of the skills and capabilities of and any other relevant information relating to the child or young person;

(iv) the matters specified in section 9(2)(a) to (d) of the Act;

(v) any views on the plan expressed by the child or young person and by a parent of the child or, where applicable, the young person;

(vi) the review timetable for the plan in accordance with the provisions of section 10 of the Act; and

(c) be dated and signed by a duly authorised officer of the education authority.

(2) Every plan continued following review under section 10 of the Act must contain such amendments of the information specified in paragraph (1)(b) above as the authority consider necessary or appropriate in consequence of the review of the plan and retain such other information from the then current plan as the authority consider relevant to the future provision of additional support for the child or young person.

Time limit for preparation of the plan

4. Subject to regulation 7, where under section 11(2)(a) of the Act an education authority informs the persons mentioned in subsection (3) of that section of its proposal that authority must within a period of 16 weeks starting on the date of so informing such persons–

(a) give a copy of the plan to the persons mentioned in subsection (5)(a) of that section; or

(b) where that authority decides that the child or young person does not require a plan inform those persons mentioned in subsection (3) of that section of that decision.

Time limit for the review of the plan

5. Subject to regulation 7, where under section 11(2)(a) of the Act an education authority informs the persons mentioned in subsection (3) of that section of its review proposal, that authority must within a period of 12 weeks starting on the applicable expiry date provided for in section 10(2) of the Act or where there is to be an earlier review provided for in section 10(3) of the Act, within a

period of 12 weeks starting on the date of informing such persons of its review proposal, complete a review under section 10 of the Act and–

(a) give a copy of the plan as continued with such amendments as the authority consider necessary or appropriate to the persons mentioned in subsection (5)(a) of that section; or

(b) where that authority decides that the child or young person no longer requires a plan inform those persons mentioned in that subsection of that decision.

Date of providing information or copy of plan

6. For the purposes of regulation 4 or 5, the date on which an education authority–

(a) informs any person as to its proposal, review proposal or decision; or

(b) gives a copy of the plan or the plan as continued following completion of the review under section 10 of the Act,

is the date on which the information or copy of the plan is sent by the education authority to the persons mentioned in sub-sections (3) or 5(a) of section 11 of the Act as the case may be.

Time Limit Exceptions

7.—(1) Subject to paragraphs (2) and (3) below, an education authority need not comply with the time limit if it is impractical to do so because–

(a) the education authority has sought advice or information from a school where the child or young person is or has been in attendance during a period beginning 1 week before any date on which that school was closed for a continuous period of not less than 4 weeks from that date and ending on the date on which it re-opens;

(b) the child's parent, or the young person, has indicated to the education authority that the parent or young person wishes to provide advice or information to the education authority after the expiry of the time limit and the education authority has agreed to consider such advice or information before establishing whether a plan is or would be required or is still required;

(c) the child's parent or the young person has made an assessment request under section 8 of the Act and the process of assessment or examination in pursuance of that request cannot take place or the results of that process are not available before the expiry of the time limit;

(d) the education authority has sought advice or information from an appropriate agency or other person under section 12(2)(a) of the Act and the appropriate agency or other person has not provided the advice or information before the expiry of the time limit;

(e) the education authority has requested help from an appropriate agency under section 23(1) of the Act and the appropriate agency has not responded before the expiry of the period of the time limit;

(f) exceptional personal circumstances affect the child or the child's parent or the young person during the period of the time limit;

(g) the child or the child's parent or the young person is absent from the area of the education authority for a continuous period of not less than 4 weeks during the period of the time limit;

(h) the child or the young person fails to keep an appointment for an assessment or examination during the period of the time limit; or

(i) in exceptional cases after receiving advice or information or views under section 12 of the Act from an appropriate agency or other person, or the child or the child's parent or the young person or a response from an appropriate agency under section 23 of the Act

it is necessary for the education authority to seek further advice or information or views and that further advice or information or views cannot be obtained before the expiry of the time limit.

(2) Where paragraph (1) above applies an education authority must on becoming aware that the time limit cannot be complied with–

(a) establish a date by which a copy of the plan or decision that a plan is not required, as the case may be, must be given to the persons mentioned in section 11(5)(a) of the Act; and

(b) inform those persons of the reason why the time limit in regulation 4 or 5 cannot be complied with and of the date established under sub-paragraph (a).

(3) The date established under paragraph (2)(a) above must not exceed the time limit by longer than is reasonably necessary in the circumstances and in any event must be not more than–

(a) 24 weeks starting on the date when information of the proposal is sent under regulation 4;

(b) 20 weeks starting on the applicable expiry date provided for in section 10 of the Act; or

(c) where there is to be an earlier review provided for in sub-section (3) of that section, 20 weeks starting on the date when information of the review proposal is sent under regulation 5.

(4) The provisions of regulations 4 and 5 of these Regulations will otherwise apply to the date established under paragraph (2)(a) above as if that date was the time limit.

Keeping the plan

8.—(1) Subject to the provisions of these Regulations a plan must be kept by the education authority which has prepared it, at such place as it considers appropriate and must be available for inspection there without any charge or fee by the persons mentioned in paragraph (2) below on request during normal hours of business of that place.

(2) The persons referred to in paragraph (1) above are–

(a) in the case of a child to whom the plan relates, the child's parent; and

(b) in the case of a young person to whom the plan relates–

(i) the young person, or

(ii) if the education authority are satisfied that the young person lacks capacity to understand the plan, the young person's parent.

(3) A copy of the plan must be kept at the school at which, for the time being, provision is being made for the additional support needs of the child or young person to whom the plan relates, and must, for the purposes of the provisions of regulation 10(3) of the Schools General (Scotland) Regulations 1975(**3**), be deemed to be part of the pupil's progress record kept for that child or young person, and for the purpose of construing that regulation in relation to such copy any reference in those Regulations to a pupil's progress record includes a reference to that copy.

Transfer of the plan

9.—(1) This regulation applies where a child or young person to whom a plan relates moves from, without any immediate intention of returning to, the area of the education authority which prepared the plan ("the original authority") into that of another authority to which area the child or young person then belongs ("the new authority").

(2) The original authority must–

(**3**) S.I.1975/1135; as amended by S.I. 1994/351 and S.S.I. 2003/581.

(a) (i) where it has been notified of a date of departure transfer the plan to the new authority no later than 4 weeks starting on the date of departure so notified; or

(ii) where it becomes aware that the child or young person has already moved transfer the plan to the new authority no later than 4 weeks starting on the date it becomes so aware; and

(b) at the same time provide the new authority with the names and other appropriate contact details for the persons mentioned in paragraph (5)(c) below.

(3) From the date of transfer the plan must be treated for the purposes of the new authority's duties and functions under the Act and these Regulations as if it had been prepared by the new authority on the date on which it was prepared by the original authority.

(4) The new authority must inform as soon as reasonably practicable the persons mentioned in paragraph (5) below–

(a) that the plan has been transferred; and

(b) of its responsibility under the Act and these Regulations for the plan including the arrangements made by it for the purposes of regulation 8(1), the name and other appropriate contact details for the Additional Support Co ordinator for the plan within the new authority or appointed by that authority for the purposes of section 11(6) of the Act and the name and other appropriate contact details for the person nominated by that authority for the purposes of section 9(2)(d) of the Act (officer from whom advice and further information is available).

(5) The persons referred to in paragraph (4) above are–

(a) in the case of a child to whom the plan relates, the child's parent;

(b) in the case of a young person to whom the plan relates–

(i) the young person, or

(ii) if the education authority are satisfied that the young person lacks the capacity to understand the information, the young person's parent; and

(c) any person named in the plan as providing additional support.

(6) For the purposes of this regulation the date of transfer is the date on which the original authority sent the plan to the new authority in accordance with paragraph (2) above.

Disclosure of the plan

10.—(1) Without prejudice to section 11(5)(e) of the Act, a plan or extracts from it must not be disclosed without the consent of the persons mentioned in paragraph (2) below except–

(a) to persons to whom in the opinion of the education authority it is necessary to disclose the plan or extracts from it in the interests of the child or the young person to whom the plan relates;

(b) for the purposes of any reference, including to any mediation service provided under section 15 or dispute resolution arranged under section 16 of the Act, or appeal under the Act;

(c) to the person who by virtue of section 11(6) of the Act is to discharge the education authority's duty under subsection (5)(d) of that section;

(d) to Her Majesty's Chief Inspector of Schools, one of Her Majesty's Inspectors of Schools or any person appointed by the Scottish Ministers for the purposes of section 66 of the 1980 Act who wishes to inspect or take copies of a plan in pursuance of an inspection of a school under section 66 of the 1980 Act;