SCOTTISH STATUTORY INSTRUMENTS

2005 No. 265

EDUCATION

The Additional Support for Learning (Changes in School Education) (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 13(6) and (7) 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, commencement and interpretation

1.—(1) These Regulations may be cited as the Additional Support for Learning (Changes in School Education) (Scotland) Regulations 2005 and shall come into force on 14th November 2005.

(2) In these Regulations, "the Act" means the Education (Additional Support for Learning) (Scotland) Act 2004.

Changes in school education

2. The following changes in the school education of children and young persons are specified(**2**) changes for the purposes of section 13(6) of the Act–

(a) where a child under school age begins to receive school education provided in a school under the management of an education authority or in pursuance of arrangements entered into by an authority under section 35 of the Standards in Scotland's Schools etc. Act 2000(**3**);

(b) where a child begins to receive primary education;

(c) where a child begins to receive secondary education ('secondary education' being construed in accordance with section 135(2)(b) of the Education (Scotland) Act 1980(**4**);

(**1**) 2004 asp 4.
(**2**) "Specified" is referred to within sections 13(6) and (7) of the Act, and has the meaning given in section 13(8).
(**3**) 2000 asp 6.
(**4**) 1980 c. 44.

(d) where, other than as a consequence of one of the changes specified in paragraphs (a), (b) or (c) above, a child or young person transfers, otherwise than temporarily, from a school under the management of an education authority to another school under the management of that authority or otherwise transfers from such a school in pursuance of arrangements entered into by that authority; and

(e) where, other than as a consequence of one of the changes specified in paragraphs (a), (b), (c) or (d) above, or other than in the circumstances provided for in sections 12(5) and 13(1) of the Act, an education authority cease to be responsible for the school education of a child or young person.

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.