Executive Note

The Education (Appeal Committee Procedures) (Scotland) Amendment Regulations 2006 S.S.I. 2006/322

The above instrument is subject to negative resolution procedure. It is to be made in exercise of the powers conferred by paragraph 6(6) of Schedule 2 to, and section 34 of the Education (Additional Support for Learning) (Scotland) Act 2004 ("the 2004 Act") and sections 28D and 28H of the Education (Scotland) Act 1980 ("the 1980 Act").

Policy Objectives

The purpose of these Regulations is to modify the Education (Appeal Committee Procedures) (Scotland) Regulations 1982 ("the 1982 Regulations") as a consequence of the provisions made under sections 18, 19(5)(c) of, and Schedule 2 to the 2004 Act.

The 2004 Act repealed provisions of the 1980 Act relating to special educational needs and introduced a concept of additional support needs. Some children with additional support needs will be eligible for a co-ordinated support plan. Sections 28A, C, E, F and G of the 1980 Act (which make provision as to the making of placing requests and appeals in relation to the refusal of such requests) do not apply to children and young people with additional support needs. Instead the provisions in Schedule 2 to and sections 18 and 19(5)(c) of the 2004 Act apply.

Parents of a child with additional support needs can refer a decision by an authority to refuse a placing request to the education authority appeal committee in terms of Schedule 2, paragraph 5(1). However, the 2004 Act makes specific provision that, where a decision has been taken to have a co-ordinated support plan, placing request references are to be referred to a Tribunal under section 18 of the 2004 Act.

Where a parent appeals to the Tribunal against refusal of a co-ordinated support plan the refusal of a placing request would also be referred to the Tribunal. If the Tribunal refuses the appeal regarding refusal of a co-ordinated support plan they must return or refer the placing request appeal to an education authority appeal committee for a decision.

These Regulations make amendments to the 1982 Regulations consequential to those new provisions.

Combined hearings

Regulation 9 of the 1982 Regulations allows an appeal committee to combine the hearing on a reference made under section 28C(1) or 28(H)(1) of the 1980 Act with any one or more other references made to them under the same section. It was felt that it may not always be appropriate to combine hearings on refused placing requests for children and young people with additional support needs. As a result, regulation 9 is modified to the effect that a combined hearing can be held but only if the appellant agrees.

Consultation

The Council on Tribunals has been consulted. Wider consultation was not felt to be necessary.

Regulatory Impact Assessment

These regulations are not considered to have any effect on Scottish businesses and as a result no regulatory impact assessment has been carried out.

Financial Effects

These Regulations have no financial effects on the Scottish Executive or any other organisation.

Scottish Executive Education Department
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