1st Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

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Amendments marked * are new (including manuscript amendments) or have been altered.

Before section 1

Mr Adam Ingram

154 Before section 1, insert—

<Statement of principles>

(1) It is the duty of every education authority to—

(a) take account of,
(b) identify,
(c) plan for, and
(d) make adequate provision for,

the support needs of all children and young people who face barriers to education, and to provide adequate support for learning for such children and young people.

(2) The references to barriers to education in subsection (1) includes references to—

(a) social factors,
(b) cognitive factors,
(c) linguistic factors,
(d) disability, or
(e) family or care circumstances.

(3) Such support for learning must, as far as possible, be provided in a way that promotes—

(a) social integration and participation,
(b) continuity of support for the child or young person,
(c) effective transition to the post-school environment,
(d) co-ordination between agencies, and
(e) partnership with—

(i) the child or young person, and
(ii) the parent of the child or young person.
(4) Such support for learning should be of an equivalent standard for all children facing similar barriers to education in terms of—
   (a) duration,
   (b) intensity,
   (c) breadth, and
   (d) coherence of—
      (i) curriculum,
      (ii) extra-curricular activities,
      (iii) recording or attainment, and
      (iv) encouragement of pupil and parent participation.

Section 1

Lord James Douglas-Hamilton
155 In section 1, page 1, line 14, leave out <prescribed pre-school child> and insert <child under school age but aged two years or over>

Lord James Douglas-Hamilton
156 In section 1, page 1, leave out lines 20 and 21

Section 2

Lord James Douglas-Hamilton
1 In section 2, page 1, line 24, leave out <co-ordinated>

Fiona Hyslop
157 In section 2, page 2, line 3, leave out <continue for more than a year> and insert <have a continuing and sustained impact>

Fiona Hyslop
158 In section 2, page 2, line 4, leave out <significant>

Lord James Douglas-Hamilton
2 In section 2, page 2, line 4, at end insert—
   <( ) by the education authority in the exercise of their functions relating to education.>

Fiona Hyslop
54 In section 2, page 2, line 4, at end insert—
   <( ) by the education authority.>
Fiona Hyslop

55 In section 2, page 2, line 6, after <education,> insert—

   <( ) by one or more appropriate agencies (within the meaning of section
   19(2)),> 

Donald Gorrie
Supported by: Lord James Douglas-Hamilton

110 In section 2, page 2, line 6, leave out <or>

Donald Gorrie
Supported by: Lord James Douglas-Hamilton

111 In section 2, page 2, line 6, leave out <or> and insert <and>

Ms Rosemary Byrne

112 In section 2, page 2, leave out lines 7 and 8

Fiona Hyslop

97 In section 2, page 2, line 8, at end insert—

   <or if—

   ( ) an education authority are responsible for the school education of the child or
   young person, and
   
   ( ) the child or young person has a Record of Needs in terms of section 60 of the
   1980 Act at the time of this Act coming into force.>

Fiona Hyslop

159 In section 2, page 2, line 10, leave out <a significant> and insert <an>

Fiona Hyslop

160 In section 2, page 2, line 11, after <education> insert <, or other development,>

Fiona Hyslop

161 In section 2, page 2, line 14, leave out <a significant> and insert <an>

Fiona Hyslop

162 In section 2, page 2, line 15, after <education> insert <, or other development,>

Before section 3

Euan Robson

63 Before section 3, insert—
Duties of education authority in relation to children and young persons for whom they are responsible

(1) Every education authority must—

(a) in relation to each child and young person having additional support needs for whose school education the authority are responsible, make adequate and efficient provision for such additional support as is required by that child or young person, and

(b) make such arrangements as they consider appropriate for keeping under consideration—

(i) the additional support needs of, and

(ii) the adequacy of the additional support provided for, each such child and young person.

(2) Subsection (1)(a) does not require an education authority to do anything which—

(a) they do not otherwise have power to do, or

(b) would result in unreasonable public expenditure being incurred.

Fiona Hyslop

63B As an amendment to amendment 63, line 6, after <responsible> insert—

<( ) each child over two years who has not yet attained school age having additional support needs and belonging to the area of the education authority,>

Mr Kenneth Macintosh

63C As an amendment to amendment 63, line 9, leave out <they consider> and insert <are reasonably>

Scott Barrie

63A As an amendment to amendment 63, in line 16, at end insert <, which circumstance shall be presumed to arise only exceptionally>

Ms Rosemary Byrne

63D As an amendment to amendment 63, line 16, at end insert <which would not ordinarily be incurred, which circumstance shall be presumed to arise only exceptionally>

Section 3

Fiona Hyslop

98 In section 3, page 2, line 21, after <needs,> insert <whether or not those needs require the provision of a plan under section 2,>
Ms Rosemary Byrne
Supported by: Lord James Douglas-Hamilton

113 In section 3, page 2, line 21, after <needs,> insert—

<( ) the best interests of such children and young people, >

Euan Robson

64 In section 3, page 2, line 21, leave out from <and> to end of line 34

Lord James Douglas-Hamilton

3 In section 3, page 2, line 23, leave out <by> and insert <to secure that the education is directed to the development to the fullest potential of the personality, talents and mental and physical abilities of>

Lord James Douglas-Hamilton

4 In section 3, page 2, line 27, leave out from <or> to end of line 28

Fiona Hyslop

49 In section 3, page 2, leave out line 28 and insert—

<( ) would result in unreasonable public expenditure being incurred which would not ordinarily be incurred.>

Ms Rosemary Byrne

163 In section 3, page 2, leave out line 28 and insert—

<( ) would result in unreasonable public expenditure being incurred that would not ordinarily be incurred, which circumstance shall be presumed to arise only exceptionally>

Robert Brown
Supported by: Lord James Douglas-Hamilton

114 In section 3, page 2, line 33, after <adequacy> insert <and effectiveness>

Euan Robson

65 In section 3, page 2, line 34, at end insert—

<(3A) Every education authority must, subject to subsection (3B), provide such additional support as they consider appropriate for each child—

(a) under school age (other than a prescribed pre-school child),

(b) belonging to the authority’s area, and

(c) who has additional support needs arising from a disability (within the meaning of the Disability Discrimination Act 1995 (c.50)) which the child has.
The duty in subsection (3A) applies only where the authority has established, in pursuance of section 5(7) of this Act, that the child has the additional support needs referred to in subsection (3A)(c) following the child having been brought to the authority’s attention as having or appearing to have such needs by a Health Board.

Robert Brown

65A As an amendment to amendment 65, line 3, leave out <they consider> and insert <is>

Fiona Hyslop

65C As an amendment to amendment 65, line 4, leave out <(other than a prescribed pre-school child)>

Robert Brown

65B As an amendment to amendment 65, line 11, at end insert <, voluntary sector organisation, or parent or relative of the child>

Euan Robson

66 In section 3, page 2, line 35, leave out from <, so> to first <of> in line 37 and insert <provide such additional support as they consider appropriate for>

Robert Brown

115 In section 3, page 2, line 35, leave out from <, so> to first <of> in line 37 and insert <provide such additional support as is appropriate for>

Euan Robson

67 In section 3, page 2, line 37, after <children> insert <(other than children to whom the education authority have a duty under subsection (3A))>

Mr Adam Ingram

164 In section 3, page 2, line 39, at end insert—

<( ) Each—

(a) education authority, in drawing up or reviewing their educational improvement objectives, and

(b) headteacher, in drawing up or reviewing a school developmental plan, must take into account the support for learning required by children and young persons who have one or more barriers to education.>

Section 4

Lord James Douglas-Hamilton

5 In section 4, page 3, line 8, leave out <co-ordinated>
Fiona Hyslop
99 In section 4, page 3, line 11, at end insert—

< ( ) The arrangements referred to in subsection (1) must include provision for a statement to be made indicating what, if any, additional support needs each child or young person has.>

Euan Robson
68 In section 4, page 3, line 13, leave out from <complying> to <request>

Lord James Douglas-Hamilton
6 In section 4, page 3, line 16, leave out <co-ordinated>

Lord James Douglas-Hamilton
7 In section 4, page 3, line 18, leave out <they consider the request to be> and insert <the request is>

Lord James Douglas-Hamilton
116 In section 4, page 3, line 18, at end insert—

< ( ) In deciding whether or not a request under subsection (2) is unreasonable, an education authority must take into account the written findings of any process of assessment or examination for the purpose of ascertaining whether the child or young person—

(a) has additional support needs, or
(b) requires a co-ordinated support plan,

submitted to them by the person making the request, provided the person who carried out the process was prima facie an appropriate person to do so.>

Scott Barrie
117 In section 4, page 3, line 20, at end insert—

< ( ) the child, if the child has capacity,>

Euan Robson
69 In section 4, page 3, line 25, leave out subsections (4) and (5)

Lord James Douglas-Hamilton
165 In section 4, page 3, line 30, after <inform> insert <, in writing,>

Lord James Douglas-Hamilton
70 In section 4, page 3, line 31, after <decision> insert <, and—

( ) inform the person who made the request of the existence of independent advocacy services (provided for under section (Independent advocacy)) and how local providers of such services may be contacted>
In section 4, page 3, line 31, after <decision> insert <, and—

( ) inform the person who made the request of the existence of mediation services (provided for under section 16) and how local providers of such services may be contacted, and (as appropriate) of the person’s right to refer the decision to the Tribunal>

In section 4, page 3, line 38, leave out <co-ordinated>

In section 4, page 4, line 3, leave out <co-ordinated>

In section 4, page 4, line 4, leave out from <unless> to end of line

In section 4, page 4, line 4, at end insert—

<(8A) The education authority may, for the purposes of subsection (8), by notice, require any person to co-operate with the arrangements made by the authority under subsection (1).>

<(8B) Any person who wilfully fails to comply with a requirement under subsection (8A) is guilty of an offence and liable on summary conviction to a fine not exceeding level two on the standard scale.>

In section 4, page 5, line 10, leave out <co-ordinated>

In section 5, page 4, line 7, leave out from <complying> to <request> in line 8

In section 5, page 4, line 18, leave out <co-ordinated>

In section 5, page 4, line 25, at end insert—

<( ) the child, if the child has capacity,>

In section 5, page 4, line 30, leave out subsections (4) and (5)

In section 5, page 5, line 10, leave out <co-ordinated>
Scott Barrie

120 In section 5, page 5, line 15, at end insert—

<() the child, if the child has capacity.>

Section 6

Euan Robson

73 In section 6, page 5, line 25, leave out from <have> to <8(4)> in line 26 and insert <propose—

(i) in pursuance of any provision of this Act, to establish whether a child or young person has additional support needs or requires, or would require, a co-ordinated support plan, or

(ii) to review under section 8 any such plan prepared for any child or young person>

Euan Robson

74 In section 6, page 5, line 27, leave out <person making the request also> and insert <appropriate person>

Euan Robson

75 In section 6, page 5, line 27, leave out from <complying> to <request> in line 28

Euan Robson

76 In section 6, page 5, line 29, leave out <in respect of whom the request is made> and insert <to whom the proposal referred to in paragraph (a) relates>

Euan Robson

77 In section 6, page 5, line 30, leave out <request referred to in paragraph (a)> and insert <proposal>

Lord James Douglas-Hamilton

166 In section 6, page 5, line 30, leave out <or examination> and insert <, examination or assessment and examination>

Lord James Douglas-Hamilton

50 In section 6, page 5, line 32, leave out <they consider the request to be> and insert <the request is>

Euan Robson

78 In section 6, page 5, line 33, at end insert—

<() In subsection (1)(b), “the appropriate person” means—

(a) where the proposal referred to in subsection (1)(a) arises from a request referred to in section 4(2), 5(1) or 8(4), the person making the request,
(b) in any other case—
   (i) where the proposal relates to a child, the child’s parent,
   (ii) where the proposal relates to a young person, the young person or, where the
        authority are satisfied that the young person is incapable, the young
        person’s parent.

Lord James Douglas-Hamilton
121 In section 6, page 5, line 33, at end insert—
   (1A) If, instead of making an assessment request the person making the request submits with
           the request written findings of the type specified in subsection (1B), the education
           authority must take those findings into account as if they were findings resulting from a
           process of assessment or examination carried out in pursuance of an assessment request.

   (1B) Written findings are of the type mentioned in subsection (1A) if they—
           (a) resulted from a process of assessment or examination for the purpose of
               ascertaining whether the child or young person to whom the request relates—
               (i) has additional support needs, or
               (ii) requires a co-ordinated support plan,
               carried out by a person who is prima facie an appropriate person to carry out such
               assessments or examinations, and
           (b) conclude that the child or young person has additional support needs or, as the
               case may be, requires a co-ordinated support plan.

Euan Robson
79 In section 6, page 5, line 34, leave out subsection (2)

Lord James Douglas-Hamilton
167 In section 6, page 5, line 35, leave out from <, and> to end of line 36

Lord James Douglas-Hamilton
168 In section 6, page 5, line 37, leave out <or examination> and insert <, examination or assessment
                      and examination>

Robert Brown
122 In section 6, page 5, line 38, after <request> insert <or otherwise>

Ms Rosemary Byrne
Supported by: Lord James Douglas-Hamilton
123 In section 6, page 5, line 38, leave out from <such> to end of line 39 and insert <an appropriately
                      qualified professional.>

Robert Brown
124 In section 6, page 5, line 38, after <person> insert <and by such means>
In section 6, page 5, line 39, after <authority> insert <, after consultation with the person making the request, >

In section 6, page 5, line 39, at end insert—

<( ) In reaching a decision after carrying out the process referred to in subsection (3) the person who carried out the process must not take into account the financial or human resources, or the available facilities of—

(a) the education authority, or

(b) any appropriate agency that provides, or may in the future provide, additional support to a child or young person under a co-ordinated support plan,

and the person may not take into account the likely practical or financial implications to the authority or agency of any decision that a child has particular additional support needs.>

In section 6, page 5, line 40, leave out subsection (4)

In section 6, page 5, line 41, after <inform> insert <, in writing,>

In section 6, page 5, line 41, after <decision> insert <in writing within fourteen days of receiving the request>
Section 6

Lord James Douglas-Hamilton
171 In section 6, page 6, line 2, leave out <or examination> and insert <, examination or assessment and examination>

Donald Gorrie
Supported by: Lord James Douglas-Hamilton
127 In section 6, page 6, line 2, leave out from <includes> to end of line 3 and insert <relates to multi-disciplinary assessment or examination comprising educational, psychological and medical elements, unless the person making the request specifies that one or more of these elements not be included.>

Lord James Douglas-Hamilton
172 In section 6, page 6, line 3, at end insert <or any combination of these>

Section 7

Lord James Douglas-Hamilton
14 In section 7, page 6, line 7, leave out <co-ordinated>

Euan Robson
81 In section 7, page 6, line 8, at end insert—

< (1A) However, an education authority need not comply with the duty in subsection (1) in relation to any child or young person if, having taken account of any views expressed by the child or young person, both the authority and—

5 (a) in the case of a child, the child’s parent, or
(b) in the case of a young person—
   (i) the young person, or
   (ii) if the authority are satisfied that the young person is incapable, the young person’s parent,

10 agree that a co-ordinated support plan need not be prepared for the child or young person.>

Mr Kenneth Macintosh
81A As an amendment to amendment 81, in line 11, at end insert—

< ( ) Where an education authority decide, under subsection (1A), not to comply with the duty in subsection (1) they must inform—

(a) in the case of a child, the child’s parents, or
(b) in the case of a young person—
   (i) the young person, or
   (ii) if the authority are satisfied that the young person is incapable, the young person’s parent,
of this decision in writing.>

Lord James Douglas-Hamilton

173 In section 7, page 6, line 8, at end insert—

< ( ) In preparing a co-ordinated support plan under subsection (1), the education authority must have regard to any advice, information or views of which the authority are aware as a result of complying with the duty in section 10(2).>

Lord James Douglas-Hamilton

15 In section 7, page 6, line 9, leave out <co-ordinated>

Lord James Douglas-Hamilton

174 In section 7, page 6, line 15, after first <the> insert <type and amount of>

Lord James Douglas-Hamilton

16 In section 7, page 6, line 17, at end insert—

< ( ) a statement of the arrangements, including arrangements with such appropriate agency or agencies as it thinks fit, the authority proposes to make for the child or young person on ceasing to receive school education,>

Mr Adam Ingram

175 In section 7, page 6, line 21, after <section,> insert—

< ( ) the name and other appropriate contact details of any person identified in the plan as a person by whom additional support should be provided.>

Scott Barrie

128 In section 7, page 6, line 24, after second <the> insert <child (if the child has capacity) and the>

Euan Robson

82 In section 7, page 6, line 32, leave out subsection (4)

Lord James Douglas-Hamilton

17 In section 7, page 6, line 32, leave out <co-ordinated>

Section 8

Lord James Douglas-Hamilton

176 In section 8, page 7, line 6, after <adequacy> insert <and effectiveness>

Lord James Douglas-Hamilton

18 In section 8, page 7, line 6, leave out <co-ordinated>
Lord James Douglas-Hamilton
19 In section 8, page 7, line 9, leave out <co-ordinated>

Lord James Douglas-Hamilton
20 In section 8, page 7, line 16, leave out <co-ordinated>

Lord James Douglas-Hamilton
177 In section 8, page 7, line 19, leave out from beginning to <of> and insert <where subsection (3A) applies.>

   (3A) This subsection applies where there has been>

Lord James Douglas-Hamilton
178 In section 8, page 7, line 21, at end insert—

   <( ) Where subsection (3A) applies the education authority must carry out a review of the plan immediately.>

Euan Robson
83 In section 8, page 7, line 23, leave out from <complying> to second <request>

Lord James Douglas-Hamilton
21 In section 8, page 7, line 24, leave out <co-ordinated>

Lord James Douglas-Hamilton
22 In section 8, page 7, line 26, leave out <they consider the request to be> and insert <the request is>

Lord James Douglas-Hamilton
23 In section 8, page 7, line 28, leave out <co-ordinated>

Scott Barrie
129 In section 8, page 7, line 28, at end insert—

   <( ) the child, if the child has capacity,>

Lord James Douglas-Hamilton
24 In section 8, page 7, line 29, leave out <co-ordinated>

Euan Robson
84 In section 8, page 7, line 33, leave out subsections (6) and (7)

Lord James Douglas-Hamilton
179 In section 8, page 7, line 38, after <inform> insert <, in writing,>
Lord James Douglas-Hamilton

25  In section 8, page 8, line 1, leave out <co-ordinated>

Section 9

Lord James Douglas-Hamilton

26  In section 9, page 8, line 11, leave out <co-ordinated>

Lord James Douglas-Hamilton

180 In section 9, page 8, line 17, after <persons> insert <, in writing.>

Scott Barrie

130 In section 9, page 8, line 22, at end insert—

<( ) the child, if the child has capacity,>

Lord James Douglas-Hamilton

27  In section 9, page 8, line 31, leave out <co-ordinated>

Scott Barrie

131 In section 9, page 8, line 39, at end insert—

<( ) to the child, if the child has capacity,>

Lord James Douglas-Hamilton

181 In section 9, page 9, line 3, at end insert—

<( ) if the person to whom a copy of the plan or amended plan has been given
under sub-paragraph (i) or (ii) consents, to such appropriate agencies, or
such other persons identified in the plan as a persons by whom additional
support should be provided, as the authority considers appropriate,>

Lord James Douglas-Hamilton

182 In section 9, page 9, line 6, leave out <seek to>

Lord James Douglas-Hamilton

183 In section 9, page 9, line 10, leave out <, so far as possible,>

Lord James Douglas-Hamilton

184 In section 9, page 9, line 11, leave out second <the> and insert <any>

Euan Robson

85  In section 9, page 9, line 22, at end insert—
Where an education authority have prepared a co-ordinated support plan for any child or young person, they must discontinue the plan if, having taken account of any views expressed by the child or young person, both the authority and—

(a) in the case of a child, the child’s parent,

(b) in the case of a young person—

(i) the young person, or

(ii) if the authority are satisfied that the young person is incapable, the young person’s parent,

agree that it is no longer necessary to continue the plan for the child or young person.

The Scottish Ministers may by regulations make further provision as to co-ordinated support plans including, in particular, provision as to—

(a) the form of such plans,

(b) the information (in addition to that required by section 7(2)) to be contained in them,

(c) the preparation, keeping, disclosure, discontinuance and destruction of such plans,

(d) the procedures to be followed in carrying out reviews of such plans under section 8,

(e) the transfer of such plans when the children and young persons for whom they are prepared move from the area of one education authority to that of another,

(f) without prejudice to the generality of the other paragraphs in this subsection, the times by which—

(i) such plans are to be prepared, and

(ii) reviews of them under section 8 are to be completed,

(g) the form and manner in which information is to be given under subsection (2), and

(h) such other matters in relation to co-ordinated support plans as the Scottish Ministers think necessary or expedient.

Mr Kenneth Macintosh

85A As an amendment to amendment 85, line 15, at end insert <or in an annexe to them>

Section 10

Lord James Douglas-Hamilton

28 In section 10, page 9, line 28, leave out <co-ordinated>

Lord James Douglas-Hamilton

29 In section 10, page 9, line 30, leave out <co-ordinated>

Lord James Douglas-Hamilton

30 In section 10, page 10, line 10, leave out <co-ordinated>
Donald Gorrie
132 In section 10, page 10, line 14, leave out <no later than 12> and insert <at least 24>

Lord James Douglas-Hamilton
31 In section 10, page 10, line 20, at end insert <or—
   ( ) no later than 24 months before the date when a child or young person—
      (i) who has a co-ordinated support plan, and
      (ii) for whose school education the authority are responsible,
      is expected to cease receiving school education,>

Lord James Douglas-Hamilton
32 In section 10, page 10, line 36, after <education> insert <, and—
   ( ) 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 is incapable) 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 is incapable, the young person’s parent>

Lord James Douglas-Hamilton
86 In section 10, page 10, line 36, at end insert—
   <( ) An agency to whom a request is made under subsection (6) must provide the
   information requested.>

Section 11

Donald Gorrie
133 In section 11, page 10, line 40, leave out <no later than 6> and insert <at least 24>

Scott Barrie
134 In section 11, page 11, line 27, at end insert—
   <( ) the child, if the child has capacity,>

Section 12

Donald Gorrie
135 In section 12, page 12, line 16, leave out <may> and insert <shall>

Donald Gorrie
136 In section 12, page 12, line 17, at end insert <and such regulations shall make provision for the
provision of independent advocacy services to persons who make reference to a Tribunal under
section 13(1) and to those such persons who appear before a Tribunal>
Schedule 1

Fiona Hyslop

100 In schedule 1, page 27, line 7, at end insert—

<The President may advise the Commissioner for Children and Young People in Scotland, as established under the Commissioner for Children and Young People (Scotland) Act 2003 (asp 17), of any matters the President considers should be brought to the Commissioner’s attention.>

Fiona Hyslop

101 In schedule 1, page 27, line 7, at end insert—

<The President may advise the Scottish Ministers as to any person the President considers should be specified as an appropriate agency in an order made under section 19(2)(c), and the Scottish Ministers must take account of any such advice before making the order.>

Section 13

Fiona Hyslop

137 In section 13, page 12, line 23, at end insert—

<( ) the child, if the child has capacity,>

Fiona Hyslop

102 In section 13, page 12, line 29, at end insert—

<( ) a decision of the education authority that the child or young person—

(i) has additional support needs,

(ii) has no additional support needs,>

Lord James Douglas-Hamilton

33 In section 13, page 12, line 31, leave out <co-ordinated>

Fiona Hyslop

103 In section 13, page 12, line 36, at end insert—

<( ) a decision of the education authority to refuse an assessment request as referred to in section 6,>

Fiona Hyslop

104 In section 13, page 12, line 36, at end insert—

<( ) the information contained in the findings of a process of assessment or examination carried out under subsection 6(1),>
Fiona Hyslop

105 In section 13, page 12, line 36, at end insert—

<() a decision of the education authority not to carry out a review referred to in
section 8(4).>  

Fiona Hyslop

106 In section 13, page 12, line 36, at end insert—

<() a decision of the education authority that a child or young person has additional
support needs of a type that the person making the referral considers are not an
accurate reflection of the child or young person’s additional support needs.>

Lord James Douglas-Hamilton

34 In section 13, page 12, line 37, leave out <co-ordinated>

Euan Robson

87 In section 13, page 12, line 38, after <plan.> insert <and

(ii) it has not been agreed under section 7(1A) that a plan need not be prepared
for the child or young person.>  

Euan Robson

88 In section 13, page 12, line 39, leave out <(4)(c) of section 7> and insert <(9)(f)(i) of section 9>

Lord James Douglas-Hamilton

35 In section 13, page 13, line 1, leave out <co-ordinated>

Ms Rosemary Byrne

138 In section 13, page 13, line 4, at end insert—

<() any of the information contained in the plan by virtue of subsection (4)(b)
of section 7.>  

Euan Robson

89 In section 13, page 13, line 9, leave out <(4)(c) of section 7> and insert <(9)(f)(ii) of section 9>

Fiona Hyslop

107 In section 13, page 13, line 11, at end insert <, or

(v) failure by the education authority, any person identified in the plan as a
person by whom additional support should be provided, or a combination
of these persons, to provide the additional support set out in the plan as
being required by the child or young person.>

Donald Gorrie

139 In section 13, page 13, line 11, at end insert <, or
(vi) failure by an appropriate agency to comply with section 19(3),>

Lord James Douglas-Hamilton
36 In section 13, page 13, line 15, leave out <co-ordinated>

Lord James Douglas-Hamilton
37 In section 13, page 13, line 24, leave out <co-ordinated>

Lord James Douglas-Hamilton
38 In section 13, page 13, line 25, leave out <co-ordinated>

Lord James Douglas-Hamilton
39 In section 13, page 13, line 36, leave out <co-ordinated>

Lord James Douglas-Hamilton
40 In section 13, page 13, line 41, leave out <co-ordinated>

Section 14

Lord James Douglas-Hamilton
*41 In section 14, page 14, line 7, after <authority> insert <or any other person identified in the plan as a person by whom additional support should be provided>

Fiona Hyslop
108 In section 14, page 14, line 9, leave out <or (iii)> and insert <, (iii) or (v)>

Fiona Hyslop
53 In section 14, page 14, line 10, after <authority> insert <or any other person identified in the plan as a person by whom additional support should be provided>

Lord James Douglas-Hamilton
42 In section 14, page 14, line 27, leave out <co-ordinated>

Lord James Douglas-Hamilton
43 In section 14, page 14, line 34, leave out <co-ordinated>

Ms Rosemary Byrne
140 In section 14, page 14, line 36, at end insert—<() Where the reference relates to the failure referred to in subsection (3)(d)(vi) of that section, the Tribunal may require the appropriate authority to take such action to address the failure as the Tribunal considers appropriate by such time as the Tribunal may require.>
After section 15

Lord James Douglas-Hamilton

After section 15, insert—

<Independent advocacy>

(1) Every child and young person with additional support needs for whose school education the education authority are responsible, and every parent of such children and young people, shall have a right of access to independent advocacy services.

(2) It is the duty of every education authority to secure the availability of independent advocacy services to such parents, children and young people; and to take appropriate steps to ensure that those persons have the opportunity of making use of those services.

(3) It is the duty of providers of independent advocacy services to provide such services—
   (a) to such parents, children and young people, and
   (b) to children or young people who, it appears to them, may have additional support needs, and their parents.

(4) In subsection (1) above, “advocacy services” are services of support and representation made available for the purpose of enabling the person to whom they are available to have as much control of, or capacity to influence, their education or, as the case may be, their child’s education as is, in the circumstances, appropriate; and such services are “independent” if the person providing the services has no involvement in the exercise by or on behalf of the authority of any of their functions (apart from this section).>

Section 16

Donald Gorrie

141 In section 16, page 15, line 17, after <authority> insert <or appropriate agency>

Scott Barrie

142 In section 16, page 15, line 18, at end insert—
   <( ) children with capacity belonging to that area.>

Donald Gorrie

143 In section 16, page 15, line 21, after <authority> insert <or appropriate agency>

Donald Gorrie

144 In section 16, page 15, line 24, leave out from <in> to end of line 25 and insert <with the relevant authority or agency.>

Lord James Douglas-Hamilton

57 In section 16, page 15, line 25, leave out <their functions under this Act> and insert <any of their functions>
Scott Barrie
145 In section 16, page 15, line 27, after <parent> insert <, child with capacity>

Donald Gorrie
146 In section 16, page 15, line 28, after <authority> insert <or appropriate agency>

Scott Barrie
147 In section 16, page 15, line 31, after <parent> insert <, child with capacity>

Donald Gorrie
148 In section 16, page 15, line 33, after <authority> insert <or appropriate agency>

Rhona Brankin
185 Move section 16 to after section 11

Section 17

Scott Barrie
149 In section 17, page 15, line 38, at end insert—

<() any child with capacity belonging to that area,>

Rhona Brankin
186 Move section 17 to after section 11

Schedule 2

Euan Robson
91 In schedule 2, page 27, line 25, leave out <in writing>

Euan Robson
92 In schedule 2, page 27, line 29, leave out <in writing>

Lord James Douglas-Hamilton
58 In schedule 2, page 28, line 2, at end insert—

<(2A) Where the parent of a child having additional support needs makes a request in writing to the education authority to place the child in the school specified in the request, being an independent or grant-aided school, together with confirmation in writing of the specified school’s willingness to accept the child, the authority may place the child accordingly, and meet the fees and other necessary costs of the child’s attendance at the specified school to such extent as it considers appropriate, having regard to all the circumstances.>
(2B) In deciding, under sub-paragraph (2A), whether to agree to the placing request, the education authority must take into account—

(a) whether the child’s additional support needs can be met in any school under their management at which a place is available and, if so, whether it would be in the child’s interests to be placed in that school, and

(b) whether it would be in the child’s interests to be placed in the specified school.

Lord James Douglas-Hamilton

59 In schedule 2, page 28, line 3, leave out <or (2)> and insert <, (2) or (2A)>

Euan Robson

93 In schedule 2, page 29, line 37, leave out from <and> to end of line 41

Lord James Douglas-Hamilton

60 In schedule 2, page 29, line 40, at beginning insert <(except in the case of a request made by virtue of sub-paragraph (2A))>

Lord James Douglas-Hamilton

61 In schedule 2, page 30, line 9, after <request> insert <(other than a parent who made a placing request by virtue of sub-paragraph (2A))>

Section 19

Lord James Douglas-Hamilton

94 In section 19, page 16, line 26, leave out from <unless> to end of line 28

Fiona Hyslop

150* In section 19, page 16, line 26, leave out from <unless> to end line 28 and insert—

<( ) Subsection (3) does not require an appropriate agency to do anything which—
(a) they do not otherwise have power to do, or
(b) would result in unreasonable public expenditure being incurred.>

Lord James Douglas-Hamilton

44 In section 19, page 16, leave out line 28

Lord James Douglas-Hamilton

45 In section 19, page 16, line 28, at end insert <, or—

( ) is not appropriate to the additional support needs of the child or young person.
In section 19, page 16, line 29, after <that,> insert <on application by the education authority or otherwise,>.

In section 19, page 16, line 38, leave out from <, or> to end of line 39.

After section 19, insert—

<Monitoring of implementation of Act>

(1) Within—

(a) 12 months of the date on which the provisions of this Act are all in force, and

(b) each subsequent period of 12 months beginning on the anniversary of that date,

the Scottish Ministers must prepare, and lay before the Scottish Parliament, a report on

the operation and implementation of this Act.

(2) A report under subsection (1) must include an assessment of whether the Act is being

implemented in such a way that children or young persons with similar types of

additional support needs are being provided with the same level of support in each

education authority area.

(3) If an assessment carried out in pursuance of subsection (2) shows that the level of

support being provided to such children or young persons varies between education

authority areas, the report under subsection (1) must specify what action the Scottish

Ministers intend to take to ensure that the same level of support is provided in each

education authority area (that level being at least the minimum standard of support

required to be provided under this Act).>

Section 22

In section 22, page 17, line 37, leave out <co-ordinated>.

Section 23

In section 23, page 18, line 22, leave out <co-ordinated>.

 Supported by: Lord James Douglas-Hamilton

In section 23, page 18, line 27, at end insert—

<( ) appropriate persons to carry out a process of assessment or examination under

section 6(1)(b), and the professional qualifications of such persons,>
Ms Rosemary Byrne

109 In section 23, page 18, line 37, at insert—

<( ) Any code prepared or revised and re-issued under this section must be laid before the Scottish Parliament and the Scottish Ministers may not issue the code until it has been approved by resolution of the Parliament.>

Before section 24

Euan Robson

96 Before section 24, insert—

<Requests under this Act: further provision

(1) References in this Act to a “request” are to a request which—

(a) is in—

(i) writing, or

(ii) another 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), and

(b) contains a statement of the reasons for making the request.

(2) Where an education authority decide not to comply with any request made to them under this Act, the authority must—

(a) inform the person who made the request of that decision,

(b) in so doing, give reasons for the decision,

(c) except where the request was of the type specified in section 5(2)(b), provide the person who made the request with information as to—

(i) the mediation services provided in pursuance of arrangements made by the authority under section 16(1), and

(ii) any procedures for the resolution of disputes established by the authority in pursuance of any regulations under section 17,

(d) where the request was made under section 8(4), inform the person who made the request of the right under section 13(1) to refer the decision to a Tribunal, and

(e) where the request was a placing request, inform the person who made the request of—

(i) the right under paragraph 5 of schedule 2 to refer the decision to an appeal committee, or

(ii) the right under section 13(1) to refer the decision to a Tribunal,

(as appropriate).>

Lord James Douglas-Hamilton

96D As an amendment to amendment 96, line 12, at end insert <in writing>
Scott Barrie

96B As an amendment to amendment 96, line 13, at beginning insert <subject to subsection (3),>.

Ms Rosemary Byrne

96E As an amendment to amendment 96, in line 13, at end insert—

<( ) when the request was an assessment request under section 6, provide such information and such reasons in writing and within 14 days of receiving the request,>.

Fiona Hyslop

96A As an amendment to amendment 96, in line 20, leave out <where the request was made under section 8(4)> and insert <where the refusal of the request gives rise to a right of referral under section 13(1)>.

Scott Barrie

96C As an amendment to amendment 96, line 27, at end insert—

<(3) Where the request was made by a child and it would be contrary to the child’s best interests to be given the reasons for the decision in relation to the request, or any other information connected with the decision, an education authority must give reasons for the decision to the child’s parents instead of the child.>.

Section 24

Scott Barrie

153 In section 24, page 19, line 8, at end insert—

<“child with capacity” means—

(a) in relation to the provision of information or advice or the giving of a copy of a plan, a child capable of having a general understanding of the information, advice or plan,

(b) in relation to the making of a request or referral, a child who has a general understanding of the nature of the request or referral and the consequences of making it, and

(c) in relation to a disagreement or dispute, a child who has a general understanding of the nature of the disagreement or dispute and the consequences of a failure to resolve it,

and a child of twelve years of age or more shall be presumed to be of sufficient age and maturity to have understanding; and related expressions shall be construed accordingly,>.

Lord James Douglas-Hamilton

48 In section 24, page 19, line 9, leave out <co-ordinated>.
Lord James Douglas-Hamilton

62 In section 24, page 19, line 11, leave out <co-ordinated>

Lord James Douglas-Hamilton

188 In section 24, page 20, line 11, after <person> insert—

   <(a)>

Lord James Douglas-Hamilton

189 In section 24, page 20, line 14, at end insert—

   <(b) who would fall within paragraph (a) but for the fact that the child or young person has been temporarily removed from, or has not commenced, such education pending the resolution of any dispute or outcome of any appeal concerning the child’s or, as the case may be, young person’s education.>

Section 28

Mr Adam Ingram

190 In section 28, page 21, line 10, leave out <Additional>

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