2nd Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 12 Schedule 1
Sections 13 to 18 Schedule 2
Sections 19 to 26 Schedule 3
Sections 27 and 28 Long Title

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

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>

Lord James Douglas-Hamilton

8 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>

Lord James Douglas-Hamilton

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

Lord James Douglas-Hamilton

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

Lord James Douglas-Hamilton

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

Robert Brown

118 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.>
Section 5

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

Lord James Douglas-Hamilton  
12 In section 5, page 4, line 18, leave out <co-ordinated>

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

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

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

Lord James Douglas-Hamilton  
13 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
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>.

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

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

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

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

<(1) 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.>

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.>
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>

Lord James Douglas-Hamilton
125 In section 6, page 5, line 39, after <authority> insert <, after consultation with the person making the request, >

Lord James Douglas-Hamilton
51 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.>

Lord James Douglas-Hamilton
126 In section 6, page 5, line 39, at end insert—
<(3A) The education authority must inform in writing the person making the request of the findings of the process referred to in subsection (1)(b) and if the person making the request is dissatisfied with those findings that person may arrange for a further such process to be carried out by such person as the person making the request considers appropriate.

(3B) In coming to a view in pursuance of a provision of this Act on whether a child or young person—

(a) has, or continues to have, additional support needs, or

(b) requires, would require, or continues to require a co-ordinated support plan,

an education authority must take account of the written findings of any further process carried out by virtue of subsection (3A) 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.>

Euan Robson

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

Lord James Douglas-Hamilton

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

Ms Rosemary Byrne

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

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>
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—

(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,

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

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.>

As an amendment to amendment 81, line 11, at end insert—

<( ) Such views must—

(a) be made in writing or 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) contain a statement of the reasons why a co-ordinated support plan need not be prepared for a child or young person.>

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 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—

<(8) 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.

(9) 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.

Ms Rosemary Byrne

85B As an amendment to amendment 85, line 10, at end insert—

< ( ) Such views must—

(a) be made in writing or 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) contain a statement of the reasons why a co-ordinated support plan is no longer required.>

Mr Kenneth Macintosh

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

Section 10

Euan Robson

191 In section 10, page 9, line 25, leave out <establishing>
In section 10, page 9, line 26, at beginning insert <establishing>

Lord James Douglas-Hamilton
Supported by: Mr Adam Ingram

In section 10, page 9, line 27, after <needs> insert <and what such needs are>

Lord James Douglas-Hamilton

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

Lord James Douglas-Hamilton
Supported by: Mr Adam Ingram

In section 10, page 9, line 28, at end insert <and what information such a plan should contain>

Euan Robson

In section 10, page 9, line 29, at beginning insert <establishing>

Lord James Douglas-Hamilton

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

Lord James Douglas-Hamilton
Supported by: Mr Adam Ingram

In section 10, page 9, line 30, at end insert <and, if so, what (if any) amendments the plan requires,>

Euan Robson

In section 10, page 9, line 30, at end insert—

<(c) preparing such a plan for any child or young person, or
(d) determining in pursuance of section (Duties of education authority in relation to children and young persons for whom they are responsible)(1) what provision to make for such additional support as is required by any child or young person having additional support needs,>

Lord James Douglas-Hamilton
Supported by: Mr Adam Ingram

In section 10, page 9, line 33, leave out <seek and take account of relevant> and insert <obtain and act upon>

Lord James Douglas-Hamilton

In section 10, page 9, line 33, leave out from <such> to end of line 34 and insert <any appropriate agency or other person,>
Lord James Douglas-Hamilton
212 In section 10, page 9, line 35, leave out <seek> and insert <obtain>

Lord James Douglas-Hamilton
213 In section 10, page 10, line 1, at beginning insert <obtain and>

Euan Robson
195 In section 10, page 10, line 4, leave out <case> and insert <cases>

Euan Robson
196 In section 10, page 10, line 4, after <(1)(a)(i)> insert <and (d)>

Euan Robson
197 In section 10, page 10, line 8, leave out from <in> to end of line 12 and insert <the education authority in doing any of the things referred to in paragraphs (a) to (d) of subsection (1).>

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.>

Dr Elaine Murray
214 In section 10, page 10, line 21, leave out <comply> and insert <have complied>

Lord James Douglas-Hamilton
215 In section 10, page 10, line 23, leave out from first <such> to <appropriate> in line 24 and insert <any appropriate agency or agencies advice and information>

Euan Robson
198 In section 10, page 10, line 23, after <fit> insert <(if any)>
Euan Robson
199 In section 10, page 10, line 26, after <education,> insert—

   <(aa) where the authority make a request under paragraph (a), seek the views of—
   
   (i) in the case of a child, that child (unless the authority are satisfied that the
       child is incapable) and the child’s parent, or
   
   (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
216 In section 10, page 10, line 27, at beginning insert <obtain and>

Lord James Douglas-Hamilton
217 In section 10, page 10, line 28, after <any> insert <advice and>

Euan Robson
200 In section 10, page 10, line 28, leave out first <the> and insert <any appropriate>

Euan Robson
201 In section 10, page 10, line 28, leave out <the request> and insert <a request under paragraph (a)>

Euan Robson
202 In section 10, page 10, line 29, after <request,> insert—

   <( ) any views expressed by the child or young person or the child’s or young
   person’s parent pursuant to paragraph (aa).>

Lord James Douglas-Hamilton
Supported by: Mr Adam Ingram
218 In section 10, page 10, line 34, after <adequacy> insert <and effectiveness>

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.>
Euan Robson

203  In section 10, page 10, line 37, leave out <3(3)> and insert <(Duties of education authority in relation to children and young persons for whom they are responsible)(1)(b)>.

Lord James Douglas-Hamilton

223  After section 10, insert—

<Exchange of information: duties of appropriate agencies etc.>

Every—

(a) appropriate agency or other person from whom advice and information have been sought under section 10(2)(a), and

(b) appropriate agency from whom information has been requested under section 10(6)(a),

must consider what help it could provide the education authority and reply to the education authority specifying what that help is within such period as the Scottish Ministers may, by regulation, provide.

Section 11

Donald Gorrie

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

Lord James Douglas-Hamilton
Supported by: Mr Adam Ingram

219  In section 11, page 10, line 40, leave out <6> and insert <12>.

Lord James Douglas-Hamilton
Supported by: Mr Adam Ingram

220  In section 11, page 11, line 5, leave out <6> and insert <12>.

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>.

Ms Rosemary Byrne

224 In section 12, page 12, line 17, at end insert <including provision for legal aid in respect of Tribunal proceedings>.

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

Supported by: Ms Rosemary Byrne

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,>

Ms Rosemary Byrne

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

<(' ) where it has been established that the child or young person has additional support needs but does not require a co-ordinated support plan, failure by the education authority to provide such additional support,>
Ms Rosemary Byrne

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

<() where it has been established that the child or young person has additional support needs but does not require a co-ordinated support plan, failure by the education authority to fulfil its duty under section (Duties of education authority in relation to children and young persons for whom they are responsible)(1)(b),>

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

Supported by: Ms Rosemary Byrne

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,>

Ms Rosemary Byrne

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

<() a decision of the education authority that a child or young person who had a Record of Needs in terms of section 60 of the 1980 Act prior to the appointed day, in terms of section 28(1) of this Act, does not require a co-ordinated support plan,>

Lord James Douglas-Hamilton

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

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

In section 13, page 12, line 39, at end insert—
   
   <( ) where it has been established that the child or young person does require a co-ordinated support plan, failure by the education authority to nominate a person to co-ordinate the support contained within the plan.>

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

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,>

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

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,>

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

In section 13, page 13, line 15, leave out <co-ordinated>

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.>

Section 15

Lord James Douglas-Hamilton

229 In section 15, page 15, line 8, at end insert—

< ( ) make such interim order as it considers appropriate, having regard to the best interests of the child or young person in respect of whom the reference under section 13 was made.>
After section 15

Lord James Douglas-Hamilton

90 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>
In section 16, page 15, line 27, after <parent> insert <, child with capacity>

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

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

In section 16, page 15, line 32, at end insert—

<(3A) Where agreement is reached between the parties participating in mediation, it is the responsibility of—

(a) the provider of mediation services to draft, or to secure the drafting of, that agreement in writing, and

(b) each party (or a person authorised to do so on behalf of a party) to sign the agreement, provided the party is satisfied that the written agreement accurately reflects the agreement reached in mediation.

(3B) An agreement under subsection (3A) is legally binding on the parties that have signed it (except inasmuch as it would require any party to do anything unlawful); but any party may revoke the agreement by notice in writing providing reasons for the revocation.>

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

Move section 16 to after section 11

Section 17

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

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

In section 17, page 16, line 8, at end insert—

<( ) Such regulations—

(a) must not require any parent or young person—

(i) to refer any disagreement with the authority to the dispute resolution services provided in accordance with the arrangements, or
(ii) to pay any fee or charge for the provision of the dispute resolution services, and

(b) do not affect the entitlement of any parent or young person to appeal any matter to a Tribunal.

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

Dr Elaine Murray

222 In section 19, page 16, line 25, leave out <must> and insert <has a duty to>

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 the end of 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, after <at end> insert <, or—

( ) is not appropriate to the additional support needs of the child or young person.>

Lord James Douglas-Hamilton

95 In section 19, page 16, line 29, after <that,> insert <on application by the education authority or otherwise,>

Ms Rosemary Byrne

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

After section 19

Ms Rosemary Byrne

187 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 21

Lord James Douglas-Hamilton

231 In section 21, page 17, line 10, leave out <wholly or mainly>

Section 22

Euan Robson

206 In section 22, page 17, line 33, leave out <3(3)> and insert <(Duties of education authority in relation to children and young persons for whom they are responsible)(1)(b)>

Lord James Douglas-Hamilton

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

Section 23

Lord James Douglas-Hamilton

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

Euan Robson

204 In section 23, page 18, line 24, leave out <3(3)> and insert <(Duties of education authority in relation to children and young persons for whom they are responsible)(1)(b)>

Ms Rosemary Byrne

Supported by: Lord James Douglas-Hamilton

152 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

232 In section 24, page 19, line 12, at end insert—

<“disability” has the same meaning as in the Disability Discrimination Act 1995>

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.>

Schedule 3

Euan Robson

205 In schedule 3, page 33, line 8, after <section> insert <(Duties of education authority in relation to children and young persons for whom they are responsible) or>

Section 28

Mr Adam Ingram

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