

Social Inclusion – Mont-à-l'Abbé

Extracts from *Education (Jersey) Law 1999*

4 Special educational needs etc.

- (1) For the purposes of this Law, a child has “special educational needs” if the child has a learning difficulty which calls for special educational provision to be made for the child.
- (2) For the purposes of this Law, subject to paragraph (3), a child has a “learning difficulty” if –
 - (a) the child has a significantly greater difficulty in learning than the majority of children of the child’s age;
 - (b) the child has a disability which either prevents or hinders the child from making use of educational facilities of a kind generally provided for children of the child’s age in provided schools; or
 - (c) the child is below compulsory school age and is, or would be if special educational provision were not made for the child, likely to fall within subparagraph (a) or (b) when the child is of compulsory school age.
- (3) A child is not to be taken as having a learning difficulty solely because the language (or form of the language) in which the child is, or will be, taught is different from a language (or form of a language) which has at any time been spoken in the child’s home.
- (4) In this Law –

“special educational provision” means –

 - (a) in relation to a child who has attained the age of 2 years, educational provision which is additional to, or otherwise different from, the educational provision made generally for children of the child’s age in provided schools (other than special schools); and
 - (b) in relation to a child under that age, educational provision of any kind; and

“special school” means a school which is specially organized to make special educational provision for pupils with special educational needs.

PART 5

SPECIAL EDUCATIONAL NEEDS

28 Interpretation of Part 5

In this Part, “child” does not include any young person who is not in full or part time education.

29 Duty of Minister in relation to child with special educational needs

- (1) The Minister shall ensure that the identity of every child who has special educational needs is determined, and the special educational provision required by the child assessed from time to time.
- (2) The Minister shall ensure that there is available to every child who has special educational needs the special educational provision required by the child.
- (3) The Minister shall ensure that, if the conditions described in paragraph (4) are satisfied, a child who has special educational needs shall be educated in a school which is not a special school, unless it is incompatible with the wish of the child’s parent or, in the case of a child who has attained the age of 16 years, the child’s own wish.
- (4) The conditions are that educating the child in a school which is not a special school is compatible with –
 - (a) the child’s receiving the special educational provision which the child’s learning difficulty calls for;
 - (b) the provision of efficient education for the children with whom the child will be educated; and
 - (c) the efficient use of resources.

30 Power of Minister to require assessment

The Minister may cause any child who is believed or known by the Minister to have special educational needs to be assessed as to the child’s special educational needs and the special educational provision required by the child.

31 Parental rights in relation to special educational needs

- (1) A parent of a child shall have the right to request an assessment of whether or not the parent’s child has special educational needs and, if the child has special educational needs, the special educational provision required by the child.
- (2) The parent of a child in relation to whom it is proposed to make an assessment of special educational needs and special educational provision shall have the right –
 - (a) except where the assessment is to be made at the request of the parent, to be notified of the proposal to make an assessment;
 - (b) to be informed about the procedure relating to the assessment;
 - (c) to be informed about the parent’s rights under this Part in relation to the assessment;
 - (d) to make representations about and produce evidence for the purposes of the assessment;

- (e) to be present at any examination of the child carried out for the purposes of the assessment;
 - (f) to be notified, in writing, of the results of the assessment;
 - (g) to appeal against any part of the results of the assessment.
- (3) An appeal under paragraph (2)(g) shall be made to the Minister no later than 15 days after the parent is notified of the results of the assessment, and shall be determined by the Minister.
- (4) The Minister may by written direction delegate the power to receive and determine any appeal under paragraph (2)(g) to the Chief Officer or to a panel of persons appointed by the Minister for the purpose, subject to the conditions, exceptions or qualifications that the Minister may specify in the direction.^[13]

32 Power to make Orders relating to children with special educational needs

The Minister may by Order make provision facilitating the discharge of any duties and the exercise of any rights under this Part, including, but not by way of limitation, provision for –

- (a) the procedures applicable to the determination of the special educational needs of a child and the assessment of the special educational provision required by the child;
- (b) the persons who are to determine the special educational needs of a child, and assess the special educational provision required by the child;
- (c) the persons to be consulted prior to the making of an assessment or determination;
- (d) the circumstances in which a statement of special educational needs is required to be maintained in respect of a child;
- (e) the preparation, content, distribution and retention of a statement of special educational needs;
- (f) special educational provision otherwise than in a provided school, or otherwise than in Jersey;
- (g) enabling a child with special educational needs to be exempted from all or any part of the Jersey Curriculum;
- (h) monitoring of and preparation of a report on a child with special educational needs by the school at which the child is a pupil;
- (i) the frequency of and procedure in relation to further assessments in respect of a child;
- (j) the procedure applicable to any appeal under this Part; and
- (k) funding and the payment of costs where special educational provision is made outside Jersey.