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STATUTORY INSTRUMENTS

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**2014 No. 2270**

**The Children and Families Act 2014 (Transitional  
and Saving Provisions) (No. 2) Order 2014**

**PART 5**

Children etc with statement on commencement: transfer to new regime

**Effect of decision not to prepare EHC plan following EHC needs assessment**

**22.**—(1) This Article applies if, in the light of an EHC needs assessment under this Part, the local authority decides it is not necessary for special educational provision to be made for a child or young person in accordance with an EHC plan.

(2) The new law applies in relation to the child or young person as if the assessment had been carried out under Part 3 of the 2014 Act, subject to paragraph (3).

(3) Regulation 10 of the SEND Regulations 2014 applies as if—

- (a) paragraph (1) required the notification to be given in accordance with section 36(9) of the 2014 Act to be given as soon as is practicable and in any event within the period of 10 weeks beginning with the day on which the EHC needs assessment began, and
- (b) paragraph (2) required the local authority to notify the responsible commissioning body and the person (if any) notified in accordance with Article 18(3)(b), (c) or (d).

(4) The local authority must cease to maintain the statement for the child or young person at the relevant time (but must maintain the statement until that time).

(5) The new law has effect in relation to the child or young person (to the extent that it has not done so already), and the old law ceases to have effect in relation to the child or young person, at the relevant time.

(6) If no appeal is brought under section 51 of the 2014 Act against the decision referred to in paragraph (1) within the period allowed for bringing such an appeal, the relevant time is the end of that period.

(7) If an appeal is brought under section 51 of the 2014 Act against the decision referred to in paragraph (1) within the period allowed for bringing such an appeal, the relevant time is—

- (a) where the appeal is withdrawn or abandoned, when it is withdrawn or abandoned;
- (b) where, on the final determination of the appeal, it is dismissed, when it is dismissed;
- (c) where, on the final determination of the appeal, the local authority is ordered to make and maintain an EHC plan, when the EHC plan is made;
- (d) where, on the final determination of the appeal, the case is referred back to the local authority for it to consider whether it is necessary for it to determine the special educational provision for the child or young person, the time found by applying paragraph (6) and this paragraph to the authority's decision following the consideration as if the decision were one under paragraph (1).