
STATUTORY INSTRUMENTS

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

Power to treat re-assessment under EA 1996 as re-assessment under 2014 Act

23.—(1) This Article applies if—

- (a) before the commencement date a request for a further assessment under section 323 of EA 1996 of a child or young person to whom this Part applies was made under section 328(2) or 329A(1) of that Act,
- (b) the local authority to which the request was made did not decide whether to make such a further assessment before the commencement date,
- (c) no such assessment has been made within the period of six months ending with the date on which the request was made, and
- (d) the local authority thinks that it is necessary to make such a further assessment.

(2) This Article also applies if a further assessment under section 323 of EA 1996 of a child or young person to whom this Part applies was begun but not completed before the commencement date.

(3) This Article also applies if—

- (a) on or after the commencement date a request for a further assessment under section 323 of EA 1996 of a child or young person to whom this Part applies is made under section 328(2) or 329A(1) of that Act,
- (b) no such assessment has been made within the period of six months ending with the date on which the request is made, and
- (c) the local authority to which the request is made thinks that it is necessary to make such a further assessment.

(4) This Article also applies if—

- (a) an appeal under section 328(4) or 329A(8) of EA 1996 (appeal against refusal to re-assess educational needs) in respect of a child or young person to whom this Part applies is decided on or after the commencement date, and
- (b) on the appeal the local authority that maintains the statement for the child or young person is ordered to arrange for an assessment to be made in respect of him or her under section 323 of that Act.

(5) The local authority may instead carry out a re-assessment under section 44 of the 2014 Act if—

- (a) the local authority notifies child's parent or the young person that it proposes to treat the assessment in that way, and

- (b) where this Article applies by virtue of paragraph (1) or (2), the child's parent or the young person gives his or her consent to that course of action.
- (6) In that event—
- (a) the local authority must not carry out a re-assessment under section 323 of EA 1996,
 - (b) Part 3 of the 2014 Act and the SEND Regulations 2014 apply in relation to the re-assessment as if the statement for the child or young person were an EHC plan (but following the re-assessment the local authority may only decide whether or not to replace the statement with an EHC plan),
 - (c) Articles 12 to 15 do not apply in relation to the child or young person, and
 - (d) Article 24 or 25 applies (depending on whether the local authority decides to replace the statement with an EHC plan).