
STATUTORY INSTRUMENTS

2014 No. 2270

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

PART 3

Children etc without statement on commencement: assessments in progress

Consideration of whether to make assessment not completed before commencement date

- 5.—(1) This Article applies in relation to a child or young person to whom this Part applies if—
- (a) before the commencement date a local authority—
 - (i) served notice on the parent of the child or young person that it was considering whether to make an assessment of the educational needs of the child or young person under section 323 of EA 1996, or
 - (ii) was considering whether to make an assessment under section 331 of that Act, but
 - (b) the authority did not complete that consideration before that date.
- (2) The old law continues to have effect in relation to the child or young person until the relevant time.
- (3) The new law does not have effect in relation to the child or young person until that time.
- (4) The relevant time is—
- (a) where the local authority decides not to make an assessment, the time when the authority informs the parent of the child or young person of that fact;
 - (b) where an assessment is made and the authority makes a statement as a result of the assessment, the time when the old law ceases to apply in relation to the child or young person by virtue of Part 5 of this Order;
 - (c) where an assessment is made, the authority decides not to make a statement as a result of the assessment and no appeal under section 325 of EA 1996 is brought against that decision within the period allowed for bringing such appeals, the end of that period;
 - (d) where an assessment is made, the authority decides not to make a statement as a result of the assessment and such an appeal is brought within that period—
 - (i) if the appeal is withdrawn or abandoned, when it is withdrawn or abandoned;
 - (ii) if, on the final determination of the appeal, it is dismissed, when it is dismissed;
 - (iii) if, on the final determination of the appeal, the local authority is ordered to make and maintain a statement, when the old law ceases to apply in relation to the child or young person by virtue of Part 5 of this Order;
 - (iv) if, on the final determination of the appeal, the local authority is ordered to reconsider whether it is necessary for the authority to determine the special educational provision which any learning difficulty the child or young person may have calls for, the time found by applying this paragraph following the reconsideration.

(5) The following provisions of this Article apply in place of paragraphs (2) to (4) if—

- (a) the local authority notifies the child’s parent or the young person that it proposes to determine whether it may be necessary for special educational provision to be made for the child or young person in accordance with an EHC plan, and
- (b) the child’s parent or the young person gives his or her consent to that course of action.

(6) The consideration is to be treated for all purposes as consideration for the purpose of determining whether it may be necessary for special educational provision to be made for the child or young person in accordance with an EHC plan.

(7) Anything done in relation to the consideration is to be treated as having been done under Part 3 of the 2014 Act and the SEND Regulations 2014 (and the local authority need not have complied with section 36(4) of that Act).

(8) Regulation 5 of the SEND Regulations 2014 has effect as if paragraph (1) of that regulation required the local authority to notify the child’s parent or the young person of its decision whether it is necessary to secure an EHC needs assessment for the child or young person as soon as is practicable and in any event within the period of 6 weeks beginning with the day on which the child’s parent or the young person gave his or her consent under paragraph (5)(b).