
STATUTORY INSTRUMENTS

2014 No. 2270

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

PART 4

Children etc without statement on commencement: appeals in progress

Appeals against decision not to comply with request to carry out assessment

- 8.**—(1) Paragraph (2) applies if immediately before the commencement date—
- (a) the parent of a child or young person had the right to appeal under section 329(2) of EA 1996 (appeal against refusal to assess educational needs at request of child’s parent) against a decision of a local authority in England, but had not brought such an appeal, or
 - (b) the parent of a child or young person for whom no statement was maintained under section 324 of that Act had the right to appeal under section 329A(8) of that Act (appeal against refusal to assess educational needs at request of responsible body) against a decision of a local authority in England, but had not brought such an appeal.
- (2) The parent may, within the period that was allowed for bringing the appeal, decide to bring it under section 51 of the 2014 Act instead; and, if the parent does so, the appeal is to proceed as if the local authority had decided not to secure an EHC needs assessment for the child or young person in response to a request under section 36(1) of that Act.
- (3) Paragraph (4) applies if immediately before the commencement date—
- (a) the parent of a child or young person had brought an appeal under section 329(2) of EA 1996 against a decision of a local authority in England, but the appeal had not been finally determined, or
 - (b) the parent of a child or young person for whom no statement was maintained had brought an appeal under section 329A(8) of that Act against a decision of a local authority in England, but the appeal had not been finally determined.
- (4) If the parent consents, the appeal may proceed as an appeal under section 51 of the 2014 Act and as if the local authority had decided not to secure an EHC needs assessment for the child or young person in response to a request under section 36(1) of the 2014 Act.
- (5) The following provisions of this Article apply if—
- (a) paragraph (2) applies, but within the period mentioned in paragraph (1) the parent decides to bring the appeal under section 329(2) or 329A(8) of EA 1996, or
 - (b) paragraph (3) applies, but the parent does not consent to the appeal proceeding as an appeal under section 51 of the 2014 Act.
- (6) Despite the disapplication by section 81 of and Schedule 3 to the 2014 Act of Chapter 1 of Part 4 of EA 1996 in relation to children in the area of a local authority in England, the old law continues to have effect in relation to the child or young person until the relevant time.

(7) The new law does not have effect in relation to the child or young person until the relevant time.

(8) 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 arrange for an assessment to be made in respect of the child under section 323 of EA 1996, the time found by applying Article 7(5) as if the assessment had begun before the commencement date.

Appeals against decision not to make statement

9.—(1) This Article applies if immediately before the commencement date—

- (a) the parent of a child or young person had the right to appeal under section 325 of EA 1996 against a decision of a local authority in England not to make a statement for the child or young person, but had not brought such an appeal, or
- (b) the parent of a child or young person had brought an appeal under section 325 of EA 1996 against a decision of a local authority in England not to make a statement for the child or young person, but the appeal had not finally been determined.

(2) Despite the disapplication by section 81 of and Schedule 3 to the 2014 Act of Chapter 1 of Part 4 of EA 1996 in relation to children in the area of a local authority in England, 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) If no appeal is brought within the period allowed for bringing such appeals, the relevant time is the end of that period.

(5) If an appeal is or has been brought within that period, 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 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;
- (d) where, 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 may have calls for, the time found by applying Article 7(5) as if the resulting assessment had begun before the commencement date;
- (e) where on the final determination of the appeal an order is made under paragraph (6), when the order is made.

(6) On the appeal the First-tier Tribunal may order the local authority to make and maintain an EHC plan instead of a statement.

(7) The First-tier Tribunal may make an order under paragraph (6) only with the consent of—

- (a) the child's parent or the young person, and
- (b) the local authority.

Appeals against determination to cease to maintain statement

10.—(1) This Article applies if immediately before the commencement date—

- (a) the parent of a child or young person had the right to appeal under paragraph 11 of Schedule 27 to EA 1996 against a determination of a local authority in England to cease to maintain a statement for the child or young person, but had not brought such an appeal, or
 - (b) the parent of a child or young person had brought an appeal under paragraph 11 of Schedule 27 to EA 1996 against a determination of a local authority in England to cease to maintain a statement for the child or young person, but the appeal had not finally been determined.
- (2) Despite the disapplication by section 81 of and Schedule 3 to the 2014 Act of Chapter 1 of Part 4 of EA 1996 in relation to children in the area of a local authority in England, 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) If no appeal is brought within the period allowed for bringing such appeals, the relevant time is the end of that period.
- (5) If an appeal is or has been brought within that period, 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 continue to maintain the statement, when the old law ceases to apply in relation to the child or young person by virtue of Part 5 of this Order;
 - (d) where paragraph (7) applies, when the authority make the determination referred to in that paragraph.
- (6) Paragraph (7) applies if on the final determination of the appeal, the local authority is ordered to continue to maintain the statement.
- (7) The local authority may, with the consent of the child's parent or the young person, determine that the statement is to have effect as an EHC plan specifying the educational provision specified in the statement.