
STATUTORY INSTRUMENTS

2014 No. 2270

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

PART 6

Learning difficulty assessments

Learning difficulty assessment in progress on commencement date

27.—(1) This Article applies if an assessment under section 139A of the Learning and Skills Act 2000⁽¹⁾ in relation to a person was begun but not completed before the commencement date.

(2) For this purpose an assessment under that section is completed when the written report described in section 139B of the Learning and Skills Act 2000 which results from the assessment is completed.

(3) Despite the amendments and repeals made by Schedule 3 to the 2014 Act—

- (a) sections 139A to 139C of the Learning and Skills Act 2000 continue to have effect in relation to the person, and
- (b) any other provision of or made under an Act⁽²⁾ that, immediately before the repeal of those sections, had effect in relation to a person to whom those sections applied continues to have effect in relation to that person in that form.

(4) But the following provisions of this Article apply in place of paragraph (3) if—

- (a) the local authority notifies the person that it proposes to treat the assessment as an EHC needs assessment, and
- (b) the person gives his or her consent to that course of action.

(5) The assessment is to be treated for all purposes as an EHC needs assessment.

(6) Anything done in relation to the assessment is to be treated as having been done under Part 3 of the 2014 Act and the SEND Regulations 2014.

(7) The local authority must comply with section 36(9) of the 2014 Act—

- (a) where the assessment is carried out under section 139A(2) or (4), before the end of the period of 14 weeks beginning with the day on which consent is given under paragraph (4)(b);
- (b) where the assessment is carried out under section 139A(5), before the end of the period of 20 weeks beginning with the day on which consent is given under paragraph (4)(b).

(8) Where, following the assessment, the local authority decides that it is not necessary for special educational provision to be made for the person in accordance with an EHC plan, paragraph (7) has

⁽¹⁾ 2000 c.21

⁽²⁾ This includes the secondary legislation included in the Special Educational Needs (Consequential Amendments to Subordinate Legislation) Order 2014 [S.I. 2014/2103](#), as in force immediately before that Order took effect.

effect in place of regulation 10(1) of the SEND Regulations 2014 (but this Article does not otherwise affect the operation of that regulation).

(9) Articles 12 to 15 do not apply in relation to the person.

Young people who have had a pre-commencement learning difficulty assessment

28.—(1) This Article applies to a young person for whom an assessment under section 139A of the Learning and Skills Act 2000 was completed before the commencement date.

(2) For this purpose an assessment under that section is completed when the written report described in section 139B of the Learning and Skills Act 2000 which results from the assessment is completed.

(3) Despite the coming into force of section 36 of the 2014 Act on 1st September 2014, that section does not have effect in relation to the young person before 1st September 2016.

(4) Paragraph (3) does not apply if, before 1st September 2016—

- (a) the young person requests the local authority who is responsible for him or her to secure an EHC needs assessment for him or her,
- (b) a person acting on behalf of a post-16 institution requests that authority to secure such an assessment, or
- (c) that authority decides to secure such an assessment.

(5) The local authority may decide to secure such an assessment only if it thinks that—

- (a) the young person has or may have special educational needs, and
- (b) it may be necessary for special educational provision to be made for him or her in accordance with an EHC plan.

(6) In forming an opinion for the purposes of paragraph (5) in relation to a person aged over 18, the authority must consider whether he or she requires additional time, in comparison to the majority of others of the same age who do not have special educational needs, to complete his or her training.

(7) Where a local authority secures an EHC needs assessment under this paragraph, the new law applies in relation to the assessment as if it were an assessment under section 36 of that Act.

Duty to anticipate application of section 36 of the 2014 Act

29. After 31st August 2015 a local authority must have regard to the fact that it may be under a duty on or after 1st September 2016 to secure an EHC needs assessment for a young person to whom Article 28 applies and who attends a post-16 institution on or after that date.