

**Changes to legislation:** Children and Families Act 2014, SCHEDULE 3 is up to date with all changes known to be in force on or before 19 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULES

### SCHEDULE 3 **E+W**

Section 82

#### SPECIAL EDUCATIONAL NEEDS: CONSEQUENTIAL AMENDMENTS

#### **PART 1** **E+W**

##### AMENDMENTS TO THE EDUCATION ACT 1996

1 The Education Act 1996 is amended as follows.

#### **Commencement Information**

**I1** Sch. 3 para. 1 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 2 (1) Section 6 (nursery schools and special schools) is amended as follows.
- (2) Omit subsection (2).
- (3) In the title, omit “and special schools”.

#### **Commencement Information**

**I2** Sch. 3 para. 2 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 3 (1) Section 13 (general responsibility for education) is amended as follows.
- (2) In subsection (3)(b) for “but under 25 and are subject to learning difficulty assessment” substitute “ and for whom an EHC plan is maintained ”.
- (3) Omit subsections (4) and (5).

#### **Commencement Information**

**I3** Sch. 3 para. 3 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 4 In section 13A (duty to promote high standards and fulfilment of potential), in subsection (2)(b) for “but under 25 who are subject to learning difficulty assessment” substitute “ and for whom an EHC plan is maintained ”.

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**Commencement Information**

**I4** Sch. 3 para. 4 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 5 (1) Section 15ZA (duty in respect of education and training for persons over compulsory school age: England) is amended as follows.
- (2) In subsection (1) for “but under 25 and are subject to learning difficulty assessment” substitute “ and for whom an EHC plan is maintained ”.
- (3) In subsection (3)(b) after “learning difficulties” insert “ or disabilities ”.
- (4) In subsections (6) and (7) after “learning difficulty” insert “ or disability ”.
- (5) For subsection (9) substitute—
- “(9) The duty in subsection (1) does not apply in relation to persons in a local authority’s area who are subject to a detention order.”

**Commencement Information**

**I5** Sch. 3 para. 5 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 6 In section 15A (powers in respect of education and training for 16 to 18 year olds), in subsection (3) for the words from “a local authority” to the end substitute “—
- (a) a local authority in England must in particular have regard to the needs of persons with learning difficulties or disabilities (within the meaning of section 15ZA(6) and (7));
- (b) a local authority in Wales must in particular have regard to the needs of persons with learning difficulties (within the meaning of section 41(5) and (6) of the Learning and Skills Act 2000).”

**Commencement Information**

**I6** Sch. 3 para. 6 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 7 In section 15B (functions in respect of education for persons aged over 19), in subsection (3) for the words from “a local authority” to the end substitute “—
- (a) a local authority in England must in particular have regard to the needs of persons with learning difficulties or disabilities (within the meaning of section 15ZA(6) and (7));
- (b) a local authority in Wales must in particular have regard to the needs of persons with learning difficulties (within the meaning of section 41(5) and (6) of the Learning and Skills Act 2000).”

**Commencement Information**

**I7** Sch. 3 para. 7 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

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- 8 In section 18A (provision of education for persons subject to youth detention), in subsection (2)—
- (a) in paragraph (b) omit “or learning difficulties (within the meaning of section 15ZA(6) and (7))”, and
  - (b) after that paragraph insert—
    - “(ba) in the case of a local authority in England, any learning difficulties or disabilities (within the meaning of section 15ZA(6) and (7)) the persons may have;
    - (bb) in the case of a local authority in Wales, any learning difficulties (within the meaning of section 41(5) and (6) of the Learning and Skills Act 2000) the persons may have;”.

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**Commencement Information**

- 18** Sch. 3 para. 8 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 9 In the title of Chapter 1 of Part 4 (children with special educational needs) after “children” insert “in Wales”.

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**Commencement Information**

- 19** Sch. 3 para. 9 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 10 Before section 312 (meaning of special educational needs etc) insert—

**Application of this Chapter: children in Wales**

“311A This Chapter applies only in relation to children in the area of a local authority in Wales.”

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**Commencement Information**

- 110** Sch. 3 para. 10 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 11 (1) Section 312 (meaning of “special educational needs” and “special educational provision” etc) is amended as follows.
- (2) In subsections (1) and (2), after “child” insert “in the area of a local authority in Wales”.
- (3) In subsection (3A)—
- (a) in paragraph (a)—
    - (i) omit “15ZA”, and
    - (ii) for “, 15B and 507B” substitute “and 15B”, and
  - (b) in paragraph (b), before “determining” substitute “a local authority in Wales”.

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- (4) In subsection (4), after “special educational provision” insert “, in relation to a child in the area of a local authority in Wales,”.

**Commencement Information**

**I11** Sch. 3 para. 11 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 12 (1) Section 313 (code of practice) is amended as follows.
- (2) In subsections (1) and (4) for “Secretary of State” substitute “ Welsh Ministers ”.
- (3) In subsection (5)—
- (a) after “means” insert “ the Special Educational Needs Tribunal for Wales. ”,
- and
- (b) omit paragraphs (a) and (b).

**Commencement Information**

**I12** Sch. 3 para. 12 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 13 (1) Section 314 (making and approval of code) is amended as follows.
- (2) In subsection (1)—
- (a) for “Secretary of State proposes” substitute “ Welsh Ministers propose ”, and
- (b) for “he” substitute “ they ”.
- (3) In subsection (2)—
- (a) for “Secretary of State” substitute “ Welsh Ministers ”,
- (b) for “he thinks” substitute “ they think ”, and
- (c) for “them” substitute “ those persons ”.
- (4) For subsection (3) substitute—
- “(3) If the Welsh Ministers determine to proceed with the draft (either in its original form or with such modifications as they think fit) they shall lay it before the National Assembly for Wales.”
- (5) In subsection (4)—
- (a) for “each house, the Secretary of State” substitute “ the National Assembly for Wales, the Welsh Ministers ”, and
- (b) for “the Secretary of State may” substitute “ the Welsh Ministers may ”.

**Commencement Information**

**I13** Sch. 3 para. 13 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 14 (1) Section 316A (education otherwise than in mainstream schools) is amended as follows.

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- (2) In subsection (2)—
- (a) in paragraph (a), for sub-paragraph (ii) substitute—  
“(ii) the governing body of the school or, if the school is in England, its head teacher,” and
  - (b) in paragraph (c), for sub-paragraph (ii) substitute—  
“(ii) the governing body of the school or, if the school is in England, its head teacher.”.
- (3) In subsection (8)—
- (a) after “issued” insert “ by the Welsh Ministers ”, and
  - (b) omit paragraphs (a) and (b).
- (4) In subsection (10)—
- (a) omit “, in relation to Wales,”, and
  - (b) for “National Assembly for Wales” substitute “ Welsh Ministers ”.

**Commencement Information**

**I14** Sch. 3 para. 14 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 15 In section 317 (duties of governing body or local authority in relation to pupils with special educational needs), in subsection (5)—
- (a) after “foundation special school shall” insert “include special needs information in the report prepared under section 30(1) of the Education Act 2002 (governors' report).”, and
  - (b) omit paragraphs (a) and (b).

**Commencement Information**

**I15** Sch. 3 para. 15 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 16 (1) Section 318 (provision of goods and services in connection with special educational needs) is amended as follows.
- (2) Omit subsections (3) and (3A).
  - (3) In subsection (3B) omit “in Wales” (in the first place it occurs).
  - (4) In consequence of the repeal made by sub-paragraph (2)—
    - (a) in Schedule 30 to the School Standards and Framework Act 1998 omit paragraph 75(4),
    - (b) in the Education Act 2002, in section 194 omit subsection (2)(a), and
    - (c) in Schedule 2 to the Childcare Act 2006, omit paragraph 21.

**Commencement Information**

**I16** Sch. 3 para. 16 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

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- 17 In section 326 (appeal against contents of statement), in subsection (4)(c) for the words from “in the case” to “in the proceedings” substitute “in the proceedings the child has proposed the school”.

**Commencement Information**

**I17** Sch. 3 para. 17 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 18 (1) Section 326A (unopposed appeals) is amended as follows.
- (2) In subsection (1), for paragraph (a) substitute—
- “(a) the parent of a child, or a child, has appealed to the Tribunal under section 325, 328, 329 or 329A or paragraph 8(3) of Schedule 27 against a decision of a local authority, and”.
- (3) In subsection (6)—
- (a) after “regulations made” insert “ by the Welsh Ministers ”, and
- (b) omit paragraphs (a) and (b).

**Commencement Information**

**I18** Sch. 3 para. 18 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 19 (1) Section 328A (appeal against determination of local authority in England not to amend statement following review) is repealed.
- (2) In consequence of the repeal made by sub-paragraph (1), section 2 of the Children, Schools and Families Act 2010 is repealed.

**Commencement Information**

**I19** Sch. 3 para. 19 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 20 (1) Section 329A (review or assessment of educational needs at request of responsible body) is amended as follows.
- (2) In subsection (14)—
- (a) after “ “Relevant early years education”” insert “ has the same meaning as it has (in relation to Wales) in section 123 of the School Standards and Framework Act 1998 except that it does not include early years education provided by a local authority at a maintained nursery school. ”, and
- (b) omit paragraphs (a) and (b).
- (3) In subsection (15)—
- (a) omit “, in relation to Wales,”, and
- (b) for “National Assembly for Wales” substitute “ Welsh Ministers ”.
- (4) In consequence of the amendments made by sub-paragraph (2), in paragraph 22 of Schedule 2 to the Childcare Act 2006, omit sub-paragraph (4).

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- (5) Until the coming into force in relation to Wales of the amendments made by paragraph 22(2) and (3) of Schedule 2 to the Childcare Act 2006, section 329A of EA 1996 has effect as if for subsection (14) (as amended by sub-paragraph (2)) there were substituted—

“(14) Relevant nursery education” has the same meaning as in section 123 of the School Standards and Framework Act 1998, except that it does not include nursery education provided by a local authority at a maintained nursery school.”

**Commencement Information**

**I20** Sch. 3 para. 20 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 21 (1) Section 332ZA (right of a child to appeal to the Welsh Tribunal) is amended as follows.
- (2) In subsection (1) omit “Welsh”.
- (3) In the title omit “Welsh”.

**Commencement Information**

**I21** Sch. 3 para. 21 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 22 In section 332ZB (notice and service of documents on a child in relation to an appeal by the child), in subsection (1) omit “in Wales”.

**Commencement Information**

**I22** Sch. 3 para. 22 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 23 (1) Section 332ZC (case friends—Wales) is amended as follows.
- (2) In subsection (1), in paragraph (a) omit “in Wales”.
- (3) In subsection (3), in paragraph (a) omit “Welsh”.
- (4) In the title, omit “—Wales”.

**Commencement Information**

**I23** Sch. 3 para. 23 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 24 (1) Section 332A (advice and information for parents—England) is repealed.
- (2) In consequence of the repeal made by sub-paragraph (1), section 2 of the Special Educational Needs and Disability Act 2001 is repealed.

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- (3) The repeals made by sub-paragraphs (1) and (2) do not affect the application for the time being of section 332A to certain local authorities in Wales by virtue of article 4(a) of the Education (Wales) Measure 2009 (Commencement No 3 and Transitional Provisions) Order 2012 (SI 2012/320).

**Commencement Information**

**I24** Sch. 3 para. 24 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 25 (1) Section 332AA (advice and information— Wales) is amended as follows.
- (2) In subsection (1) omit “in Wales”.
- (3) In the title, omit “— Wales”.

**Commencement Information**

**I25** Sch. 3 para. 25 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 26 (1) Section 332B (resolution of disputes—England) is repealed.
- (2) In consequence of the repeal made by sub-paragraph (1), section 3 of the Special Educational Needs and Disability Act 2001 is repealed.
- (3) The repeals made by sub-paragraphs (1) and (2) do not affect the application for the time being of section 332B to certain local authorities in Wales by virtue of article 4(b) of the Education (Wales) Measure 2009 (Commencement No 3 and Transitional Provisions) Order 2012 (SI 2012/320).

**Commencement Information**

**I26** Sch. 3 para. 26 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 27 (1) Section 332BA (resolution of disputes—Wales) is amended as follows.
- (2) In subsections (1) and (2) omit “in Wales”.
- (3) In the title, omit “—Wales”.

**Commencement Information**

**I27** Sch. 3 para. 27 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 28 (1) Section 332BB (independent advocacy services—Wales) is amended as follows.
- (2) In subsections (1) and (5) omit “in Wales”.
- (3) In the title, omit “—Wales”.



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#### Commencement Information

**I28** Sch. 3 para. 28 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 29 (1) Sections 332C to 332E (information about children in England with special educational needs) are repealed, and the cross-heading which precedes section 332C is omitted.
- (2) In consequence of the repeals made by sub-paragraph (1), section 1 of the Special Educational Needs (Information) Act 2008 is repealed.

#### Commencement Information

**I29** Sch. 3 para. 29 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 30 In the cross-heading which precedes section 333 (Special Educational Needs Tribunal) after “Tribunal” insert “ for Wales ”.

#### Commencement Information

**I30** Sch. 3 para. 30 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 31 (1) Section 333 (constitution of Welsh Tribunal) is amended as follows.
- (2) Omit subsection (1ZB).
- (3) In the following provisions, omit “Welsh”—
- (a) subsection (1),
  - (b) in subsection (2), paragraphs (a), (b) and (c),
  - (c) in subsection (5), paragraph (a), and paragraph (b) (in the first place it occurs), and
  - (d) subsection (6) (in the second place it occurs).
- (4) In the title, omit “Welsh”.

#### Commencement Information

**I31** Sch. 3 para. 31 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 32 In section 335 (remuneration and expenses), in subsection (1) and (2) omit “Welsh” (in each case, in the second place it occurs).

#### Commencement Information

**I32** Sch. 3 para. 32 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

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33 (1) Section 336 (Tribunal procedure) is amended as follows.

(2) In the following provisions omit “Welsh”—

- (a) subsection (1) (in the second place it occurs),
- (b) in subsection (2), paragraphs (b), (o) and (p),
- (c) subsection (2A),
- (d) subsection (3) (in the second place it occurs), and
- (e) subsection (4) (in the first place it occurs).

(2) Omit subsection (5A).

(3) In subsection (6) omit “or (5A)”.

**Commencement Information**

**I33** Sch. 3 para. 33 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

34 (1) Section 336ZB (appeals from the Welsh Tribunal to the Upper Tribunal) is amended as follows.

(2) In the following provisions, omit “Welsh”—

- (a) subsection (1) (in both places it occurs),
- (b) subsection (2), and
- (c) subsection (3).

(3) In the title, omit “Welsh”.

**Commencement Information**

**I34** Sch. 3 para. 34 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

35 In section 336A (compliance with orders), in subsection (2)—

- (a) after “made” insert “ by the Welsh Ministers with the agreement of the Secretary of State. ”, and
- (b) omit paragraphs (a) and (b).

**Commencement Information**

**I35** Sch. 3 para. 35 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

36 For section 337 (special schools) substitute—

**“337 Special schools**

A school is a special school if it is specially organised to make special educational provision for pupils with special educational needs, and it is—

- (a) maintained by a local authority,
- (b) an Academy school, or

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(c) a non-maintained special school.”

**Commencement Information**

**I36** Sch. 3 para. 36 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

37 In section 342 (approval of non-maintained special schools), in subsection (1)(b) after “community or foundation special school” insert “ or an Academy school ”.

**Commencement Information**

**I37** Sch. 3 para. 37 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

38 (1) Section 348 (provision of special education at non-maintained schools) is amended as follows.

(2) In subsection (1) after paragraph (a) (and before the “and” which follows it) insert—  
“(aa) the child is in the area of a local authority in Wales.”.

(3) In the title, at the end insert “ —Wales ”.

**Commencement Information**

**I38** Sch. 3 para. 38 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

39 (1) Section 438 (choice of school: child without statement of special educational needs) is amended as follows.

(2) In subsection (1)—

(a) after “maintain” insert “ an EHC plan (in the case of a local authority in England) or ”, and

(b) after “section 324” insert “ (in the case of a local authority in Wales) ”.

(3) In the title, after “without” insert “ EHC plan or ”.

**Commencement Information**

**I39** Sch. 3 para. 39 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

40 (1) Section 440 (amendment of order at request of parent: child without statement of special educational needs) is amended as follows.

(2) In subsection (1)—

(a) after “maintain” insert “ an EHC plan (in the case of a local authority in England) or ”, and

(b) after “section 324” insert “ (in the case of a local authority in Wales) ”.

(3) In the title, after “without” insert “ EHC plan or ”.

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#### Commencement Information

**I40** Sch. 3 para. 40 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 41 (1) Section 441 (choice of school: child with statement of special educational needs) is amended as follows.
- (2) In subsection (1)—
- (a) after “maintain” insert “ an EHC plan (in the case of a local authority in England) or ”, and
  - (b) after “section 324” insert “ (in the case of a local authority in Wales) ”.
- (3) In subsection (2) after “Where the” insert “ EHC plan or ”.
- (4) In subsection (3)—
- (a) after “Where the” insert “ EHC plan or ”, and
  - (b) after “amend the” insert “ EHC plan or ”.
- (5) After subsection (3A) insert—
- “(3B) An amendment to an EHC plan required to be made under subsection (3) (a) shall be treated as if it were an amendment made following a review under section 44 of the Children and Families Act 2014, and that section and regulations made under it apply accordingly.”
- (6) In subsection (4)—
- (a) in paragraph (a) after “maintain” insert “ an EHC plan or ”, and
  - (b) in paragraph (b) after “specified in the” insert “ plan or ”.
- (7) In the title, after “with” insert “ EHC plan or ”.

#### Commencement Information

**I41** Sch. 3 para. 41 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 42 In section 442 (revocation of order at request of parent), in subsection (5)—
- (a) after “maintain” insert “ an EHC plan (in the case of a local authority in England) or ”,
  - (b) after “section 324” insert “ (in the case of a local authority in Wales) ”,
  - (c) in paragraph (a) after “specified in” insert “ the EHC plan or ”, and
  - (d) in paragraph (b) after “in the” insert “ plan or the ”.

#### Commencement Information

**I42** Sch. 3 para. 42 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 43 In section 463 (meaning of “independent school”)—
- (a) in subsection (1)(b), after “for whom” insert “ an EHC plan is maintained or for whom ”, and

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- (b) in subsection (1), for “or a special school not so maintained” substitute “non-maintained special school”.

**Commencement Information**

**I43** Sch. 3 para. 43 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 44 (1) Section 483A (city colleges and academies: special educational needs) is amended as follows.
- (2) In subsection (2), in paragraph (a) for “a statement is maintained under section 324” substitute “an EHC plan or a statement under section 324 is maintained”.
- (3) In subsection (3), in paragraph (a) for “the statement” substitute “the EHC plan”.
- (4) In subsection (4), in paragraphs (a) and (b) after “specified in” insert “the plan or”.

**Commencement Information**

**I44** Sch. 3 para. 44 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 45 In section 507B (local authorities in England: functions in respect of leisure-time activities etc for persons aged 13 to 19 and certain persons aged 20 to 24), in subsection (2)(b) after “learning difficulty” insert “or disability”.

**Commencement Information**

**I45** Sch. 3 para. 45 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 46 In section 508F (local authorities in England: provision of transport etc for adult learners), in subsection (9) in the definition of “relevant young adult” for “who is aged under 25 and is subject to learning difficulty assessment” substitute “for whom an EHC plan is maintained”.

**Commencement Information**

**I46** Sch. 3 para. 46 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 47 In the title of section 508I (complaints about transport arrangements etc for young adults subject to learning difficulty assessment: England), for “adults subject to learning difficulty assessment” substitute “adult for whom EHC plan is maintained”.

**Commencement Information**

**I47** Sch. 3 para. 47 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

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- 48 (1) Section 509AB (local authorities in England: further provision about transport policy statements for persons of sixth form age) is amended as follows.
- (2) In subsection (1) after “difficulties” insert “ or disabilities ”.
- (3) In subsection (2)(b) after “difficulties” (in each place it occurs) insert “ or disabilities ”.

**Commencement Information**

**I48** Sch. 3 para. 48 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 49 In section 509AC (interpretation of sections 509AA and 509AB), in subsection (4) after “learning difficulties” insert “ or disabilities ”.

**Commencement Information**

**I49** Sch. 3 para. 49 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 50 (1) Section 514A (provision of boarding accommodation for persons subject to learning difficulty assessment) is amended as follows.
- (2) In subsection (1)—
- (a) after “who is” insert “ over compulsory school age and for whom an EHC plan is maintained. ”, and
- (b) omit paragraphs (a) and (b).
- (3) In the title, for “persons subject to learning difficulty assessment” substitute “ person for whom an EHC plan is maintained ”.

**Commencement Information**

**I50** Sch. 3 para. 50 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 51 In section 517 (payment of fees at schools not maintained by a local authority), in subsection (1), for “or Part IV (special educational needs)” substitute “ , Part 4 (special educational needs) or Part 3 of the Children and Families Act 2014 (children and young people in England with special educational needs or disabilities) ”.

**Commencement Information**

**I51** Sch. 3 para. 51 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 52 (1) Section 532A (direct payments: persons with special educational needs or subject to learning difficulty assessment) is amended as follows.
- (2) In subsection (1)—

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- (a) after “(“the beneficiary”)” insert “ for whom the authority maintain an EHC plan. ”, and
  - (b) omit paragraphs (a) and (b).
- (3) In subsection (2)—
- (a) for paragraph (a) substitute—
    - “(a) special educational provision specified in the EHC plan;”,
    - and
  - (b) omit paragraph (b).
- (4) In the title, omit “or subject to learning difficulty assessment”.

**Commencement Information**

**I52** Sch. 3 para. 52 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 53 In section 532B (direct payments: pilot schemes), in subsection (9) for paragraph (a) substitute—
- “(a) section 42(2) of the Children and Families Act 2014 (duty to secure special educational provision in accordance with EHC plan);”.

**Commencement Information**

**I53** Sch. 3 para. 53 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 54 In section 560A (work experience for persons over compulsory school age), in subsection (1)(b) for “but under 25 and are subject to learning difficulty assessment” substitute “ and for whom an EHC plan is maintained ”.

**Commencement Information**

**I54** Sch. 3 para. 54 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 55 (1) Section 562C (detained persons with special educational needs) is amended as follows.
- (2) In subsection (1), after “local authority” insert “ in Wales ”.
  - (3) In the title, after “with” insert “ statement of ”.

**Commencement Information**

**I55** Sch. 3 para. 55 in force at 1.4.2015 by S.I. 2015/375, art. 2(e)

- 56 In section 562D (appropriate special educational provision: arrangements between local authorities), in subsection (2) after “local authority” insert “ in Wales ”.

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**Commencement Information**

**I56** Sch. 3 para. 56 in force at 1.4.2015 by S.I. 2015/375, art. 2(e)

- 57 (1) Section 562G (information to be provided where statement of special educational needs previously maintained) is amended as follows.
- (2) In subsection (1) after “local authority” insert “ in Wales ”.
- (3) In subsection (2) after “home authority” insert “ , where they are a local authority in Wales, ”.
- (4) In subsection (4) after “local authority” insert “ in Wales ”.
- (5) In subsection (5) after “local authority” insert “ in Wales ”.
- (6) In subsection (7)—
- (a) in paragraph (a) after “home authority” insert “ , where they are a local authority in Wales ”, and
- (b) in paragraph (b) after “authority” insert “ in Wales ”.
- (7) In subsection (8)—
- (a) after “home authority”, where it first occurs insert “ , where they are a local authority in Wales ”, and
- (b) in paragraph (a) after “local authority” insert “ in Wales ”.

**Commencement Information**

**I57** Sch. 3 para. 57 in force at 1.4.2015 by S.I. 2015/375, art. 2(e)

- 58 (1) Section 562H (release of detained person appearing to host authority to require assessment) is amended as follows.
- (2) In subsection (1)—
- (a) after “person” insert “—  
(a)”,  
and
- (b) after “apply” insert “, and  
(b) for whom the home authority are a local authority in Wales.”
- (3) In subsection (4), for “Subsections (5) and (6) apply” substitute “ Subsection (6) applies ”.
- (4) Omit subsection (5).
- (5) In subsection (6), omit paragraph (b) and the “and” preceding it.

**Commencement Information**

**I58** Sch. 3 para. 58 in force at 1.4.2015 by S.I. 2015/375, art. 2(e)

- 59 In section 579 (general interpretation)—
- (a) in subsection (1), after the definition of “education functions” insert—



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- ““EHC plan” means a plan within section 37(2) of the Children and Families Act 2014;”,
- (b) in subsection (1), after the definition of “school year” insert—
- ““special educational needs”—
- (a) in relation to a child or person over compulsory school age but under 25 in the area of a local authority in England, has the meaning given by section 20(1) of the Children and Families Act 2014;
- (b) in relation to a child in the area of a local authority in Wales, has the meaning given by section 312;
- “special educational provision”—
- (a) in relation to a person in the area of a local authority in England, has the meaning given by section 21(1) and (2) of the Children and Families Act 2014;
- (b) in relation to a child in the area of a local authority in Wales, has the meaning given by section 312(4);”,
- (c) after subsection (1) insert—
- “(1A) For the purposes of this Act a person is subject to learning difficulty assessment if—
- (a) an assessment under section 140 of the Learning and Skills Act 2000 (learning difficulty assessments: Wales) has been conducted in respect of the person, or
- (b) arrangements for such an assessment to be conducted in respect of the person have been made or are required to be made.”; and
- (d) before subsection (4) insert—
- “(3A) References in this Act to a person who is “in the area” of a local authority in England do not include a person who is wholly or mainly resident in the area of a local authority in Wales.
- (3B) References in this Act to a person who is “in the area” of a local authority in Wales do not include a person who is wholly or mainly resident in the area of a local authority in England.”

#### Commencement Information

**I59** Sch. 3 para. 59 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

60

In section 580 (index)—

- (a) after the entry for “education functions” insert—

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“EHC plan” section 579(1)”,

- (b) after the entry for “interest in land” insert—

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“in the area of a local authority in England” section 579(3A)

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in the area of a local authority in Wales section 579(3B)”,

(c) for the entry for “learning difficulty” substitute—

“learning difficulty (in relation to a child in the area of a local authority in Wales) section 312(2) and (3) (subject to subsection (3A))”,

- (d) in the entry for “special educational needs”, in the second column for “section 312(1)” substitute “ section 579(1) ”,
- (e) in the entry for “special educational provision”, in the second column for “section 312(4)” substitute “ section 579(1) ”,
- (f) in the entry for “special school”, in the second column for “sections 6(2) and” substitute “ section ”, and
- (g) in the entry for “subject to learning difficulty assessment”, in the second column for “section 13(4)” substitute “ section 579(1A) ”.

#### Commencement Information

**I60** Sch. 3 para. 60 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

61 In Schedule 35B (meaning of “eligible child” for purposes of section 508B), in paragraph 15(3)—

- (a) in paragraph (a) for “statement maintained for the child under section 324” substitute “ EHC plan maintained for the child ”, and
- (b) in paragraph (b) for “statement” substitute “ plan ”.

#### Commencement Information

**I61** Sch. 3 para. 61 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

62 (1) In Schedule 36A (education functions), the table in paragraph 2 is amended as follows.

(2) In the entry for the Disabled Persons (Services, Consultation and Representation) Act 1986, in the second column after “child with” insert “ an EHC plan or ”.

(3) In the entry for the Learning and Skills Act 2000, omit the entry for section 139A.

#### Commencement Information

**I62** Sch. 3 para. 62 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

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## PART 2 **E+W**

### AMENDMENTS TO OTHER ACTS

#### *Local Government Act 1974 (c. 7)*

- 63 In Schedule 5 to the Local Government Act 1974 (matters not subject to investigation by Local Commissioners), in paragraph 5(2)(b) for “by section 312” substitute “by section 579(1)”.

#### **Commencement Information**

**I63** Sch. 3 para. 63 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

#### *Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)*

- 64 (1) In the Disabled Persons (Services, Consultation and Representation) Act 1986, section 5 (disabled persons leaving special education) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a) after “needs” insert “, or have maintained an EHC plan under section 37 of the Children and Families Act 2014, ”, and
  - (b) in paragraph (b) after “statement” (in both places) insert “ or plan ”.
- (3) In subsection (2)—
- (a) in paragraph (a) after “statement” insert “, or secure the preparation of an EHC plan, ”,
  - (b) in paragraph (b) after “statement” insert “ or plan ”, and
  - (c) after “making the statement” insert “, securing the preparation of the plan ”.
- (4) After subsection (8) insert—
- “(8A) Regulations under section 47 of the Children and Families Act 2014 (transfer of EHC plans) may make such provision as appears to the Secretary of State to be necessary or expedient in connection with subsections (1) to (7) of this section.”
- (5) In subsection (9), in paragraph (a) of the definition of “the responsible authority”, after “1996” insert “ or (as the case may be) Part 3 of the Children and Families Act 2014 ”.

#### **Commencement Information**

**I64** Sch. 3 para. 64 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

#### *Children Act 1989 (c. 41)*

- 65 (1) The Children Act 1989 is amended as follows.
- (2) In section 23E (pathway plans), in subsection (1A)(a) after “Education Act 1996” insert “ or Part 3 of the Children and Families Act 2014 ”.

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- (3) In Part 1 of Schedule 2 (provision of services to families) in paragraph 3 (assessment of children's needs) after paragraph (b) insert—

“(ba) Part 3 of the Children and Families Act 2014;”.

**Commencement Information**

**I65** Sch. 3 para. 65 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

*Value Added Tax Act 1994 (c. 23)*

- 66 (1) In Schedule 9 to the Value Added Tax Act 1994, in Part 2 (groups of goods and services the supply of which is exempt from VAT), group 6 (education) is amended as follows.
- (2) In item 5B—
- (a) after paragraph (b) insert—
- “(ba) aged 19 or over and for whom an EHC plan is maintained,”
- and
- (b) in paragraph (d), after “paragraph” insert “ (ba) or ”.
- (3) in note (5B), after “item (5B),” insert “ “EHC plan” and ” and for “has the same meaning” substitute “ have the same meanings ”.

**Commencement Information**

**I66** Sch. 3 para. 66 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

*School Standards and Framework Act 1998 (c. 31)*

- 67 The School Standards and Framework Act 1998 is amended as follows.

**Commencement Information**

**I67** Sch. 3 para. 67 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 68 (1) Section 98 (admission for nursery education or to nursery or special school: children with statements of special educational needs) is amended as follows.
- (2) In subsection (7) after “for whom” insert “ EHC plans are maintained under section 37 of the Children and Families Act 2014 or ”.
- (3) In the title after “special education needs” insert “ or EHC plans ”.

**Commencement Information**

**I68** Sch. 3 para. 68 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 69 (1) Section 123 (nursery education: children with special educational needs) is amended as follows.

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- (2) In subsection (1), for the words from “(except” to the end substitute “ to have regard to the provisions of the code of practice issued under section 77 of the Children and Families Act 2014 (in the case of education in England) or section 313(2) of the Education Act 1996 (in the case of education in Wales).”
- (3) After subsection (1) insert—
- “(1A) Subsection (1) does not apply in so far as the person in question is already under a duty to have regard to the provisions of the code of practice in question.”
- (4) In subsection (2)—
- (a) for “That code of practice” substitute “ The code of practice in question ”, and
- (b) after “functions under” insert “ Part 3 of the Children and Families Act 2014 or (as the case may be) ”.
- (5) In subsection (3)—
- (a) for “that code of practice” substitute “ the code of practice in question ”, and
- (b) after “functions under” insert “ Part 3 of the Children and Families Act 2014 or (as the case may be) ”.
- (6) In subsection (3A)(b) after “no” insert “ EHC plan or ”.

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**Commencement Information**

**I69** Sch. 3 para. 69 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 70 In Part A1 of Schedule 22 (disposals of land in case of foundation, voluntary and foundation special schools in England), in paragraph A23(9), in paragraph (d) of the definition of “children's services”—
- (a) after “learning difficulty” insert “ or disability ”, and
- (b) omit “66,”.

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**Commencement Information**

**I70** Sch. 3 para. 70 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

*Learning and Skills Act 2000 (c. 21)*

- 71 The Learning and Skills Act 2000 is amended as follows.

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**Commencement Information**

**I71** Sch. 3 para. 71 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 72 In section 35 (conditions imposed by Welsh Ministers on financial resources provided by them), in subsection (3)(f) omit “139A or”.

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**Commencement Information**

**I72** Sch. 3 para. 72 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

73 In section 41 (discharge by the Welsh Ministers of certain functions in relation to persons with learning difficulties), in subsection (1)(b) omit “139A or”.

**Commencement Information**

**I73** Sch. 3 para. 73 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

74 Sections 139A, 139B and 139C (assessments relating to learning difficulties: England) are repealed.

**Commencement Information**

**I74** Sch. 3 para. 74 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

75 In consequence of the repeals made by paragraphs 72, 73 and 74—  
 (a) omit paragraph 76 of Schedule 1 to the Education and Skills Act 2008;  
 (b) section 80 of the Education and Skills Act 2008 is repealed.

**Commencement Information**

**I75** Sch. 3 para. 75 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

*Education Act 2002 (c. 32)*

76 The Education Act 2002 is amended as follows.

**Commencement Information**

**I76** Sch. 3 para. 76 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

77 In section 92 (pupils with statements of special educational needs: application of National Curriculum for England)—  
 (a) for the words from “a statement” to “special educational needs” substitute “an EHC plan maintained for the pupil”,  
 (b) for “the statement” substitute “the plan”, and  
 (c) in the heading for “statements of special educational needs” substitute “EHC plans”.

**Commencement Information**

**I77** Sch. 3 para. 77 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

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- 78 (1) Section 94 (information concerning directions under section 93) is amended as follows.
- (2) In subsection (3), for the words from “by virtue of” to the end substitute “ and the responsible authority ought to be required to secure an EHC needs assessment for the pupil under section 36 of the Children and Families Act 2014 (or, if an EHC plan is maintained for the pupil, a re-assessment under section 44 of that Act). ”
- (3) In subsection (5), for the words from “consider” to the end substitute “ make a determination in respect of the pupil under section 36(3) of the Children and Families Act 2014 (or, if an EHC plan is maintained for the pupil, under that section as it applies to re-assessments by virtue of regulations under section 44(7)). ”
- (4) In subsection (6), for “Part 4 of the Education Act 1996” substitute “ Part 3 of the Children and Families Act 2014 (see section 24 of that Act) ”.

**Commencement Information**

**I78** Sch. 3 para. 78 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

*Nationality, Immigration and Asylum Act 2002 (c. 41)*

- 79 (1) Section 36 of the Nationality, Immigration and Asylum Act 2002 (education of children who are residents of accommodation centres) is amended as follows.
- (2) In subsection (3)(b), after “named in” insert “ an EHC plan maintained for the child under section 37 of the Children and Families Act 2014 or ”.
- (3) In subsection (5), omit the “and” after paragraph (d) and after paragraph (e) insert—
- “(f) sections 33 and 34 of the Children and Families Act 2014 (mainstream education for children with special educational needs), and
- (g) sections 38 and 39 of that Act (EHC plan: request of parent for named school etc).”
- (4) After subsection (5) insert—
- “(5A) The powers of the First-tier Tribunal on determining an appeal under section 51(2)(c) of the Children and Families Act 2014 (appeals against certain aspects of content of EHC plan) are subject to subsection (2) above.”
- (5) In subsection (6), omit “the First-tier Tribunal or”.
- (6) In subsection (7)—
- (a) after “function under this Act” insert “ , Part 3 of the Children and Families Act 2014 ”, and
- (b) in paragraph (a), after “special educational provision” insert “ called for by his special educational needs or ”.
- (7) In subsection (9), after paragraph (a) insert—
- “(aa) section 36 of the Children and Families Act 2014 (assessment of education, health and care needs: England) shall have effect as if an accommodation centre were a school.”.

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**Commencement Information**

**I79** Sch. 3 para. 79 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

*Children Act 2004 (c. 31)*

- 80 In section 10(9) of the Children Act 2004 (co-operation arrangements in respect of children may include arrangements in respect of certain young people), in paragraph (c)—
- (a) after “but under the age of 25” insert “—
    - (i) for whom an EHC plan is maintained, or
    - (ii)”,
    - and
  - (b) after “learning difficulty” insert “ or disability”.

**Commencement Information**

**I80** Sch. 3 para. 80 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

*Education and Inspections Act 2006 (c. 40)*

- 81 In section 16 of the Education and Inspections Act 2006 (consultation before publishing proposals for discontinuance of maintained schools), in subsection (1) (c), after “maintain” insert “ an EHC plan or ”.

**Commencement Information**

**I81** Sch. 3 para. 81 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

*Education and Skills Act 2008 (c. 25)*

- 82 The Education and Skills Act 2008 is amended as follows.

**Commencement Information**

**I82** Sch. 3 para. 82 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 83 In section 4 (meaning of appropriate full-time education or training)—
- (a) in subsection (1)(b), for “learning difficulty” substitute “ special educational needs”, and
  - (b) omit subsection (3).

**Commencement Information**

**I83** Sch. 3 para. 83 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 84 In section 17 (sharing and use of information held for purposes of support services or functions under Part 1), in subsection (8)(b)—



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- (a) for “a learning difficulty” substitute “ special educational needs ”, and
- (b) omit the words from “and subsections (6) and (7)” to the end.

**Commencement Information**

**184** Sch. 3 para. 84 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 85 In section 47 (attendance notice: description of education or training)—
- (a) in subsection (5)(b)(ii), for “learning difficulty” substitute “ special educational needs ”, and
  - (b) omit subsection (6).

**Commencement Information**

**185** Sch. 3 para. 85 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 86 In section 78(1) (Part 2: supplementary), in the definition of “relevant young adult”—
- (a) for “a learning difficulty” substitute “ special educational needs (within the meaning given by section 579(1) of the Education Act 1996) ”, and
  - (b) omit the words from “and subsections (6) and (7)” to the end.

**Commencement Information**

**186** Sch. 3 para. 86 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 87 In section 132 (providers of independent education or training for 16 to 18 year olds)—
- (a) in subsection (4)(a), for the words from “a statement” to “needs)” substitute “ an EHC plan is maintained ”,
  - (b) in subsection (4)(b), for “a statement was so” substitute “ an EHC plan was ”,
  - (c) in subsection (4)(b)(i), after “school” insert “ or (if later) the person ceased to be a student at his or her last post-16 institution ”,
  - (d) in subsection (4)(b)(ii), after “institution” insert “ in England mentioned in subsection (2) ”, and
  - (e) in subsection (6), after the definition of “an academic year” insert—  
““post-16 institution” has the meaning given by section 83(2) of the Children and Families Act 2014;”.

**Commencement Information**

**187** Sch. 3 para. 87 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

*Apprenticeships, Skills, Children and Learning Act 2009 (c. 22)*

- 88 The Apprenticeships, Skills, Children and Learning Act 2009 is amended as follows.

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**Commencement Information**

**I88** Sch. 3 para. 88 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 89 In section 83 (power to secure provision of apprenticeship training)—
- (a) in subsection (1)(b), for “are subject to learning difficulty assessment” substitute “ for whom an EHC plan is maintained ”,
  - (b) in subsection (2)(b), for “learning difficulties” substitute “ special educational needs ”, and
  - (c) omit subsection (4).

**Commencement Information**

**I89** Sch. 3 para. 89 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 90 In section 86 (education and training for persons aged 19 or over etc), in subsection (1)(a), for “who are subject to learning difficulty assessment” substitute “ for whom an EHC plan is maintained ”.

**Commencement Information**

**I90** Sch. 3 para. 90 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 91 In section 87 (learning aims for persons aged 19 or over: provision of facilities), in subsection (3)(a), for “who are subject to learning difficulty assessment” substitute “ for whom an EHC plan is maintained ”.

**Commencement Information**

**I91** Sch. 3 para. 91 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 92 In section 101 (financial resources: conditions), in subsection (5)(f)—
- (a) after “specified in” insert “ an EHC plan or ”, and
  - (b) omit “139A or”.

**Commencement Information**

**I92** Sch. 3 para. 92 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 93 In section 115 (persons with learning difficulties)—
- (a) in subsection (1), for “learning difficulties” substitute “ special educational needs ”,
  - (b) in subsection (2)(a), for “who are subject to learning difficulty assessment” substitute “ for whom an EHC plan is maintained ”,
  - (c) omit subsections (3) and (4), and
  - (d) in the title, for “learning difficulties” substitute “ special educational needs ”.

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**Commencement Information**

**I93** Sch. 3 para. 93 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 94 In section 129 (general duties of Ofqual)—
- (a) in subsection (2)(b) and (c), for “learning difficulties” substitute “ special educational needs ”, and
  - (b) omit subsections (9) and (10).

**Commencement Information**

**I94** Sch. 3 para. 94 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

*Academies Act 2010 (c. 32)*

- 95 In section 1 of the Academies Act 2010 (Academy arrangements), omit subsections (7) and (8).

**Commencement Information**

**I95** Sch. 3 para. 95 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

*Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)*

- 96 In paragraph 2 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services: special educational needs)—
- (a) in sub-paragraph (1)(a), after “1996” insert “ or Part 3 of the Children and Families Act 2014 ”, and
  - (b) in sub-paragraph (1)(b), for “sections 139A and” substitute “ section ”.

**Commencement Information**

**I96** Sch. 3 para. 96 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Sch. 3 para. 9-35 omitted by [2018 anaw 2 Sch. 1 para. 6\(s\)](#)
- Sch. 3 para. 38 omitted by [2018 anaw 2 Sch. 1 para. 6\(s\)](#)
- Sch. 3 para. 41(2)(b) and word omitted by [2018 anaw 2 Sch. 1 para. 6\(s\)](#)
- Sch. 3 para. 42(d) omitted by [2018 anaw 2 Sch. 1 para. 6\(s\)](#)
- Sch. 3 para. 44(3) omitted by [2018 anaw 2 Sch. 1 para. 6\(s\)](#)
- Sch. 3 para. 44(4) omitted by [2018 anaw 2 Sch. 1 para. 6\(s\)](#)
- Sch. 3 para. 55-58 omitted by [2018 anaw 2 Sch. 1 para. 6\(s\)](#)
- Sch. 3 para. 59(c) omitted by [2018 anaw 2 Sch. 1 para. 6\(s\)](#)
- Sch. 3 para. 60(c) omitted by [2018 anaw 2 Sch. 1 para. 6\(s\)](#)
- Sch. 3 para. 60(g) omitted by [2018 anaw 2 Sch. 1 para. 6\(s\)](#)
- Sch. 3 para. 73 omitted by [2018 anaw 2 Sch. 1 para. 23\(6\)](#)
- Sch. 3 para. 42 word inserted by [2018 anaw 2 Sch. 1 para. 6\(s\)](#)
- specified provision(s) amendment to savings and transitional provisions in SI 2014/2270 for commencing SI 2014/889 by [S.I. 2015/1619 art. 3-7](#)
- specified provision(s) amendment to savings and transitional provisions in SI 2014/2270 for commencing SI 2014/889 by [S.I. 2015/505 art. 3-8](#)
- specified provision(s) transitional and savings provisions for commencing SI 2014/889 art. 7(a) by [S.I. 2014/2270 art. 3-30](#)