

## SCHEDULES

### SCHEDULE 3

#### SPECIAL EDUCATIONAL NEEDS: CONSEQUENTIAL AMENDMENTS

#### PART 2

##### 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)”.

#### *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”.

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

- 65 (1) The Children Act 1989 is amended as follows.

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- (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”.
- (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;”.

*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”.

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

- 67 The School Standards and Framework Act 1998 is amended as follows.
- 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”.
- 69 (1) Section 123 (nursery education: children with special educational needs) is amended as follows.
  - (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

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- (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”.
- 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”.

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

- 71 The Learning and Skills Act 2000 is amended as follows.
- 72 In section 35 (conditions imposed by Welsh Ministers on financial resources provided by them), in subsection (3)(f) omit “139A or”.
- 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”.
- 74 Sections 139A, 139B and 139C (assessments relating to learning difficulties: England) are repealed.
- 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.

### *Education Act 2002 (c. 32)*

- 76 The Education Act 2002 is amended as follows.
- 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”.
- 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)”.

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*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.”.

*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”.

*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”.

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

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

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- 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).
- 84 In section 17 (sharing and use of information held for purposes of support services or functions under Part 1), in subsection (8)(b)—
- (a) for “a learning difficulty” substitute “special educational needs”, and
  - (b) omit the words from “and subsections (6) and (7)” to the end.
- 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).
- 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.
- 87 In section 132 (providers of independent education or training for 16 to 18 year olds)
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- (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;”.

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

- 88 The Apprenticeships, Skills, Children and Learning Act 2009 is amended as follows.
- 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).
- 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”.
- 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”.
- 92 In section 101 (financial resources: conditions), in subsection (5)(f)—
- (a) after “specified in” insert “an EHC plan or”, and

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- (b) omit “139A or”.
- 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”.
- 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).

*Academies Act 2010 (c. 32)*

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

*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”.