

SCHEDULES

SCHEDULE 1

Sections 5 and 7.

ASSESSMENTS AND STATEMENTS OF SPECIAL EDUCATIONAL NEEDS

PART I

ASSESSMENTS

Regulations

- 1 (1) The Secretary of State shall by regulations make provision as to the advice which a local education authority are to seek in making assessments.
- (2) Without prejudice to the generality of sub-paragraph (1) above, regulations made under that sub-paragraph shall require the local education authority to seek medical, psychological and educational advice and such other advice as may be prescribed.
- (3) The Secretary of State may by regulations make provision—
- (a) as to the manner in which assessments are to be conducted ; and
 - (b) in connection with such other matters relating to the making of assessments as the Secretary of State considers appropriate.

Attendance at examinations

- 2 (1) Where a local education authority propose to make an assessment they may serve a notice on the parent of the child to be assessed requiring the child's attendance for examination in accordance with the provisions of the notice.
- (2) The parent of a child examined under this paragraph shall be entitled to be present at the examination if he so desires.
- (3) A notice under this paragraph shall—
- (a) state the purpose of the examination ;
 - (b) state the time and place at which the examination will be held;
 - (c) name an officer of the authority from whom further information may be obtained ;
 - (d) inform the parent that he may submit such information to the authority as he may wish ; and
 - (e) inform the parent of his right to be present at the examination.
- (4) Any parent on whom a notice has been served under this paragraph and who fails without reasonable excuse to comply with any of the requirements of the notice shall, if the notice relates to a child who was not over compulsory school age at the time stated in the notice as the time for holding the examination, be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

Status: This is the original version (as it was originally enacted).

PART II

STATEMENTS

Form of statement

- 3 A statement shall be in the prescribed form and contain the prescribed information and shall, in particular—
- (a) give details of the authority's assessment of the special educational needs of the child ; and
 - (b) specify the special educational provision to be made for the purpose of meeting those needs.

Keeping and disclosure of statements

- 4 The Secretary of State may by regulations make provision with respect to the keeping, disclosure and transfer of statements.

Review of statements

- 5 Every statement shall, on the making of an assessment of the educational needs of the child concerned under section 5, be reviewed by the local education authority and shall be reviewed in any event within the period of twelve months beginning with the making of the statement or, as the case may be, with the previous review.

Amendment of statements, etc.

- 6 (1) If a local education authority propose to amend, or to cease to maintain, a statement they shall, before doing so, serve on the parent of the child concerned notice in writing of their proposal and of the right of the parent to make representations under this paragraph.
- (2) Any parent on whom a notice has been served under this paragraph may, within the period of 15 days beginning with the date on which the notice is served, make representations to the authority about their proposal.
- (3) A local education authority shall consider any representations made to them under this paragraph and on taking a decision on the proposal to which those representations relate shall (in writing) inform the parent of their decision.
- 7 Paragraph 6 above does not apply in any case where a local education authority cease to maintain a statement for a child who has ceased to be their responsibility, or where amendments which are made to a statement are consequential upon the making, amendment or revocation of a school attendance order.

SCHEDULE 2

Section 21.

TRANSITIONAL PROVISIONS

Approval of special schools

- 1 Any approval given under section 9(5) of the principal Act (special schools) before the commencement of section 12 of this Act and in force immediately before that date shall have effect for the purposes of the principal Act and of regulations made under section 12 as if it had been given under section 9(5) as amended by this Act.

Special educational treatment

- 2 The following provisions of this Schedule apply in relation to any child for whom, immediately before the commencement of section 7, a local education authority were providing special educational treatment under the principal Act
- 3 The child shall be taken to have special educational needs and the local education authority which arranged the provision of special educational treatment (the "authority") shall be taken to have made an assessment of his educational needs under section 5 and to have formed the opinion, that his special educational needs call for the authority to determine the special educational provision that should be made for him.
- 4 During the period of 12 months beginning with the commencement of section 7 the authority shall not be under the duty imposed by that section to make and maintain a statement of the child's special educational needs.
- 5 A statement made in respect of the child under section 7, but before an assessment of his educational needs is made under section 5, need not give details of the authority's assessment of those needs until such time as an assessment has been made under section 5.
- 6 Until such time as the authority make a statement in respect of the child under section 7 they shall be under a duty to continue to provide the special educational treatment which the child was receiving immediately before the commencement of section 7 unless the child's parent makes suitable arrangements ; but this paragraph shall not require the authority to act in any way which would be incompatible with the provisions of a school attendance order in force under section 37 of the principal Act.
- 7 Section 8 shall not apply in relation to a statement of the child's special educational needs under section 7 unless—
- (a) the special educational provision specified in the statement differs from the special educational treatment which the child was receiving immediately before the commencement of this Schedule (otherwise than to take account of a school attendance order); or
 - (b) an assessment of the child's educational needs has been made under section 5 following the making of the statement.
- 8 Sections 15 and 16 apply, at any time before a statement is made for the child under section 7, as if in each of those sections the following were substituted for paragraph (b) of subsection (1)—

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“(b) that local education authority were, immediately before the commencement of section 7, providing special educational treatment for that child under the principal Act.”.

SCHEDULE 3

Section 21.

MINOR AND CONSEQUENTIAL AMENDMENTS

Children and Young Persons Act 1933 (c. 12)

1 In section 10(1) of the Children and Young Persons Act 1933 (vagrants preventing children from receiving education) after the word " aptitude " there are inserted the words " and to any special educational needs he may have ".

The principal Act

2 In section 37 of the principal Act (school attendance orders), in subsections (1), (2), (4) and (5) after the word " aptitude " in each case there are inserted the words " and to any special educational needs he may have. "

3 In section 50(1) of the principal Act (provision of board and lodging)—

- (a) after the word " aptitude" there are inserted the words " and to any special educational needs he may have ";
- (b) for the words "requiring special educational treatment" there are substituted the words " having special educational needs " ; and
- (c) for the word "treatment", in the second place where it occurs, there is substituted the word " provision ".

4 In section 52(1) of the principal Act (recovery of cost of board and lodging) after the word " aptitude " there are inserted the words "or special educational needs ".

5 In section 61 (prohibition of fees in schools maintained by local education authority and in county colleges), in paragraph (a) of the proviso to subsection (2), after the word " aptitude " there are inserted the words " and to any special educational needs he may have ".

6 In section 114 of the principal Act (interpretation) for the definition of " special educational treatment" there is substituted—

“special educational needs ' and ' special educational provision ' have the meanings given to them by section 1 of the Education Act 1981;”.

Education (Miscellaneous Provisions) Act 1948 (c.40)

7 In section 5(1) of the Education (Miscellaneous Provisions) Act 1948 (provision of clothing) for the words from " receiving special" to the end there are substituted the words " for whom special educational provision is made in pursuance of arrangements made by them ".

Education (Miscellaneous Provisions) Act 1953 (c.33)

8 (1) Section 6 of the Education (Miscellaneous Provisions) Act 1953 (payment of pupils' fees at non-maintained schools) is amended as follows.

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- (2) In subsection (2)—
- (a) for the words "section 33 of the principal Act" there are substituted the words " the Education Act 1981 ";
 - (b) after the word " pupil" in paragraph (a)(ii), in the second place where it occurs, there are inserted the words " and any special educational needs he may have ";
 - (c) for sub-paragraph (iii) of paragraph (a) there is substituted the following sub-paragraph—
 - “(iii) where, in a case not falling within either of the two foregoing sub-paragraphs, the authority are satisfied that the pupil has special educational needs and that it is expedient in his interests that the required special educational provision should be made for him at a school not maintained by them or another local education authority”;
- and
- (d) in paragraph (b) after the word " aptitude " there are inserted the words " and to any special educational needs he may have ".

Children and Young Persons Act 1969 (c. 54)

- 9 In section 1(2)(e) of the Children and Young Persons Act 1969 (care proceedings in juvenile courts) after the word " aptitude " there are inserted the words " and to any special educational needs he may have ".

Education Act 1973 (c. 16)

- 10 In section 1(2)(b) of the Education Act 1973 (modifications of instruments regulating schools) for the words from " section 33 " to the end there are substituted the words " sections 12 and 13 of the Education Act 1981 (approval of schools for purposes of that Act); and ".

Sex Discrimination Act 1975 (c. 65)

- 11 In section 23(1) of the Sex Discrimination Act 1975 (local education authorities not to discriminate in exercising functions under Education Acts), as amended by section 33(1) of the Education Act 1980, for the words " the Education Acts 1944 to 1980 " there are substituted the words " the Education Acts 1944 to 1981 ".

Race Relations Act 1976 (c. 74)

- 12 In section 18(1) of the Race Relations Act 1976 (local education authorities not to discriminate in exercising functions under Education Acts), as amended by section 33(1) of the Education Act 1980, for the words " the Education Acts 1944 to 1980" there are substituted the words " the Education Acts 1944 to 1981 ".

National Health Service Act 1977 (c. 49)

- 13 In paragraph 1(a)(ii) of Schedule 1 to the National Health Service Act 1977 (medical and dental treatment of children) after the words "Education Act 1944" there are inserted the words " or the Education Act 1981 ".

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Education Act 1980 (c. 20)

- 14 In section 9(2) of the Education Act 1980 (application of that Act to special schools etc.) for the words "in need of special educational treatment" there are substituted the words " in respect of whom statements are maintained under section 7 of the Education Act 1981 (special educational needs) ".
- 15 In section 10 of the Act of 1980 (determination of school to be named in school attendance order)—
- (a) in subsection (4), after the word "aptitude" there are inserted the words "and any special educational needs he may have " ; and
 - (b) in subsection (5), for the words from " who are " to the end there are substituted the words " in respect of whom the local education authority maintain a statement under section 7 of the Education Act 1981 (special educational needs) ".
- 16 In section 11 of the Act of 1980 (amendment of school attendance order)—
- (a) at the end of subsection (2)(b) there are inserted the words " and to any special educational needs he may have " ; and
 - (b) in subsection (3) for the words from " who are " to the end there are substituted the words " in respect of whom the local education authority maintain a statement under section 7 of the Education Act 1981 (special educational needs) ".

SCHEDULE 4

Section 21.

REPEALS

Chapter	Short Title	Extent of Repeal
7 & 8 Geo. 6. c. 31.	The Education Act 1944.	Sections 33 and 34. In section 37, in subsection (2) the words from "provided that" to the end, subsection (3), in subsection (4) the words from " requesting that another " to " order or ", the words "amend or", the words from "that the proposed" to "child or" and the words " as the case may be". Section 38.
1970 c. 44.	The Chronically Sick and Disabled Persons Act 1970.	Sections 25 to 27.
1976 c. 81.	The Education Act 1976.	Section 10.
1980 c. 20.	The Education Act 1980.	Section 10(6) and (7). Section 33(1).