

Changes to legislation: Education Act 1996, SCHEDULE 26 is up to date with all changes known to be in force on or before 10 April 2024. 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 26

Section 323.

MAKING OF ASSESSMENTS UNDER SECTION 323

Introductory

- 1 In this Schedule “assessment” means an assessment of a child’s educational needs under section 323.

Medical and other advice

- 2 (1) Regulations shall make provision as to the advice which a [^{F1}local authority] are to seek in making assessments.
- (2) Without prejudice to the generality of sub-paragraph (1), the regulations shall require the authority, except in such circumstances as may be prescribed, to seek medical, psychological and educational advice and such other advice as may be prescribed.

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), [Sch. 2 para. 7\(2\)](#) (with [Sch. 2 para. 7\(4\)\(5\)](#))

Manner, and timing, of assessments, etc.

- 3 (1) Regulations may make provision—
- (a) as to the manner in which assessments are to be conducted,
 - (b) requiring the [^{F1}local authority], where, after conducting an assessment under section 323 of the educational needs of a child for whom a statement is maintained under section 324, they determine not to amend the statement, to serve on the parent of the child a notice giving the prescribed information, and
 - (c) in connection with such other matters relating to the making of assessments as the Secretary of State considers appropriate.
- (2) Sub-paragraph (1)(b) does not apply to a determination made following the service of notice under [^{F2}paragraph 2A] of Schedule 27 (amendment of statement by [^{F1}local authority]) of a proposal to amend the statement.
- [^{F3}(3) Regulations may provide—
- (a) that where a [^{F1}local authority] are under a duty under section 323, 329 or 329A [^{F4}, or under regulations under sub-paragraph (1)(b),] to serve any notice, the duty must be performed within the prescribed period,

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- (b) that where a [F1local authority] have served a notice under section 323(1) or 329A(3) on a child’s parent, they must decide within the prescribed period whether or not to make an assessment of the child’s educational needs,
 - (c) that where a request has been made to a [F1local authority] under section 329(1), they must decide within the prescribed period whether or not to comply with the request, and
 - (d) that where a [F1local authority] are under a duty to make an assessment, the duty must be performed within the prescribed period.
- (4) Provision made under sub-paragraph (3)—
- (a) may be subject to prescribed exceptions, and
 - (b) does not relieve the authority of the duty to serve a notice, or make a decision or assessment, which has not been served or made within the prescribed period.]

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))
- F2** Words in Sch. 26 para. 3(2) substituted (1.1.2002 (E.) and 1.4.2002 (W.)) by [2001 c. 10, s. 42\(1\)](#), [Sch. 8 para. 14\(2\)](#) (with s. 43(13)); [S.I. 2001/2217, art. 5, Sch. Pt. II](#) (as amended by [S.I. 2001/2614, art. 4](#)); [S.I. 2002/74, art. 5, Sch. Pt. II](#)
- F3** Sch. 26 para. 3(3)(4) substituted (11.5.2001 for certain purposes, 1.1.2002 otherwise for E. and 1.4.2002 otherwise for W.) by [2001 c. 10, ss. 42\(1\), 43\(4\)\(e\)](#), [Sch. 8 para. 14\(3\)](#) (with s. 43(13)); [S.I. 2001/2217, art. 5, Sch. Pt. II](#) (as amended by [S.I. 2001/2614, art. 4](#)); [S.I. 2002/74, art. 5, Sch. Pt. II](#)
- F4** Words in Sch. 26 para. 3(3)(a) inserted (8.1.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 174(2), 188(2)** (with s. 174(4))

Attendance at examinations

- 4 (1) Where a [F1local authority][F5are considering whether] to make an assessment, they may serve a notice on the parent of the child concerned 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 may 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.

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- F5** Words in Sch. 26 para. 4(1) substituted (1.1.2002 (E.) and 1.4.2002 (W.)) by [2001 c. 10, s. 42\(1\)](#), [Sch. 8 para. 11\(2\)](#) (with s. 43(13)); [S.I. 2001/2217, art. 5, Sch. Pt. II](#) (as amended by [S.I. 2001/2614, art. 4](#)); [S.I. 2002/74, art. 5, Sch. Pt. II](#)

Offence

- 5 (1) Any parent who fails without reasonable excuse to comply with any requirements of a notice served on him under paragraph 4 commits an offence if the notice relates to a child who is not over compulsory school age at the time stated in it as the time for holding the examination.
- (2) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(2)(ba) substituted for s. 13(2)(aa)(b) by [2022 asc 1 Sch. 4 para. 8\(2\)](#)
- s. 15A(3A) inserted by [2022 asc 1 Sch. 4 para. 8\(3\)](#)
- s. 15B(3)(c) inserted by [2022 asc 1 Sch. 4 para. 8\(4\)](#)
- s. 17A functions made exercisable concurrently by [S.I. 2014/1012 art. 12\(1\)Sch. 2 para. 3](#)
- s. 17A functions made exercisable concurrently by [S.I. 2014/863 Sch. 2 para. 4](#)
- s. 17A functions made exercisable concurrently by [S.I. 2014/865 Sch. 2 para. 3](#)
- s. 17A functions made exercisable concurrently by [S.I. 2016/653 Sch. 3 para. 3](#)
- s. 17A-17D inserted by [2009 c. 22 s. 45](#)
- s. 17B-17D applied by [2009 c. 22 s. 86\(8\)](#)
- s. 457(4)(i)-(iia) repealed by [2012 c. 5 Sch. 14 Pt. 1](#)
- s. 457(4)(iii) words repealed by [2012 c. 5 Sch. 14 Pt. 1](#)
- s. 508(4) inserted by [2022 asc 1 Sch. 4 para. 8\(7\)](#)
- s. 537AA inserted by [2008 c. 25 Sch. 1 para. 8](#)
- s. 548(7A)(7B) inserted by [2008 c. 25 Sch. 1 para. 9\(5\)](#)
- s. 578(1) words repealed by [2005 c. 18 Sch. 19 Pt. 1](#)