

SCHEDULE 4

Article 3

TRANSITIONAL PROVISIONS

1. In this Schedule, “the 1981 Act” means the Education Act 1981(1).
- 2.—(1) This paragraph applies in any case where—
  - (a) before 1st September 1994 a local education authority serve notice under section 5(5) of the 1981 Act of their intention to carry out an assessment under that section, and
  - (b) by a time immediately before that date the local education authority have not served on the parent of the child concerned a notice under section 5(7) of that Act or a copy of a proposed statement under section 7(3) of that Act.
  - (2) Subject to sub-paragraph (4) below, in any case to which this paragraph applies sections 5(6), (7) and (10) and 7(1) and (3) to (8) of, and paragraphs 1, 2 and 3 of Schedule 1 to, the 1981 Act shall continue to have effect on and after 1st September 1994 in relation to—
    - (a) the making of an assessment of the child’s special educational needs in pursuance of the notice under section 5(5) of the 1981 Act, and
    - (b) (where it is decided in the light of that assessment that the local education authority should determine the special educational provision which is to be made for the child) the making of a statement of special educational needs in pursuance of that decision.
  - (3) Where section 5(6) of the 1981 Act has effect by virtue of sub-paragraph (2) above, that section shall have effect as if for “in writing to the Secretary of State” there were substituted “to the Special Educational Needs Tribunal”.
  - (4) Sub-paragraph (2) above shall cease to apply in any case where the local education authority have failed before 1st January 1995 either—
    - (a) to serve notice on the parent of the child in accordance with section 5(7) of the 1981 Act, or
    - (b) to serve on the parent in accordance with section 7(3) of that Act a copy of the child’s proposed statement of educational needs.
  - (5) In any case to which sub-paragraph (2) above applies—
    - (a) sections 167(6), 168(1) to (4) and 169(1) and (2) of, and Schedule 9 and paragraphs 2 to 5 of Schedule 10 to, the Act shall not apply, and
    - (b) section 169(3) shall have effect as if the reference to an appeal under that section included a reference to an appeal under section 5(6) of the 1981 Act (as if it has effect by virtue of this paragraph).
  - (6) An appeal under section 5(6) of the 1981 Act (as it has effect by virtue of this paragraph) shall be treated for the purposes of Part III of the Act as if made under section 169(2) of the Act.
  - (7) Any assessment or any statement of special educational needs made under section 5 or 7 of the 1981 Act by virtue of sub-paragraph (2) above shall have effect as if made (as the case may be) under section 167 or 168 of the Act; and any reference, whether express or implied, in any enactment, instrument or document to an assessment under section 167 of the Act, or a statement under section 168 of the Act, is to be read so far as the nature of the reference permits as including a reference to any assessment or any statement so made.
- 3.—(1) This paragraph applies where before 1st September 1994 a local education authority give notice under section 5(7) of the 1981 Act to the parent of a child who has been assessed in accordance with that section.

---

(1) 1981 c. 60.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

(2) In any case to which this paragraph applies—

- (a) section 5(6) and (8) of the 1981 Act shall continue to have effect on and after 1st September 1994, and
- (b) section 169 of the Act shall not apply,

in relation to the decision of the local education authority to which the notice under section 5(7) of the 1981 Act relates.

4.—(1) This paragraph applies where before 1st September 1994 a local education authority serve on the parent of a child in accordance with section 7(3) of the 1981 Act a copy of a proposed statement of special educational needs for that child.

(2) In any case to which this paragraph applies—

- (a) section 7(1) and (4) to (8) of, and paragraph 3 of Schedule 1 to, the 1981 Act shall continue to have effect on and after 1st September 1994,
- (b) section 168(1) to (4) of, and paragraphs 3 to 5 of Schedule 10 to, the Act shall not apply,

in relation to a statement of special educational needs made pursuant to the proposed statement served under section 7(3) of the 1981 Act.

(3) Any statement of special educational needs made under section 7 of the 1981 Act by virtue of sub-paragraph (2) above shall have effect as if made under section 168 of the Act; and any reference, whether express or implied, in any enactment, instrument or document to a statement under section 168 of the Act, is to be read so far as the nature of the reference permits as including a reference to any statement so made.

5.—(1) This paragraph applies where before 1st September 1994 a local education authority serve on the parent of a child in accordance with section 7(9) of the 1981 Act a copy of the statement of special educational needs made for that child under that section.

(2) In any case to which this paragraph applies—

- (a) section 8 of the 1981 Act shall continue to have effect on and after 1st September 1994, and
- (b) section 170 of the Act shall not apply,

with respect to any appeal against the special educational provision specified in the statement served under section 7(9) of the 1981 Act.

6.—(1) This paragraph applies where—

- (a) before 1st September 1994 a local education authority, in accordance with paragraph 6 of Schedule 1 to the 1981 Act, serve notice on the parent of a child, for whom they maintain a statement of special educational needs, of their proposal to amend or to cease to maintain that statement; and
- (b) by a time immediately before that date the local education authority have not informed the parent of their decision on the proposal in accordance with paragraph 6(3) of that Schedule.

(2) In any case to which this paragraph applies—

- (a) paragraph 6 of Schedule 1 to the 1981 Act shall continue to have effect on and after 1st September 1994, and
- (b) paragraphs 9 to 11 of Schedule 10 to the 1981 Act shall not apply,

in relation to any determination of the local education authority to amend or to cease to maintain the statement made in pursuance of that proposal.

(3) Where paragraph 6(4) of Schedule 1 to the 1981 Act has effect by virtue of sub-paragraph (2) above, that paragraph shall have effect as if for the words from “section 8(1)” to the end of that paragraph there were substituted—

“section 170(1) of the Education Act 1993 to appeal against the description in the statement of the authority’s assessment of the child’s special educational needs, the special educational provision specified in the statement or, if no school is named in the statement, that fact”.

(4) For the purposes of any determination under paragraph 6(3) of Schedule 1 to the 1981 Act (as it has effect by virtue of sub-paragraph (2) above), or any appeal under section 170(1) of the Act against any such determination, the local education authority shall be treated as if they were under a duty to maintain the statement, to which the determination relates, by virtue of section 7(1) of the 1981 Act instead of section 168(1) of the Act.

7.—(1) This paragraph applies where before 1st September 1994 a local education authority, in accordance with paragraph 6(4) of Schedule 1 to the 1981 Act, inform the parent of a child, for whom they maintain a statement of special educational needs, of his right to appeal in consequence of any amendment made by them to the child’s statement.

(2) In any case to which this paragraph applies—

- (a) section 8 of the 1981 Act shall continue to have effect on or after 1st September 1994, and
- (b) section 170 of, and paragraph 10(4) of Schedule 10 to, the Act shall not apply,

with respect to any appeal made by the parent in consequence of the amendment made to his child’s statement of special educational needs by the local education authority.

8. Where on 1st September 1994 no decision has been made by a local education authority in relation to a request for an assessment made by a parent under section 9(1) of the 1981 Act, that request shall have effect on and after that date as if it had been made under section 173(1) of the Act.

9.—(1) This paragraph applies where before 1st September 1994 a local education authority have served a notice on the parent of a child under section 15(2) of the 1981 Act with respect to the naming of a school in a school attendance order, and immediately before that date no determination has been made in accordance with that section as to which school is to be named in the order.

(2) In any case to which this paragraph applies—

- (a) section 15(1) to (5) of the 1981 Act shall continue to have effect on and after 1st September 1994,
- (b) section 196(1) to (3) of the Act shall not apply, and
- (c) paragraph 9 of Schedule 10 shall have effect as if the reference to section 197 included a reference to section 15 of the 1981 Act,

for the purpose of determining the school to be named in the school attendance order, and for the purpose of making any consequential amendments to the child’s statement of special educational needs.

10.—(1) This paragraph applies in any case where before 1st September 1994 a parent has requested the local education authority in accordance with section 16(2) of the 1981 Act to amend or revoke the school attendance order relating to his child, and immediately before that date either—

- (a) no determination has been made by the local education authority with respect to the parent’s request, or
- (b) where the authority have refused to amend the order in compliance with the parent’s request, the matter has been referred to the Secretary of State and he has yet to determine the matter.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) In relation to any request, to which this paragraph applies, for the school attendance order to be amended—

- (a) section 16(1) to (4) shall continue to have effect on and after 1st September 1994,
- (b) section 196(4) of the Act shall not apply, and
- (c) paragraph 9 of Schedule 10 shall have effect as if the reference to section 197 included a reference to section 16 of the 1981 Act.

(3) In relation to any request, to which this paragraph applies, for the school attendance order to be revoked, section 197(5) of the Act shall have effect as if paragraph (a), and in paragraph (b) the words “in any other case”, were omitted.