Disabled Persons (Services, Consultation and Representation) Act 1986

1986 CHAPTER 33

PART I

REPRESENTATION AND ASSESSMENT

5 Disabled persons leaving special education.

(1) Where—

(a) a local authority have made a statement under section 7 of the [M1]Education Act 1981 (statement of child's educational needs) in respect of a child under the age of 14, and

(b) the statement is still maintained by the authority at whichever is the earlier of the following times, namely—

(i) the time when they institute the first annual review of the statement following the child's fourteenth birthday, and

(ii) any time falling after that birthday when they institute a re-assessment of his educational needs,

the authority shall at that time require the appropriate officer to give to the authority his opinion as to whether the child is or is not a disabled person.

(2) Where—

(a) a local education authority make any such statement in respect of a child after he has attained the age of 14, or

(b) a local education authority maintain any such statement in respect of a child in whose case the appropriate officer has, in pursuance of subsection (1), given his opinion that the child is not a disabled person, but the authority have become aware of a significant change in the mental or physical condition of the child giving them reason to believe that he may now be a disabled person,

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the authority shall, at the time of making the statement or (as the case may be) of becoming aware of that change, require the appropriate officer to give to the authority his opinion as to whether the child is or is not a disabled person.

[[F1](3) In the following provisions of this section and in section 6 a person in respect of whom the appropriate officer has given his opinion that he is a disabled person is referred to as a "disabled student".

(3A) The responsible authority shall give to the appropriate officer written notification for the purposes of subsection (5) of the date on which any disabled student will cease to be of compulsory school age, and the notification shall state—

(a) his name and address; and

(b) whether or not he intends to remain in full-time education and, if he does, the name of the school or other institution at which the education will be received;

and shall be given not earlier than twelve months, nor later than eight months, before that date.

(3B) Where, in the case of a disabled student over compulsory school age who is receiving relevant full-time education, that is—

(a) full-time education at a school; or

(b) full-time further or higher education at an institution other than a school;

it appears to the responsible authority that the student will cease to receive relevant full-time education on a date ("the leaving date") on which he will be under the age of nineteen years and eight months, the responsible authority shall give written notification for the purposes of subsection (5) to the appropriate officer.

(3C) That notification shall state—

(a) his name and address; and

(b) the leaving date;

and shall be given not earlier than twelve months, nor later than eight months, before the leaving date.

(4) If at any time it appears to the responsible authority—

(a) that a disabled student has ceased to receive relevant full-time education or will cease to do so on a date less than 8 months after that time, and

(b) that no notification has been given under subsection (3B), but

(c) that, had the responsible authority for the time being been aware of his intentions 8 months or more before that date, they would have been required to give notification under that subsection with respect to him,

that authority shall, as soon as is reasonably practicable, give written notification for the purposes of subsection (5) to the appropriate officer of his name and address and of the date on which he ceased to receive, or will cease to receive, that education.**]**

(5) When the appropriate officer receives a notification given with respect to **[**[F2]a student under subsection (3A) that he does not intend to remain in full-time education or under subsection (3B)**]** or (4), he shall (subject to subsections (6) and (7) make arrangements for the local authority of which he is an officer to carry out an assessment of the needs of that person with respect to the provision by that authority of any statutory services for that person in accordance with any of the welfare enactments, and any such assessment shall be carried out—

(a) in the case of a **[**[F3]notification under subsection (3A) or (3B)**]**, not later than the end of the period of 5 months beginning with the date of receipt of the notification, or

(b) in the case of a notification under subsection (4), before the date specified in the notification, if reasonably practicable, and in any event not later than the end of the period referred to in paragraph (a) above.

(6) If—

(a) a notification has been given to the appropriate officer with respect to any person under subsection **[**[F4](3A) that he does not intend to remain in full-time education or under subsection (3B)**]** or (4), but

(b) it subsequently appears to **[**[F5]the responsible authority that the person will be receiving relevant full-time education**]** at a time later than the date specified in the notification,

the authority shall give written notification of the relevant facts to that officer as soon as is reasonably practicable; and on receiving any such notification that officer shall cease to be required under subsection (5) to make arrangements for the assessment of the needs of the person in question (but without prejudice to the operation of that subsection in relation to any further notification given with respect to that person under subsection **[**[F4](3A) that he does not intend to remain in full-time education or under subsection (3B)**]** or (4)).

(7) Nothing in subsection (5) shall require the appropriate officer to make arrangements for the assessment of the needs of a person—

(a) if, having attained the age of 16, he has requested that such arrangements should not be made under that subsection, or

(b) if, being under that age, his parent or **[**[F6]other person who is not a parent of his but who has parental responsibility for him**]** has made such a request.

(8) Regulations under paragraph 4 of the Schedule 1 to the [M2]Education Act 1981 (assessments and statements of special educational needs) may, in relation to the transfer of statements made under section 7 of that Act, make such provision as appears to the Secretary of State to be necessary or expedient in connection with the preceding provisions of this section.

(9) In this section—

"the appropriate officer", in relation to the child or person referred to in the provision of this section in question, means such officer as may be appointed for the purposes of this section by the local authority for the area in which that child or person is for the time being ordinarily resident;

"child" means a person of compulsory school age or a person who has attained that age but not the age of 19 and is registered as a pupil at a school or **[**[F7]as a student at**]****[**[F8]an establishment of higher or further education**]**;**[**[F9] "establishment of higher or further education" means an institution which provides higher education or further education (or both);**]** and

"the responsible authority"—

(a) in relation to a child at school, means the local education authority who are responsible for the child for the purposes of the Education Act 1981;

[[F10](b) in relation to a person receiving full-time further education or higher education at an institution within the further education sector or the higher education sector, means the governing body of the institution; and

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(c) in relation to a person for whom a further education funding council has secured full-time further education at an institution (other than a school) outside the further education sector or the higher education sector, the council**]**

in each case whether any such opinion as is mentioned in subsection (3) was given to that authority or not;

and other expressions used in this section and in the [M3]Education Act 1944 **[**[F11]or the Further and Higher Education Act 1992**]** (and not defined in this Act) have the same meaning in this section as in **[**[F12]those Acts**]** .

(10) This section applies to England and Wales only.

Textual Amendments

F1 S. 5(3)(3A)(3B)(3C)(4) substituted (1.4.1993) for s. 5(3)(4) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. II para. 91(1)(2)**; S.I. 1992/831, art. 2, **Sch.3**

F2 Words in s. 5(5) substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. II para. 91(3)(a)**; S.I. 1992/831, art. 2, **Sch.3**

F3 Words in s. 5(5) substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. II para. 91(3)(b)**; S.I. 1992/831, art. 2, **Sch.3**

F4 Words in s. 5(6) substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. II para. 91(4)(a)**; S.I. 1992/831, art. 2, **Sch.3**

F5 Words in s. 5(6) substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. II para. 91(4)(b)**; S.I. 1992/831, art. 2, **Sch.3**

F6 Words in S. 5(7)(b) substituted (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(5), **Sch. 13 para. 60** (with s. 108(6), Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

F7 Words in s. 5(9) inserted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. II para. 91(5)(a)**; S.I. 1992/831, art. 2, **Sch.3**

F8 Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 97(2)**

F9 Definition inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 97(3)**

F10 S. 5(9): in the definition "the responsible authority" paras. (b)(c) substituted for para. (b) (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. II para. 91(5)(b)**; S.I. 1992/831, art. 2, **Sch.3**

F11 Words in s. 5(9) inserted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. II para. 91(5)(c)**; S.I. 1992/831, art. 2, **Sch.3**

F12 Words in s. 5(9) substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. II para. 91(5)(d)**; S.I. 1992/831, art. 2, **Sch.3**

Marginal Citations

M1 1981 c. 60.

M2 1981 c. 60.

M3 1944 c. 31.

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