



# Disabled Persons (Northern Ireland) Act 1989

## 1989 CHAPTER 10

### 5 Disabled persons leaving special education.

(1) Where—

- (a) [<sup>F1</sup>the Authority] has made a statement under [<sup>F2</sup>Article 16] of the Education Order (statement of child's special educational needs) in respect of a child under the age of 14, and
- (b) the statement is still maintained by [<sup>F3</sup>the Authority] at whichever is the earlier of the following times, namely—
  - (i) the time when [<sup>F3</sup>the Authority] institutes the first annual review of the statement following the child's fourteenth birthday, and
  - (ii) any time falling after that birthday when [<sup>F3</sup>the Authority] institutes a re-assessment of his educational needs,

[<sup>F3</sup>the Authority] shall at that time require the appropriate officer to give [<sup>F3</sup>the Authority] his opinion as to whether the child is or is not a disabled person.

(2) Where—

- (a) [<sup>F4</sup>the Authority] makes any such statement in respect of a child after he has attained the age of 14, or
- (b) [<sup>F4</sup>the Authority] maintains 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 [<sup>F5</sup>the Authority] has become aware of a significant change in the mental or physical condition of the child giving [<sup>F6</sup>the Authority] reason to believe that he may now be a disabled person,

[<sup>F5</sup>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 [<sup>F5</sup>the Authority] his opinion as to whether the child is or is not a disabled person.

(3) Where, in pursuance of subsection (1) or (2), an opinion has been given that a child is a disabled person and it subsequently appears to [<sup>F7</sup>the Authority] —

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- (a) that the child will cease to receive full-time education at school on a particular date and will not subsequently be receiving full-time education at an institution of further education, or
- (b) that the child will cease to receive full-time education at such an institution on a particular date,

[<sup>F7</sup>the Authority] shall give to the appropriate officer written notification for the purposes of subsection (5) of the date referred to in paragraph (a) or (b); and any such notification shall be given not later than the relevant date and not earlier than four months before that date.

In this subsection “the relevant date” means the date falling 8 months before the date referred to in paragraph (a) or (b) above.

- (4) If at any time it appears to [<sup>F8</sup>the Authority ]—
- (a) that a person has on a particular date ceased to receive full-time education as mentioned in paragraph (a) or (b) of subsection (3) or will cease to do so on a particular date falling less than 8 months after that time, and
  - (b) that no notification of that date has been given to the appropriate officer under that subsection with respect to that person, but
  - (c) that, had [<sup>F9</sup>the Authority] been aware of his intentions 8 months or more before that date, [<sup>F10</sup>the Authority] would have been required to give notification of that date under that subsection with respect to him,

[<sup>F10</sup>the Authority ] shall, as soon as is reasonably practicable, give to the appropriate officer written notification for the purposes of subsection (5) of that date.

- (5) When the appropriate officer receives a notification given with respect to any person under subsection (3) or (4), he shall (subject to subsections (6) and (7)) make arrangements for [<sup>F11</sup>the relevant 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 relevant authority] of any personal social services for that person, and any such assessment shall be carried out—
- (a) in the case of a notification under subsection (3), 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 (3) or (4), but
  - (b) it subsequently appears to [<sup>F12</sup>the Authority] that that person will be receiving full-time education (whether at school or at an institution of further education) at a time later than the date specified in the notification,

[<sup>F12</sup>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 (3) or (4)).

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

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- (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 has made such a request.
- (8) [<sup>F2</sup>Regulations under paragraph 7(2) of Schedule 2 to the Education Order (statements of special educational needs) may, in relation to the transfer of statements made under Article 16] of that Order, make such provision as appears to the Department of Education for Northern Ireland to be necessary or expedient in connection with the 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, [<sup>F13</sup>means such officer as may be appointed for the purposes of this section by the HSC trust in whose operational area the child or person is for the time being ordinarily resident.]

“child” means, subject to [<sup>F2</sup>Article 3(7) and (8)] of the Education Order in relation to a child with special educational needs, a person of compulsory school age who is registered as a pupil at a school or an institution of further education; <sup>F14</sup> ...

<sup>F14</sup> .....

and other expressions used in this section and in the Education Order (and not defined in this Act) have the same meaning in this section as in that Order.

#### Textual Amendments

- F1** Words in s. 5(1) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 10(2)(a)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F2** Words in s. 5(1)(a)(8)(9) substituted (1.9.1997) by S.I. 1996/274 (N.I. 1), art. 43, **Sch. 5 Pt. I**; S.R. 1997/307, **art. 3(d)**
- F3** Words in s. 5(1) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 10(2)(b)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F4** Words in s. 5(2) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 10(3)(a)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F5** Words in s. 5(2) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 10(3)(b)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F6** Words in s. 5(2) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 10(3)(c)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F7** Words in s. 5(3) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 10(4)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F8** Words in s. 5(4) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 10(5)(a)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F9** Words in s. 5(4) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 10(5)(b)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F10** Words in s. 5(4) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 10(5)(c)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F11** Words in s. 5(5)(9) substituted (1.4.1994) by S.I. 1994/429 (N.I. 2), arts. 1(3), 7(1), **Sch. 1**
- F12** Words in s. 5(6) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 10(6)** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F13** Words in s. 5(9) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 128**; S.R. 2022/102, art. 2(b)

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**Changes to legislation:** *There are currently no known outstanding effects for the Disabled Persons (Northern Ireland) Act 1989, Section 5. (See end of Document for details)*

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**F14** Words in s. 5(9) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

**Changes to legislation:**

There are currently no known outstanding effects for the Disabled Persons (Northern Ireland) Act 1989, Section 5.