
STATUTORY INSTRUMENTS

2014 No. 2270

**The Children and Families Act 2014 (Transitional
and Saving Provisions) (No. 2) Order 2014**

PART 4

Children etc without statement on commencement: appeals in progress

Appeals against decision not to comply with request to carry out assessment

8.—(1) Paragraph (2) applies if immediately before the commencement date—

- (a) the parent of a child or young person had the right to appeal under section 329(2) of EA 1996 (appeal against refusal to assess educational needs at request of child's parent) against a decision of a local authority in England, but had not brought such an appeal, or
- (b) the parent of a child or young person for whom no statement was maintained under section 324 of that Act had the right to appeal under section 329A(8) of that Act (appeal against refusal to assess educational needs at request of responsible body) against a decision of a local authority in England, but had not brought such an appeal.

(2) The parent may, within the period that was allowed for bringing the appeal, decide to bring it under section 51 of the 2014 Act instead; and, if the parent does so, the appeal is to proceed as if the local authority had decided not to secure an EHC needs assessment for the child or young person in response to a request under section 36(1) of that Act.

(3) Paragraph (4) applies if immediately before the commencement date—

- (a) the parent of a child or young person had brought an appeal under section 329(2) of EA 1996 against a decision of a local authority in England, but the appeal had not been finally determined, or
- (b) the parent of a child or young person for whom no statement was maintained had brought an appeal under section 329A(8) of that Act against a decision of a local authority in England, but the appeal had not been finally determined.

(4) If the parent consents, the appeal may proceed as an appeal under section 51 of the 2014 Act and as if the local authority had decided not to secure an EHC needs assessment for the child or young person in response to a request under section 36(1) of the 2014 Act.

(5) The following provisions of this Article apply if—

- (a) paragraph (2) applies, but within the period mentioned in paragraph (1) the parent decides to bring the appeal under section 329(2) or 329A(8) of EA 1996, or
- (b) paragraph (3) applies, but the parent does not consent to the appeal proceeding as an appeal under section 51 of the 2014 Act.

(6) Despite the disapplication by section 81 of and Schedule 3 to the 2014 Act of Chapter 1 of Part 4 of EA 1996 in relation to children in the area of a local authority in England, the old law continues to have effect in relation to the child or young person until the relevant time.

(7) The new law does not have effect in relation to the child or young person until the relevant time.

(8) The relevant time is—

- (a) where the appeal is withdrawn or abandoned, when it is withdrawn or abandoned;
- (b) where, on the final determination of the appeal, it is dismissed, when it is dismissed;
- (c) where, on the final determination of the appeal, the local authority is ordered to arrange for an assessment to be made in respect of the child under section 323 of EA 1996, the time found by applying Article 7(5) as if the assessment had begun before the commencement date.