

## 1983 No. 7 (C. 1)

## EDUCATION, ENGLAND AND WALES

## The Education Act 1981 (Commencement No. 2) Order 1983

Made - - - - 10th January 1983

In exercise of the powers conferred on the Secretary of State by section 20(2) and (3) of the Education Act 1981(a), I hereby make the following Order:—

*Citation*

1. This Order may be cited as the Education Act 1981 (Commencement No. 2) Order 1983.

*Interpretation*

2. In this Order “the Act” means the Education Act 1981.

*Coming into force of provisions of the Act*

3. All the provisions of the Act, except sections 14, 20 and 21(1), (2) and (5) (which came into force on 5th January 1982)(b), shall come into force on 1st April 1983.

*Transitional provisions*

4. The transitional provisions contained in the Schedule to this Order shall have effect in connection with the provisions of the Act brought into force by this Order which are referred to in the Schedule.

## SCHEDULE

## TRANSITIONAL PROVISIONS

1.—(1) This paragraph shall have effect in connection with sections 5, 7, 8, 11, 15 and 16 of the Act and in relation to any child—

- (a) for whom a local education authority are responsible; and
- (b) in whose case that authority, within the period of 12 months immediately preceding 1st April 1983 (the date of commencement of section 7 of the Act), had decided in accordance with section 34(4) of the Education Act 1944(c) that he required special educational treatment under that Act,

but for whom the authority were not providing such treatment immediately before 1st April 1983.

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(a) 1981 c. 60.

(b) See S.I. 1981/1711.

(c) 1944 c. 31; section 34(4) was amended by the Education Act 1946 (c. 50), Schedule 2, Part II.

(2) The child shall be taken to have special educational needs and the local education authority shall be taken to have made an assessment of his educational needs under section 5 of the Act and to have formed the opinion that his special educational needs call for the authority to determine the special educational provision that should be made for him.

(3) During the period of 12 months commencing on 1st April 1983 the authority shall not be under the duty imposed by section 7 of the Act to make and maintain a statement of the child's special educational needs.

(4) A statement made in respect of the child under section 7 of the Act, but before an assessment of his educational needs is made under section 5, need not give details of the authority's assessment of those needs until such time as an assessment has been made under section 5.

(5) Until such time as the authority make a statement in respect of the child under section 7 of the Act they shall be under a duty to provide special educational treatment unless the child's parent makes suitable arrangements.

(6) Section 8 of the Act shall not apply in relation to a statement of the child's special educational needs under section 7 unless—

- (a) immediately before the statement was made the authority were providing special educational treatment which differed from the special educational provision specified in the statement (otherwise than to take account of a school attendance order); or
- (b) an assessment of the child's educational needs has been made under section 5 following the making of the statement.

(7) Sections 11(3), 15 and 16 of the Act shall apply irrespective of whether the authority are maintaining a statement for the child under section 7.

2.—(1) This paragraph shall have effect in connection with sections 5, 7, 8, 11, 15 and 16 of the Act and in relation to any child—

- (a) for whom a local education authority are responsible; and
- (b) who, within the period of 12 months immediately preceding 1st April 1983 (the date of commencement of section 7 of the Act), had been examined by a medical officer of the authority for the purpose of advising the authority as to whether the child was suffering from any disability of mind or body and as to the nature and extent of any such disability,

but in respect of whom the authority had immediately before 1st April 1983 taken no decision as to whether he required special educational treatment under the Education Act 1944.

(2) During the period of 6 months commencing on 1st April 1983 section 5 of the Act shall not apply.

(3) If during the said period the local education authority give the parent notice that they have decided the child requires special educational treatment sub-paragraphs (2) to (7) of paragraph 1 of this Schedule shall apply.

(4) The authority shall when giving any such notice notify the parent of the effect of section 9(1) of the Act.

3.—(1) This paragraph shall have effect in connection with Schedule 3 to the Act.

(2) During the period of 12 months commencing on 1st April 1983 there shall be inserted after paragraph 6 of the Schedule the following paragraph—

“6A. In section 114 of the principal Act (interpretation) there shall be inserted after the definitions of ‘special educational needs’ and ‘special educational provision’ the following definition—

“‘special educational treatment’ means education by special methods appropriate for persons suffering from a disability of mind or body;”

(3) The amendment described in paragraph 8(2)(a) of the Schedule shall not have effect in relation to the provision of primary or secondary education in pursuance of arrangements made by virtue of section 33 of the Education Act 1944 (a).

(4) For the purpose of the amendments made in paragraphs 14, 15(b) and 16(b) of the Schedule to sections 9(2), 10(5) and 11(3) of the Education Act 1980 (b), any such child as is mentioned in paragraph 2 of Schedule 2 to the Act, and any child to whom paragraph 1(2) of this Schedule applies, shall be regarded as a child in respect of whom a statement is maintained under section 7 of the Act.

4.—(1) This paragraph shall have effect in connection with Schedule 4 to the Act.

(2) During the period of 6 months commencing on 1st April 1983 the repeal of subsection (1) of section 33 of the Education Act 1944 and subsections (4) and (5) of section 34 of that Act shall not have effect in relation to any child to whom paragraph 2 of this Schedule applies.

(3) The repeal of part of subsection (2) of section 37 of the Education Act 1944 (c), of subsection (3) of that section (d) and of section 10(6) and (7) of the Education Act 1980 shall not have effect in relation to a case concerning a child who is not in need of special educational treatment and in which notice of intention to serve a school attendance order was served, in pursuance of proviso (a) to the said section 37(2), before 1st July 1982.

(4) The repeal of part of section 37 (4) of the Education Act 1944 shall not have effect in relation to a case concerning a child who is not in need of special educational treatment in which application for the amendment of a school attendance order was made, in pursuance of the said section 37(4), before 1st July 1982.

*Keith Joseph,*  
One of Her Majesty's Principal  
Secretaries of State.

10th January 1983.

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(a) Section 33 was amended by the Education (Miscellaneous Provisions) Act 1953 (c. 33), Schedule 1.

(b) 1980 c. 20.

(c) Section 37(2) was amended by the Education (Miscellaneous Provisions) Act 1953, section 10.

(d) Section 37(3) was amended by the Education Act 1980, section 10(6).

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order brings into force on 1st April 1983 (subject to the transitional provisions in the Schedule) all the provisions of the Education Act 1981 not brought into force on 5th January 1982 by the Education Act 1981 (Commencement No. 1) Order 1981.

The transitional provisions made in paragraph 1 of the Schedule to the Order concern those children whom local education authorities have within the preceding 12 months decided require special educational treatment under the Education Act 1944 but for whom such treatment is not being provided immediately before the commencement date. The transitional provisions made in paragraph 2 permit authorities to complete assessments under the 1944 Act which are in progress on the commencement date. In both cases provisions are made which are analogous to those made in Schedule 2 of the Act in respect of children for whom special educational treatment is being provided immediately before the commencement date.

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