
EXPLANATORY NOTE

(This note is not part of the Order)

The Special Educational Needs and Disability (Detained Persons) Regulations 2015 (the Detained Persons Regulations 2015) provide the detail for the legal framework for detained persons with special educational needs. The legal framework is primarily set out within sections 70 to 75 of the Children and Families Act 2014 and will be commenced from 1st April 2015. This Order amends the Children and Families Act 2014 (Transitional and Saving Provisions) (No.2) Order 2014 (the Transitional Order) as a consequence of the Detained Persons Regulations 2015 and the commencement of sections 70 to 75.

Article 4 inserts new Article 14A into the Transitional Order which is a requirement for a local authority to carry out an EHC needs assessment in respect of a detained person with a statement following their release from detention. This replaces the requirement under section 328(5)(aa) of the Education Act 1996 for the local authority to carry out a review of the statement upon release.

Article 5 amends Article 21 of the Transitional Order to clarify that the local authority has up to 14 weeks from the day the EHC needs assessment began, to prepare an EHC plan, where the local authority consider that it is necessary for special educational provision to be made to the child or young person.

Article 6 makes a minor amendment to Article 22 of the Transitional Order.

Article 7 inserts new Articles 29A and 29B into Part 6 of the Transitional Order to ensure that detained persons with learning difficulty assessments are treated the same way as those in the community with learning difficulty assessments.

Article 8 substitutes Part 7 (Articles 30 to 36) of the Transitional Order, which now concerns detained persons for whom a local authority keeps a statement.

Article 30 requires that where a local authority keeps a statement for a detained person, the special educational provision is treated as though it were contained in an EHC plan.

Article 31 provides a power for a local authority to carry out a detained person's EHC needs assessment in respect of a detained person with a statement. Articles 32 to 35 set out the procedure which should be followed where this power is used.

Article 36 provides that where a detained person has a statement on or after 1st April 2018, or where the local authority is not able to complete a detained person's EHC needs assessment before that date, the special educational provision is treated as if it were contained within an EHC plan and the local authority must complete a detained person's EHC needs assessment as soon as possible.