STATUTORY INSTRUMENTS

2015 No. 505

EDUCATION, ENGLAND

The Children and Families Act 2014 (Transitional and Saving Provisions) (Amendment) Order 2015

Made - - - -	*3rd March 2015*
Coming into force - -	*1st April 2015*

The Secretary of State, in exercise of the powers conferred by section 137(1) of the Children and Families Act 2014(**1**), makes the following Order:

Citation and commencement

1. This Order may be cited as the Children and Families Act 2014 (Transitional and Saving Provisions) (Amendment) Order 2015 and comes into force on 1st April 2015.

Amendment of the Children and Families Act 2014 (Transitional and Saving Provisions) (No.2) Order 2014

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

3. In Article 2 (interpretation), in the appropriate places insert—

""detained person's health services commissioner" has the same meaning as in section 74(8) of the 2014 Act;

"the Detained Persons Regulations 2015" means the Special Educational Needs and Disability (Detained Persons) Regulations 2015(**3**);

"the home commissioning body" means the body which was responsible for commissioning health services for the detained person immediately before the detention;".

4. After Article 14 (duty to secure EHC needs assessment for other children etc in period 2015-2018) insert—

(**1**) 2014 c.6.
(**2**) S.I. 2014/2270.
(**3**) S.I 2015/62.

"**Duty to secure EHC needs assessment for a detained person on release from detention in period 2015-2018**

14A.—(1) This Article applies to a child or young person to whom this Part applies, other than a child or young person to whom Articles 12 or 14 apply.

(2) The local authority that maintains the statement for a child or young person is not required to review the statement under section 328(5)(aa) of EA 1996.

(3) The local authority must secure that an EHC needs assessment for him or her is carried out and concluded as soon as possible following their release from detention.

(4) This Article is subject to Articles 16, 23 and 28.".

5. In Article 21 (effect of decision to prepare EHC plan following EHC needs assessment), in paragraph (3) for "notification under Article 18 was given" substitute "the EHC needs assessment began".

6. In Article 22 (effect of decision not to prepare EHC plan following EHC needs assessment) for "Article 18(3)(b), (c) or (d)" substitute "Article 18(2)(b), (c) or (d)".

7. After Article 29 (duty to anticipate application of section 36 of the 2014) insert—

"**Detained persons who have had a pre-commencement learning difficulty assessment**

29A.—(1) This Article applies to a detained person for whom an assessment under section 139A of the Learning Skills Act 2000 was completed before the commencement date.

(2) For this purpose an assessment under that section is completed when the written report described in section 139B of the Learning Skills Act 2000 which results from the assessment is completed.

(3) Despite the coming into force of section 71 of the 2014 Act on 1st April 2015, that section does not have effect in relation to the detained person before 1st September 2016.

(4) Paragraph (3) does not apply if, before 1st September 2016—

(a) the detained person requests the home authority to secure a detained person's EHC needs assessment for him or her,

(b) a person acting on behalf of a post-16 institution requests the home authority to secure such an assessment,

(c) the person in charge of the relevant youth accommodation where the detained person is detained requests the home authority to secure such an assessment, or

(d) the home authority decides to secure such an assessment.

(5) The home authority may decide to secure such an assessment only if it thinks that—

(a) the detained person has or may have special educational needs, and

(b) it may be necessary for special educational provision to be made for him or her in accordance with an EHC plan on release from detention.

(6) Where a home authority secures a detained person's EHC needs assessment under this Article, the new law applies in relation to the assessment, as if it were an assessment under section 71 of the 2014 Act.

Duty to anticipate application of section 71 of the 2014 Act

29B. After 31st August 2015 a home authority must have regard to the fact that it may be under a duty on or after 1st September 2016 to secure a detained person's EHC needs assessment for a detained person to whom Article 29A applies and who is expected to attend a post-16 institution on or after that date.".

8. For Part 7 (children etc with an EHC plan who are detained) substitute—

"PART 7

Children etc with statement who are detained

Children etc with a statement who are detained

30.—(1) This Part applies to a child or young person if—

(a) a statement is kept by a local authority in England for the child or young person, and

(b) the child or young person is a detained person.

(2) Despite the amendments made by Schedule 3 to the 2014 Act to Chapter 5A of Part 1 of EA 1996, that Chapter continues to have effect in relation to the child or young person as if the special educational provision specified in the statement—

(a) were contained in an EHC plan kept for the child or young person, and

(b) had been specified in the EHC plan immediately before the detention.

Power to secure an earlier detained person's EHC needs assessment

31.—(1) The local authority that keeps the statement for the detained person may secure that a detained person's EHC needs assessment is carried out for him or her at any time after the coming into force of this Order and before the time at which Article 36 requires an assessment to be secured.

Persons to whom notice of detained person's EHC needs assessment must be given

32.—(1) A home authority that secures a detained person's EHC needs assessment under Article 31 must give notice of the assessment to the persons listed in paragraph (2) no later than the beginning of the period of two weeks ending with the day on which the assessment begins.

(2) The persons mentioned in paragraph (1) are—

(a) the appropriate person,

(b) where the detained person is a child, the child,

(c) the person in charge of the relevant youth accommodation where the detained person is detained,

(d) the home commissioning body,

(e) the detained person's health services commissioner,

(f) the officers of the home authority who exercise the home authority's social services functions for children or young people with special educational needs,

(g) the youth offending team responsible for the detained person,