

SCHEDULES

SCHEDULE 3

SPECIAL EDUCATIONAL NEEDS: CONSEQUENTIAL AMENDMENTS

PART 1

AMENDMENTS TO THE EDUCATION ACT 1996

- 1 The Education Act 1996 is amended as follows.
- 2 (1) Section 6 (nursery schools and special schools) is amended as follows.
 - (2) Omit subsection (2).
 - (3) In the title, omit “and special schools”.
- 3 (1) Section 13 (general responsibility for education) is amended as follows.
 - (2) In subsection (3)(b) for “but under 25 and are subject to learning difficulty assessment” substitute “and for whom an EHC plan is maintained”.
 - (3) Omit subsections (4) and (5).
- 4 In section 13A (duty to promote high standards and fulfilment of potential), in subsection (2)(b) for “but under 25 who are subject to learning difficulty assessment” substitute “and for whom an EHC plan is maintained”.
- 5 (1) Section 15ZA (duty in respect of education and training for persons over compulsory school age: England) is amended as follows.
 - (2) In subsection (1) for “but under 25 and are subject to learning difficulty assessment” substitute “and for whom an EHC plan is maintained”.
 - (3) In subsection (3)(b) after “learning difficulties” insert “or disabilities”.
 - (4) In subsections (6) and (7) after “learning difficulty” insert “or disability”.
 - (5) For subsection (9) substitute—
 - “(9) The duty in subsection (1) does not apply in relation to persons in a local authority’s area who are subject to a detention order.”
- 6 In section 15A (powers in respect of education and training for 16 to 18 year olds), in subsection (3) for the words from “a local authority” to the end substitute “—
 - (a) a local authority in England must in particular have regard to the needs of persons with learning difficulties or disabilities (within the meaning of section 15ZA(6) and (7));
 - (b) a local authority in Wales must in particular have regard to the needs of persons with learning difficulties (within the meaning of section 41(5) and (6) of the Learning and Skills Act 2000).”

Status: This is the original version (as it was originally enacted).

- 7 In section 15B (functions in respect of education for persons aged over 19), in subsection (3) for the words from “a local authority” to the end substitute “—
- (a) a local authority in England must in particular have regard to the needs of persons with learning difficulties or disabilities (within the meaning of section 15ZA(6) and (7));
 - (b) a local authority in Wales must in particular have regard to the needs of persons with learning difficulties (within the meaning of section 41(5) and (6) of the Learning and Skills Act 2000).”
- 8 In section 18A (provision of education for persons subject to youth detention), in subsection (2)—
- (a) in paragraph (b) omit “or learning difficulties (within the meaning of section 15ZA(6) and (7))”, and
 - (b) after that paragraph insert—
 - “(ba) in the case of a local authority in England, any learning difficulties or disabilities (within the meaning of section 15ZA(6) and (7)) the persons may have;
 - (bb) in the case of a local authority in Wales, any learning difficulties (within the meaning of section 41(5) and (6) of the Learning and Skills Act 2000) the persons may have;”.
- 9 In the title of Chapter 1 of Part 4 (children with special educational needs) after “children” insert “in Wales”.
- 10 Before section 312 (meaning of special educational needs etc) insert—

“311A Application of this Chapter: children in Wales

This Chapter applies only in relation to children in the area of a local authority in Wales.”

- 11 (1) Section 312 (meaning of “special educational needs” and “special educational provision” etc) is amended as follows.
- (2) In subsections (1) and (2), after “child” insert “in the area of a local authority in Wales”.
- (3) In subsection (3A)—
- (a) in paragraph (a)—
 - (i) omit “15ZA”, and
 - (ii) for “, 15B and 507B” substitute “and 15B”, and
 - (b) in paragraph (b), before “determining” substitute “a local authority in Wales”.
- (4) In subsection (4), after ““special educational provision”” insert “, in relation to a child in the area of a local authority in Wales,”.
- 12 (1) Section 313 (code of practice) is amended as follows.
- (2) In subsections (1) and (4) for “Secretary of State” substitute “Welsh Ministers”.
- (3) In subsection (5)—
- (a) after “means” insert “the Special Educational Needs Tribunal for Wales.”, and
 - (b) omit paragraphs (a) and (b).

Status: This is the original version (as it was originally enacted).

- 13 (1) Section 314 (making and approval of code) is amended as follows.
- (2) In subsection (1)—
- (a) for “Secretary of State proposes” substitute “Welsh Ministers propose”, and
 - (b) for “he” substitute “they”.
- (3) In subsection (2)—
- (a) for “Secretary of State” substitute “Welsh Ministers”,
 - (b) for “he thinks” substitute “they think”, and
 - (c) for “them” substitute “those persons”.
- (4) For subsection (3) substitute—
- “(3) If the Welsh Ministers determine to proceed with the draft (either in its original form or with such modifications as they think fit) they shall lay it before the National Assembly for Wales.”
- (5) In subsection (4)—
- (a) for “each house, the Secretary of State” substitute “the National Assembly for Wales, the Welsh Ministers”, and
 - (b) for “the Secretary of State may” substitute “the Welsh Ministers may”.
- 14 (1) Section 316A (education otherwise than in mainstream schools) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a), for sub-paragraph (ii) substitute—
“(ii) the governing body of the school or, if the school is in England, its head teacher,”, and
 - (b) in paragraph (c), for sub-paragraph (ii) substitute—
“(ii) the governing body of the school or, if the school is in England, its head teacher,”.
- (3) In subsection (8)—
- (a) after “issued” insert “by the Welsh Ministers”, and
 - (b) omit paragraphs (a) and (b).
- (4) In subsection (10)—
- (a) omit “, in relation to Wales,”, and
 - (b) for “National Assembly for Wales” substitute “Welsh Ministers”.
- 15 In section 317 (duties of governing body or local authority in relation to pupils with special educational needs), in subsection (5)—
- (a) after “foundation special school shall” insert “include special needs information in the report prepared under section 30(1) of the Education Act 2002 (governors’ report).”, and
 - (b) omit paragraphs (a) and (b).
- 16 (1) Section 318 (provision of goods and services in connection with special educational needs) is amended as follows.
- (2) Omit subsections (3) and (3A).
- (3) In subsection (3B) omit “in Wales” (in the first place it occurs).

Status: This is the original version (as it was originally enacted).

- (4) In consequence of the repeal made by sub-paragraph (2)—
- (a) in Schedule 30 to the School Standards and Framework Act 1998 omit paragraph 75(4),
 - (b) in the Education Act 2002, in section 194 omit subsection (2)(a), and
 - (c) in Schedule 2 to the Childcare Act 2006, omit paragraph 21.
- 17 In section 326 (appeal against contents of statement), in subsection (4)(c) for the words from “in the case” to “in the proceedings” substitute “in the proceedings the child has proposed the school”.
- 18 (1) Section 326A (unopposed appeals) is amended as follows.
- (2) In subsection (1), for paragraph (a) substitute—
- “(a) the parent of a child, or a child, has appealed to the Tribunal under section 325, 328, 329 or 329A or paragraph 8(3) of Schedule 27 against a decision of a local authority, and”.
- (3) In subsection (6)—
- (a) after “regulations made” insert “by the Welsh Ministers”, and
 - (b) omit paragraphs (a) and (b).
- 19 (1) Section 328A (appeal against determination of local authority in England not to amend statement following review) is repealed.
- (2) In consequence of the repeal made by sub-paragraph (1), section 2 of the Children, Schools and Families Act 2010 is repealed.
- 20 (1) Section 329A (review or assessment of educational needs at request of responsible body) is amended as follows.
- (2) In subsection (14)—
- (a) after ““Relevant early years education”” insert “has the same meaning as it has (in relation to Wales) in section 123 of the School Standards and Framework Act 1998 except that it does not include early years education provided by a local authority at a maintained nursery school.”, and
 - (b) omit paragraphs (a) and (b).
- (3) In subsection (15)—
- (a) omit “, in relation to Wales,”, and
 - (b) for “National Assembly for Wales” substitute “Welsh Ministers”.
- (4) In consequence of the amendments made by sub-paragraph (2), in paragraph 22 of Schedule 2 to the Childcare Act 2006, omit sub-paragraph (4).
- (5) Until the coming into force in relation to Wales of the amendments made by paragraph 22(2) and (3) of Schedule 2 to the Childcare Act 2006, section 329A of EA 1996 has effect as if for subsection (14) (as amended by sub-paragraph (2)) there were substituted—
- “(14) Relevant nursery education” has the same meaning as in section 123 of the School Standards and Framework Act 1998, except that it does not include nursery education provided by a local authority at a maintained nursery school.”
- 21 (1) Section 332ZA (right of a child to appeal to the Welsh Tribunal) is amended as follows.

Status: This is the original version (as it was originally enacted).

- (2) In subsection (1) omit “Welsh”.
- (3) In the title omit “Welsh”.
- 22 In section 332ZB (notice and service of documents on a child in relation to an appeal by the child), in subsection (1) omit “in Wales”.
- 23 (1) Section 332ZC (case friends—Wales) is amended as follows.
 - (2) In subsection (1), in paragraph (a) omit “in Wales”.
 - (3) In subsection (3), in paragraph (a) omit “Welsh”.
 - (4) In the title, omit “—Wales”.
- 24 (1) Section 332A (advice and information for parents—England) is repealed.
 - (2) In consequence of the repeal made by sub-paragraph (1), section 2 of the Special Educational Needs and Disability Act 2001 is repealed.
 - (3) The repeals made by sub-paragraphs (1) and (2) do not affect the application for the time being of section 332A to certain local authorities in Wales by virtue of article 4(a) of the Education (Wales) Measure 2009 (Commencement No 3 and Transitional Provisions) Order 2012 ([SI 2012/320](#)).
- 25 (1) Section 332AA (advice and information— Wales) is amended as follows.
 - (2) In subsection (1) omit “in Wales”.
 - (3) In the title, omit “— Wales”.
- 26 (1) Section 332B (resolution of disputes—England) is repealed.
 - (2) In consequence of the repeal made by sub-paragraph (1), section 3 of the Special Educational Needs and Disability Act 2001 is repealed.
 - (3) The repeals made by sub-paragraphs (1) and (2) do not affect the application for the time being of section 332B to certain local authorities in Wales by virtue of article 4(b) of the Education (Wales) Measure 2009 (Commencement No 3 and Transitional Provisions) Order 2012 ([SI 2012/320](#)).
- 27 (1) Section 332BA (resolution of disputes—Wales) is amended as follows.
 - (2) In subsections (1) and (2) omit “in Wales”.
 - (3) In the title, omit “—Wales”.
- 28 (1) Section 332BB (independent advocacy services—Wales) is amended as follows.
 - (2) In subsections (1) and (5) omit “in Wales”.
 - (3) In the title, omit “—Wales”.
- 29 (1) Sections 332C to 332E (information about children in England with special educational needs) are repealed, and the cross-heading which precedes section 332C is omitted.
 - (2) In consequence of the repeals made by sub-paragraph (1), section 1 of the Special Educational Needs (Information) Act 2008 is repealed.
- 30 In the cross-heading which precedes section 333 (Special Educational Needs Tribunal) after “Tribunal” insert “for Wales”.

Status: This is the original version (as it was originally enacted).

- 31 (1) Section 333 (constitution of Welsh Tribunal) is amended as follows.
- (2) Omit subsection (1ZB).
- (3) In the following provisions, omit “Welsh”—
- (a) subsection (1),
 - (b) in subsection (2), paragraphs (a), (b) and (c),
 - (c) in subsection (5), paragraph (a), and paragraph (b) (in the first place it occurs), and
 - (d) subsection (6) (in the second place it occurs).
- (4) In the title, omit “Welsh”.
- 32 In section 335 (remuneration and expenses), in subsection (1) and (2) omit “Welsh” (in each case, in the second place it occurs).
- 33 (1) Section 336 (Tribunal procedure) is amended as follows.
- (2) In the following provisions omit “Welsh”—
- (a) subsection (1) (in the second place it occurs),
 - (b) in subsection (2), paragraphs (b), (o) and (p),
 - (c) subsection (2A),
 - (d) subsection (3) (in the second place it occurs), and
 - (e) subsection (4) (in the first place it occurs).
- (2) Omit subsection (5A).
- (3) In subsection (6) omit “or (5A)”.
- 34 (1) Section 336ZB (appeals from the Welsh Tribunal to the Upper Tribunal) is amended as follows.
- (2) In the following provisions, omit “Welsh”—
- (a) subsection (1) (in both places it occurs),
 - (b) subsection (2), and
 - (c) subsection (3).
- (3) In the title, omit “Welsh”.
- 35 In section 336A (compliance with orders), in subsection (2)—
- (a) after “made” insert “by the Welsh Ministers with the agreement of the Secretary of State.”, and
 - (b) omit paragraphs (a) and (b).
- 36 For section 337 (special schools) substitute—

“337 Special schools

A school is a special school if it is specially organised to make special educational provision for pupils with special educational needs, and it is—

- (a) maintained by a local authority,
- (b) an Academy school, or
- (c) a non-maintained special school.”

- 37 In section 342 (approval of non-maintained special schools), in subsection (1)(b) after “community or foundation special school” insert “or an Academy school”.

Status: This is the original version (as it was originally enacted).

- 38 (1) Section 348 (provision of special education at non-maintained schools) is amended as follows.
- (2) In subsection (1) after paragraph (a) (and before the “and” which follows it) insert—
“(aa) the child is in the area of a local authority in Wales,”.
- (3) In the title, at the end insert “—Wales”.
- 39 (1) Section 438 (choice of school: child without statement of special educational needs) is amended as follows.
- (2) In subsection (1)—
- (a) after “maintain” insert “an EHC plan (in the case of a local authority in England) or”, and
- (b) after “section 324” insert “(in the case of a local authority in Wales)”.
- (3) In the title, after “without” insert “EHC plan or”.
- 40 (1) Section 440 (amendment of order at request of parent: child without statement of special educational needs) is amended as follows.
- (2) In subsection (1)—
- (a) after “maintain” insert “an EHC plan (in the case of a local authority in England) or”, and
- (b) after “section 324” insert “(in the case of a local authority in Wales)”.
- (3) In the title, after “without” insert “EHC plan or”.
- 41 (1) Section 441 (choice of school: child with statement of special educational needs) is amended as follows.
- (2) In subsection (1)—
- (a) after “maintain” insert “an EHC plan (in the case of a local authority in England) or”, and
- (b) after “section 324” insert “(in the case of a local authority in Wales)”.
- (3) In subsection (2) after “Where the” insert “EHC plan or”.
- (4) In subsection (3)—
- (a) after “Where the” insert “EHC plan or”, and
- (b) after “amend the” insert “EHC plan or”.
- (5) After subsection (3A) insert—
- “(3B) An amendment to an EHC plan required to be made under subsection (3) (a) shall be treated as if it were an amendment made following a review under section 44 of the Children and Families Act 2014, and that section and regulations made under it apply accordingly.”
- (6) In subsection (4)—
- (a) in paragraph (a) after “maintain” insert “an EHC plan or”, and
- (b) in paragraph (b) after “specified in the” insert “plan or”.
- (7) In the title, after “with” insert “EHC plan or”.
- 42 In section 442 (revocation of order at request of parent), in subsection (5)—

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- (a) after “maintain” insert “an EHC plan (in the case of a local authority in England) or”,
 - (b) after “section 324” insert “(in the case of a local authority in Wales)”,
 - (c) in paragraph (a) after “specified in” insert “the EHC plan or”, and
 - (d) in paragraph (b) after “in the” insert “plan or the”.
- 43 In section 463 (meaning of “independent school”)—
- (a) in subsection (1)(b), after “for whom” insert “an EHC plan is maintained or for whom”, and
 - (b) in subsection (1), for “or a special school not so maintained” substitute “non-maintained special school”.
- 44 (1) Section 483A (city colleges and academies: special educational needs) is amended as follows.
- (2) In subsection (2), in paragraph (a) for “a statement is maintained under section 324” substitute “an EHC plan or a statement under section 324 is maintained”.
- (3) In subsection (3), in paragraph (a) for “the statement” substitute “the EHC plan”.
- (4) In subsection (4), in paragraphs (a) and (b) after “specified in” insert “the plan or”.
- 45 In section 507B (local authorities in England: functions in respect of leisure-time activities etc for persons aged 13 to 19 and certain persons aged 20 to 24), in subsection (2)(b) after “learning difficulty” insert “or disability”.
- 46 In section 508F (local authorities in England: provision of transport etc for adult learners), in subsection (9) in the definition of “relevant young adult” for “who is aged under 25 and is subject to learning difficulty assessment” substitute “for whom an EHC plan is maintained”.
- 47 In the title of section 508I (complaints about transport arrangements etc for young adults subject to learning difficulty assessment: England), for “adults subject to learning difficulty assessment” substitute “adult for whom EHC plan is maintained”.
- 48 (1) Section 509AB (local authorities in England: further provision about transport policy statements for persons of sixth form age) is amended as follows.
- (2) In subsection (1) after “difficulties” insert “or disabilities”.
- (3) In subsection (2)(b) after “difficulties” (in each place it occurs) insert “or disabilities”.
- 49 In section 509AC (interpretation of sections 509AA and 509AB), in subsection (4) after “learning difficulties” insert “or disabilities”.
- 50 (1) Section 514A (provision of boarding accommodation for persons subject to learning difficulty assessment) is amended as follows.
- (2) In subsection (1)—
- (a) after “who is” insert “over compulsory school age and for whom an EHC plan is maintained.”, and
 - (b) omit paragraphs (a) and (b).
- (3) In the title, for “persons subject to learning difficulty assessment” substitute “person for whom an EHC plan is maintained”.

- 51 In section 517 (payment of fees at schools not maintained by a local authority), in subsection (1), for “or Part IV (special educational needs)” substitute “, Part 4 (special educational needs) or Part 3 of the Children and Families Act 2014 (children and young people in England with special educational needs or disabilities)”.
- 52 (1) Section 532A (direct payments: persons with special educational needs or subject to learning difficulty assessment) is amended as follows.
- (2) In subsection (1)—
- (a) after “(“the beneficiary”)” insert “for whom the authority maintain an EHC plan.”, and
- (b) omit paragraphs (a) and (b).
- (3) In subsection (2)—
- (a) for paragraph (a) substitute—
- “(a) special educational provision specified in the EHC plan;”,
- and
- (b) omit paragraph (b).
- (4) In the title, omit “or subject to learning difficulty assessment”.
- 53 In section 532B (direct payments: pilot schemes), in subsection (9) for paragraph (a) substitute—
- “(a) section 42(2) of the Children and Families Act 2014 (duty to secure special educational provision in accordance with EHC plan);”.
- 54 In section 560A (work experience for persons over compulsory school age), in subsection (1)(b) for “but under 25 and are subject to learning difficulty assessment” substitute “and for whom an EHC plan is maintained”.
- 55 (1) Section 562C (detained persons with special educational needs) is amended as follows.
- (2) In subsection (1), after “local authority” insert “in Wales”.
- (3) In the title, after “with” insert “statement of”.
- 56 In section 562D (appropriate special educational provision: arrangements between local authorities), in subsection (2) after “local authority” insert “in Wales”.
- 57 (1) Section 562G (information to be provided where statement of special educational needs previously maintained) is amended as follows.
- (2) In subsection (1) after “local authority” insert “in Wales”.
- (3) In subsection (2) after “home authority” insert “, where they are a local authority in Wales,”.
- (4) In subsection (4) after “local authority” insert “in Wales”.
- (5) In subsection (5) after “local authority” insert “in Wales”.
- (6) In subsection (7)—
- (a) in paragraph (a) after “home authority” insert “, where they are a local authority in Wales”, and
- (b) in paragraph (b) after “authority” insert “in Wales”.

Status: This is the original version (as it was originally enacted).

- (7) In subsection (8)—
- (a) after “home authority”, where it first occurs insert “, where they are a local authority in Wales”, and
 - (b) in paragraph (a) after “local authority” insert “in Wales”.
- 58 (1) Section 562H (release of detained person appearing to host authority to require assessment) is amended as follows.
- (2) In subsection (1)—
- (a) after “person” insert “—
 - (a)”,
and
 - (b) after “apply” insert “, and
 - (b) for whom the home authority are a local authority in Wales.”
- (3) In subsection (4), for “Subsections (5) and (6) apply” substitute “Subsection (6) applies”.
- (4) Omit subsection (5).
- (5) In subsection (6), omit paragraph (b) and the “and” preceding it.
- 59 In section 579 (general interpretation)—
- (a) in subsection (1), after the definition of “education functions” insert—
““EHC plan” means a plan within section 37(2) of the Children and Families Act 2014;”,
 - (b) in subsection (1), after the definition of “school year” insert—
““special educational needs”—
 - (a) in relation to a child or person over compulsory school age but under 25 in the area of a local authority in England, has the meaning given by section 20(1) of the Children and Families Act 2014;
 - (b) in relation to a child in the area of a local authority in Wales, has the meaning given by section 312;
“special educational provision”—
 - (a) in relation to a person in the area of a local authority in England, has the meaning given by section 21(1) and (2) of the Children and Families Act 2014;
 - (b) in relation to a child in the area of a local authority in Wales, has the meaning given by section 312(4);”,
 - (c) after subsection (1) insert—
“(1A) For the purposes of this Act a person is subject to learning difficulty assessment if—
 - (a) an assessment under section 140 of the Learning and Skills Act 2000 (learning difficulty assessments: Wales) has been conducted in respect of the person, or
 - (b) arrangements for such an assessment to be conducted in respect of the person have been made or are required to be made.”, and
 - (d) before subsection (4) insert—

Status: This is the original version (as it was originally enacted).

“(3A) References in this Act to a person who is “in the area” of a local authority in England do not include a person who is wholly or mainly resident in the area of a local authority in Wales.

(3B) References in this Act to a person who is “in the area” of a local authority in Wales do not include a person who is wholly or mainly resident in the area of a local authority in England.”

- 60 In section 580 (index)—
- (a) after the entry for “education functions” insert—
- | | |
|---|---|
| “EHC plan | section 579(1)”, |
| (b) after the entry for “interest in land” insert— | |
| “in the area of a local authority in England | section 579(3A) |
| in the area of a local authority in Wales | section 579(3B)”, |
| (c) for the entry for “learning difficulty” substitute— | |
| “learning difficulty (in relation to a child in the area of a local authority in Wales) | section 312(2) and (3) (subject to subsection (3A))”, |
- (d) in the entry for “special educational needs”, in the second column for “section 312(1)” substitute “section 579(1)”,
- (e) in the entry for “special educational provision”, in the second column for “section 312(4)” substitute “section 579(1)”,
- (f) in the entry for “special school”, in the second column for “sections 6(2) and” substitute “section”, and
- (g) in the entry for “subject to learning difficulty assessment”, in the second column for “section 13(4)” substitute “section 579(1A)”.
- 61 In Schedule 35B (meaning of “eligible child” for purposes of section 508B), in paragraph 15(3)—
- (a) in paragraph (a) for “statement maintained for the child under section 324” substitute “EHC plan maintained for the child”, and
- (b) in paragraph (b) for “statement” substitute “plan”.
- 62 (1) In Schedule 36A (education functions), the table in paragraph 2 is amended as follows.
- (2) In the entry for the Disabled Persons (Services, Consultation and Representation) Act 1986, in the second column after “child with” insert “an EHC plan or”.
- (3) In the entry for the Learning and Skills Act 2000, omit the entry for section 139A.