



# Education Act 1996

## 1996 CHAPTER 56

### PART IV

#### SPECIAL EDUCATIONAL NEEDS

#### [<sup>F1</sup>CHAPTER I

#### CHILDREN [<sup>F1</sup>IN WALES] WITH SPECIAL EDUCATIONAL NEEDS

#### *Identification and assessment of children with special educational needs*

#### [<sup>F1</sup>328] **Reviews of educational needs.**

- (1) Regulations may prescribe the frequency with which assessments under section 323 are to be repeated in respect of children for whom statements are maintained under section 324.
- (2) Where—
  - (a) the parent of a child for whom a statement is maintained under section 324 asks the [<sup>F2</sup>local authority] to arrange for an assessment to be made in respect of the child under section 323,
  - (b) no such assessment has been made within the period of six months ending with the date on which the request is made, and
  - (c) it is necessary for the authority to make a further assessment under section 323, the authority shall comply with the request.
- (3) If in any case where subsection (2)(a) and (b) applies the authority determine not to comply with the request—
  - (a) they shall give [<sup>F3</sup>notice in writing of that fact] to the child's parent, and
  - (b) the parent may appeal to the Tribunal against the determination.

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*Changes to legislation: Education Act 1996, Section 328 is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- [<sup>F4</sup>(3A) A notice under subsection (3)(a) must inform the parent of the right of appeal under subsection (3)(b) and contain such other information as may be prescribed.
- (3B) Regulations may provide that where a [<sup>F2</sup>local authority] are under a duty under this section to serve any notice, the duty must be performed within the prescribed period.]
- (4) On an appeal under subsection (3) the Tribunal may—
- (a) dismiss the appeal, or
  - (b) order the authority to arrange for an assessment to be made in respect of the child under section 323.
- (5) A statement under section 324 shall be reviewed by the [<sup>F2</sup>local authority]—
- (a) on the making of an assessment in respect of the child concerned under section 323, and
  - [<sup>F5</sup>(aa) where the child concerned—
    - (i) has been subject to a detention order, and
    - (ii) immediately before release was detained in relevant youth accommodation,
 on the child's release from detention,]
  - (b) in any event, within the period of 12 months beginning with the making of the statement or, as the case may be, with the previous review.
- (6) Regulations may make provision—
- (a) as to the manner in which reviews of such statements are to be conducted,
  - (b) as to the participation in such reviews of such persons as may be prescribed, and
  - (c) in connection with such other matters relating to such reviews as the Secretary of State considers appropriate.]

### Textual Amendments

- F1** Pt. 4 Ch. 1 repealed (1.9.2021 for the repeal of ss. 333(1ZA)(2)-(6), 334-335 and otherwise in force for specified purposes, 1.1.2022 for specified purposes, 1.9.2022 for specified purposes) by [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#), s. 100(3), **Sch. 1 para. 4(9)**; S.I. 2021/373, arts. 3, 4, 6, 7 (as amended by S.I. 2021/938, **art. 2**); S.I. 2021/1243, **art. 3** (with arts. 4-23) (as amended by S.I. 2021/1428, **art. 2**); S.I. 2021/1244, **art. 3** (with arts. 4-21) (as amended by S.I. 2021/1428, **art. 3**); S.I. 2021/1245, arts. 3, 4 (with art. 1(4)); S.I. 2022/891, **art. 3** (with arts. 4-25); S.I. 2022/892, arts. 2, 3 (with arts. 4-18); S.I. 2022/893, **art. 4**; S.I. 2022/894, **art. 3**; S.I. 2022/895, arts. 3, 4; S.I. 2022/896, **art. 3** (with arts. 1(7), 4-22); S.I. 2022/897, **art. 3** (with arts. 1(8), 4-21); S.I. 2022/898, arts. 2, 3
- F2** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))
- F3** Words in s. 328(3)(a) substituted (11.5.2001 for certain purposes, 1.1.2002 otherwise for E. and 1.4.2002 otherwise for W.) by [2001 c. 10](#), ss. 42(1), 43(4)(e), **Sch. 8 para 7(1)** (with s. 43(13)); S.I. 2001/2217, **art. 5**, **Sch. Pt. II** (as amended by S.I. 2001/2614, **art. 4**); S.I. 2002/74, **art. 5**, **Sch. Pt. II**
- F4** S. 328(3A)(3B) inserted (11.5.2001 for certain purposes, 1.1.2002 otherwise for E. and 1.4.2002 otherwise for W.) by [2001 c. 10](#), ss. 42(1), 43(4)(e), **Sch. 8 para. 7(2)** (with s. 43(13)); S.I. 2001/2217, **art. 5**, **Sch. Pt. II** (as amended by S.I. 2001/2614, **art. 4**); S.I. 2002/74, **art. 5**, **Sch. Pt. II**
- F5** S. 328(5)(aa) inserted (1.9.2010 for E., 1.4.2011 for W.) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), **ss. 52(3)**, 269(3)(4); S.I. 2010/303, **art. 6**, **Sch. 5**; S.I. 2011/829, **art. 2(d)**

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**Modifications etc. (not altering text)**

- C1** Pt. 4 Ch. 1 excluded (1.9.2014) by [Children and Families Act 2014 \(c. 6\), ss. 81, 139\(6\)](#); [S.I. 2014/889, art. 7\(a\)](#) (with savings and transitional provisions in [S.I. 2014/2270](#) (as amended (1.4.2015) by [S.I. 2015/505](#)))

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(2)(ba) substituted for s. 13(2)(aa)(b) by [2022 asc 1 Sch. 4 para. 8\(2\)](#)
- s. 15A(3A) inserted by [2022 asc 1 Sch. 4 para. 8\(3\)](#)
- s. 15B(3)(c) inserted by [2022 asc 1 Sch. 4 para. 8\(4\)](#)
- s. 17A functions made exercisable concurrently by [S.I. 2014/1012 art. 12\(1\)Sch. 2 para. 3](#)
- s. 17A functions made exercisable concurrently by [S.I. 2014/863 Sch. 2 para. 4](#)
- s. 17A functions made exercisable concurrently by [S.I. 2014/865 Sch. 2 para. 3](#)
- s. 17A functions made exercisable concurrently by [S.I. 2016/653 Sch. 3 para. 3](#)
- s. 17A-17D inserted by [2009 c. 22 s. 45](#)
- s. 17B-17D applied by [2009 c. 22 s. 86\(8\)](#)
- s. 457(4)(i)-(iia) repealed by [2012 c. 5 Sch. 14 Pt. 1](#)
- s. 457(4)(iii) words repealed by [2012 c. 5 Sch. 14 Pt. 1](#)
- s. 508(4) inserted by [2022 asc 1 Sch. 4 para. 8\(7\)](#)
- s. 537AA inserted by [2008 c. 25 Sch. 1 para. 8](#)
- s. 548(7A)(7B) inserted by [2008 c. 25 Sch. 1 para. 9\(5\)](#)
- s. 578(1) words repealed by [2005 c. 18 Sch. 19 Pt. 1](#)