



Children and Families Act 2014

2014 CHAPTER 6

PART 3

CHILDREN AND YOUNG PEOPLE IN ENGLAND WITH SPECIAL EDUCATIONAL NEEDS OR DISABILITIES

Supplementary

80 Parents and young people lacking capacity

- (1) Regulations may apply any statutory provision with modifications, for the purpose of giving effect to this Part in a case where the parent of a child, or a young person, lacks capacity at the relevant time.
- (2) Regulations under subsection (1) may in particular include provision for—
 - (a) references to a child's parent to be read as references to, or as including references to, a representative of the parent;
 - (b) references to a young person to be read as references to, or as including references to, a representative of the young person, the young person's parent, or a representative of the young person's parent;
 - (c) modifications to have effect in spite of section 27(1)(g) of the Mental Capacity Act 2005 (Act does not permit decisions on discharging parental responsibilities in matters not relating to a child's property to be made on a person's behalf).
- (3) “Statutory provision” means a provision made by or under this or any other Act, whenever passed or made.
- (4) “The relevant time” means the time at which, under the statutory provision in question, something is required or permitted to be done by or in relation to the parent or young person.
- (5) The reference in subsection (1) to lacking capacity is to lacking capacity within the meaning of the Mental Capacity Act 2005.

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- (6) “Representative”, in relation to a parent or young person, means—
- (a) a deputy appointed by the Court of Protection under section 16(2)(b) of the Mental Capacity Act 2005 to make decisions on the parent's or young person's behalf in relation to matters within this Part;
 - (b) the donee of a lasting power of attorney (within the meaning of section 9 of that Act) appointed by the parent or young person to make decisions on his or her behalf in relation to matters within this Part;
 - (c) an attorney in whom an enduring power of attorney (within the meaning of Schedule 4 to that Act) created by the parent or young person is vested, where the power of attorney is registered in accordance with paragraphs 4 and 13 of that Schedule or an application for registration of the power of attorney has been made.

Commencement Information

- I1** S. 80 in force at 1.4.2014 for specified purposes by [S.I. 2014/889, art. 3\(k\)](#)
- I2** S. 80 in force at 1.9.2014 in so far as not already in force by [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](#) and (1.9.2015) by [S.I. 2015/1619](#)))

81 Disapplication of Chapter 1 of Part 4 of EA 1996 in relation to children in England

[^{F1}Chapter 1 of Part 4 of EA 1996 (children with special educational needs) ceases to apply in relation to children in the area of a local authority in England.]

Textual Amendments

- F1** S. 81 omitted (1.9.2021 for specified purposes, 1.1.2022 for specified purposes, 1.9.2022 for specified purposes) by virtue of [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\), s. 100\(3\), Sch. 1 para. 23\(4\)](#); [S.I. 2021/373, arts. 3, 4, 6, 7](#) (as amended by [S.I. 2021/938, art. 2](#)); [S.I. 2021/1243, art. 3\(o\)\(xxiii\)](#); [S.I. 2021/1244, art. 3\(o\)\(xxiii\)](#); [S.I. 2021/1245, arts. 3\(o\)\(xxiii\), 4](#) (with [art. 1\(4\)](#)); [S.I. 2022/891, art. 3\(o\)\(xxiv\)](#) (with [arts. 1, 2, 4-25](#)); [S.I. 2022/892, art. 3\(o\)\(xxiv\)](#) (with [arts. 1, 2, 4-18](#)); [S.I. 2022/893, art. 4](#) (with [art. 1\(2\)](#)); [S.I. 2022/894, art. 3\(o\)\(xxiii\)](#) (with [arts. 1, 2](#)); [S.I. 2022/895, arts. 3\(o\)\(xxiv\), 4](#); [S.I. 2022/896, art. 3\(o\)\(xxiv\)](#) (with [arts. 2, 4-22](#)); [S.I. 2022/897, art. 3\(o\)\(xxiv\)](#) (with [arts. 1\(8\), 2, 4-21](#))

Commencement Information

- I3** S. 81 in force at 1.9.2014 by [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](#) and (1.9.2015) by [S.I. 2015/1619](#)))

82 Consequential amendments

Schedule 3 (amendments consequential on this Part) has effect.

Commencement Information

- I4** S. 82 in force at 1.9.2014 by [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](#) and (1.9.2015) by [S.I. 2015/1619](#)))

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83 Interpretation of Part 3

(1) In this Part—

- “EA 1996” means the Education Act 1996;
- “ESA 2008” means the Education and Skills Act 2008;
- “SSFA 1998” means the School Standards and Framework Act 1998.

(2) In this Part—

- “appropriate person” has the meaning given by section 70(5);
- “beginning of the detention” has the meaning given by section 70(6);
- “detained person” has the meaning given by section 70(5);
- “detained person's EHC needs assessment” has the meaning given by section 70(5);
- “education, health and care provision” has the meaning given by section 26(2);
- “EHC needs assessment” has the meaning given by section 36(2);
- “EHC plan” means a plan within section 37(2);
- “health care provision” has the meaning given by section 21(3);
- “the home authority” has the meaning given by section 70(6) (subject to subsection (7) of that section);
- “mainstream post-16 institution” means a post-16 institution that is not a special post-16 institution;
- “mainstream school” means—
 - (a) a maintained school that is not a special school, or
 - (b) an Academy school that is not a special school;
- “maintained school” means—
 - (a) a community, foundation or voluntary school, or
 - (b) a community or foundation special school not established in a hospital;
- “post-16 institution” means an institution which—
 - (a) provides education or training for those over compulsory school age, but
 - (b) is not a school or other institution which is within the higher education sector ^{F2}and which is solely or principally concerned with the provision of] higher education;
- “proprietor”, in relation to an institution that is not a school, means the person or body of persons responsible for the management of the institution;
- “relevant early years education” has the meaning given by section 123 of SSFA 1998;
- “relevant youth accommodation” has the meaning given by section 70(5);
- “social care provision” has the meaning given by section 21(4);
- “social services functions” in relation to a local authority has the same meaning as in the Local Authority Social Services Act 1970;
- “special educational needs” has the meaning given by section 20(1);
- “special educational provision” has the meaning given by section 21(1) and (2);
- “special post-16 institution” means a post-16 institution that is specially organised to make special educational provision for students with special educational needs;
- “training” has the same meaning as in section 15ZA of EA 1996;

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“young person” means a person over compulsory school age but under 25.

- (3) A child or young person has a disability for the purposes of this Part if he or she has a disability for the purposes of the Equality Act 2010.
- (4) A reference in this Part to “education”—
- (a) includes a reference to full-time and part-time education, but
 - (b) does not include a reference to higher education,
- and “educational” and “educate” (and other related terms) are to be read accordingly.
- (5) A reference in this Part to—
- (a) a community, foundation or voluntary school, or
 - (b) a community or foundation special school,
- is to such a school within the meaning of SSFA 1998.
- (6) A reference in this Part to a child or young person who is “in the area” of a local authority in England does not include a child or young person who is wholly or mainly resident in the area of a local authority in Wales [^{F3} or who would be wholly or mainly resident in the area of a local authority in Wales were it not for provision secured for the child or young person under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018].
- (7) EA 1996 and the preceding provisions of this Part (except so far as they amend other Acts) are to be read as if those provisions were contained in EA 1996.

Textual Amendments

- F2** Words in s. 83(2) substituted (1.8.2019) by [The Higher Education and Research Act 2017 \(Further Implementation etc.\) Regulations 2019 \(S.I. 2019/1027\)](#), regs. 1, **13**
- F3** Words in s. 83(6) inserted (1.9.2021) by [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#), s. 100(3), **Sch. 1 para. 23(5)**; S.I. 2021/373, art. 8(j)(xxxviii)

Commencement Information

- I5** S. 83 in force at 1.9.2014 by [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](#) and (1.9.2015) by [S.I. 2015/1619](#)))

Changes to legislation:

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