



Circular 0051/2007

To the Management Authorities of Primary Schools

Education for Persons with Special Educational Needs (EPSEN) Act 2004 and Disability Act 2005

The purpose of this circular is to provide school authorities with an update on the current status of the EPSEN Act 2004 and the Disability Act 2005.

Some sections of the EPSEN Act have already commenced and the remaining sections to be implemented relate mainly to the statutory assessment and education plan process. It is envisaged that all sections of the EPSEN Act will be implemented over a five year timeframe that commenced on 1 October 2005.

The National Council for Special Education (NCSE) submitted its Implementation Report to the Minister for Education and Science in October 2006 which sets out its views and recommendations on a plan for the implementation of the EPSEN Act 2004. This is now being considered by the Department.

This consideration includes consultation with the Education Partners in the context of identifying the steps necessary to facilitate the full implementation of the EPSEN Act and this process has now started. However, schools should note that the proposed implementation dates set out in the Action Plan are not definitive.

The Disability Act 2005 is also being commenced on a phased basis, and some sections of this Act make reference to the assessment of children. In this regard, I wish to bring to your attention that the Minister for Health and Children will be commencing the provisions of Part 2 of the Disability Act 2005 for eligible children aged under 5 years old with effect from 1 June 2007.

Section 8 of the Disability Act 2005 refers to the assessment of need process. Where an assessment officer (appointed by the Health Service Executive) carries out or arranges for the carrying out of an assessment on a child and the assessment identifies the need for the provision of an education service to the child, he or she shall, in the case of a child enrolled in a school, refer the matter to the principal of that school for the purposes of an assessment under section 3 of the EPSEN Act and, in any other case, refer the matter to the NCSE for the purposes of an assessment under section 4 of the EPSEN Act .

As sections 3 and 4 of the EPSEN Act have not been commenced, the principal and the NCSE are not statutorily required to carry out an assessment until those sections have been commenced. Schools should continue to support children with special educational needs through the existing mechanisms e.g. the child may qualify for support from the school's general allocation or the school may apply to the NCSE for additional special educational needs supports for the pupil in the context of the criteria outlined in current circulars or consult their SENO for advice.

Teresa Griffin,
Principal Officer.
1 June 2007