

Status: This version of this provision is prospective.

Changes to legislation: *There are currently no known outstanding effects for the Special Educational Needs and Disability Act (Northern Ireland) 2016, Section 9. (See end of Document for details)*



2016 CHAPTER 8

Appeals

PROSPECTIVE

Child under 2: appeals against contents of statement or failure to make statement

9.—(1) Part 2 of the 1996 Order is amended as follows.

(2) In Article 21 (assessment of educational needs of children under 2) at the end add—

“(5) If, after making an assessment under this Article, the Authority decides not to make a statement of the child's special educational needs, it shall give written notice to the child's parent—

- (a) of its decision and of the reasons for making it; and
- (b) of the right of appeal under Article 21ZA(1)(a).

(6) In such a case the child's parent shall have a right to receive on request a copy of any advice given to the Authority on which the decision was based.

(7) Where the Authority makes or amends a statement under this Article it shall serve a copy of the statement, or the amended statement, on the parent of the child concerned.

(8) It shall, at the same time, give the parent written notice of the right to appeal under Article 21ZA(1)(b).

(9) A notice under paragraph (5) or (8) must contain such other information as may be prescribed.

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(10) Regulations shall provide that where the Authority is under a duty to serve a notice under paragraph (5) or (8), the duty must be performed within the prescribed period.”.

(3) After Article 21 insert—

“Appeals against decisions under Article 21

21ZA.—(1) The parent of a child may appeal to the Tribunal against—

- (a) a decision of the Authority, following an assessment under Article 21, not to make a statement under that Article;
- (b) where the Authority does make such a statement—
 - (i) the description in the statement of the Authority's assessment of the child's special educational needs, or
 - (ii) the special educational provision specified in the statement.

(2) On an appeal under paragraph (1)(a) the Tribunal may—

- (a) dismiss the appeal;
- (b) order the Authority to make and maintain a statement under Article 21; or
- (c) remit the case to the Authority for it to reconsider whether, having regard to any observations made by the Tribunal, it is necessary for the Authority to determine the special educational provision which any learning difficulty the child has may call for.

(3) On an appeal under paragraph (1)(b) the Tribunal may—

- (a) dismiss the appeal; or
- (b) order the Authority to amend the statement, so far as it describes the Authority's assessment of the child's special educational needs or specifies the special educational provision, and make such other consequential amendments to the statement as the Tribunal thinks fit.”.

(4) In Article 18A (unopposed appeals)—

- (a) in paragraph (1)(a) for “or 20A” substitute “, 20A or 21ZA(1)(a)”; and
- (b) in paragraph (4) after sub-paragraph (b) insert—
 - “(ba) in the case of an appeal under Article 21ZA(1)(a), make a statement under Article 2”;
- (c) in paragraph (5) for “required by paragraph (4)(a) to make a statement under Article 16” substitute “ required by paragraph (4) to make a statement ” and omit “under that Article”.

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