

# **SPECIAL EDUCATIONAL NEEDS AND DISABILITY ACT 2001**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 1 – Special Educational Needs**

#### **Sections 1 to 10 and Schedules 1 & 8**

#### ***Section 5: Unopposed appeals***

54. This section amends the EA by inserting a new section 326A and applies where an LEA decide to concede to a parent who has appealed to the SENT.
55. Certain types of appeals are to be treated as determined in favour of the parent where the LEA has notified the SENT that they are conceding. Where an appeal is treated as determined in favour of the parent, the Tribunal need not make an order. LEAs will be required to meet the parents' wishes within a period to be set out in regulations. The appeals are those against a decision by an LEA:
  - not to make a statement of SEN (under s.325 EA); or
  - not to make a reassessment of SEN where the child already has a statement (under s.328 EA); or
  - not to make an assessment of SEN (under s.329 or s.329A EA); or
  - not to substitute a school named in a statement for a different school named by the parents (under paragraph 8(3) of Schedule 27 EA).
56. Appeals against the contents of statements (under s.326 EA) and appeals against a decision to cease to maintain a statement (under paragraph 11 of Schedule 27 to the EA) have been excluded. This is because in these types of appeal, where the statement could be amended in a number of ways, deciding the appeal without a hearing is not always suitable. These types of appeal, even if the LEA does not contest them, will go to a hearing at which the parent, but not the LEA, will be able to be present.