

SCHEDULES

SCHEDULE 8

Section 42(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

THE 1996 ACT

1 The 1996 Act is amended as follows.

The re-naming of the Tribunal

2 In section 313(5), for “Special Educational Needs Tribunal” substitute “Special Educational Needs and Disability Tribunal”.

3 In section 333, for subsection (1) substitute—

“(1) The Tribunal shall exercise the jurisdiction conferred on it by this Part.”

4 In paragraph 118(3) of Schedule 37, omit paragraph (d).

Annual reports

5 In section 317(5) (annual report to contain information on implementation of policy on special educational needs), for the words from the beginning to “school” substitute “Each governors' report”.

Contents and service of notices

6 (1) In section 325 (appeal against decision not to make a statement), in subsection (1), omit “, and of the effect of subsection (2) below”.

(2) After subsection (2) of that section insert—

“(2A) A notice under subsection (1) must inform the parent of the right of appeal under subsection (2) and contain such other information as may be prescribed.

(2B) Regulations may provide that where a local education authority are under a duty under this section to serve any notice, the duty must be performed within the prescribed period.”

7 (1) In section 328 (reviews of educational needs), in subsection (3)(a), for the words from “notice” to “below” substitute “notice in writing of that fact”.

(2) After subsection (3) of that section insert—

Status: This is the original version (as it was originally enacted).

“(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 local education authority are under a duty under this section to serve any notice, the duty must be performed within the prescribed period.”

8 (1) In section 329 (assessment of educational needs at request of child’s parent), in subsection (2)(a), for the words from “notice” to “below” substitute “notice in writing of that fact”.

(2) After subsection (2) of that section insert—

“(2A) A notice under subsection (2)(a) must inform the parent of the right of appeal under subsection (2)(b) and contain such other information as may be prescribed.”

9 (1) In paragraph 8 of Schedule 27 (change of name of school), in sub-paragraph (3)(a), for the words from “notice” to “below” substitute “notice in writing of that fact”.

(2) After sub-paragraph (3) of that paragraph insert—

“(3A) A notice under sub-paragraph (3)(a) must inform the parent of the right of appeal under sub-paragraph (3)(b) and contain such other information as may be prescribed.”

10 (1) In paragraph 11 of that Schedule (ceasing to maintain a statement), in sub-paragraph (2)(a), for the words from “notice” to “below” substitute “notice in writing of that fact”.

(2) After sub-paragraph (2) of that paragraph insert—

“(2A) A notice under sub-paragraph (2)(a) must inform the parent of the right of appeal under sub-paragraph (2)(b) and contain such other information as may be prescribed.”

Proposals to make an assessment

11 (1) In section 323(1)(a) (assessment of special educational needs), for “propose” substitute “are considering whether”.

(2) In paragraph 4(1) of Schedule 26 (making of assessments under section 323), for “propose” substitute “are considering whether”.

Statements: suitable arrangements made by parents

12 In section 347 (provision for children with special educational needs in independent schools), after subsection (5) insert—

“(5A) But that does not apply to a local education authority deciding, for the purposes of section 324(5), whether a parent has made suitable arrangements.”

Procedure regulations

13 (1) Section 336 is amended as follows.

Status: This is the original version (as it was originally enacted).

- (2) In subsection (2)—
 - (a) omit paragraph (d); and
 - (b) in paragraph (g), for “discovery” substitute “disclosure”.
- (3) After subsection (2), insert—
 - “(2A) Proceeding before the Tribunal shall be held in private, except in prescribed circumstances.”
- (4) In subsection (4), for “that Act” substitute “that Part”.
- (5) After that subsection, insert—
 - “(4A) The regulations may make provision for an appeal under this Part to be heard, in prescribed circumstances, with a claim under Chapter 1 of Part 4 of the Disability Discrimination Act 1995.”

Time limits with respect to assessments

- 14 (1) Paragraph 3 of Schedule 26 (manner and timing of assessments under section 323) is amended as follows.
 - (2) In sub-paragraph (2), for “paragraph 10” substitute “paragraph 2A”.
 - (3) For sub-paragraphs (3) and (4) substitute—
 - “(3) Regulations may provide—
 - (a) that where a local education authority are under a duty under section 323, 329 or 329A to serve any notice, the duty must be performed within the prescribed period,
 - (b) that where a local education authority have served a notice under section 323(1) or 329A(3) on a child’s parent, they must decide within the prescribed period whether or not to make an assessment of the child’s educational needs,
 - (c) that where a request has been made to a local education authority under section 329(1), they must decide within the prescribed period whether or not to comply with the request, and
 - (d) that where a local education authority are under a duty to make an assessment, the duty must be performed within the prescribed period.
 - (4) Provision made under sub-paragraph (3)—
 - (a) may be subject to prescribed exceptions, and
 - (b) does not relieve the authority of the duty to serve a notice, or make a decision or assessment, which has not been served or made within the prescribed period.”

School attendance orders: amendment of statement of special educational needs

- 15 (1) Section 441 (amendment of statement on service of school attendance order) is amended as follows.
 - (2) In subsection (3)(a), omit “in accordance with paragraph 10 of Schedule 27”.

Status: This is the original version (as it was originally enacted).

(3) After that subsection, insert—

“(3A) An amendment to a statement required to be made under subsection (3) (a) shall be treated for the purposes of Schedule 27 as if it were an amendment proposed following a periodic review (within the meaning of that Schedule).”

PART 2

OTHER ENACTMENTS

The Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)

- 16 Section 5 of the Disabled Persons (Services, Consultation and Representation) Act 1986 is amended as follows.
- 17 In subsection (1) (requirement to obtain opinion of local authority officer as to whether child is a disabled person)—
- (a) in paragraph (a), omit “under the age of 14”; and
 - (b) in paragraph (b)—
 - (i) in sub-paragraph (i), for “the first annual review of the statement following the child’s fourteenth birthday” substitute “a review of the statement prescribed for the purposes of this paragraph”; and
 - (ii) in sub-paragraph (ii), for “that birthday” substitute “they have carried out the review prescribed for the purposes of sub-paragraph (i)”.
- 18 In subsection (9) (interpretation), after the definition of “establishment of higher or further education” insert—
- ““prescribed” means prescribed in regulations made—
 - (a) in relation to England, by the Secretary of State; and
 - (b) in relation to Wales, by the National Assembly for Wales;”.

The Tribunals and Inquiries Act 1992 (c. 53)

- 19 The Tribunals and Inquiries Act 1992 is amended as follows.
- 20 In section 11(1) (appeals from certain tribunals)—
- (a) for “15(a), (d) or (e)” substitute “15(a) or (d)”; and
 - (b) after “40A” insert “, 40B”.
- 21 In paragraph 15 of Schedule 1 (bodies subject to the supervision of the Council) omit sub-paragraph (e).
- 22 After paragraph 40A of that Schedule, insert—

“Special educational needs and disability discrimination.

40B. The Special Educational Needs and Disability Tribunal.”

The School Standards and Framework Act 1998 (c. 31)

- 23 (1) The School Standards and Framework Act 1998 is amended as follows.
- (2) In paragraph 8 of Schedule 4 (duty of school organisation committees to have regard to anti-discrimination duties of other bodies)—
- (a) omit “or”, at the end of sub-paragraph (a); and
 - (b) after sub-paragraph (b), insert “or
 - (c) Chapter 1 of Part 4 of the Disability Discrimination Act 1995,”.
- (3) In paragraph 6 of Schedule 5 (duty of adjudicators to have regard to anti-discrimination duties of other bodies)—
- (a) omit “or”, at the end of sub-paragraph (a); and
 - (b) after sub-paragraph (b), insert “or
 - (c) Chapter 1 of Part 4 of the Disability Discrimination Act 1995,”.
- (4) In Schedule 30 (minor and consequential amendments), omit paragraph 186(2)(b).