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Changes to legislation: There are currently no known outstanding effects for the Special Educational Needs and Disability Act 2001, Part 1. (See end of Document for details)

SCHEDULES

SCHEDULE 8

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

THE 1996 ACT

1 The 1996 Act is amended as follows.

Commencement Information

- II** Sch. 8 para. 1 wholly in force at 1.9.2002; Sch. 8 para. 1 not in force at Royal Assent see s. 43(3); Sch. 8 para. 1 in force for E. at 1.1.2002 by S.I. 2001/2217, art. 5, Sch. Pt. II; S.I. 2001/2614, art. 4; Sch. 8 para. 1 in force for W. at 1.4.2002 by S.I. 2002/74, art. 5, Sch. Pt. II; Sch. 8 para. 1 in force at 1.9.2002 in so far as not already in force by S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

VALID FROM 01/09/2002

The re-naming of the Tribunal

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

VALID FROM 01/09/2002

3 In section 333, for subsection (1) substitute—
“(1) The Tribunal shall exercise the jurisdiction conferred on it by this Part.”

VALID FROM 01/09/2002

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 ”.

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Commencement Information

- I2** Sch. 8 para. 5 wholly in force at 1.9.2002; Sch. 8 para. 5 not in force at Royal Assent see s. 43(3); Sch. 8 para. 5 in force for E. at 1.1.2002 by S.I. 2001/2217, art. 5, Sch. Pt. II; S.I. 2001/2614, art. 4; Sch. 8 para. 5 in force for W. at 1.4.2002 by S.I. 2002/74, art. 5, Sch. Pt. II; Sch. 8 para. 5 in force in so far as not already in force at 1.9.2002 by S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

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.”

Commencement Information

- I3** Sch. 8 para. 6 wholly in force at 1.9.2002; Sch. 8 para. 6 in force at Royal Assent for specified purposes see s. 43(4); Sch. 8 para. 6 in force for E. at 1.1.2002 by S.I. 2001/2217, art. 5, Sch. Pt. II; S.I. 2001/2614, art. 4; Sch. 8 para. 6 in force for W. at 1.4.2002 by S.I. 2002/74, art. 5, Sch. Pt. II; Sch. 8 para. 6 in force in so far as not already in force at 1.9.2002 by S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

- 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—
- “(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.”

Commencement Information

- I4** Sch. 8 para. 7 wholly in force at 1.9.2002; Sch. 8 para. 7 in force for specified purposes at Royal Assent see s. 43(3)(4); Sch. 8 para. 7 in force in so far as not already in force for E. at 1.1.2002 by S.I. 2001/2217, art. 5, Sch. Pt. II; S.I. 2001/2614, art. 4; Sch. 8 para. 7 in force in so far as not already in force for W. at 1.4.2002 by S.I. 2002/74, art. 5, Sch. Pt. II; Sch. 8 para. 7 in force in so far as not already in force at 1.9.2002 by S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

- 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 ”.

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(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.”

Commencement Information

I5 Sch. 8 para. 8 wholly in force at 1.9.2002; Sch. 8 para. 8 in force at Royal Assent for specified purposes see s. 43(3)(4); Sch. 8 para. 8 in force for E. at 1.1.2002 by S.I. 2001/2217, art. 5, Sch. Pt. II (as amended by S.I. 2001/2614, art. 4); Sch. 8 para. 8 in force for W. at 1.4.2002 by S.I. 2002/74, art. 5, Sch. Pt. II; Sch. 8 para. 8 in force in so far as not already in force at 1.9.2002 by S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

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.”

Commencement Information

I6 Sch. 8 para. 9 wholly in force at 1.9.2002; Sch. 8 para. 9 in force at Royal Assent for specified purposes see s. 43(3)(4); Sch. 8 para. 9 in force for E. in so far as not already in force at 1.1.2002 by S.I. 2001/2217, art. 5, Sch. Pt. II; S.I. 2001/2614, art. 4; Sch. 8 para. 9 in force for W. in so far as not already in force at 1.4.2002 by S.I. 2002/74, art. 5, Sch. Pt. II; Sch. 8 para. 9 in force in so far as not already in force at 1.9.2002 by S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

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.”

Commencement Information

I7 Sch. 8 para. 10 wholly in force at 1.9.2002; Sch. 8 para. 10 in force for specified purposes at Royal Assent see s. 43(3)(4); Sch. 8 para. 10 in force in so far as not already in force for E. at 1.1.2002 by S.I. 2001/2217, art. 5, Sch. Pt. II; S.I. 2001/2614, art. 4; Sch. 8 para. 10 in force in so far as not already in force for W. at 1.4.2002 by S.I. 2002/74, art. 5, Sch. Pt. II; Sch. 8 para. 10 in force in so far as not already in force at 1.9.2002 by S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

Proposals to make an assessment

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

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

Commencement Information

- I8** Sch. 8 para. 11 wholly in force at 1.9.2002; Sch. 8 para. 11 not in force at Royal Assent see s. 43(3); Sch. 8 para. 11 in force for E. at 1.1.2002 by S.I. 2001/2217, art. 5, Sch. Pt. II; S.I. 2001/2614, art. 4; Sch. 8 para. 11 in force for W. at 1.4.2002 by S.I. 2002/74, art. 5, Sch. Pt. II; Sch. 8 para. 11 in force in so far as not already in force at 1.9.2002 by S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

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.”

Commencement Information

- I9** Sch. 8 para. 12 wholly in force at 1.9.2002; Sch. 8 para. 12 not in force at Royal Assent see s. 43(3); Sch. 8 para. 12 in force for E. at 1.1.2002 by S.I. 2001/2217, art. 5, Sch. Pt. II; S.I. 2001/2614, art. 4; Sch. 8 para. 12 in force for W. at 1.4.2002 by S.I. 2002/74, art. 5, Sch. Pt. II; Sch. 8 para. 12 in force in so far as not already in force at 1.9.2002 by S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

Procedure regulations

- 13 (1) Section 336 is amended as follows.

- (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.”

Commencement Information

- I10** Sch. 8 para. 13 wholly in force at 1.9.2002; Sch. 8 para. 13(1)-(4) in force at Royal Assent for specified purposes see s. 43(4); Sch. 8 para. 13(1)-(4) in force to the extent not already in force for E. at 1.1.2002 by S.I. 2001/2217, art. 5, Sch. Pt. II (as amended by S.I. 2001/2614, art. 4); Sch. 8 para. 13(1)-(4) in

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force to the extent not already in force for W. at 1.4.2002 by S.I. 2001/3992, art. 5, Sch. Pt. II; Sch. 8 para. 13(5) in force at 1.7.2002 by S.I. 2002/1721, art. 3, Sch. Pt. I; Sch. 8 para. 13 in force in so far as not already in force at 1.9.2002 by S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

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.”

Commencement Information

I11 Sch. 8 para. 14 wholly in force at 1.9.2002; Sch. 8 para. 14(3) in force at Royal Assent for specified purposes see s. 43(4); Sch. 8 para. 14 in force to the extent not already in force for E. at 1.1.2002 by S.I. 2001/2217, art. 5, Sch. Pt. II (as amended by S.I. 2001/2614, art. 4); Sch. 8 para. 14 in force for specified purposes for W. at 1.4.2002 by S.I. 2002/74, art. 5, Sch. Pt. 2 and Sch. 8 para. 14 in force so far as not already in force at 1.9.2002 by S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

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”.

(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

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amendment proposed following a periodic review (within the meaning of that Schedule).”

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I12 Sch. 8 para. 15 wholly in force at 1.9.2002; Sch. 8 para. 15 not in force at Royal Assent see s. 43(3); Sch. 8 para. 15 in force for E. at 1.1.2002 by S.I. 2001/2217, art. 5, Sch. Pt. II; S.I. 2001/2614, art. 4; Sch. 8 para. 15 in force for W. at 1.4.2002 by S.I. 2001/3992, art. 5, Sch. Pt. II; Sch. 8 para. 15 in force in so far as not already in force at 1.9.2002 by S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

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