

SCHEDULES

SCHEDULE 1

Section 10.

AMENDMENT TO STATEMENT OF SPECIAL EDUCATIONAL NEEDS

PART 1

PROCEDURE FOR MAKING AMENDMENT TO STATEMENT OF SPECIAL EDUCATIONAL NEEDS

- 1 Schedule 27 to the 1996 Act (making and maintenance of statement of special educational needs) is amended as follows.
- 2 For paragraph 1 substitute—
 - “1 In this Schedule—
 - “amendment notice” has the meaning given in paragraph 2A,
 - “statement” means a statement under section 324,
 - “periodic review” means a review conducted in accordance with section 328(5)(b), and
 - “re-assessment review” means a review conducted in accordance with section 328(5)(a).”
- 3 For paragraph 2 substitute—
 - “2 (1) Before making a statement, a local education authority shall serve on the parent of the child concerned a copy of the proposed statement.
 - (2) But that is subject to sub-paragraphs (3) and (4).
 - (3) The copy of the proposed statement shall not specify any prescribed matter.
 - (4) The copy of the proposed statement shall not specify any matter in pursuance of section 324(4).

Amendments to a statement

- 2A (1) A local education authority shall not amend a statement except—
 - (a) in compliance with an order of the Tribunal,
 - (b) as directed by the Secretary of State under section 442(4), or
 - (c) in accordance with the procedure laid down in this Schedule.
- (2) If, following a re-assessment review, a local education authority propose to amend a statement, they shall serve on the parent of the child concerned a copy of the proposed amended statement.
- (3) Sub-paragraphs (3) and (4) of paragraph 2 apply to a copy of a proposed amended statement served under sub-paragraph (2) as they apply to a copy of a proposed statement served under paragraph 2(1).

Status: This is the original version (as it was originally enacted).

- (4) If, following a periodic review, a local education authority propose to amend a statement, they shall serve on the parent of the child concerned—
 - (a) a copy of the existing statement, and
 - (b) an amendment notice.
- (5) If, at any other time, a local education authority propose to amend a statement, they shall proceed as if the proposed amendment were an amendment proposed after a periodic review.
- (6) An amendment notice is a notice in writing giving details of the amendments to the statement proposed by the authority.

Provision of additional information

- 2B (1) Sub-paragraph (2) applies when a local education authority serve on a parent—
- (a) a copy of a proposed statement under paragraph 2,
 - (b) a copy of a proposed amended statement under paragraph 2A, or
 - (c) an amendment notice under paragraph 2A.
- (2) The local education authority shall also serve on the parent a written notice explaining (to the extent that they are applicable)—
- (a) the arrangements under paragraph 3,
 - (b) the effect of paragraph 4, and
 - (c) the right to appeal under section 326.
- (3) A notice under sub-paragraph (2) must contain such other information as may be prescribed.”

- 4 In paragraph 3, in sub-paragraph (1), for the words from “a parent” to “paragraph 2” substitute “a parent—
- (a) on whom a copy of a proposed statement has been served under paragraph 2,
 - (b) on whom a copy of a proposed amended statement has been served under paragraph 2A, or
 - (c) on whom an amendment notice has been served under paragraph 2A which contains a proposed amendment about —
 - (i) the type or name of a school or institution, or
 - (ii) the provision made for the child concerned under arrangements made under section 319,
 to be specified in the statement.”.

- 5 In that paragraph, in sub-paragraph (2), for “paragraph 2(b)” substitute “paragraph 2B”.

- 6 In that paragraph omit sub-paragraph (4).

- 7 After that paragraph, insert—

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

“Consultation on specifying name of school in statement

- 3A (1) Sub-paragraph (2) applies if a local education authority are considering—
- (a) specifying the name of a maintained school in a statement, or
 - (b) amending a statement—
 - (i) if no school was specified in the statement before the amendment, so that a maintained school will be specified in it,
 - (ii) if a school was specified in the statement before the amendment, so that a different school, which is a maintained school, will be specified in it.
- (2) The local education authority shall—
- (a) serve a copy of the proposed statement or amended statement, or of the existing statement and of the amendment notice, on each affected body, and
 - (b) consult each affected body.
- (3) “Affected body” means—
- (a) the governing body of any school which the local education authority are considering specifying; and
 - (b) if a school which the local education authority are considering specifying is maintained by another local education authority, that authority.”

- 8 In paragraph 4, in sub-paragraph (1)—
- (a) after “paragraph 2” insert “, or on whom a proposed amended statement or an amendment notice has been served under paragraph 2A,”;
 - (b) in paragraphs (a) and (b), for “statement” substitute “proposed statement or the statement as it will have effect if amended in the way proposed by the authority”.
- 9 In that paragraph, in sub-paragraph (2), after “sub-paragraph (1)(b)” insert “in relation to—
- (c) a proposed statement, or
 - (d) an amendment proposed following a re-assessment review.”.
- 10 In that paragraph, in sub-paragraphs (4)(a) and (5), for “paragraph 2(b)” substitute “paragraph 2B”.
- 11 In paragraph 5, in sub-paragraph (1), after “make” insert “or amend”.
- 12 In that paragraph, in sub-paragraph (2), for “The statement” substitute “If a local education authority make a statement, it”.
- 13 After that sub-paragraph insert—
- “(2A) If a local education authority amend a statement following service of a proposed amended statement under paragraph 2A, the amended statement made may be in the form proposed or in a form modified in the light of the representations.

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

(2B) If a local education authority amend a statement following service of an amendment notice, the amendments may be those proposed in the notice or amendments modified in the light of the representations.”

14 For paragraph 6, substitute—

“6 (1) Where a local education authority make or amend a statement they shall serve a copy of the statement, or the amended statement, on the parent of the child concerned.

(2) They shall, at the same time, give the parent written notice of his right to appeal under section 326(1) against—

- (a) the description in the statement of the authority’s assessment of the child’s special educational needs,
- (b) the special educational provision specified in the statement (including the name of a school specified in the statement), or
- (c) if no school is named in the statement, that fact.

(3) A notice under sub-paragraph (2) must contain such other information as may be prescribed.”

15 In paragraph 8(1)(b)—

- (e) in sub-paragraph (ii), after “statement” insert “or amended statement”; and
- (f) omit sub-paragraph (iii).

16 In paragraph 9—

- (g) in sub-paragraph (1), omit “amend or” and “10 or”; and
- (h) in sub-paragraph (2)—
 - (i) after paragraph (a), insert “or”,
 - (ii) omit paragraph (b), the word “or” after paragraph (c) and paragraph (d).

17 Omit paragraph 10.

PART 2

APPEALS AGAINST AMENDMENTS TO STATEMENT OF SPECIAL EDUCATIONAL NEEDS

18 Section 326 of the 1996 Act is amended as follows.

19 For subsection (1) substitute—

“(1) The parent of a child for whom a local education authority maintain a statement under section 324 may appeal to the Tribunal—

- (a) when the statement is first made,
- (b) if an amendment is made to the statement, or
- (c) if, after conducting an assessment under section 323, the local education authority determine not to amend the statement.

(1A) An appeal under this section may be against any of the following—

- (a) the description in the statement of the local education authority’s assessment of the child’s special educational needs,
- (b) the special educational provision specified in the statement (including the name of a school so specified),

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

- (c) if no school is specified in the statement, that fact.”
- 20 In subsection (2), for “paragraph 10” substitute “paragraph 2A”.

SCHEDULE 2

Section 11(2)

RESPONSIBLE BODIES FOR SCHOOLS

The following is the Schedule inserted into the 1995 Act.

“SCHEDULE 4A

Section 28A

RESPONSIBLE BODIES FOR SCHOOLS

- 1 (1) The bodies responsible for schools in England and Wales are set out in the following table.
- (2) In that Table—
- “the local education authority” has the meaning given by section 22(8) of the School Standards and Framework Act 1998; and
- “proprietor” has the meaning given by section 579 of the Education Act 1996.

TABLE

<i>Type of school</i>	<i>Responsible body</i>
1. Maintained school.	The local education authority or governing body, according to which has the function in question.
2. Pupil referral unit.	The local education authority.
3. Maintained nursery school.	The local education authority.
4. Independent school.	The proprietor.
5. Special school not maintained by a local education authority.	The proprietor.

- 2 (1) The bodies responsible for schools in Scotland are set out in the following table.
- (2) In that Table “board of management”, “education authority”, “managers” and “proprietor” each have the meaning given in section 135(1) of the Education (Scotland) Act 1980.

TABLE

<i>Type of school</i>	<i>Responsible body</i>
1. School managed by an education authority	The education authority.
2. Independent school.	The proprietor.
3. Self-governing school.	The board of management.

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

<i>Type of school</i>	<i>Responsible body</i>
4. School in respect of which the managers are for the time being receiving grants under section 73(c) or (d) of the Education (Scotland) Act 1980.	The managers of the school.”

SCHEDULE 3

Sections 19(2) and 30(2).

AMENDMENT OF SCHEDULE 3 TO THE 1995 ACT

1 The following provisions are inserted in Schedule 3 to the 1995 Act as Part 3.

“PART 3

DISCRIMINATION IN SCHOOLS

Restriction on proceedings for breach of Part 4, Chapter 1

- 9 (1) Except as provided by sections 28I, 28K and 28L, no civil or criminal proceedings may be brought against any person in respect of an act merely because the act is unlawful under Chapter 1 of Part 4.
- (2) Sub-paragraph (1) does not prevent the making of an application for judicial review.

Period within which proceedings must be brought

- 10 (1) The Tribunal shall not consider a claim under section 28I unless proceedings in respect of the claim are instituted before the end of the period of six months beginning when the act complained of was done.
- (2) If, in relation to proceedings or prospective proceedings under section 28I, the dispute concerned is referred for conciliation in pursuance of arrangements under section 31B before the end of the period of six months mentioned in sub-paragraph (1), the period allowed by that sub-paragraph shall be extended by two months.
- (3) The Tribunal may consider any claim under section 28I which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.
- (4) But sub-paragraph (3) does not permit the Tribunal to decide to consider a claim if a decision not to consider that claim has previously been taken under that sub-paragraph.
- (5) For the purposes of sub-paragraph (1)—
- if an unlawful act of discrimination is attributable to a term in a contract, that act is to be treated as extending throughout the duration of the contract;
 - any act extending over a period shall be treated as done at the end of that period; and

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

- (c) a deliberate omission shall be treated as done when the person in question decided upon it.
- (6) In the absence of evidence establishing the contrary, a person shall be taken for the purposes of this paragraph to decide upon an omission—
 - (a) when he does an act inconsistent with doing the omitted act; or
 - (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.

Evidence

- 11 (1) In any proceedings under section 28I, 28K or 28L, a certificate signed by or on behalf of a Minister of the Crown and certifying that any conditions or requirements specified in the certificate—
 - (a) were imposed by a Minister of the Crown, and
 - (b) were in operation at a time or throughout a time so specified,shall be conclusive evidence of the matters certified.
 - (2) A document purporting to be such a certificate shall be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.”
- 2 The following provisions are inserted in Schedule 3 to the 1995 Act as Part 4.

“PART 4

DISCRIMINATION IN FURTHER AND HIGHER EDUCATION INSTITUTIONS

Restriction on proceedings for breach of Part 4, Chapter 2

- 12 (1) Except as provided by section 28V, no civil or criminal proceedings may be brought against any person in respect of an act merely because the act is unlawful under Chapter 2 of Part 4.
- (2) Sub-paragraph (1) does not prevent the making of an application for judicial review.

Period within which proceedings must be brought

- 13 (1) A county court or a sheriff court shall not consider a claim under section 28V unless proceedings in respect of the claim are instituted before the end of the period of six months beginning when the act complained of was done.
- (2) If, in relation to proceedings or prospective proceedings under section 28V, the dispute concerned is referred for conciliation in pursuance of arrangements under section 31B before the end of the period of six months mentioned in sub-paragraph (1), the period allowed by that sub-paragraph shall be extended by two months.

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

- (3) A court may consider any claim under section 28V which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.
- (4) For the purposes of sub-paragraph (1)—
 - (a) if an unlawful act of discrimination is attributable to a term in a contract, that act is to be treated as extending throughout the duration of the contract;
 - (b) any act extending over a period shall be treated as done at the end of that period; and
 - (c) a deliberate omission shall be treated as done when the person in question decided upon it.
- (5) In the absence of evidence establishing the contrary, a person shall be taken for the purposes of this paragraph to decide upon an omission—
 - (a) when he does an act inconsistent with doing the omitted act; or
 - (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.

Compensation for injury to feelings

- 14 In any proceedings under section 28V, the amount of any damages awarded as compensation for injury to feelings shall not exceed the prescribed amount.

Evidence

- 15 (1) In any proceedings under section 28V, a certificate signed by or on behalf of a Minister of the Crown and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by a Minister of the Crown, and
 - (b) were in operation at a time or throughout a time so specified,
- is conclusive evidence of the matters certified.
- (2) A document purporting to be such a certificate is to be—
- (a) received in evidence; and
 - (b) deemed to be such a certificate unless the contrary is proved.”

SCHEDULE 4

Section 26(2).

RESPONSIBLE BODIES FOR EDUCATIONAL INSTITUTIONS

The following is the Schedule inserted in the 1995 Act.

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

“SCHEDULE 4B

Section 28R

RESPONSIBLE BODIES FOR EDUCATIONAL INSTITUTIONS

- 1 (1) The bodies responsible for educational institutions in England and Wales are set out in the following table.
- (2) In that Table “governing body” has the meaning given by section 90 of the Further and Higher Education Act 1992.

<i>Type of institution</i>	<i>Responsible body</i>
1. Institution within the further education sector.	The governing body.
2. University.	The governing body.
3. Institution, other than a university, within the higher education sector.	The governing body.
4. Institution designated under section 28R(6)(c).	The body specified in the order as the responsible body.

- 2 (1) The bodies responsible for relevant institutions in Scotland are set out in the following table.
- (2) In that Table—
- “board of management” has the meaning given in section 36(1) of the Further and Higher Education (Scotland) Act 1992 (“the 1992 Act”);
- “central institution”, “education authority” and “managers” have the meaning given in section 135(1) of the Education (Scotland) Act 1980; and
- “governing body” has the meaning given in section 56(1) of the 1992 Act.

TABLE

<i>Type of institution</i>	<i>Responsible body</i>
1. Designated institution within the meaning of Part 2 of the 1992 Act.	The governing body.
2. University.	The governing body.
3. College of further education with a board of management.	The board of management.
4. Institution maintained by an education authority in the exercise of their further education functions.	The education authority.
5. Central institution.	The governing body.
6. School in respect of which the managers are for the time being receiving grants under section 73(c) or (d) of the Education (Scotland) Act 1980.	The managers of the school.

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

<i>Type of institution</i>	<i>Responsible body</i>
7. Institution designated under section 28R(7)(e).	The body specified in the order as the responsible body.”

SCHEDULE 5

Section 29.

MODIFICATIONS OF CHAPTER 2 OF PART 4 OF THE 1995 ACT

The following is the Schedule inserted in the 1995 Act.

“SCHEDULE 4C

Section 28U.

MODIFICATIONS OF CHAPTER 2 OF PART 4

PART 1

MODIFICATIONS FOR ENGLAND AND WALES

1 For section 28R, substitute—

“28R Further education etc. provided by local education authorities and schools

- (1) Subsections (2) and (3) apply in relation to—
 - (a) any course of higher education secured by a local education authority under section 120 of the Education Reform Act 1988;
 - (b) any course of further education—
 - (i) secured by a local education authority; or
 - (ii) provided by the governing body of a maintained school under section 80 of the School Standards and Framework Act 1998.
- (2) It is unlawful for the local education authority or the governing body to discriminate against a disabled person—
 - (a) in the arrangements they make for determining who should be enrolled on the course;
 - (b) in the terms on which they offer to enrol him on the course; or
 - (c) by refusing or deliberately omitting to accept an application for his enrolment on the course.
- (3) It is unlawful for the local education authority or the governing body to discriminate against a disabled person who has enrolled on the course in the services which they provide, or offer to provide.
- (4) “Services”, in relation to a course, means services of any description which are provided wholly or mainly for persons enrolled on the course.
- (5) It is unlawful for a local education authority to discriminate against a disabled person in the terms on which they provide, or offer to provide, recreational or training facilities.

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

- (6) In this Chapter “responsible body” means—
- (a) a local education authority, in relation to—
 - (i) a course of further or higher education secured by them;
 - (ii) recreational or training facilities; and
 - (b) the governing body of a maintained school, in relation to a course of further education provided under section 80 of the School Standards and Framework Act 1998.
- (7) “Further education”—
- (a) in relation to a course secured by a local education authority, has the meaning given in section 2(3) of the Education Act 1996; and
 - (b) in relation to a course provided under section 80 of the School Standards and Framework Act 1998 means education of a kind mentioned in subsection (1) of that section.
- (8) In relation to further education secured by a local education authority—
- “course” includes each of the component parts of a course of further education if, in relation to the course, there is no requirement imposed on persons registered for any component part of the course to register for any other component part of that course; and
 - “enrolment”, in relation to such a course, includes registration for any one of those parts.
- (9) “Higher education” has the meaning given in section 579(1) of the Education Act 1996.
- (10) “Local education authority” has the meaning given in section 12 of the Education Act 1996.
- (11) “Governing body” and “maintained school” have the same meaning as in Chapter 1.
- (12) “Recreational or training facilities” means any facilities secured by a local education authority under subsection (1), or provided by it under subsection (1A), of section 508 of the Education Act 1996 (recreation and social and physical training).”
- 2 For subsection (1) of section 28T, substitute—
- “(1) Each responsible body must take such steps as it is reasonable for it to have to take to ensure that—
- (a) in relation to its arrangements for enrolling persons on a course of further or higher education provided by it, and
 - (b) in relation to services provided, or offered by it,
- disabled persons are not placed at a substantial disadvantage in comparison with persons who are not disabled.”
- 3 In section 28W(1)(a) for “by an educational institution” substitute “by a responsible body wholly or partly for the purpose of its functions”.
- 4 Omit section 31A.

PART 2

MODIFICATIONS FOR SCOTLAND

5 For section 28R, substitute—

“28R Further education etc. provided by education authorities in Scotland

- (1) Subsections (2) and (3) apply to any course of further education secured by an education authority.
- (2) It is unlawful for the education authority to discriminate against a disabled person—
 - (a) in the arrangements they make for determining who should be enrolled on the course;
 - (b) in the terms on which they offer to enrol him on the course; or
 - (c) by refusing or deliberately omitting to accept an application for his enrolment on the course.
- (3) It is unlawful for the education authority to discriminate against a disabled person who has enrolled on the course in the services which they provide, or offer to provide.
- (4) “Services”, in relation to a course, means services of any description which are provided wholly or mainly for persons enrolled on the course.
- (5) It is unlawful for an education authority to discriminate against a disabled person in the terms on which they provide, or offer to provide, recreational or training facilities.
- (6) In this Chapter “responsible body” means an education authority.
- (7) “Further education” has the meaning given in section 1(5) of the Education (Scotland) Act 1980.
- (8) “Education authority” has the meaning given in section 135(1) of that Act.”

6 For subsection (1) of section 28T, substitute—

- “(1) Each responsible body must take such steps as it is reasonable for it to have to take to ensure that—
- (a) in relation to its arrangements for enrolling persons on a course of further education provided by it, and
 - (b) in relation to services provided or offered by it,
- disabled persons are not placed at a substantial disadvantage in comparison with persons who are not disabled.”

7 In section 28W(1)(a) for “by an educational institution” substitute “by a responsible body wholly or partly for the purpose of its functions”.

8 Omit section 31A.”

SCHEDULE 6

Section 31(2).

AMENDMENT OF SCHEDULE 4 TO THE 1995 ACT

The following provisions are inserted in Schedule 4 to the 1995 Act as Part 3.

“PART 3

OCCUPATION BY EDUCATIONAL INSTITUTIONS

Failure to obtain consent

- 10 If any question arises as to whether a responsible body has failed to comply with the duty imposed by section 28T, by failing to make a particular alteration to premises, any constraint attributable to the fact that the premises are occupied by the educational institution under a lease is to be ignored unless the responsible body has applied to the lessor in writing for consent to the making of the alteration.

Reference to court

- 11 (1) If the responsible body has applied in writing to the lessor for consent to the alteration and—
- (a) that consent has been refused, or
 - (b) the lessor has made his consent subject to one or more conditions,
- that body or a disabled person who has an interest in the proposed alteration to the premises being made, may refer the matter to a county court or, in Scotland, to the sheriff.
- (2) On such a reference the court must determine whether the lessor’s refusal was unreasonable or (as the case may be) whether the condition is, or any of the conditions are, unreasonable.
- (3) If the court determines—
- (a) that the lessor’s refusal was unreasonable, or
 - (b) that the condition is, or any of the conditions are, unreasonable,
- it may make such declaration as it considers appropriate or an order authorising the responsible body to make the alteration specified in the order.
- (4) An order under sub-paragraph (3) may require the responsible body to comply with conditions specified in the order.

Joining lessors in proceedings under section 28V

- 12 (1) In proceedings on a claim under section 28V, in a case to which this Part of this Schedule applies, the claimant, the pursuer or the responsible body concerned may ask the court to direct that the lessor be joined or sisted as a party to the proceedings.
- (2) The request must be granted if it is made before the hearing of the claim begins.
- (3) The court may refuse the request if it is made after the hearing of the claim begins.
- (4) The request may not be granted if it is made after the court has determined the claim.

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

- (5) If a lessor has been so joined or sisted as a party to the proceedings, the court may determine—
- (a) whether the lessor has—
 - (i) refused consent to the alteration, or
 - (ii) consented subject to one or more conditions, and
 - (b) if so, whether the refusal or any of the conditions was unreasonable.
- (6) If, under sub-paragraph (5), the court determines that the refusal or any of the conditions was unreasonable it may take one or more of the following steps—
- (a) make such a declaration as it considers appropriate;
 - (b) make an order authorising the responsible body to make the alteration specified in the order;
 - (c) order the lessor to pay compensation to the complainant.
- (7) An order under sub-paragraph (6)(b) may require the responsible body to comply with conditions specified in the order.
- (8) If the court orders the lessor to pay compensation it may not order the responsible body to do so.

Regulations

- 13 Regulations may make provision as to circumstances in which—
- (a) a lessor is to be taken, for the purposes of section 28W and this Part of this Schedule to have—
 - (i) withheld his consent;
 - (ii) withheld his consent unreasonably;
 - (iii) acted reasonably in withholding his consent;
 - (b) a condition subject to which a lessor has given his consent is to be taken to be reasonable;
 - (c) a condition subject to which a lessor has given his consent is to be taken to be unreasonable.

Sub-leases etc.

- 14 Regulations may make provision supplementing, or modifying, section 28W or any provision made by or under this Part of this Schedule in relation to cases where the premises of the educational institution are occupied under a sub-lease or sub-tenancy.”

SCHEDULE 7

Section 35.

AMENDMENTS TO THE DISABILITY RIGHTS COMMISSION ACT 1999

- 1 The Disability Rights Commission Act 1999 is amended as follows.
- 2 In section 2 (general functions), in the definition of “discrimination” in subsection (5), for “or Part III” substitute “, Part 3 or Chapter 1 or 2 of Part 4”.

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

- 3 In section 4 (non-discrimination notices), in subsection (5), for “or Part III” substitute “, Part 3 or Chapter 1 or 2 of Part 4”.
- 4 In section 5 (agreements in lieu of enforcement action), in subsection (11), for “or Part III” substitute “, Part 3 or Chapter 1 or 2 of Part 4”.
- 5 In subsection (1) of section 6 (persistent discrimination), for paragraphs (b) and (c) substitute—
- “(b) a finding in proceedings under section 8, 25, 28I, 28K, 28L, 28N or 28V of the 1995 Act that a person has committed an act which is unlawful discrimination for the purposes of any provision of Part 2, Part 3 or Chapter 1 or 2 of Part 4 of that Act, or
 - (c) a finding by a court or tribunal in any other proceedings that a person has committed an unlawful act of a description prescribed under subsection (4),”.
- 6 In subsection (4) of that section, for “or Part III” substitute “, Part 3 or Chapter 1 or 2 of Part 4”.
- 7 In subsection (5) of that section, omit “of a court or tribunal”.
- 8 In section 7(1)(a) (proceedings in relation to which assistance may be given)—
- (a) for “or 25” substitute “, 25, 28I, 28K, 28L, 28N or 28V”; and
 - (b) for “and III” substitute “to 4”.
- 9 In paragraph 3(10) of Schedule 3 (formal investigations and non-discrimination notices), for “or Part III” substitute “, Part 3 or Chapter 1 or 2 of Part 4”.

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”.

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

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—
- “(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.
- (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,

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- (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”.
- (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;”.

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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).

SCHEDULE 9

Section 42(6).

REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
The Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)	In section 5(1)(a), the words “under the age of 14”.
The Further and Higher Education Act 1992 (c. 13)	In section 65, subsections (4A) and (4B).
The Further and Higher Education (Scotland) Act 1992 (c. 37)	In section 40, subsections (5) and (6).
The Tribunals and Inquiries Act 1992 (c. 53)	In Schedule 1, paragraph 15(e).

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
The Disability Discrimination Act 1995 (c. 50)	Section 19(5)(a) to (ab) and (6). Section 29. Section 30(6). Section 31(3). In section 53A(8), the words after first “proceedings”.
The Education Act 1996 (c. 56)	In section 325(1), the words “, and of the effect of subsection (2) below,”. In section 336(2), paragraph (d). In section 441(3)(a), the words “in accordance with paragraph 10 of Schedule 27”. Section 528. In Schedule 27, paragraph 3(4), paragraph 8(1)(b)(iii), in paragraph 9(1), the words “amend, or” and “10 or”, and paragraph 10. In Schedule 37, paragraphs 118(3)(d) and 129.
The Teaching and Higher Education Act 1998 (c. 30)	Section 38.
The School Standards and Framework Act 1998 (c. 31)	In paragraph 8 of Schedule 4, the word “or” after sub-paragraph (a). In paragraph 6 of Schedule 5, the word “or” after sub-paragraph (a). In Schedule 30, paragraph 186(2)(b).
The Disability Rights Commission Act 1999 (c. 17)	In section 6(5), the words “of a court or tribunal”.
The Learning and Skills Act 2000 (c. 21)	In section 6, subsections (4) and (6). In section 35, subsections (4) and (6). In Schedule 9, paragraph 49.
