

*These notes refer to the Education Act 2002 (c.32)
which received Royal Assent on 24 July 2002*

EDUCATION ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Part 11 – Miscellaneous and General

Special Educational Needs: Wales

Section 195: The Special Educational Needs Tribunal for Wales

375. This section introduces Schedule 18, which amends the EA 96 so that SEN appeals that would otherwise be made to the Special Educational Needs and Disability Tribunal (SENDIST) will instead be made to separate Tribunals in England and Wales. At present SEN appeals are made to the Special Educational Needs Tribunal (which becomes the SENDIST from September 2002), which covers both England and Wales. The amendments provide that where the LEA concerned is in England the appeal will be to the SENDIST, and where it is in Wales, to a new Special Educational Needs Tribunal for Wales.
376. Under the EA 96, regulations relating to the SENDIST are made by the Secretary of State. In accordance with Article 5 of the [National Assembly for Wales \(Transfer of Functions\) Order 1999 \(SI 1999/672\)](#) they are made with the agreement of the NAW, so far as they relate to Wales. Paragraph 5 of Schedule 18 to the Act amends the EA 96 to give the regulation making power for the Special Educational Needs Tribunal for Wales to the NAW, who also take on the other tribunal functions of the Secretary of State in relation to the new Special Educational Needs Tribunal for Wales.
377. The regulations relating to the Special Educational Needs Tribunal deal with the procedure to be followed by the Tribunal when hearing cases. The existing regulations under section 336 of the EA 96 are the [Special Educational Needs Tribunal Regulations 2001 \(SI 2001/600\)](#). Regulations also provide for the timetable within which LEAs must comply with tribunal orders (made under section 336A of the EA 96), and the timetable for LEAs to comply with unopposed appeals treated as being determined as in favour of the appellant (made under section 326A of the EA 96). The functions exercised by the Secretary of State include the appointment of lay members of the Tribunal and the payment of the Tribunal's expenses.
378. [Paragraphs 7 to 11](#) of Schedule 18 amend the Disability Discrimination Act 1995 to allow disability discrimination claims brought by disabled pupils or prospective pupils against schools in Wales to be heard by the Special Educational Needs Tribunal for Wales, rather than the SENDIST. The procedures to be followed in hearing disability claims, or joint SEN and disability claims, will be set out in regulations to be made by the Secretary of State with the agreement of the NAW.