
STATUTORY INSTRUMENTS

2001 No. 3982

EDUCATION, WALES

**The Special Educational Needs Tribunal
(Time Limits) (Wales) Regulations 2001**

<i>Made</i>	- - - -	<i>8th December 2001</i>
<i>Laid before Parliament</i>		<i>12th December 2001</i>
<i>Coming into force</i>	- -	<i>1st April 2002</i>

In exercise of the powers conferred on the Secretary of State by sections 326A(4) and (6), 336A and 569(1), (2), (4) and (5) of the Education Act 1996⁽¹⁾, the Secretary of State for Education and Skills, with the agreement of the National Assembly for Wales, hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Special Educational Needs Tribunal (Time Limits) (Wales) Regulations 2001.

(2) These Regulations shall come into force on 1st April 2002.

(3) These Regulations apply only in relation to Wales.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Education Act 1996⁽²⁾;

“assessment” means an assessment of a child’s educational needs under section 323 of the Act;

“authority” means a local education authority;

“parent” has the meaning given to it by section 576 of the Act;

“statement” means a statement of a child’s special educational needs made under section 324 of the Act;

“Tribunal” means the Special Educational Needs Tribunal having the jurisdiction conferred on it by section 333 of the Act;

(1) 1996 c. 56. For the meaning of Regulations *see* section 579(1) of the Act. Sections 326A(4) and (6) and 336A were inserted by the Special Educational Needs and Disability Act 2001 (c. 10), sections 5 and 4 respectively.

(2) 1996 c. 56.

“working day” means a day other than a Saturday, Sunday, Christmas Day, Good Friday or Bank Holiday within the meaning of the Banking and Financial Dealings Act 1971(3);

- (2) Where a thing is required to be done under these Regulations—
- (a) within a period after an action is taken, the day on which that action was taken shall not be counted in the calculation of that period, and
 - (b) within a period and the last day of that period is not a working day, the period shall be extended to include the following working day.
- (3) Unless the context otherwise requires references in these Regulations—
- (a) to a section are references to a section of the Act;
 - (b) to a Schedule are references to a Schedule of the Act.

Compliance with Tribunal Orders

3.—(1) Subject to paragraph (4), if the Tribunal, following an appeal to it by a parent, makes an order requiring an authority to perform an action referred to in paragraph (2) the authority shall perform that action within the period specified in paragraph (2).

- (2) In the case of an order—
- (a) to make an assessment, the authority shall notify the child’s parent that it will make an assessment under section 323(4) or 329A(7) as the case may be within 4 weeks;
 - (b) to make and maintain a statement, the authority shall make a statement within 5 weeks;
 - (c) remitting a case back to the authority under section 325(3)(c), the authority shall within 2 weeks serve a copy of a proposed statement and a notice on the child’s parent under paragraphs 2(1) and 2B(2) of Schedule 27 respectively, or give notice to the child’s parent—
 - (i) under section 325(1) that they have decided not to make a statement;
 - (ii) of their reasons for that decision;
 - (iii) of the parent’s right of appeal against that decision to the Tribunal; and
 - (iv) of the time limit within which an appeal to the Tribunal must be made;
 - (d) to amend a statement, the authority shall serve an amendment notice on the child’s parent under paragraph 2A of Schedule 27 within 5 weeks;
 - (e) to continue to maintain a statement, the authority shall continue to maintain the statement with immediate effect;
 - (f) to continue to maintain and to amend a statement, the authority shall continue to maintain the statement with immediate effect and shall serve an amendment notice on the child’s parent under paragraph 2A of Schedule 27 within 5 weeks;
 - (g) to substitute the name of the school or other institution specified in a child’s statement with the name of a school specified by a parent, the authority shall specify the school specified by the parent within 2 weeks; and
 - (h) dismissing an appeal against a determination to cease to maintain a statement, the authority shall cease to maintain that statement immediately or on a date proposed by the authority, whichever is the later.
- (3) In each case the period shall begin on the day after the issue of the order in question.
- (4) The authority need not comply with the time limits referred to in paragraph (2) if it is impractical to do so because—

- (a) exceptional personal circumstances affect the child or his parent during the relevant time period;
- (b) the child or his parent are absent from the area of the authority for a continuous period of not less than 2 weeks during the relevant time period;
- (c) the child's parent indicates that he wishes to make representations to the authority about the content of the statement under paragraph 4(1) of Schedule 27 after the expiry of the 15-day period for making such representations provided for in paragraph 4(4) of that Schedule;
- (d) a meeting between the child's parent and an officer of the authority has been held pursuant to paragraph 4(1) of Schedule 27 and the child's parent under paragraph 4(2) of that Schedule has either required that another such meeting be arranged or has required that a meeting with the appropriate person be arranged; or
- (e) the authority have sent a written request to the National Assembly for Wales seeking its consent under section 347(5) to the child being educated at an independent school which is not approved by it and such consent has not been received by the authority within 3 weeks of the day on which the request was sent.

Compliance with parents' requests when an authority concedes an appeal to the Tribunal

4.—(1) Subject to paragraph (3) if, under section 326A(2), an appeal to the Tribunal is treated as having been determined in favour of the parent making the appeal, the authority shall—

- (a) in the case of an appeal under section 325, make a statement within 5 weeks;
- (b) in the case of an appeal under section 328, 329 or 329A, the authority shall make an assessment within 4 weeks; and
- (c) in the case of an appeal under paragraph 8(3) of Schedule 27 against a determination not to comply with the parent's request to substitute the name of a maintained school for the name of the school or institution specified in the statement, comply with that request within 2 weeks.

(2) In each case the period shall begin on the day after the authority notifies the Tribunal that they have determined that they will not, or will no longer, oppose the appeal.

(3) The authority need not comply with the time limits referred to in paragraph (1) if it is impractical to do so because—

- (a) exceptional personal circumstances affect the child or his parent during the relevant time period;
- (b) the child or his parent are absent from the area of the authority for a continuous period of not less than 2 weeks during the relevant time period;
- (c) the child's parent indicates that he wishes to make representations to the authority about the content of the statement under paragraph 4(1) of Schedule 27 after the expiry of the 15 day period for making such representations provided for in paragraph 4(4) of that Schedule;
- (d) a meeting between the child's parent and an officer of the authority has been held pursuant to paragraph 4(1) of Schedule 27 and the child's parent under paragraph 4(2) of that Schedule has either required that another such meeting be arranged or has required that a meeting with the appropriate person be arranged, or
- (e) the authority have sent a written request to the National Assembly for Wales seeking its consent under section 347(5) to the child being educated at an independent school which is not approved by it and such consent has not been received by the authority within 3 weeks of the day on which the request was sent.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

8th December 2001

Estelle Morris
Secretary of State for Education and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out time limits within which authorities must comply with orders relating to assessments and statements of Special Educational Needs made by the Special Educational Needs Tribunal, and also set out time limits within which authorities must take specified action following their concession of certain appeals to the Tribunal.