

**2002 No. 2217 (C.71)**

**DISABLED PERSONS  
EDUCATION, ENGLAND AND WALES**

**The Special Educational Needs and Disability Act 2001  
(Commencement No. 5) Order 2002**

*Made - - - - - 28th August 2002*

In exercise of the powers conferred by section 43(3), (7), (8), (9) and (10) of the Special Educational Needs and Disability Act 2001(a), the Secretary of State for Education and Skills hereby makes the following Order:

**Citation and interpretation**

1. This Order may be cited as the Special Educational Needs and Disability Act 2001 (Commencement No. 5) Order 2002.

2. In this Order, unless the context otherwise requires, references to sections and Schedules are references to sections of and Schedules to the Special Educational Needs and Disability Act 2001.

**Appointed days**

3. The day appointed for the coming into force of the provisions specified in Part 1 of Schedule 1 of this Order is 1st September 2002.

4. The day appointed for the coming into force of the provisions specified in Part 2 of Schedule 1 of this Order, otherwise than as respects Wales(b), is 1st September 2002.

5. Subject to article 6, the day appointed for the coming into force of section 28 (Disabled students not to be substantially disadvantaged) is 1st September 2002.

**Modifications to the duty imposed by section 28T(1) of the Disability Discrimination Act 1995**

6. The duty imposed by section 28T(1) of the Disability Discrimination Act 1995(c), including that duty as modified for the purposes of section 28U by paragraphs 2 and 6 of Schedule 4C of the Disability Discrimination Act 1995, shall have effect with the modifications specified in Schedule 2 of this Order for the period which ends on the date specified in that Schedule in relation to each modification.

28th August 2002

*Catherine Ashton*  
Parliamentary Under Secretary of State  
Department for Education and Skills

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(a) 2001 c. 10.

(b) Section 43(6)(d) provides that sections 14 and 15 will be brought into force as respects Wales on such day as the National Assembly for Wales may appoint by Order.

(c) 1995 c. 50; section 28T is inserted into the Disability Discrimination Act 1995 by section 28 of the Special Educational Needs and Disability Act 2001.

SCHEDULE 1

Articles 3 and 4

PART 1

PROVISIONS COMING INTO FORCE ON 1ST SEPTEMBER 2002

<i>Provision</i>	<i>Subject Matter</i>
Section 11	Discrimination against disabled pupils and prospective pupils
Section 12	Meaning of “discrimination”
Section 13	Disabled pupils not to be substantially disadvantaged
Section 16	Residual duty of education authorities
Section 17	Special Educational Needs and Disability Tribunal
Section 18	Jurisdiction and powers of the Tribunal
Section 19 (to the extent not already in force)	Tribunal procedure
Section 20	Admissions
Section 21	Exclusions
Section 22 (save in so far as it gives the National Assembly for Wales power to give directions under section 28M(1) or (3) of the Disability Discrimination Act 1995 or makes provision in relation to such a direction)	Roles of the Secretary of State and the National Assembly
Section 23	Enforcement Procedure: Scotland
Section 24	Validity and revision of agreements of responsible bodies
Section 25	Interpretation
Section 26 (to the extent not already in force)	Discrimination against disabled students and prospective students
Section 27	Meaning of “discrimination”
Section 29	Further education etc. provided by local education authorities and schools
Section 30	Rights of redress
Section 32	Validity and revision of agreements
Section 33	Interpretation
Section 34	Removal of certain duties of funding bodies
Section 35	Extension of the role of Disability Rights Commission
Section 36 (to the extent not already in force)	Codes of Practice
Section 37	Conciliation for disputes under Part 4 of the 1995 Act
Section 38	Relationship with other Parts of the 1995 Act
Section 39	Application to the Isles of Scilly
Section 40	Duty of Teacher Training Agency
Section 41 (to the extent not already in force)	Expenses of Secretary of State
Section 42 (to the extent not already in force)	Minor amendments and repeals
Schedule 2	Responsible bodies for schools
Schedule 3	Amendment of Schedule 3 to the Disability Discrimination Act 1995
Schedule 4	Responsible bodies for educational institutions

<i>Provision</i>	<i>Subject Matter</i>
Schedule 5	Modifications of Chapter 2 of Part 4 of the Disability Discrimination Act 1995
Schedule 6	Amendment of Schedule 4 to the Disability Discrimination Act 1995
Schedule 7	Amendments to the Disability Rights Commission Act 1999(a)
Schedule 8 (to the extent not already in force)	Minor and consequential amendments
Schedule 9 (to the extent not already in force)	Repeals

## PART 2

### PROVISIONS COMING INTO FORCE ON 1ST SEPTEMBER 2002 OTHERWISE THAN AS RESPECTS WALES

<i>Provision</i>	<i>Subject Matter</i>
Section 14 (to the extent not already in force)	Accessibility strategies and plans
Section 15 (to the extent not already in force)	Accessibility strategies and plans: procedure

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(a) 1999 c. 17.

MODIFICATIONS TO THE DUTY IMPOSED BY SECTION 28T(1) OF THE DISABILITY DISCRIMINATION ACT 1995

<i>Modification</i>	<i>Date bringing to an end the period during which the modification applies</i>
Section 28T(1) of the Disability Discrimination Act 1995 shall not require the responsible body to provide auxiliary aids or services	The last day on which the modification applies is 31st August 2003
Section 28T(1) of the Disability Discrimination Act 1995 shall not require the responsible body to remove or alter a physical feature	The last day on which the modification applies is 31st August 2005

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force on 1st September 2002 the remaining provisions, except as specified below, of the Special Educational Needs and Disability Act 2001 which are not in force at the date of this Order so that no further Order is required in relation to England and Scotland.

The following provisions are to be brought into force in relation to Wales by the National Assembly for Wales in accordance with section 43(6)(d) and (e):

- (a) sections 14 and 15; and
- (b) section 22, so far as it gives the National Assembly the power to give directions under section 28M(1) or (3) of the Disability Discrimination Act 1995 or make provision in relation to such a direction.

The provisions being brought into force relate to disability discrimination in education, and insert new provisions into the Disability Discrimination Act 1995 regarding discrimination in schools and in further and higher education, as well as making consequential amendments to other Acts.

This Order also provides that section 28T(1) of the 1995 Act (Disabled students not to be substantially disadvantaged), inserted into that Act by section 28 of the 2001 Act (and also dealt with by Schedule 5 to the same Act), will not require the provision of auxiliary aids and services during the period ending on 31st August 2003, and will not require the removal or alteration of physical features during the period ending on 31st August 2005.





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