



## 2016 CHAPTER 8

PROSPECTIVE

### *Appeals and claims by children*

#### **Appeals and claims by children: pilot scheme**

**13.—**(1) The Department may by regulations make a scheme (referred to in this section as a “pilot scheme”) for the purpose of enabling a child who has not attained the upper limit of compulsory school age to—

- (a) appeal to the Tribunal under any provision of the 1996 Order mentioned in subsection (2);
  - (b) make a claim to the Tribunal under Article 22 of the Special Educational Needs and Disability (Northern Ireland) Order 2005 (unlawful discrimination against disabled pupils).
- (2) The provisions are—
- (a) Article 17(2)(b) (appeal against decision not to make statement);
  - (b) Article 18(1) (appeal against contents of statement);
  - (c) Article 20(3)(b) (appeal against refusal to arrange assessment of educational needs);
  - (d) Article 20A(8)(b) (appeal against decision not to assess educational needs at request of responsible body);
  - (e) in Schedule 2—
    - (i) paragraph 11(3)(b) (appeal against refusal to substitute named school); and

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Special Educational Needs and Disability Act (Northern Ireland) 2016. Cross Heading: Appeals and claims by children. (See end of Document for details)*

(ii) paragraph 13(2)(b) (appeal against Authority ceasing to maintain a statement).

(3) The pilot scheme may make provision—

- (a) about the age from which children may appeal or make a claim;
- (b) in respect of appeals under subsection (1)(a), about mediation and the application of Article 21C;
- (c) about the bringing of appeals or making of claims by a child and by his or her parent concurrently;
- (d) about determining whether a child is capable of bringing an appeal or making a claim, and the assistance and support a child may require to enable the child to do so;
- (e) enabling a person to exercise a child's rights under the scheme on behalf of the child;
- (f) enabling children to have access to advice and information which is available to a parent in respect of an appeal or claim of a kind mentioned in subsection (1);
- (g) about the provision of advocacy and other support services to children;
- (h) requiring notices to be given to a child (as well as to his or her parent);
- (i) applying any statutory provision (with or without modifications); and
- (j) making consequential or transitional provision with respect to the cessation of the scheme.

(4) The pilot scheme shall have a duration of at least 2 years.

(5) This section is repealed at the end of 10 years beginning with the day on which this Act receives Royal Assent.

(6) Regulations shall not be made under subsection (1) unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

#### **Appeals and claims by children: follow-up provision**

**14.—**(1) The Department may by regulations provide that a child who has not attained the upper limit of compulsory school age may—

- (a) appeal to the Tribunal under any provision of the 1996 Order mentioned in subsection (2);
- (b) make a claim to the Tribunal under Article 22 of the Special Educational Needs and Disability (Northern Ireland) Order 2005 (unlawful discrimination against disabled pupils).

(2) The provisions are—

- (a) Article 17(2)(b) (appeal against decision not to make statement);
- (b) Article 18(1) (appeal against contents of statement);

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- (c) Article 20(3)(b) (appeal against refusal to arrange assessment of educational needs);
- (d) Article 20A(8)(b) (appeal against decision not to assess educational needs at request of responsible body);
- (e) in Schedule 2—
  - (i) paragraph 11(3)(b) (appeal against refusal to substitute named school); and
  - (ii) paragraph 13(2)(b) (appeal against Authority ceasing to maintain a statement).

(3) The Department may not make regulations under subsection (1) before the end of a period of two years beginning with the coming into operation of regulations under section 13(1).

(4) Regulations under subsection (1) may, in particular, make provision—

- (a) about the age from which children may appeal or make a claim;
- (b) in respect of appeals under subsection (1)(a), about mediation and the application of Article 21C;
- (c) about the bringing of appeals or making of claims by a child and by his or her parent concurrently;
- (d) about determining whether a child is capable of bringing an appeal or making a claim, and the assistance and support a child may require to enable the child to do so;
- (e) enabling a person to exercise a child's rights under the scheme on behalf of the child;
- (f) enabling children to have access to advice and information which is available to a parent in respect of an appeal or claim of a kind mentioned in subsection (1);
- (g) about the provision of advocacy and other support services to children;
- (h) requiring notices to be given to a child (as well as to his or her parent);
- (i) amending, repealing or revoking a statutory provision (including a provision of this Act).

(5) Regulations shall not be made under subsection (1) unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

**Status:**

This version of this cross heading contains provisions that are prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Special Educational Needs and Disability Act (Northern Ireland) 2016, Cross Heading: Appeals and claims by children.