

*Status: Point in time view as at 02/11/2020.*

*Changes to legislation: Equality Act 2010, Cross Heading: Capacity of parents and persons over compulsory school age - Wales is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 17

#### DISABLED PUPILS: ENFORCEMENT

##### Modifications etc. (not altering text)

- C1** Sch. 17: power to amend or repeal conferred (10.2.2012) by Education (Wales) Measure 2009 (nawm 5), s. 18(2)(c) (as amended by [S.I. 2011/1651](#), [art. 12\(b\)](#)); [S.I. 2012/320](#), [art. 2\(g\)](#))

#### PART 2

#### TRIBUNALS IN ENGLAND AND WALES

##### *[<sup>F1</sup>Capacity of parents and persons over compulsory school age - Wales*

##### Textual Amendments

- F1** Sch. 17 para. 6F inserted (2.11.2020 for specified purposes, 1.9.2021 in so far as not already in force) by [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#), s. 100(3), [Sch. 1 para. 19\(5\)\(h\)](#); [S.I. 2020/1182](#), reg. 3(1)(n); [S.I. 2021/373](#), art. 8(j)(xxxiii)

- 6F (1) The Welsh Ministers must make regulations for the purpose of a claim that a responsible body for a school in Wales has contravened Chapter 1 of Part 6 in relation to a person because of disability in a case to which sub-paragraph (2) or (3) applies.
- (2) This sub-paragraph applies where the person is a child not over compulsory school age and the parent of the person lacks capacity at the relevant time.
- (3) This sub-paragraph applies where the person is over compulsory school age and lacks capacity at the relevant time.
- (4) Regulations under sub-paragraph (1) may include provision applying any enactment with modifications, including (for example) provision for modifications to have effect despite section 27(1)(g) of the Mental Capacity Act 2005 (c. 9) (which does not permit decisions on discharging parental responsibilities in matters not relating to a child's property to be made on a person's behalf).
- (5) In this paragraph “the relevant time” means the time at which, under this Act, something is required or permitted to be done by or in relation to a parent or a person over compulsory school age.
- (6) The reference in this paragraph to lacking capacity is to lacking capacity within the meaning of the Mental Capacity Act 2005.

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- (7) “Representative”, in relation to a parent or a person over compulsory school age, means—
- (a) a deputy appointed by the Court of Protection under section 16(2)(b) of the Mental Capacity Act 2005 to make decisions on the parent's or person's behalf in relation to matters within this Schedule;
  - (b) the donee of a lasting power of attorney (within the meaning of section 9 of that Act) appointed by the parent or person to make decisions on his or her behalf in relation to matters within this Schedule;
  - (c) an attorney in whom an enduring power of attorney (within the meaning of Schedule 4 to that Act) created by the parent or person is vested, where the power of attorney is registered in accordance with paragraphs 4 and 13 of that Schedule or an application for registration of the power of attorney has been made.]

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