



Special Educational Needs and Disability Act 2001

2001 CHAPTER 10

PART 2

DISABILITY DISCRIMINATION IN EDUCATION

CHAPTER 1

SCHOOLS

Duties of responsible bodies

16 Residual duty of education authorities

In the 1995 Act, insert the following sections—

“Residual duty of education authorities

28F Duty of education authorities not to discriminate

- (1) This section applies to—
 - (a) the functions of a local education authority under the Education Acts; and
 - (b) the functions of an education authority under—
 - (i) the Education (Scotland) Act 1980;
 - (ii) the Education (Scotland) Act 1996; and
 - (iii) the Standards in Scotland’s Schools etc. Act 2000.
- (2) But it does not apply to any prescribed function.

Status: This is the original version (as it was originally enacted).

- (3) In discharging a function to which this section applies, it is unlawful for the authority to discriminate against—
 - (a) a disabled pupil; or
 - (b) a disabled person who may be admitted to a school as a pupil.
- (4) But an act done in the discharge of a function to which this section applies is unlawful as a result of subsection (3) only if no other provision of this Chapter makes that act unlawful.
- (5) In the case of an act which constitutes discrimination by virtue of section 55, this section also applies to discrimination against a person who is not disabled.
- (6) In this section and section 28G, “local education authority” has the meaning given in section 12 of the Education Act 1996.
- (7) “The Education Acts” has the meaning given in section 578 of the Education Act 1996.
- (8) In this section and section 28G, “education authority” has the meaning given in section 135(1) of the Education (Scotland) Act 1980.

28G Residual duty: supplementary provisions

- (1) Section 28B applies for the purposes of section 28F as it applies for the purposes of section 28A with the following modifications—
 - (a) references to a responsible body are to be read as references to an authority; and
 - (b) references to section 28C are to be read as references to subsections (2) to (4).
- (2) Each authority must take such steps as it is reasonable for it to have to take to ensure that, in discharging any function to which section 28F applies—
 - (a) disabled persons who may be admitted to a school as pupils are not placed at a substantial disadvantage in comparison with persons who are not disabled; and
 - (b) disabled pupils are not placed at a substantial disadvantage in comparison with pupils who are not disabled.
- (3) That does not require the authority to—
 - (a) remove or alter a physical feature; or
 - (b) provide auxiliary aids or services.
- (4) This section imposes duties only for the purpose of determining whether an authority has discriminated against a disabled person; and accordingly a breach of any such duty is not actionable as such.
- (5) A reference in sections 28I, 28K(1), 28M(6) and 28P to a responsible body is to be read as including a reference to a local education authority in relation to a function to which section 28F applies.
- (6) A reference in section 28N and 28P to a responsible body is to be read as including a reference to an education authority in relation to a function to which section 28F applies.

- (7) “Authority” means—
- (a) in relation to England and Wales, a local education authority; and
 - (b) in relation to Scotland, an education authority.”