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## EXPLANATORY NOTE

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

This Order is made under sections 24(2) and 26(3) of the Education (Wales) Measure 2009 (“the 2009 Measure”). This Order is the third Commencement Order to be made under the 2009 Measure.

Article 2 of this Order brings into force on 10 February 2012 the provisions in sections 3, 7, 8, 11, 12, 17, 18 and 19 of the 2009 Measure. Article 2 also brings into force section 23 (in so far as it relates to paragraphs 1 and 4 of the Schedule) and paragraphs 1 and of the Schedule to the 2009 Measure.

Section 3 enables a child to have a person (known as a “case friend”) to make representations on behalf of the child to avoid or resolve disputes with the local authority or to exercise a child’s right to make a special educational needs appeal to the Special Educational Needs Tribunal for Wales (“the Tribunal”) on behalf of the child.

Section 7 amends the procedure of the Tribunal in relation to appeals.

Section 8 amends the procedure for making regulations under the Education Act 1996.

Section 11 amends the procedure of the Tribunal in relation to claims of disability discrimination.

Section 12 enables a child to have a case friend to make representations on behalf of the child to avoid or resolve disputes with the responsible body of a school or to exercise a child’s right to make a claim of disability discrimination to the Tribunal on behalf of the child.

Section 17 enables the Welsh Ministers to pilot the provisions in Part 1 of the 2009 Measure.

Section 18 enables the Welsh Ministers to make an order during or following any pilot about the rights of children to make appeals and claims.

Section 19 contains definitions relevant to the operation of sections 17 and 18.

Article 3 of this Order brings into force on 6 March 2012 the provisions in sections 1, 2, 4, 5, 6, 9, 10, 13, 14, 15 and 16 of the 2009 Measure. Article 3 also brings into force section 23 (in so far as it relates to paragraphs 2, 3, and 5 of the Schedule) and paragraphs 2, 3, and 5 of the Schedule to the 2009 Measure. The effect of commencing these provisions when taken together with regulations made under section 17 of the 2009 Measure is that these provisions will apply only for the purposes of piloting in the local authority areas of Carmarthenshire and Wrexham. At the end of the pilot the provisions will automatically apply to the whole of Wales:

- (a) section 1 gives a child the right to make an appeal in respect of special educational needs to the Tribunal;
- (b) section 2 places a duty on the local authority to give notice to, or serve a document on, the child as well as the parent;
- (c) section 4 places a duty on the local authority to arrange for any child in their area, any parent, or case friend of such child, to be provided with advice and information about matters relating to special educational needs;
- (d) section 5 places a duty on the local authority to provide independent dispute resolution services to avoid or resolve disagreements between the local authority and a child and the local authority and a parent of a child;
- (e) section 6 places a duty on the local authority to arrange independent advocacy services and to refer any child in their area, or a case friend for such a child, to the service should they request it;

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

- (f) section 9 gives a child the right to make a claim to the Tribunal about disability discrimination in schools;
- (g) section 10 makes provision about time limits for bringing a claim of disability discrimination before the Tribunal;
- (h) section 13 places a duty on the local authority to arrange for any child in their area and for any case friend of such child, to be provided with advice and information about matters relating to disability discrimination in schools;
- (i) section 14 places a duty on the local authority to provide independent dispute resolution services to avoid or resolve disagreements between a disabled child and the body responsible for the school;
- (j) section 15 places a duty on the local authority to arrange independent advocacy services and to refer a disabled child in their area, or a case friend for such a child, to the service should they request it;
- (k) section 16 gives the Welsh Ministers a power of direction under the Equality Act 2010 when a local authority acts or proposes to act unreasonable in the discharge of a duty or has failed to discharge a duty.

Article 4 of this Order makes transitional provision relating to the local authority's duty to make arrangements to provide advice and information and dispute resolution services.