



2016 CHAPTER 8

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- (5) This section is repealed at the end of 10 years beginning with the day on which this Act receives Royal Assent.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