



Special Educational Needs and Disability Act 2001

2001 CHAPTER 10

PART 2

DISABILITY DISCRIMINATION IN EDUCATION

CHAPTER 2

FURTHER AND HIGHER EDUCATION

Enforcement

30 Right of redress

(1) In the 1995 Act, insert the following section—

“ Enforcement, etc.

28V Enforcement, remedies and procedure

(1) A claim by a person—

- (a) that a responsible body has discriminated against him in a way which is unlawful under this Chapter,
- (b) that a responsible body is by virtue of section 57 or 58 to be treated as having discriminated against him in such a way, or
- (c) that a person is by virtue of section 57 to be treated as having discriminated against him in such a way,

may be made the subject of civil proceedings in the same way as any other claim in tort or (in Scotland) in reparation for breach of statutory duty.

Status: Point in time view as at 01/09/2002.

Changes to legislation: There are currently no known outstanding effects for the Special Educational Needs and Disability Act 2001, Cross Heading: Enforcement. (See end of Document for details)

- (2) For the avoidance of doubt it is hereby declared that damages in respect of discrimination in a way which is unlawful under this Chapter may include compensation for injury to feelings whether or not they include compensation under any other head.
 - (3) Proceedings in England and Wales may be brought only in a county court.
 - (4) Proceedings in Scotland may be brought only in a sheriff court.
 - (5) The remedies available in such proceedings are those which are available in the High Court or (as the case may be) the Court of Session.
 - (6) The fact that a person who brings proceedings under this Part against a responsible body may also be entitled to bring proceedings against that body under Part 2 is not to affect the proceedings under this Part.
 - (7) Part 4 of Schedule 3 makes further provision about the enforcement of this Part and about procedure.”
- (2) In Schedule 3 to the 1995 Act (enforcement and procedure), insert the provisions set out in paragraph 2 of Schedule 3.

31 Occupation of premises by educational institutions

- (1) In the 1995 Act, insert the following section—

“28W Occupation of premises by educational institutions

- (1) This section applies if—
 - (a) premises are occupied by an educational institution under a lease;
 - (b) but for this section, the responsible body would not be entitled to make a particular alteration to the premises; and
 - (c) the alteration is one which the responsible body proposes to make in order to comply with section 28T.
- (2) Except to the extent to which it expressly so provides, the lease has effect, as a result of this subsection, as if it provided—
 - (a) for the responsible body to be entitled to make the alteration with the written consent of the lessor;
 - (b) for the responsible body to have to make a written application to the lessor for consent if it wishes to make the alteration;
 - (c) if such an application is made, for the lessor not to withhold his consent unreasonably; and
 - (d) for the lessor to be entitled to make his consent subject to reasonable conditions.
- (3) In this section—
 - “lease” includes a tenancy, sub-lease or sub-tenancy and an agreement for a lease, tenancy, sub-lease or sub-tenancy; and
 - “sub-lease” and “sub-tenancy” have such meaning as may be prescribed.
- (4) If the terms and conditions of a lease—

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- (a) impose conditions which are to apply if the responsible body alters the premises, or
 - (b) entitle the lessor to impose conditions when consenting to the responsible body's altering the premises,
- the responsible body is to be treated for the purposes of subsection (1) as not being entitled to make the alteration.
- (5) Part 3 of Schedule 4 supplements the provisions of this section.”
- (2) In Schedule 4 to the 1995 Act (premises occupied under leases), at the end insert the provisions set out in Schedule 6.

32 Validity and revision of agreements

In the 1995 Act, insert the following section—

“28X Validity and revision of agreements

Section 28P applies for the purposes of this Chapter as it applies for the purposes of Chapter 1, but with the substitution, for paragraphs (a) and (b) of subsection (2), of “under section 28V”.”

33 Interpretation

In the 1995 Act, insert the following section—

“ Interpretation of Chapter 2

31A Interpretation

- (1) Subsections (2) to (4) apply for the purpose of interpreting this Chapter.
- (2) “Disabled student” means a student who is a disabled person.
- (3) “Student” means a person who is attending, or undertaking a course of study at, an educational institution.
- (4) “Educational institution”, “responsible body” and “student services” have the meaning given in section 28R.”

34 Removal of certain duties of funding bodies

- (1) In section 65 of the Further and Higher Education Act 1992 (c. 13) (administration of funds by higher education funding councils), omit subsections (4A) and (4B).
- (2) In section 40 of the Further and Higher Education (Scotland) Act 1992 (c. 37), omit subsections (5) and (6).
- (3) Section 528 of the 1996 Act ceases to have effect.
- (4) Before section 30 of the 1995 Act, insert—

“ Duties of funding councils”.

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- (5) In section 30 of the 1995 Act (further and higher education of disabled persons), omit subsection (6).
- (6) In section 31 of the 1995 Act (further and higher education of disabled persons: Scotland), omit subsection (3).
- (7) In section 6 of the Learning and Skills Act 2000 (c. 21) (conditions imposed on financial resources in England), omit subsections (4) and (6).
- (8) In section 35 of that Act (conditions imposed on financial resources in Wales), omit subsections (4) and (6).

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Changes to legislation:

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