

Changes to legislation: Special Educational Needs and Disability Act 2001, SCHEDULE 8 is up to date with all changes known to be in force on or before 11 June 2023. 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) View outstanding changes

SCHEDULES

SCHEDULE 8

Section 42(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

THE 1996 ACT

1 The 1996 Act is amended as follows.

Commencement Information

- II** Sch. 8 para. 1 wholly in force at 1.9.2002; Sch. 8 para. 1 not in force at Royal Assent see s. 43(3); Sch. 8 para. 1 in force for E. at 1.1.2002 by [S.I. 2001/2217](#), [art. 5](#), [Sch. Pt. II](#); [S.I. 2001/2614](#), [art. 4](#); Sch. 8 para. 1 in force for W. at 1.4.2002 by [S.I. 2002/74](#), [art. 5](#), [Sch. Pt. II](#); Sch. 8 para. 1 in force at 1.9.2002 in so far as not already in force by [S.I. 2002/2217](#), [art. 3](#), [Sch. 1 Pt. 1](#)

The re-naming of the Tribunal

2 ^{F1}

Textual Amendments

- F1** Sch. 8 para. 2 repealed (1.9.2003) by [Education Act 2002 \(c. 32\)](#), s. 215(2), [Sch. 22 Pt. 2](#); [S.I. 2002/3185](#), [art. 6](#)

3 In section 333, for subsection (1) substitute—

“(1) The Tribunal shall exercise the jurisdiction conferred on it by this Part.”

4 In paragraph 118(3) of Schedule 37, omit paragraph (d).

Annual reports

^{F2}5

Textual Amendments

- F2** Sch. 8 para. 5 repealed (1.9.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 19 Pt. 4](#); [S.I. 2005/2034](#), [art. 5](#)

Commencement Information

- I2** Sch. 8 para. 5 wholly in force at 1.9.2002; Sch. 8 para. 5 not in force at Royal Assent see s. 43(3); Sch. 8 para. 5 in force for E. at 1.1.2002 by [S.I. 2001/2217](#), [art. 5](#), [Sch. Pt. II](#); [S.I. 2001/2614](#), [art. 4](#); Sch. 8

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para. 5 in force for W. at 1.4.2002 by [S.I. 2002/74](#), [art. 5](#), [Sch. Pt. II](#); Sch. 8 para. 5 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217](#), [art. 3](#), [Sch. 1 Pt. 1](#)

Contents and service of notices

- 6 (1) In section 325 (appeal against decision not to make a statement), in subsection (1), omit “, and of the effect of subsection (2) below.”.
- (2) After subsection (2) of that section insert—
- “(2A) A notice under subsection (1) must inform the parent of the right of appeal under subsection (2) and contain such other information as may be prescribed.
- (2B) Regulations may provide that where a local education authority are under a duty under this section to serve any notice, the duty must be performed within the prescribed period.”

Commencement Information

- I3** Sch. 8 para. 6 wholly in force at 1.9.2002; Sch. 8 para. 6 in force at Royal Assent for specified purposes see s. 43(4); Sch. 8 para. 6 in force for E. at 1.1.2002 by [S.I. 2001/2217](#), [art. 5](#), [Sch. Pt. II](#); [S.I. 2001/2614](#), [art. 4](#); Sch. 8 para. 6 in force for W. at 1.4.2002 by [S.I. 2002/74](#), [art. 5](#), [Sch. Pt. II](#); Sch. 8 para. 6 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217](#), [art. 3](#), [Sch. 1 Pt. 1](#)

- 7 (1) In section 328 (reviews of educational needs), in subsection (3)(a), for the words from “notice” to “below” substitute “ notice in writing of that fact ”.
- (2) After subsection (3) of that section insert—
- “(3A) A notice under subsection (3)(a) must inform the parent of the right of appeal under subsection (3)(b) and contain such other information as may be prescribed.
- (3B) Regulations may provide that where a local education authority are under a duty under this section to serve any notice, the duty must be performed within the prescribed period.”

Commencement Information

- I4** Sch. 8 para. 7 wholly in force at 1.9.2002; Sch. 8 para. 7 in force for specified purposes at Royal Assent see s. 43(3)(4); Sch. 8 para. 7 in force in so far as not already in force for E. at 1.1.2002 by [S.I. 2001/2217](#), [art. 5](#), [Sch. Pt. II](#); [S.I. 2001/2614](#), [art. 4](#); Sch. 8 para. 7 in force in so far as not already in force for W. at 1.4.2002 by [S.I. 2002/74](#), [art. 5](#), [Sch. Pt. II](#); Sch. 8 para. 7 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217](#), [art. 3](#), [Sch. 1 Pt. 1](#)

- 8 (1) In section 329 (assessment of educational needs at request of child’s parent), in subsection (2)(a), for the words from “notice” to “below” substitute “ notice in writing of that fact ”.
- (2) After subsection (2) of that section insert—

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“(2A) A notice under subsection (2)(a) must inform the parent of the right of appeal under subsection (2)(b) and contain such other information as may be prescribed.”

Commencement Information

I5 Sch. 8 para. 8 wholly in force at 1.9.2002; Sch. 8 para. 8 in force at Royal Assent for specified purposes see s. 43(3)(4); Sch. 8 para. 8 in force for E. at 1.1.2002 by [S.I. 2001/2217](#), [art. 5](#), [Sch. Pt. II](#) (as amended by [S.I. 2001/2614](#), [art. 4](#)); Sch. 8 para. 8 in force for W. at 1.4.2002 by [S.I. 2002/74](#), [art. 5](#), [Sch. Pt. II](#); Sch. 8 para. 8 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217](#), [art. 3](#), [Sch. 1 Pt. 1](#)

9 (1) In paragraph 8 of Schedule 27 (change of name of school), in sub-paragraph (3)(a), for the words from “notice” to “below” substitute “ notice in writing of that fact ”.

(2) After sub-paragraph (3) of that paragraph insert—

“(3A) A notice under sub-paragraph (3)(a) must inform the parent of the right of appeal under sub-paragraph (3)(b) and contain such other information as may be prescribed.”

Commencement Information

I6 Sch. 8 para. 9 wholly in force at 1.9.2002; Sch. 8 para. 9 in force at Royal Assent for specified purposes see s. 43(3)(4); Sch. 8 para. 9 in force for E. in so far as not already in force at 1.1.2002 by [S.I. 2001/2217](#), [art. 5](#), [Sch. Pt. II](#); [S.I. 2001/2614](#), [art. 4](#); Sch. 8 para. 9 in force for W. in so far as not already in force at 1.4.2002 by [S.I. 2002/74](#), [art. 5](#), [Sch. Pt. II](#); Sch. 8 para. 9 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217](#), [art. 3](#), [Sch. 1 Pt. 1](#)

10 (1) In paragraph 11 of that Schedule (ceasing to maintain a statement), in sub-paragraph (2)(a), for the words from “notice” to “below” substitute “ notice in writing of that fact ”.

(2) After sub-paragraph (2) of that paragraph insert—

“(2A) A notice under sub-paragraph (2)(a) must inform the parent of the right of appeal under sub-paragraph (2)(b) and contain such other information as may be prescribed.”

Commencement Information

I7 Sch. 8 para. 10 wholly in force at 1.9.2002; Sch. 8 para. 10 in force for specified purposes at Royal Assent see s. 43(3)(4); Sch. 8 para. 10 in force in so far as not already in force for E. at 1.1.2002 by [S.I. 2001/2217](#), [art. 5](#), [Sch. Pt. II](#); [S.I. 2001/2614](#), [art. 4](#); Sch. 8 para. 10 in force in so far as not already in force for W. at 1.4.2002 by [S.I. 2002/74](#), [art. 5](#), [Sch. Pt. II](#); Sch. 8 para. 10 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217](#), [art. 3](#), [Sch. 1 Pt. 1](#)

Proposals to make an assessment

11 (1) In section 323(1)(a) (assessment of special educational needs), for “propose” substitute “ are considering whether ”.

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- (2) In paragraph 4(1) of Schedule 26 (making of assessments under section 323), for “propose” substitute “are considering whether”.

Commencement Information

- I8** Sch. 8 para. 11 wholly in force at 1.9.2002; Sch. 8 para. 11 not in force at Royal Assent see s. 43(3); Sch. 8 para. 11 in force for E. at 1.1.2002 by [S.I. 2001/2217](#), [art. 5](#), [Sch. Pt. II](#); [S.I. 2001/2614](#), [art. 4](#); Sch. 8 para. 11 in force for W. at 1.4.2002 by [S.I. 2002/74](#), [art. 5](#), [Sch. Pt. II](#); Sch. 8 para. 11 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217](#), [art. 3](#), [Sch. 1 Pt. 1](#)

Statements: suitable arrangements made by parents

^{F3}12

Textual Amendments

- F3** Sch. 8 para. 12 omitted (1.9.2021) by virtue of [The Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(Consequential Amendments\) Regulations 2021 \(S.I. 2021/861\)](#), regs. 1, **4(2)**

Procedure regulations

- 13 (1) Section 336 is amended as follows.
- (2) In subsection (2)—
- (a) omit paragraph (d); and
 - (b) in paragraph (g), for “discovery” substitute “disclosure”.
- (3) After subsection (2), insert—
- “(2A) Proceeding before the Tribunal shall be held in private, except in prescribed circumstances.”
- (4) In subsection (4), for “that Act” substitute “that Part”.
- (5) After that subsection, insert—
- “(4A) The regulations may make provision for an appeal under this Part to be heard, in prescribed circumstances, with a claim under Chapter 1 of Part 4 of the Disability Discrimination Act 1995.”

Commencement Information

- I9** Sch. 8 para. 13 wholly in force at 1.9.2002; Sch. 8 para. 13(1)-(4) in force at Royal Assent for specified purposes see s. 43(4); Sch. 8 para. 13(1)-(4) in force to the extent not already in force for E. at 1.1.2002 by [S.I. 2001/2217](#), [art. 5](#), [Sch. Pt. II](#) (as amended by [S.I. 2001/2614](#), [art. 4](#)); Sch. 8 para. 13(1)-(4) in force to the extent not already in force for W. at 1.4.2002 by [S.I. 2001/3992](#), [art. 5](#), [Sch. Pt. II](#); Sch. 8 para. 13(5) in force at 1.7.2002 by [S.I. 2002/1721](#), [art. 3](#), [Sch. Pt. I](#); Sch. 8 para. 13 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217](#), [art. 3](#), [Sch. 1 Pt. 1](#)

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Time limits with respect to assessments

- 14 (1) Paragraph 3 of Schedule 26 (manner and timing of assessments under section 323) is amended as follows.
- (2) In sub-paragraph (2), for “paragraph 10” substitute “ paragraph 2A ”.
- (3) For sub-paragraphs (3) and (4) substitute—
- “(3) Regulations may provide—
- (a) that where a local education authority are under a duty under section 323, 329 or 329A to serve any notice, the duty must be performed within the prescribed period,
 - (b) that where a local education authority have served a notice under section 323(1) or 329A(3) on a child’s parent, they must decide within the prescribed period whether or not to make an assessment of the child’s educational needs,
 - (c) that where a request has been made to a local education authority under section 329(1), they must decide within the prescribed period whether or not to comply with the request, and
 - (d) that where a local education authority are under a duty to make an assessment, the duty must be performed within the prescribed period.
- (4) Provision made under sub-paragraph (3)—
- (a) may be subject to prescribed exceptions, and
 - (b) does not relieve the authority of the duty to serve a notice, or make a decision or assessment, which has not been served or made within the prescribed period.”

Commencement Information

I10 Sch. 8 para. 14 wholly in force at 1.9.2002; Sch. 8 para. 14(3) in force at Royal Assent for specified purposes see s. 43(4); Sch. 8 para. 14 in force to the extent not already in force for E. at 1.1.2002 by [S.I. 2001/2217, art. 5, Sch. Pt. II](#) (as amended by [S.I. 2001/2614, art. 4](#)); Sch. 8 para. 14 in force for specified purposes for W. at 1.4.2002 by [S.I. 2002/74, art. 5, Sch. Pt. 2](#) and Sch. 8 para. 14 in force so far as not already in force at 1.9.2002 by [S.I. 2002/2217, art. 3, Sch. 1 Pt. 1](#)

School attendance orders: amendment of statement of special educational needs

- 15 (1) Section 441 (amendment of statement on service of school attendance order) is amended as follows.
- (2) In subsection (3)(a), omit “in accordance with paragraph 10 of Schedule 27”.
- (3) After that subsection, insert—
- “(3A) An amendment to a statement required to be made under subsection (3)
- (a) shall be treated for the purposes of Schedule 27 as if it were an amendment proposed following a periodic review (within the meaning of that Schedule).”

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- I11** Sch. 8 para. 15 wholly in force at 1.9.2002; Sch. 8 para. 15 not in force at Royal Assent see s. 43(3); Sch. 8 para. 15 in force for E. at 1.1.2002 by [S.I. 2001/2217](#), [art. 5](#), [Sch. Pt. II](#); [S.I. 2001/2614](#), [art. 4](#); Sch. 8 para. 15 in force for W. at 1.4.2002 by [S.I. 2001/3992](#), [art. 5](#), [Sch. Pt. II](#); Sch. 8 para. 15 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217](#), [art. 3](#), [Sch. 1 Pt. 1](#)

PART 2

OTHER ENACTMENTS

The Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)

- 16 Section 5 of the Disabled Persons (Services, Consultation and Representation) Act 1986 is amended as follows.

Commencement Information

- I12** Sch. 8 para. 16 wholly in force at 1.9.2002; Sch. 8 para. 16 not in force at Royal Assent see s. 43(3); Sch. 8 para. 16 in force for E. at 1.1.2002 by [S.I. 2001/2217](#), [art. 5](#), [Sch. Pt. II](#); [S.I. 2001/2614](#), [art. 4](#); Sch. 8 para. 16 in force for W. at 1.4.2002 by [S.I. 2002/74](#), [art. 5](#), [Sch. Pt. 2](#); Sch. 8 para. 16 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217](#), [art. 3](#) Sch. 1 Pt. 1

- 17 In subsection (1) (requirement to obtain opinion of local authority officer as to whether child is a disabled person)—
- (a) in paragraph (a), omit “under the age of 14”; and
 - (b) in paragraph (b)—
 - (i) in sub-paragraph (i), for “the first annual review of the statement following the child’s fourteenth birthday” substitute “ a review of the statement prescribed for the purposes of this paragraph ”; and
 - (ii) in sub-paragraph (ii), for “that birthday” substitute “ they have carried out the review prescribed for the purposes of sub-paragraph (i) ”.

Commencement Information

- I13** Sch. 8 para. 17 wholly in force at 1.9.2002; Sch. 8 para. 17 not in force at Royal Assent see s. 43(3); Sch. 8 para. 17 in force for certain purposes for E. at 15.6.2001 and Sch. 8 para. 17 in force for E. in so far as not already in force at 1.1.2002 by [S.I. 2001/2217](#), [arts. 4, 5](#), [Sch. Pt. I, II](#); [S.I. 2001/2614](#), [art. 4](#); Sch. 8 para. 17 in force for certain purposes for W. at 21.1.2002 and Sch. 8 para. 17 in force in so far as not already in force for W. at 1.4.2002 by [S.I. 2002/74](#), [arts. {4}, {5}](#), [Sch. Pts. I, II](#); Sch. 8 para. 17 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217](#), [art. 3](#), [Sch. 1 Pt. 1](#)

- 18 In subsection (9) (interpretation), after the definition of “establishment of higher or further education” insert—

- ““prescribed” means prescribed in regulations made—
- (a) in relation to England, by the Secretary of State; and
 - (b) in relation to Wales, by the National Assembly for Wales;”.

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Commencement Information

- I14** Sch. 8 para. 18 wholly in force at 1.9.2002; Sch. 8 para. 18 not in force at Royal Assent see s. 43(3); Sch. 8 para. 18 in force for certain purposes for E. at 15.6.2001 and Sch. 8 para. 18 in force for E. in so far as not already in force at 1.1.2002 by [S.I. 2001/2217](#), arts. 4, 5, [Sch. Pt. I, II](#); [S.I. 2001/2614](#), [art. 4](#); Sch. 8 para. 18 in force for certain purposes for W. at 21.1.2002 and Sch. 8 para. 18 in force in so far as not already in force for W. at 1.4.2002 by [S.I. 2002/74](#), arts. {4}, {5}, Sch. Pts. I, II; Sch. 8 para. 18 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217](#), art. {3}, Sch. 1 Pt. 1

The Tribunals and Inquiries Act 1992 (c. 53)

19 The Tribunals and Inquiries Act 1992 is amended as follows.

20 In section 11(1) (appeals from certain tribunals)—

(a) for “15(a), (d) or (e)” substitute “ 15(a) or (d) ”; and

^{F4}(b)

Textual Amendments

- F4** Sch. 8 para. 20(b) repealed (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), [Sch. 3 para. 228\(i\)](#)

21 In paragraph 15 of Schedule 1 (bodies subject to the supervision of the Council) omit sub-paragraph (e).

22 After paragraph 40A of that Schedule, insert—

“Special educational needs and disability discrimination.

40B. The Special Educational Needs and Disability Tribunal.”

The School Standards and Framework Act 1998 (c. 31)

23 (1) The School Standards and Framework Act 1998 is amended as follows.

^{F5}(2)

(3) In paragraph 6 of Schedule 5 (duty of adjudicators to have regard to anti-discrimination duties of other bodies)—

(a) omit “or”, at the end of sub-paragraph (a); and

(b) after sub-paragraph (b), insert “or

(c) Chapter 1 of Part 4 of the Disability Discrimination Act 1995,”.

(4) In Schedule 30 (minor and consequential amendments), omit paragraph 186(2)(b).

Textual Amendments

- F5** Sch. 8 para. 23(2) repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 18 Pt. 3](#); [S.I. 2007/935](#), art. 7(q)

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Changes and effects yet to be applied to :

- Sch. 8 para. 3 omitted by [2018 anaw 2 Sch. 1 para. 6\(c\)\(ii\)](#)
- Sch. 8 para. 6-11 omitted by [2018 anaw 2 Sch. 1 para. 6\(c\)\(ii\)](#)
- Sch. 8 para. 13 omitted by [2018 anaw 2 Sch. 1 para. 6\(c\)\(ii\)](#)
- Sch. 8 para. 14 omitted by [2018 anaw 2 Sch. 1 para. 6\(c\)\(ii\)](#)
- Sch. 8 para. 15(3) omitted by [2018 anaw 2 Sch. 1 para. 6\(c\)\(ii\)](#)