



Special Educational Needs and Disability Act 2001

2001 CHAPTER 10

PART 2

DISABILITY DISCRIMINATION IN EDUCATION

CHAPTER 1

SCHOOLS

Enforcement

19 Procedure

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

“28J Procedure

- (1) Regulations may make provision about—
- (a) the proceedings of the Tribunal on a claim of unlawful discrimination under this Chapter; and
 - (b) the making of a claim.
- (2) The regulations may, in particular, include provision—
- (a) as to the manner in which a claim must be made;
 - (b) if the jurisdiction of the Tribunal is being exercised by more than one tribunal—
 - (i) for determining by which tribunal any claim is to be heard, and
 - (ii) for the transfer of proceedings from one tribunal to another;

Status: This is the original version (as it was originally enacted).

- (c) for enabling functions which relate to matters preliminary or incidental to a claim (including, in particular, decisions under paragraph 10(3) of Schedule 3) to be performed by the President, or by the chairman;
 - (d) enabling hearings to be conducted in the absence of any member other than the chairman;
 - (e) as to the persons who may appear on behalf of the parties;
 - (f) for granting any person such disclosure or inspection of documents or right to further particulars as might be granted by a county court;
 - (g) requiring persons to attend to give evidence and produce documents;
 - (h) for authorising the administration of oaths to witnesses;
 - (i) for the determination of claims without a hearing in prescribed circumstances;
 - (j) as to the withdrawal of claims;
 - (k) for enabling the Tribunal to stay proceedings on a claim;
 - (l) for the award of costs or expenses;
 - (m) for taxing or otherwise settling costs or expenses (and, in particular, for enabling costs to be taxed in the county court);
 - (n) for the registration and proof of decisions and orders; and
 - (o) for enabling prescribed decisions to be reviewed, or prescribed orders to be varied or revoked, in such circumstances as may be determined in accordance with the regulations.
- (3) Proceedings before the Tribunal are to be held in private, except in prescribed circumstances.
- (4) Unless made with the agreement of the National Assembly, regulations made under this section do not apply to Wales.
- (5) The Secretary of State may pay such allowances for the purpose of or in connection with the attendance of persons at the Tribunal as he may, with the consent of the Treasury, determine.
- (6) In relation to Wales, the power conferred by subsection (5) may be exercised only with the agreement of the National Assembly.
- (7) Part 1 of the Arbitration Act 1996 does not apply to proceedings before the Tribunal but regulations may make provision, in relation to such proceedings, corresponding to any provision of that Part.
- (8) The regulations may make provision for a claim under this Chapter to be heard, in prescribed circumstances, with an appeal under Part 4 of the Education Act 1996.
- (9) A person who without reasonable excuse fails to comply with—
- (a) a requirement in respect of the disclosure or inspection of documents imposed by the regulations by virtue of subsection (2)(f), or
 - (b) a requirement imposed by the regulations by virtue of subsection (2)(g),
- is guilty of an offence.
- (10) A person guilty of an offence under subsection (9) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (11) Part 3 of Schedule 3 makes further provision about enforcement of this Chapter and about procedure.”
- (2) In Schedule 3 to the 1995 Act (enforcement and procedure), insert the provisions set out in paragraph 1 of Schedule 3.