

SCHEDULES

SCHEDULE 18

Section 195

SPECIAL EDUCATIONAL NEEDS TRIBUNAL FOR WALES

Special Educational Needs

- 1 The Education Act 1996 (c. 56) is amended as follows.
- 2 In section 313 (code of practice), for subsection (5) there is substituted—
 - “(5) In this Part (except sections 333 to 336), “the Tribunal”, in relation to an appeal, means—
 - (a) where the local education authority concerned is in England, the Special Educational Needs and Disability Tribunal,
 - (b) where the local education authority concerned is in Wales, the Special Educational Needs Tribunal for Wales.”
- 3 In section 326A (unopposed appeals), for subsection (6) there is substituted—
 - “(6) In this section, “prescribed” means prescribed by regulations made—
 - (a) in relation to an appeal to the Special Educational Needs and Disability Tribunal, by the Secretary of State,
 - (b) in relation to an appeal to the Special Educational Needs Tribunal for Wales, by the National Assembly for Wales.”
- 4 In section 333 (constitution of Tribunal), before subsection (1) there is inserted—
 - “(1Z) In this section and sections 334 to 336, “the Tribunal” means the Special Educational Needs and Disability Tribunal.”
- 5 After section 336 there is inserted—

“336ZA Special Educational Needs Tribunal for Wales

- (1) There shall be a tribunal to be known as Tribiwnlys Anghenion Addysgol Arbennig Cymru or the Special Educational Needs Tribunal for Wales.
- (2) Sections 333 to 336 shall apply in relation to that tribunal as they apply in relation to the Special Educational Needs and Disability Tribunal, but as if—
 - (a) functions of the Secretary of State were functions of the National Assembly for Wales,
 - (b) references to the Secretary of State were references to the National Assembly for Wales,
 - (c) requirements for the Treasury’s consent were omitted.
- (3) The powers of the National Assembly for Wales under sections 333(4) and (5) and 334(2) are exercisable only with the agreement of the Secretary of State.”

Status: This is the original version (as it was originally enacted).

- 6 In section 336A, for subsection (2) there is substituted—
- “(2) In subsection (1), “prescribed” means prescribed by regulations made—
- (a) as to orders of the Special Educational Needs and Disability Tribunal, by the Secretary of State,
 - (b) as to orders of the Special Educational Needs Tribunal for Wales, by the National Assembly for Wales with the agreement of the Secretary of State.”

Disability Discrimination

- 7 The Disability Discrimination Act 1995 (c. 50) is amended as follows.
- 8 (1) In section 28H (Special Educational Needs and Disability Tribunal), for subsections (2) and (3) there is substituted—
- “(2) In this Chapter—
- “the Tribunal” means the Special Educational Needs and Disability Tribunal, and
- “the Welsh Tribunal” means the Special Educational Needs Tribunal for Wales.
- (3) In addition to the jurisdiction of those tribunals under Part 4 of the Education Act 1996, each of them is to exercise the jurisdiction conferred on it by this Chapter.”
- (2) For the heading of that section there is substituted “Tribunals”.
- 9 (1) Section 28I (jurisdiction and powers of the Tribunal) is amended as follows.
- (2) In subsections (1) and (3), for “Tribunal” there is substituted “appropriate tribunal”.
- (3) After subsection (4) there is inserted—
- “(5) Subject to regulations under section 28J(8), the appropriate tribunal—
- (a) for a claim against the responsible body for a school in England, is the Tribunal,
 - (b) for a claim against the responsible body for a school in Wales, is the Welsh Tribunal.”
- 10 (1) Section 28J (procedure) is amended as follows.
- (2) After subsection (2) there is inserted—
- “(2A) If made with the agreement of the National Assembly, the regulations apply to the Welsh Tribunal as they apply to the Tribunal, subject to such modifications as may be specified in the regulations.”
- (3) In subsection (3) after “Tribunal” there is inserted “or the Welsh Tribunal”.
- (4) Subsection (4) is omitted.
- (5) In subsection (5), after “Tribunal” there is inserted “or the Welsh Tribunal”.
- (6) In subsection (6), for “Wales” there is substituted “the Welsh Tribunal”.
- (7) In subsection (7), after “Tribunal” there is inserted “or the Welsh Tribunal”.

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

- (8) In subsection (8), at the end there is inserted “, including provision—
- (a) for determining the appropriate tribunal for the purposes of section 28I for such a claim, and
 - (b) for the transfer of proceedings between the Tribunal and the Welsh Tribunal.”
- 11 In section 28M (roles of the Secretary of State and the National Assembly), in subsection (5), after “Tribunal” there is inserted “or the Welsh Tribunal”.
- 12 In Part 3 of Schedule 3 (enforcement and procedure: discrimination in schools), in paragraph 10 after “Tribunal” in each place there is inserted “or the Welsh Tribunal”.
- 13 Section 10 of the Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33) (consultation on appointments) is not to apply to appointments to the lay panel appointed for the Special Educational Needs Tribunal for Wales under section 333(2) of the Education Act 1996 (c. 56).

Consequential amendments

- 14 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (disqualifying offices) there is inserted in the appropriate place—
- “President of the Special Educational Needs Tribunal for Wales, or member of a panel of persons appointed to act as chairman or other member of that Tribunal.”
- 15 In Schedule 1 to the Tribunals and Inquiries Act 1992 (c. 53) (bodies subject to the supervision of the Council), in paragraph 40B—
- (a) the existing entry becomes sub-paragraph (a), and
 - (b) after that sub-paragraph there is inserted—
- “(b) the Special Educational Needs Tribunal for Wales.”
- 16 In section 42 of the Special Educational Needs and Disability Act 2001 (c. 10), subsection (2) (National Assembly for Wales and functions under section 336 of the Education Act 1996 (c. 56)) is omitted.

Saving and transitional provision

- 17 The amendments made by any provision of this Schedule do not affect—
- (a) appeals instituted under Part 4 of the Education Act 1996, or
 - (b) claims made under section 28I of the Special Educational Needs and Disability Act 2001,
- before the coming into force of that provision.
- 18 Regulations made, or having effect as if made, under any of sections 326A and 333 to 336A of the Education Act 1996 in relation to the Special Educational Needs and Disability Tribunal have effect in relation to the Special Educational Needs Tribunal for Wales until superseded by regulations made in relation to that Tribunal, but as if references to the Secretary of State were references to the National Assembly for Wales.