

*Status: Point in time view as at 06/03/2012.*

*Changes to legislation: Equality Act 2010, SCHEDULE 17 is up to date with all changes known to be in force on or before 19 April 2024. 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)*

## SCHEDULES

### SCHEDULE 17

Section 116

#### DISABLED PUPILS: ENFORCEMENT

##### Modifications etc. (not altering text)

- C1** [Sch. 17](#): power to amend or repeal conferred (10.2.2012) by Education (Wales) Measure 2009 (nawm 5), s. 18(2)(c) (as amended by [S.I. 2011/1651](#), [art. 12\(b\)](#)); [S.I. 2012/320](#), [art. 2\(g\)](#))

### PART 1

#### INTRODUCTORY

- 1 In this Schedule—
- “the Tribunal” means—
- (a) in relation to a school in England, the First-tier Tribunal;
  - (b) in relation to a school in Wales, the Special Educational Needs Tribunal for Wales;
  - (c) in relation to a school in Scotland, an Additional Support Needs Tribunal for Scotland;
- “the English Tribunal” means the First-tier Tribunal;
- “the Welsh Tribunal” means the Special Educational Needs Tribunal for Wales;
- “the Scottish Tribunal” means an Additional Support Needs Tribunal for Scotland;
- “responsible body” is to be construed in accordance with section 85.

##### Commencement Information

- II** [Sch. 17 para. 1](#) wholly in force; [Sch. 17](#) not in force at Royal Assent see [s. 216](#); [Sch. 17 para. 1](#) in force for certain purposes at 6.7.2010 by [S.I. 2010/1736](#), [art. 2](#), [Sch.](#); [Sch. 17 Pt. 1](#) in force at 1.10.2010 in so far as not already in force by [S.I. 2010/2317](#), [art. 2\(1\)\(9\)\(k\)\(i\)](#) (with [art. 15](#), and subject to transitional provision in [art. 7](#))

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## PART 2

### TRIBUNALS IN ENGLAND AND WALES

#### *Introductory*

- 2 This Part of this Schedule applies in relation to the English Tribunal and the Welsh Tribunal.

#### **Commencement Information**

- I2** Sch. 17 para. 2 wholly in force; Sch. 17 not in force at Royal Assent see s. 216; Sch. 17 Pt. 2 in force at 1.10.2010 by [S.I. 2010/2317](#), **art. 2(1)(9)(k)(i)** (with **art. 15**, and subject to transitional provision in **art. 7**)

#### *Jurisdiction <sup>F1</sup>— England and Wales*

#### **Textual Amendments**

- F1** Words in Sch. 17 para. 3 cross-heading inserted (E.W.) (6.3.2012) by Education (Wales) Measure 2009 (nawm 5), s. 9(2) (as substituted (6.7.2011) by [The Right of a Child to Make a Disability Discrimination Claim \(Schools\) \(Wales\) Order 2011 \(S.I. 2011/1651\)](#), **art. 3**); [S.I. 2012/320](#), **art. 3(f)**

- 3 A claim that a responsible body has contravened Chapter 1 of Part 6 because of a person's disability may be made to the Tribunal by the person's parent.

#### **Commencement Information**

- I3** Sch. 17 para. 3 wholly in force; Sch. 17 not in force at Royal Assent see s. 216; Sch. 17 Pt. 2 in force at 1.10.2010 by [S.I. 2010/2317](#), **art. 2(1)(9)(k)(i)** (with **art. 15**, and subject to transitional provision in **art. 7**)

#### *<sup>F2</sup>Jurisdiction — Wales*

#### **Textual Amendments**

- F2** Sch. 17 para. 3A and cross-heading inserted (E.W.) (6.3.2012) by Education (Wales) Measure 2009 (nawm 5), s. 9(3) (as substituted (6.7.2011) by [The Right of a Child to Make a Disability Discrimination Claim \(Schools\) \(Wales\) Order 2011 \(S.I. 2011/1651\)](#), **art. 3**); [S.I. 2012/320](#), **art. 3(f)**

- 3A (1) A claim that a responsible body for a school in Wales has contravened Chapter 1 of Part 6 in relation to a person because of disability may be made to the Tribunal by that person (“the relevant person”).
- (2) But this paragraph does not apply to a claim to which paragraph 13 or 14 applies.
- (3) The relevant person's right to claim is exercisable concurrently with the right of the relevant person's parent under paragraph 3.
- (4) The exercise of rights under this paragraph is subject to provision made by regulations under paragraphs 6 and 6A.]

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### *Time for bringing proceedings*

- 4 (1) Proceedings on a claim may not be brought after the end of the period of 6 months starting with the date when the conduct complained of occurred.
- (2) If, in relation to proceedings or prospective proceedings under section 27 of the Equality Act 2006, the dispute is referred for conciliation in pursuance of arrangements under that section before the end of that period, the period is extended by 3 months.
- [<sup>F3</sup>(2A) If, in relation to proceedings or prospective proceedings on a claim under paragraph 3 or 3A, the dispute is referred for resolution in pursuance of arrangements under paragraph 6C or for conciliation in pursuance of arrangements under section 27 of the Equality Act 2006 before the end of the period of 6 months mentioned in sub-paragraph (1), that period is extended by 3 months.]
- (3) The Tribunal may consider a claim which is out of time.
- (4) Sub-paragraph (3) does not apply if the Tribunal has previously decided under that sub-paragraph not to consider a claim.
- (5) For the purposes of sub-paragraph (1)—
- (a) if the contravention is attributable to a term in a contract, the conduct is to be treated as extending throughout the duration of the contract;
  - (b) conduct extending over a period is to be treated as occurring at the end of the period;
  - (c) failure to do something is to be treated as occurring when the person in question decided on it.
- (6) In the absence of evidence to the contrary, a person (P) is to be taken to decide on failure to do something—
- (a) when P acts inconsistently with doing it, or
  - (b) if P does not act inconsistently, on the expiry of the period in which P might reasonably have been expected to do it.

#### **Textual Amendments**

**F3** Sch. 17 para. 4(2A) inserted (E.W.) (6.3.2012) by Education (Wales) Measure 2009 (nawm 5), s. 10(2) (as substituted (6.7.2011) by The Right of a Child to Make a [Disability Discrimination Claim \(Schools\) \(Wales\) Order 2011 \(S.I. 2011/1651\)](#), [art. 4](#)); S.I. 2012/320, [art. 3\(g\)](#)

#### **Commencement Information**

**I4** Sch. 17 para. 4 wholly in force; Sch. 17 not in force at Royal Assent see s. 216; Sch. 17 Pt. 2 in force at 1.10.2010 by [S.I. 2010/2317](#), [art. 2\(1\)\(9\)\(k\)\(i\)](#) (with [art. 15](#), and subject to transitional provision in [art. 7](#))

### *Powers*

- 5 (1) This paragraph applies if the Tribunal finds that the contravention has occurred.
- (2) The Tribunal may make such order as it thinks fit.
- (3) The power under sub-paragraph (2)—
- (a) may, in particular, be exercised with a view to obviating or reducing the adverse effect on the person of any matter to which the claim relates;

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- (b) does not include power to order the payment of compensation.

**Commencement Information**

**I5** Sch. 17 para. 5 wholly in force; Sch. 17 not in force at Royal Assent see s. 216; Sch. 17 Pt. 2 in force at 1.10.2010 by [S.I. 2010/2317](#), [art. 2\(1\)\(9\)\(k\)\(i\)](#) (with [art. 15](#), and subject to transitional provision in [art. 7](#))

*Procedure*

- 6 (1) This paragraph applies in relation to the Welsh Tribunal.
- (2) The Welsh Ministers may by regulations make provision as to—
- (a) the proceedings on a claim under paragraph 3 [<sup>F4</sup>or 3A];
  - (b) the making of a claim.
- (3) The regulations may, in particular, include provision—
- (a) as to the manner in which a claim must be made;
  - (b) for enabling functions relating to preliminary or incidental matters (including in particular a decision under paragraph 4(3) to be performed by the President or by the person occupying the chair);
  - (c) enabling hearings to be conducted in the absence of a member other than the person occupying the chair;
  - [<sup>F5</sup>(ca) for adding and substituting parties;]
  - (d) as to persons who may appear on behalf of the parties;
  - (e) for granting such rights to disclosure or inspection of documents or to further particulars as may be granted by the county court;
  - (f) requiring persons to attend to give evidence and produce documents;
  - (g) for authorising the administration of oaths to witnesses;
  - (h) for deciding claims without a hearing in prescribed circumstances;
  - (i) as to the withdrawal of claims;
  - (j) for enabling the Tribunal to stay proceedings;
  - (k) for the award of costs or expenses;
  - (l) for settling costs or expenses (and, in particular, for enabling costs to be assessed in the county court);
  - (m) for the registration and proof of decisions and orders;
  - (n) for enabling prescribed decisions to be reviewed, or prescribed orders to be varied or revoked, in such circumstances as may be decided in accordance with the regulations.
- (4) Proceedings must be held in private, except in prescribed circumstances.
- (5) The Welsh Ministers may pay such allowances for the purpose of or in connection with the attendance of persons at the Tribunal as they may decide.
- (6) Part 1 of the Arbitration Act 1996 does not apply to the proceedings, but regulations may make provision in relation to such proceedings that corresponds to a provision of that Part.
- (7) The regulations may make provision for a claim to be heard, in prescribed circumstances, with an appeal under Part 4 of the Education Act 1996 (special educational needs).

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- (8) A person commits an offence by failing to comply with—
- (a) a requirement in respect of the disclosure or inspection of documents imposed by virtue of sub-paragraph (3)(e), or
  - (b) a requirement imposed by virtue of sub-paragraph (3)(f).
- (9) A person guilty of the offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### Textual Amendments

- F4** Words in Sch. 17 para. 6(2)(a) inserted (E.W.) (10.2.2012) by Education (Wales) Measure 2009 (nawm 5), s. 11(2)(a) (as substituted (6.7.2011) by The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 (S.I. 2011/1651), art. 5; S.I. 2012/320, art. 2(d)
- F5** Sch. 17 para. 6(3)(ca) inserted (E.W.) (10.2.2012) by Education (Wales) Measure 2009 (nawm 5), s. 11(2)(b) (as substituted (6.7.2011) by The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 (S.I. 2011/1651), art. 5; S.I. 2012/320, art. 2(d)

#### Commencement Information

- I6** Sch. 17 para. 6 wholly in force; Sch. 17 not in force at Royal Assent see s. 216; Sch. 17 para. 6(1)-(7) in force for certain purposes at 6.7.2010 by S.I. 2010/1736, art. 2, Sch.; Sch. 17 Pt. 2 in force at 1.10.2010 in so far as not already in force by S.I. 2010/2317, art. 2(1)(9)(k)(i) (with art. 15, and subject to transitional provision in art. 7)

### <sup>F6F7</sup>Case friends — Wales

#### Textual Amendments

- F6** Sch. 17 para. 6A and cross-heading inserted (E.W.) (10.2.2012) by Education (Wales) Measure 2009 (nawm 5), s. 12(2) (as substituted (6.7.2011) by The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 (S.I. 2011/1651), art. 6; S.I. 2012/320, art. 2(e)
- F7** Sch. 17 para. 6A and cross-heading inserted (E.W.) (10.2.2012) by Education (Wales) Measure 2009 (nawm 5), s. 12(2) (as substituted (6.7.2011) by The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 (S.I. 2011/1651), art. 6; S.I. 2012/320, art. 2(e)

- 6A (1) The Welsh Ministers may by regulations provide for—
- (a) a disabled child in a local authority area in Wales to have a person to make representations on behalf of the disabled child with a view to avoiding or resolving disagreements about contraventions of Chapter 1 of Part 6; and
  - (b) a relevant person (within the meaning of paragraph 3A) to have another person to exercise the relevant person's rights under that paragraph on the relevant person's behalf.
- (2) A person exercising rights or making representations on behalf of a disabled child or a relevant person under sub-paragraph (1) is referred to in this Schedule as a “case friend”.
- (3) A case friend must—
- (a) make representations and exercise rights fairly and competently;
  - (b) have no interest adverse to that of the disabled child or relevant person;

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- (c) ensure that all steps and decisions taken by the case friend are for the benefit of the disabled child or relevant person and take account of the disabled child or relevant person's views.
- (4) Regulations made under this paragraph may (among other things)—
- (a) confer functions on the Welsh Tribunal;
  - (b) make provision about procedures in relation to case friends;
  - (c) make provision about the appointment and removal of case friends;
  - (d) specify the circumstances in which a person may or may not act as a case friend;
  - (e) specify the circumstances in which a relevant person (within the meaning of paragraph 3A) must have a case friend;
  - (f) specify further requirements in respect of the conduct of case friends.
- (5) In this paragraph and in paragraphs 6B, 6C, 6D and 6E, “local authority” has the meaning given in section 89(10).
- (6) In this paragraph and in paragraphs 6B, 6C and 6D—
- “disabled child” means any disabled person who is a pupil (or a prospective pupil) of—
- (a) a maintained school or maintained nursery school,
  - (b) a pupil referral unit,
  - (c) an independent school, or
  - (d) a special school not maintained by a local authority;
- “proprietor” has the meaning given in section 89(4);
- “school” has the meanings given in section 89(5).
- (7) In sub-paragraph (6)—
- “independent school” has the meaning given in section 89(8);
- “maintained school” has the meaning given in section 20(7) of the School Standards and Framework Act 1998;
- “maintained nursery school” has the meaning given in section 22(9) of the School Standards and Framework Act 1998
- “pupil” has the meanings given in section 89(3);
- “pupil referral unit” has the meaning given in section 19 of the Education Act 1996; and
- “special school” has the meaning given in section 89(9).]

*[<sup>F8</sup>Advice and information — Wales*

#### **Textual Amendments**

- F8** Sch. 17 para. 6B and cross-heading inserted (E.W.) (6.3.2012) by Education (Wales) Measure 2009 (nawm 5), s. 13(2) (as substituted (6.7.2011) by The Right of a Child to Make a [Disability Discrimination Claim \(Schools\) \(Wales\) Order 2011 \(S.I. 2011/1651\)](#), [art. 7](#); S.I. 2012/320, [art. 3\(h\)](#))

- 6B (1) A local authority in Wales must arrange for any disabled child in its area and for the case friend of any such child to be provided with advice and information about matters relating to disability discrimination in schools.

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- (2) In making the arrangements, the local authority must have regard to any guidance given by the Welsh Ministers.
- (3) The arrangements must comply with any provisions made in regulations by the Welsh Ministers that relate to the arrangements.
- (4) The local authority must take such steps as it considers appropriate for making the services provided under sub-paragraph (1) known to—
  - (a) disabled children in its area,
  - (b) parents of disabled children in its area,
  - (c) head teachers and proprietors of schools in its area, and
  - (d) such other persons as it considers appropriate.]

*[<sup>F9</sup>Resolution of disputes — Wales*

**Textual Amendments**

**F9** Sch. 17 para. 6C and cross-heading inserted (E.W.) (6.3.2012) by Education (Wales) Measure 2009 (nawm 5), s. 14(2) (as substituted (6.7.2011) by The Right of a Child to Make a [Disability Discrimination Claim \(Schools\) \(Wales\) Order 2011 \(S.I. 2011/1651\)](#), [art. 8](#)); S.I. 2012/320, [art. 3\(i\)](#)

- 6C
- (1) A local authority in Wales must make arrangements with a view to avoiding or resolving disagreements between responsible bodies and disabled children in its area about contraventions of Chapter 1 of Part 6.
  - (2) The arrangements must provide for the appointment of independent persons with the functions of facilitating the avoidance or resolution of such disagreements.
  - (3) In making the arrangements, the local authority must have regard to any guidance given by the Welsh Ministers.
  - (4) The arrangements must comply with any provisions made in regulations by the Welsh Ministers that relate to the arrangements.
  - (5) The local authority must take such steps as it considers appropriate for making the arrangements under sub-paragraph (1) known to—
    - (a) disabled children in its area,
    - (b) parents of disabled children in its area,
    - (c) head teachers and proprietors of schools in its area, and
    - (d) such other persons as it considers appropriate.
  - (6) The arrangements cannot affect the entitlement of any person to make a claim to the Tribunal, and the local authority must take such steps as it considers appropriate to make that fact known to disabled children, to parents of disabled children and to case friends for disabled children in its area.]

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## *<sup>F10</sup>Independent advocacy services — Wales*

### Textual Amendments

**F10** Sch. 17 para. 6D and cross-heading inserted (E.W.) (6.3.2012) by Education (Wales) Measure 2009 (nawm 5), s. 15(2) (as substituted (6.7.2011) by The Right of a Child to Make a [Disability Discrimination Claim \(Schools\) \(Wales\) Order 2011 \(S.I. 2011/1651\)](#), [art. 9](#)); S.I. 2012/320, [art. 3\(j\)](#)

- 6D (1) Every local authority in Wales must—
- (a) make arrangements for the provision of independent advocacy services in its area;
  - (b) refer any disabled child in its area who requests independent advocacy services to a service provider;
  - (c) refer any person who is a case friend for a disabled child in its area and who requests independent advocacy services to a service provider.
- (2) In this paragraph “independent advocacy services” are services providing advice and assistance (by way of representation or otherwise) to a disabled child who is—
- (a) making, or intending to make a claim that a responsible body has contravened Chapter 1 of Part 6 because of the child's disability; or
  - (b) considering whether to make such a claim; or
  - (c) taking part in or intending to take part in dispute resolution arrangements made under paragraph 6C.
- (3) In making arrangements under this paragraph, every local authority must have regard to the principle that any services provided under the arrangements must be independent of any person who is—
- (a) the subject of a claim to the Tribunal, or
  - (b) involved in investigating or adjudicating on such a claim.
- (4) The arrangements must comply with any provisions made in regulations by the Welsh Ministers that relate to the arrangements.
- (5) Every local authority in Wales must take such steps as it considers appropriate for making the arrangements under this paragraph known to—
- (a) disabled children in its area,
  - (b) parents of disabled children in its area,
  - (c) head teachers and proprietors of schools in its area, and
  - (d) such other persons as it considers appropriate.
- (6) The arrangements may include provision for payments to be made to, or in relation to, any person carrying out functions in accordance with the arrangements.
- (7) A local authority must have regard to any guidance given from time to time by the Welsh Ministers.]



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## *f<sup>11</sup>* Power of direction — Wales

### Textual Amendments

**F11** Sch. 17 para. 6E and cross-heading inserted (E.W.) (6.3.2012) by Education (Wales) Measure 2009 (nawm 5), s. 16(2) (as substituted (6.7.2011) by The Right of a Child to Make a [Disability Discrimination Claim \(Schools\) \(Wales\) Order 2011 \(S.I. 2011/1651\)](#), **art. 10**); S.I. 2012/320, **art. 3(k)**

- 6E (1) If the Welsh Ministers are satisfied (whether on a complaint or otherwise) that a local authority—
- (a) has acted, or is proposing to act, unreasonably in the discharge of a duty imposed by or under paragraph 6B, 6C or 6D, or
  - (b) has failed to discharge a duty imposed by or under any of those paragraphs, they may give that local authority such directions as to the discharge of the duty as appear to them to be expedient.
- (2) A direction may be given under sub-paragraph (1) even if the performance of the duty is contingent on the opinion of the local authority.
- (3) A direction—
- (a) may be varied or revoked by the Welsh Ministers;
  - (b) may be enforced, on the application of the Welsh Ministers, by a mandatory order obtained in accordance with section 31 of the Senior Courts Act 1981.]

## PART 3

### TRIBUNALS IN SCOTLAND

#### *Introductory*

- 7 This Part of this Schedule applies in relation to the Scottish Tribunal.

### Commencement Information

**I7** Sch. 17 para. 7 wholly in force; Sch. 17 not in force at Royal Assent see s. 216; Sch. 17 Pt. 3 in force for certain purposes at 1.10.2010 by S.I. 2010/2317, **art. 2(1)(9)(k)(ii)** (with art. 15, and subject to transitional provision in art. 7); Sch. 17 Pt. 3 in force in so far as not already in force at 18.3.2011 by S.I. 2010/2317, **art. 3(d)** (with art. 15, and subject to transitional provision in art. 7)

#### *Jurisdiction*

- 8 A claim that a responsible body has contravened Chapter 1 of Part 6 because of a person's disability may be made to the Tribunal by—
- (a) the person's parent;
  - (b) where the person has capacity to make the claim, the person.

### Commencement Information

**I8** Sch. 17 para. 8 wholly in force; Sch. 17 not in force at Royal Assent see s. 216; Sch. 17 Pt. 3 in force for certain purposes at 1.10.2010 by S.I. 2010/2317, **art. 2(1)(9)(k)(ii)** (with art. 15, and subject to

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transitional provision in [art. 7](#)); [Sch. 17 Pt. 3](#) in force in so far as not already in force at 18.3.2011 by [S.I. 2010/2317](#), [art. 3\(d\)](#) (with [art. 15](#), and subject to transitional provision in [art. 7](#))

### *Powers*

- 9 (1) This paragraph applies if the Tribunal finds the contravention has occurred.
- (2) The Tribunal may make such order as it thinks fit.
- (3) The power under sub-paragraph (2)—
- (a) may, in particular, be exercised with a view to obviating or reducing the adverse effect on the person of any matter to which the claim relates;
  - (b) does not include power to order the payment of compensation.

### **Commencement Information**

- 19** [Sch. 17 para. 9](#) wholly in force; [Sch. 17](#) not in force at Royal Assent see [s. 216](#); [Sch. 17 Pt. 3](#) in force for certain purposes at 1.10.2010 by [S.I. 2010/2317](#), [art. 2\(1\)\(9\)\(k\)\(ii\)](#) (with [art. 15](#), and subject to transitional provision in [art. 7](#)); [Sch. 17 Pt. 3](#) in force in so far as not already in force at 18.3.2011 by [S.I. 2010/2317](#), [art. 3\(d\)](#) (with [art. 15](#), and subject to transitional provision in [art. 7](#))

### *Procedure etc.*

- 10 (1) The Scottish Ministers may make rules as to—
- (a) the proceedings on a claim under paragraph 8;
  - (b) the making of a claim.
- (2) The rules may, in particular, include provision for or in connection with—
- (a) the form and manner in which a claim must be made;
  - (b) the time within which a claim is to be made;
  - (c) the withdrawal of claims;
  - (d) the recovery and inspection of documents;
  - (e) the persons who may appear on behalf of the parties;
  - (f) the persons who may be present at proceedings alongside any party or witness to support the party or witness;
  - (g) enabling specified persons other than the parties to appear or be represented in specified circumstances;
  - (h) requiring specified persons to give notice to other specified persons of specified matters;
  - (i) the time within which any such notice must be given;
  - (j) enabling Tribunal proceedings to be conducted in the absence of any member of a Tribunal other than the convener;
  - (k) enabling any matters that are preliminary or incidental to the determination of proceedings to be determined by the convener of a Tribunal alone or with such other members of the Tribunal as may be specified;
  - (l) enabling Tribunals to be held in private;
  - (m) enabling a Tribunal to exclude any person from attending all or part of Tribunal proceedings;

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- (n) enabling a Tribunal to impose reporting restrictions in relation to all or part of Tribunal proceedings;
- (o) enabling a Tribunal to determine specified matters without holding a hearing;
- (p) the recording and publication of decisions and orders of a Tribunal;
- (q) enabling a Tribunal to commission medical and other reports in specified circumstances;
- (r) requiring a Tribunal to take specified actions, or to determine specified proceedings, within specified periods;
- (s) enabling a Tribunal to make an award of expenses;
- (t) the taxation or assessment of such expenses;
- (u) enabling a Tribunal, in specified circumstances, to review, or to vary or revoke, any of its decisions, orders or awards;
- (v) enabling a Tribunal, in specified circumstances, to review the decisions, orders or awards of another Tribunal and take such action (including variation and revocation) in respect of those decisions, orders or awards as it thinks fit.

#### Commencement Information

**110** Sch. 17 para. 10 wholly in force; Sch. 17 not in force at Royal Assent see s. 216; Sch. 17 Pt. 3 in force for certain purposes at 1.10.2010 by S.I. 2010/2317, art. 2(1)(9)(k)(ii) (with art. 15, and subject to transitional provision in art. 7); Sch. 17 Pt. 3 in force in so far as not already in force at 18.3.2011 by S.I. 2010/2317, art. 3(d) (with art. 15, and subject to transitional provision in art. 7)

#### Appeals

- 11 (1) Either of the persons specified in sub-paragraph (2) may appeal on a point of law to the Court of Session against a decision of a Tribunal relating to a claim under this Schedule.
- (2) Those persons are—
- (a) the person who made the claim;
  - (b) the responsible body.
- (3) Where the Court of Session allows an appeal under sub-paragraph (1) it may—
- (a) remit the reference back to the Tribunal or to a differently constituted Tribunal to be considered again and give the Tribunal such directions about the consideration of the case as the Court thinks fit;
  - (b) make such ancillary orders as it considers necessary or appropriate.

#### Commencement Information

**111** Sch. 17 para. 11 wholly in force; Sch. 17 not in force at Royal Assent see s. 216; Sch. 17 Pt. 3 in force for certain purposes at 1.10.2010 by S.I. 2010/2317, art. 2(1)(9)(k)(ii) (with art. 15, and subject to transitional provision in art. 7); Sch. 17 Pt. 3 in force in so far as not already in force at 18.3.2011 by S.I. 2010/2317, art. 3(d) (with art. 15, and subject to transitional provision in art. 7)

*Status: Point in time view as at 06/03/2012.*

*Changes to legislation: Equality Act 2010, SCHEDULE 17 is up to date with all changes known to be in force on or before 19 April 2024. 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)*

*Amendment of Education (Additional Support for Learning) (Scotland) Act 2004*

- 12 The Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) is amended as follows—
- (a) in section 17(1), omit “to exercise the functions which are conferred on a Tribunal by virtue of this Act”;
  - (b) after section 17(1), insert—
 

“(1A) Tribunals are to exercise the functions which are conferred on them by virtue of—

    - (a) this Act, and
    - (b) the Equality Act 2010”;
  - (c) in the definition of “Tribunal functions” in paragraph 1 of Schedule 1, after “Act” insert “ or the Equality Act 2010 ”.

**Commencement Information**

**I12** Sch. 17 para. 12 wholly in force; Sch. 17 not in force at Royal Assent see s. 216; Sch. 17 Pt. 3 in force for certain purposes at 1.10.2010 by S.I. 2010/2317, art. 2(1)(9)(k)(ii) (with art. 15, and subject to transitional provision in art. 7); Sch. 17 Pt. 3 in force in so far as not already in force at 18.3.2011 by S.I. 2010/2317, art. 3(d) (with art. 15, and subject to transitional provision in art. 7)

**PART 4**

ADMISSIONS AND EXCLUSIONS

*Admissions*

- 13 (1) This paragraph applies if appeal arrangements have been made in relation to admissions decisions.
- (2) A claim that a responsible body has, because of a person's disability, contravened Chapter 1 of Part 6 in respect of an admissions decision must be made under the appeal arrangements.
- (3) The body hearing the claim has the powers it has in relation to an appeal under the appeal arrangements.
- (4) Appeal arrangements are arrangements under—
- (a) section 94 of the School Standards and Framework Act 1998, or
  - <sup>F12</sup>(b) Academy arrangements (as defined in section 1 of the Academies Act 2010) between the responsible body for an Academy and the Secretary of State,] enabling an appeal to be made by the person's parent against the decision.
- (5) An admissions decision is—
- (a) a decision of a kind mentioned in section 94(1) or (2) of the School Standards and Framework Act 1998;
  - (b) a decision as to the admission of a person to an Academy taken by the responsible body or on its behalf.

*Status: Point in time view as at 06/03/2012.*

*Changes to legislation: Equality Act 2010, SCHEDULE 17 is up to date with all changes known to be in force on or before 19 April 2024. 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)*

#### Textual Amendments

**F12** Sch. 17 para. 13(4)(b) substituted (1.2.2012) by Education Act 2011 (c. 21), s. 65, Sch. 15 para. 2; S.I. 2012/84, art. 3

#### Commencement Information

**I13** Sch. 17 para. 13 wholly in force; Sch. 17 not in force at Royal Assent see s. 216; Sch. 17 Pt. 4 in force at 1.10.2010 by S.I. 2010/2317, art. 2(1)(9)(k)(iii) (with art. 15, and subject to transitional provision in art. 7)

#### Exclusions

- 14 (1) This paragraph applies if appeal arrangements have been made in relation to exclusion decisions.
- (2) A claim that a responsible body has, because of a person's disability, contravened Chapter 1 of Part 6 in respect of an exclusion decision must be made under the appeal arrangements.
- (3) The body hearing the claim has the powers it has in relation to an appeal under the appeal arrangements.
- (4) Appeal arrangements are arrangements under—
- (a) section 52(3) of the Education Act 2002, or
  - (b) an agreement between the responsible body for an Academy and the Secretary of State under section 482 of the Education Act 1996,
- enabling an appeal to be made by [<sup>F13</sup>the person or] the person's parent against the decision.
- (5) An exclusion decision is—
- (a) a decision of a kind mentioned in 52(3) of the Education Act 2002;
  - (b) a decision taken by the responsible body or on its behalf not to reinstate a pupil who has been permanently excluded from an Academy by its head teacher.
- (6) “Responsible body”, in relation to a maintained school, includes the discipline committee of the governing body if that committee is required to be established as a result of regulations made under section 19 of the Education Act 2002.
- (7) “Maintained school” has the meaning given in section 20(7) of the School Standards and Framework Act 1998.

#### Textual Amendments

**F13** Words in Sch. 17 para. 14(4) inserted (4.4.2011) by The Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011 (S.I. 2011/1060), arts. 1(2), 6(3)

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#### **Commencement Information**

- I14** Sch. 17 para. 14 wholly in force; Sch. 17 not in force at Royal Assent see s. 216; Sch. 17 Pt. 4 in force at 1.10.2010 by S.I. 2010/2317, art. 2(1)(9)(k)(iii) (with art. 15, and subject to transitional provision in art. 7)

**Status:**

Point in time view as at 06/03/2012.

**Changes to legislation:**

Equality Act 2010, SCHEDULE 17 is up to date with all changes known to be in force on or before 19 April 2024. 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.