

SCHEDULES

SCHEDULE 17

DISABLED PUPILS: ENFORCEMENT

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.

Jurisdiction

- 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.

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.
- (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.

Status: This is the original version (as it was originally enacted).

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

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;
 - (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;
 - (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.

Status: This is the original version (as it was originally enacted).

- (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).
- (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.