



Disability Discrimination Act 1995

1995 CHAPTER 50

PART IV

EDUCATION

[^{F1}CHAPTER 1

SCHOOLS]

[^{F1}Enforcement: England and Wales]

[^{F1}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;
 - (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;

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- (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.

[If made with the agreement of the ^{F3}Welsh Ministers], the regulations apply to the ^{F2}(2A) Welsh Tribunal as they apply to the Tribunal, subject to such modifications as may be specified in the regulations.]

(3) Proceedings before the Tribunal ^{F4}or the Welsh Tribunal] are to be held in private, except in prescribed circumstances.

^{F5}(4)

(5) The Secretary of State may pay such allowances for the purpose of or in connection with the attendance of persons at the Tribunal ^{F4}or the Welsh Tribunal] as he may, with the consent of the Treasury, determine.

(6) In relation to ^{F6}the Welsh Tribunal], the power conferred by subsection (5) may be exercised only with the agreement of the ^{F7}Welsh Ministers].

(7) Part 1 of the Arbitration Act 1996 does not apply to proceedings before the Tribunal ^{F4}or the Welsh 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 ^{F8}, 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.]

(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.]

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Textual Amendments

- F1** S. 28J inserted (E.W.S.) (1.7.2002 for certain purposes otherwise 1.9.2002) by 2001 c. 10, **s. 19(1)** (with s. 43(13)); S.I. 2002/1721, art. 3, **Sch. Pt. I**; S.I. 2002/2217, art. 3, **Sch. 1 Pt. I**
- F2** S. 28J(2A) inserted (1.9.2003) by 2002 c. 32, s. 195, **Sch. 18 para. 10(2)** (with ss. 210(8), 214(4), Sch. 18 para. 17); S.I. 2002/3185, art. 6, **Sch. Pt. III**
- F3** Words in s. 28J(2A) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order (S.I. 2007/1388), arts. 1, 3, {Sch. 1 para. 53(2)}, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see **s. 161(5)** of the Government of Wales Act 2006.
- F4** Words in s. 28J(3)(5)(7) inserted (1.9.2003) by 2002 c. 32, s. 195, **Sch. 18 para. 10(3)(5)(7)** (with ss. 210(8), 214(4), Sch. 18 para. 17); S.I. 2002/3185, art. 6, **Sch. Pt. III**
- F5** S. 28J(4) repealed (1.9.2003) by 2002 c. 32, ss. 195, 215(2), Sch. 18 para. 10(4), **Sch. 22 Pt. II** (with ss. 210(8), 214(4), Sch. 18 para. 17); S.I. 2002/3185, art. 6, **Sch. Pt. III**
- F6** Words in s. 28J(6) substituted (1.9.2003) by 2002 c. 32, s. 195, **Sch. 18 para. 10(6)** (with ss. 210(8), 214(4), Sch. 18 para. 17); S.I. 2002/3185, art. 6, **Sch. Pt. III**
- F7** Words in s. 28J(6) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order (S.I. 2007/1388), arts. 1, 3, {Sch. 1 para. 53(3)}, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see **s. 161(5)** of the Government of Wales Act 2006.
- F8** S. 28J(8)(a)(b) and the preceding words inserted (1.9.2003) by 2002 c. 32, s. 195, **Sch. 18 para. 10(8)** (with ss. 210(8), 214(4), Sch. 18 para. 17); S.I. 2002/3185, art. 6, **Sch. Pt. III**

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