

*Status: This version of this provision is prospective.*

**Changes to legislation:** *There are currently no known outstanding effects for the Special Educational Needs and Disability Act (Northern Ireland) 2016, Section 10. (See end of Document for details)*



## 2016 CHAPTER 8

### *Appeals*

PROSPECTIVE

#### **Mediation in connection with appeals**

**10.**—(1) Part 2 of the 1996 Order is amended as follows.

(2) In Article 21B (resolution of disputes) for paragraph (4) substitute—

“(3A) The Authority shall make arrangements for the provision of mediation to a person who intends to appeal to the Tribunal.

(3B) Where a person requests mediation in accordance with such arrangements, the Authority must arrange for and participate in the mediation.

(4) Arrangements made by the Authority under this Article shall provide for the appointment of independent persons with the functions of facilitating the avoidance or resolution of disputes or (as the case may be) of acting as mediator; and for the purposes of this paragraph a person is not independent if he or she is employed by the Authority.”.

(3) In Article 21B(7) at the beginning insert “ Except as provided by Article 21C(3), ”.

(4) After Article 21B insert—

#### **“Information and advice as to mediation in connection with certain appeals**

**21C.**—(1) Subject to paragraph (2), this Article applies where a person intends to appeal to the Tribunal under—

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- (a) Article 17(2)(b);
- (b) Article 18(1);
- (c) Article 20(3)(b);
- (d) Article 20A(8)(b);
- (e) Article 21ZA(1);
- (f) paragraph 13(2)(b) of Schedule 2.

(2) But this Article does not apply in relation to an appeal which relates only to—

- (a) the school or other institution named in a statement maintained under Article 16;
- (b) the type of school or other institution named in a statement under that Article;
- (c) the fact that a statement does not name a school or other institution.

(3) The person may appeal only if a mediation adviser has issued to that person a certificate under paragraph (4); and any provision of this Part enabling a person to appeal has effect subject to this paragraph.

(4) A mediation adviser must issue a certificate under this paragraph to a person if the mediation adviser has provided that person with information and advice about pursuing mediation with the Authority.

(5) If the person has informed the mediation adviser that he or she wishes (or, as the case may be, does not wish) to pursue mediation, the certificate under paragraph (4) must state that fact.

(6) In this Article—

- (a) reference to mediation with the Authority is a reference to mediation in accordance with arrangements made under Article 21B(3A); and
- (b) “mediation adviser” means an independent person who can provide information and advice about pursuing mediation with the Authority;

and for the purposes of this Article a person is not independent if he or she is employed by the Authority.

(7) Regulations may make provision in relation to mediation with the Authority and in particular—

- (a) about giving notice;
- (b) imposing time limits;
- (c) about who may attend mediation;
- (d) where a child's parent is a party to mediation, requiring the mediator to take reasonable steps to ascertain the views of the child;

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- (e) about the provision of advocacy and other support services for a person pursuing mediation with the Authority;
- (f) enabling the Authority to take prescribed steps following the conclusion of mediation;
- (g) about the training, qualifications and experience of mediation advisers and mediators.”.

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