



# Special Educational Needs and Disability Act 2001

## 2001 CHAPTER 10

### PART 2

#### DISABILITY DISCRIMINATION IN EDUCATION

#### CHAPTER 3

#### MISCELLANEOUS

#### <sup>F1</sup>35 Extension of role of Disability Rights Commission

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##### Textual Amendments

**F1** Ss. 35-37 repealed (1.10.2007) by [Equality Act 2006 \(c. 3\)](#), s. 93(1), [Sch. 4](#) (with s. 92); S.I. 2007/2603, art. 2(d)

#### <sup>F1</sup>36 Codes of practice

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##### Textual Amendments

**F1** Ss. 35-37 repealed (1.10.2007) by [Equality Act 2006 \(c. 3\)](#), s. 93(1), [Sch. 4](#) (with s. 92); S.I. 2007/2603, art. 2(d)

*Status: Point in time view as at 01/10/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Special Educational Needs and Disability Act 2001, Chapter 3. (See end of Document for details)*

**Commencement Information**

- II** S. 36 wholly in force at 1.9.2002; s. 36 not in force at Royal Assent see s. 43(3); s. 36(1) in force for certain purposes and s. 36(2) in force at 1.7.2002 by [S.I. 2002/1721](#), [art. 3](#), [Sch. Pt. I](#); s. 36 in force so far as not already in force at 1.9.2002 by [S.I. 2002/2217](#), [art. 3](#), [Sch. Pt. 1](#)

**F137 Conciliation for disputes under Part 4 of the 1995 Act**

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**Textual Amendments**

- F1** [Ss. 35-37](#) repealed (1.10.2007) by [Equality Act 2006 \(c. 3\)](#), s. 93(1), [Sch. 4](#) (with s. 92); [S.I. 2007/2603](#), [art. 2\(d\)](#)

**38 Relationship with other Parts of the 1995 Act**

- (1) The 1995 Act is amended as follows.
- (2) In section 2 (past disabilities)—
  - (a) in subsection (1), for “and III” substitute “ to 4 ” and
  - (b) in subsection (4), for “or Part III” substitute “ , 3 or 4 ”.
- (3) In subsection (3) of section 3 (courts etc. to have regard to guidance), for “A tribunal or court” substitute “ An adjudicating body ”.
- (4) After that subsection, insert—
  - “(3A) “Adjudicating body” means—
    - (a) a court;
    - (b) a tribunal; and
    - (c) any other person who, or body which, may decide a claim under Part 4.”
- (5) In section 19 (meaning of “discrimination” in Part 3) omit—
  - (a) paragraphs (a) to (ab) of subsection (5); and
  - (b) subsection (6).
- (6) In that section, insert after subsection (5)—
  - “(5A) Nothing in this Part applies to the provision of a service in relation to which discrimination is made unlawful by section 28A, 28F or 28R.”

**F2(7)** .....

- (8) In that section, after subsection (3), insert—
  - “(3A) For the purposes of Chapter 1 of Part 4—
    - (a) references in subsection (2) to B include references to—
      - (i) a person who is, for the purposes of that Chapter, B’s parent; and
      - (ii) a sibling of B; and

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- (b) references in that subsection to this Act are, as respects a person mentioned in sub-paragraph (i) or (ii) of paragraph (a), restricted to that Chapter.”
- (9) In subsection (1) of section 57 (aiding unlawful acts), for “act made unlawful by this Act” substitute “unlawful act”.
- (10) After subsection (5) of that section, insert—
- “(6) “Unlawful act” means an act made unlawful by any provision of this Act other than a provision contained in Chapter 1 of Part 4.”
- (11) In paragraph 2 of Schedule 2 (past disabilities) for “and III” substitute “to 4”.
- (12) After that paragraph, insert—
- “2A       References in Chapter 1 of Part 4 to a disabled pupil are to be read as references to a pupil who has had a disability.
- 2B       References in Chapter 2 of Part 4 to a disabled student are to be read as references to a student who has had a disability.”
- (13) After paragraph 4 of that Schedule, insert—
- “4A       In section 28B(3)(a) and (4), after “disabled” insert “or that he had had a disability”.
- 4B       In section 28C(1), in paragraphs (a) and (b), after “not disabled” insert “and who have not had a disability”.
- 4C       In section 28S(3)(a) and (4), after “disabled” insert “or that he had had a disability”.
- 4D       In subsection (1) of section 28T, after “not disabled” insert “and who have not had a disability”.
- 4E       In that subsection as substituted by paragraphs 2 and 6 of Schedule 4C, after “not disabled” insert “and who have not had a disability”.”
- (14) Omit paragraph 129 of Schedule 37 to the 1996 Act (amendment of section 19(5) of the 1995 Act).
- (15) Omit section 38 of the Teaching and Higher Education Act 1998 (c. 30) (amendment of section 19(6) of the 1995 Act).
- (16) Omit paragraph 49 of Schedule 9 to the Learning and Skills Act 2000 (c. 21) (amendment of section 19(5) of the 1995 Act).

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**Textual Amendments**

**F2** S. 38(7) repealed (4.12.2006) by [Disability Discrimination Act 2005 \(c. 13\), s. 20\(3\)](#), **Sch. 2**; [S.I. 2005/2774, art. 4\(g\)](#)

**39 Application to the Isles of Scilly**

In the 1995 Act, insert the following section—

**“31C Application to Isles of Scilly**

This Part applies to the Isles of Scilly—

- (a) as if the Isles were a separate non-metropolitan county (and the Council of the Isles of Scilly were a county council), and
- (b) with such other modifications as may be specified in an order made by the Secretary of State.”

**40 Duty of Teacher Training Agency**

(1) In the 1995 Act, omit section 29 (education of disabled persons).

<sup>F3</sup>(2) .....

**Textual Amendments**

**F3** S. 40(2) repealed (1.9.2005) by [Education Act 2005 \(c. 18\), s. 125\(3\)\(b\)](#), **Sch. 19 Pt. 3**

**Status:**

Point in time view as at 01/10/2007.

**Changes to legislation:**

There are currently no known outstanding effects for the Special Educational Needs and Disability Act 2001, Chapter 3.