

Status: Point in time view as at 01/10/2007.

Changes to legislation: Special Educational Needs and Disability Act 2001, SCHEDULE 8 is up to date with all changes known to be in force on or before 01 July 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 8

Section 42(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

THE 1996 ACT

1 The 1996 Act is amended as follows.

Commencement Information

- II** Sch. 8 para. 1 wholly in force at 1.9.2002; Sch. 8 para. 1 not in force at Royal Assent see s. 43(3); Sch. 8 para. 1 in force for E. at 1.1.2002 by [S.I. 2001/2217](#), [art. 5](#), [Sch. Pt. II](#); [S.I. 2001/2614](#), [art. 4](#); Sch. 8 para. 1 in force for W. at 1.4.2002 by [S.I. 2002/74](#), [art. 5](#), [Sch. Pt. II](#); Sch. 8 para. 1 in force at 1.9.2002 in so far as not already in force by [S.I. 2002/2217](#), [art. 3](#), [Sch. 1 Pt. 1](#)

The re-naming of the Tribunal

2 ^{F1}

Textual Amendments

- F1** Sch. 8 para. 2 repealed (1.9.2003) by [Education Act 2002 \(c. 32\)](#), s. 215(2), [Sch. 22 Pt. 2](#); [S.I. 2002/3185](#), [art. 6](#)

3 In section 333, for subsection (1) substitute—

“(1) The Tribunal shall exercise the jurisdiction conferred on it by this Part.”

4 In paragraph 118(3) of Schedule 37, omit paragraph (d).

Annual reports

^{F25}

Textual Amendments

- F2** Sch. 8 para. 5 repealed (1.9.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 19 Pt. 4](#); [S.I. 2005/2034](#), [art. 5](#)

Commencement Information

- I2** Sch. 8 para. 5 wholly in force at 1.9.2002; Sch. 8 para. 5 not in force at Royal Assent see s. 43(3); Sch. 8 para. 5 in force for E. at 1.1.2002 by [S.I. 2001/2217](#), [art. 5](#), [Sch. Pt. II](#); [S.I. 2001/2614](#), [art. 4](#); Sch. 8

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para. 5 in force for W. at 1.4.2002 by [S.I. 2002/74](#), [art. 5](#), [Sch. Pt. II](#); Sch. 8 para. 5 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217](#), [art. 3](#), [Sch. 1 Pt. 1](#)

Contents and service of notices

- 6 (1) In section 325 (appeal against decision not to make a statement), in subsection (1), omit “, and of the effect of subsection (2) below.”
- (2) After subsection (2) of that section insert—
- “(2A) A notice under subsection (1) must inform the parent of the right of appeal under subsection (2) and contain such other information as may be prescribed.
- (2B) Regulations may provide that where a local education authority are under a duty under this section to serve any notice, the duty must be performed within the prescribed period.”

Commencement Information

- I3** Sch. 8 para. 6 wholly in force at 1.9.2002; Sch. 8 para. 6 in force at Royal Assent for specified purposes see s. 43(4); Sch. 8 para. 6 in force for E. at 1.1.2002 by [S.I. 2001/2217](#), [art. 5](#), [Sch. Pt. II](#); [S.I. 2001/2614](#), [art. 4](#); Sch. 8 para. 6 in force for W. at 1.4.2002 by [S.I. 2002/74](#), [art. 5](#), [Sch. Pt. II](#); Sch. 8 para. 6 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217](#), [art. 3](#), [Sch. 1 Pt. 1](#)

- 7 (1) In section 328 (reviews of educational needs), in subsection (3)(a), for the words from “notice” to “below” substitute “ notice in writing of that fact ”.
- (2) After subsection (3) of that section insert—
- “(3A) A notice under subsection (3)(a) must inform the parent of the right of appeal under subsection (3)(b) and contain such other information as may be prescribed.
- (3B) Regulations may provide that where a local education authority are under a duty under this section to serve any notice, the duty must be performed within the prescribed period.”

Commencement Information

- I4** Sch. 8 para. 7 wholly in force at 1.9.2002; Sch. 8 para. 7 in force for specified purposes at Royal Assent see s. 43(3)(4); Sch. 8 para. 7 in force in so far as not already in force for E. at 1.1.2002 by [S.I. 2001/2217](#), [art. 5](#), [Sch. Pt. II](#); [S.I. 2001/2614](#), [art. 4](#); Sch. 8 para. 7 in force in so far as not already in force for W. at 1.4.2002 by [S.I. 2002/74](#), [art. 5](#), [Sch. Pt. II](#); Sch. 8 para. 7 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217](#), [art. 3](#), [Sch. 1 Pt. 1](#)

- 8 (1) In section 329 (assessment of educational needs at request of child’s parent), in subsection (2)(a), for the words from “notice” to “below” substitute “ notice in writing of that fact ”.
- (2) After subsection (2) of that section insert—

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“(2A) A notice under subsection (2)(a) must inform the parent of the right of appeal under subsection (2)(b) and contain such other information as may be prescribed.”

Commencement Information

I5 Sch. 8 para. 8 wholly in force at 1.9.2002; Sch. 8 para. 8 in force at Royal Assent for specified purposes see s. 43(3)(4); Sch. 8 para. 8 in force for E. at 1.1.2002 by [S.I. 2001/2217, art. 5, Sch. Pt. II](#) (as amended by [S.I. 2001/2614, art. 4](#)); Sch. 8 para. 8 in force for W. at 1.4.2002 by [S.I. 2002/74, art. 5, Sch. Pt. II](#); Sch. 8 para. 8 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217, art. 3, Sch. 1 Pt. 1](#)

9 (1) In paragraph 8 of Schedule 27 (change of name of school), in sub-paragraph (3)(a), for the words from “notice” to “below” substitute “ notice in writing of that fact ”.

(2) After sub-paragraph (3) of that paragraph insert—

“(3A) A notice under sub-paragraph (3)(a) must inform the parent of the right of appeal under sub-paragraph (3)(b) and contain such other information as may be prescribed.”

Commencement Information

I6 Sch. 8 para. 9 wholly in force at 1.9.2002; Sch. 8 para. 9 in force at Royal Assent for specified purposes see s. 43(3)(4); Sch. 8 para. 9 in force for E. in so far as not already in force at 1.1.2002 by [S.I. 2001/2217, art. 5, Sch. Pt. II](#); [S.I. 2001/2614, art. 4](#); Sch. 8 para. 9 in force for W. in so far as not already in force at 1.4.2002 by [S.I. 2002/74, art. 5, Sch. Pt. II](#); Sch. 8 para. 9 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217, art. 3, Sch. 1 Pt. 1](#)

10 (1) In paragraph 11 of that Schedule (ceasing to maintain a statement), in sub-paragraph (2)(a), for the words from “notice” to “below” substitute “ notice in writing of that fact ”.

(2) After sub-paragraph (2) of that paragraph insert—

“(2A) A notice under sub-paragraph (2)(a) must inform the parent of the right of appeal under sub-paragraph (2)(b) and contain such other information as may be prescribed.”

Commencement Information

I7 Sch. 8 para. 10 wholly in force at 1.9.2002; Sch. 8 para. 10 in force for specified purposes at Royal Assent see s. 43(3)(4); Sch. 8 para. 10 in force in so far as not already in force for E. at 1.1.2002 by [S.I. 2001/2217, art. 5, Sch. Pt. II](#); [S.I. 2001/2614, art. 4](#); Sch. 8 para. 10 in force in so far as not already in force for W. at 1.4.2002 by [S.I. 2002/74, art. 5, Sch. Pt. II](#); Sch. 8 para. 10 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217, art. 3, Sch. 1 Pt. 1](#)

Proposals to make an assessment

11 (1) In section 323(1)(a) (assessment of special educational needs), for “propose” substitute “ are considering whether ”.

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- (2) In paragraph 4(1) of Schedule 26 (making of assessments under section 323), for “propose” substitute “are considering whether”.

Commencement Information

- I8** Sch. 8 para. 11 wholly in force at 1.9.2002; Sch. 8 para. 11 not in force at Royal Assent see s. 43(3); Sch. 8 para. 11 in force for E. at 1.1.2002 by [S.I. 2001/2217](#), [art. 5](#), [Sch. Pt. II](#); [S.I. 2001/2614](#), [art. 4](#); Sch. 8 para. 11 in force for W. at 1.4.2002 by [S.I. 2002/74](#), [art. 5](#), [Sch. Pt. II](#); Sch. 8 para. 11 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217](#), [art. 3](#), [Sch. 1 Pt. 1](#)

Statements: suitable arrangements made by parents

- 12 In section 347 (provision for children with special educational needs in independent schools), after subsection (5) insert—

“(5A) But that does not apply to a local education authority deciding, for the purposes of section 324(5), whether a parent has made suitable arrangements.”

Commencement Information

- I9** Sch. 8 para. 12 wholly in force at 1.9.2002; Sch. 8 para. 12 not in force at Royal Assent see s. 43(3); Sch. 8 para. 12 in force for E. at 1.1.2002 by [S.I. 2001/2217](#), [art. 5](#), [Sch. Pt. II](#); [S.I. 2001/2614](#), [art. 4](#); Sch. 8 para. 12 in force for W. at 1.4.2002 by [S.I. 2002/74](#), [art. 5](#), [Sch. Pt. II](#); Sch. 8 para. 12 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217](#), [art. 3](#), [Sch. 1 Pt. 1](#)

Procedure regulations

- 13 (1) Section 336 is amended as follows.

- (2) In subsection (2)—

- (a) omit paragraph (d); and
 (b) in paragraph (g), for “discovery” substitute “disclosure”.

- (3) After subsection (2), insert—

“(2A) Proceeding before the Tribunal shall be held in private, except in prescribed circumstances.”

- (4) In subsection (4), for “that Act” substitute “that Part”.

- (5) After that subsection, insert—

“(4A) The regulations may make provision for an appeal under this Part to be heard, in prescribed circumstances, with a claim under Chapter 1 of Part 4 of the Disability Discrimination Act 1995.”

Commencement Information

- I10** Sch. 8 para. 13 wholly in force at 1.9.2002; Sch. 8 para. 13(1)-(4) in force at Royal Assent for specified purposes see s. 43(4); Sch. 8 para. 13(1)-(4) in force to the extent not already in force for E. at 1.1.2002 by [S.I. 2001/2217](#), [art. 5](#), [Sch. Pt. II](#) (as amended by [S.I. 2001/2614](#), [art. 4](#)); Sch. 8 para. 13(1)-(4) in

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force to the extent not already in force for W. at 1.4.2002 by S.I. 2001/3992, art. 5, Sch. Pt. II; Sch. 8 para. 13(5) in force at 1.7.2002 by S.I. 2002/1721, art. 3, Sch. Pt. I; Sch. 8 para. 13 in force in so far as not already in force at 1.9.2002 by S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

Time limits with respect to assessments

- 14 (1) Paragraph 3 of Schedule 26 (manner and timing of assessments under section 323) is amended as follows.
- (2) In sub-paragraph (2), for “paragraph 10” substitute “ paragraph 2A ”.
- (3) For sub-paragraphs (3) and (4) substitute—
- “(3) Regulations may provide—
- (a) that where a local education authority are under a duty under section 323, 329 or 329A to serve any notice, the duty must be performed within the prescribed period,
 - (b) that where a local education authority have served a notice under section 323(1) or 329A(3) on a child’s parent, they must decide within the prescribed period whether or not to make an assessment of the child’s educational needs,
 - (c) that where a request has been made to a local education authority under section 329(1), they must decide within the prescribed period whether or not to comply with the request, and
 - (d) that where a local education authority are under a duty to make an assessment, the duty must be performed within the prescribed period.
- (4) Provision made under sub-paragraph (3)—
- (a) may be subject to prescribed exceptions, and
 - (b) does not relieve the authority of the duty to serve a notice, or make a decision or assessment, which has not been served or made within the prescribed period.”

Commencement Information

I11 Sch. 8 para. 14 wholly in force at 1.9.2002; Sch. 8 para. 14(3) in force at Royal Assent for specified purposes see s. 43(4); Sch. 8 para. 14 in force to the extent not already in force for E. at 1.1.2002 by S.I. 2001/2217, art. 5, Sch. Pt. II (as amended by S.I. 2001/2614, art. 4); Sch. 8 para. 14 in force for specified purposes for W. at 1.4.2002 by S.I. 2002/74, art. 5, Sch. Pt. 2 and Sch. 8 para. 14 in force so far as not already in force at 1.9.2002 by S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

School attendance orders: amendment of statement of special educational needs

- 15 (1) Section 441 (amendment of statement on service of school attendance order) is amended as follows.
- (2) In subsection (3)(a), omit “in accordance with paragraph 10 of Schedule 27”.
- (3) After that subsection, insert—
- “(3A) An amendment to a statement required to be made under subsection (3) (a) shall be treated for the purposes of Schedule 27 as if it were an

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amendment proposed following a periodic review (within the meaning of that Schedule).”

Commencement Information

I12 Sch. 8 para. 15 wholly in force at 1.9.2002; Sch. 8 para. 15 not in force at Royal Assent see s. 43(3); Sch. 8 para. 15 in force for E. at 1.1.2002 by [S.I. 2001/2217](#), [art. 5](#), [Sch. Pt. II](#); [S.I. 2001/2614](#), [art. 4](#); Sch. 8 para. 15 in force for W. at 1.4.2002 by [S.I. 2001/3992](#), [art. 5](#), [Sch. Pt. II](#); Sch. 8 para. 15 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217](#), [art. 3](#), [Sch. 1 Pt. 1](#)

PART 2

OTHER ENACTMENTS

The Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)

16 Section 5 of the Disabled Persons (Services, Consultation and Representation) Act 1986 is amended as follows.

Commencement Information

I13 Sch. 8 para. 16 wholly in force at 1.9.2002; Sch. 8 para. 16 not in force at Royal Assent see s. 43(3); Sch. 8 para. 16 in force for E. at 1.1.2002 by [S.I. 2001/2217](#), [art. 5](#), [Sch. Pt. II](#); [S.I. 2001/2614](#), [art. 4](#); Sch. 8 para. 16 in force for W. at 1.4.2002 by [S.I. 2002/74](#), [art. 5](#), [Sch. Pt. 2](#); Sch. 8 para. 16 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217](#), [art. 3](#) Sch. 1 Pt. 1

17 In subsection (1) (requirement to obtain opinion of local authority officer as to whether child is a disabled person)—

- (a) in paragraph (a), omit “under the age of 14”; and
- (b) in paragraph (b)—

- (i) in sub-paragraph (i), for “the first annual review of the statement following the child’s fourteenth birthday” substitute “ a review of the statement prescribed for the purposes of this paragraph ”; and
- (ii) in sub-paragraph (ii), for “that birthday” substitute “ they have carried out the review prescribed for the purposes of sub-paragraph (i) ”.

Commencement Information

I14 Sch. 8 para. 17 wholly in force at 1.9.2002; Sch. 8 para. 17 not in force at Royal Assent see s. 43(3); Sch. 8 para. 17 in force for certain purposes for E. at 15.6.2001 and Sch. 8 para. 17 in force for E. in so far as not already in force at 1.1.2002 by [S.I. 2001/2217](#), [arts. 4, 5](#), [Sch. Pt. I, II](#); [S.I. 2001/2614](#), [art. 4](#); Sch. 8 para. 17 in force for certain purposes for W. at 21.1.2002 and Sch. 8 para. 17 in force in so far as not already in force for W. at 1.4.2002 by [S.I. 2002/74](#), [arts. {4}, {5}](#), [Sch. Pts. I, II](#); Sch. 8 para. 17 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217](#), [art. 3](#), [Sch. 1 Pt. 1](#)

18 In subsection (9) (interpretation), after the definition of “establishment of higher or further education” insert—

““prescribed” means prescribed in regulations made—

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- (a) in relation to England, by the Secretary of State; and
- (b) in relation to Wales, by the National Assembly for Wales;”.

Commencement Information

I15 Sch. 8 para. 18 wholly in force at 1.9.2002; Sch. 8 para. 18 not in force at Royal Assent see s. 43(3); Sch. 8 para. 18 in force for certain purposes for E. at 15.6.2001 and Sch. 8 para. 18 in force for E. in so far as not already in force at 1.1.2002 by [S.I. 2001/2217](#), arts. 4, 5, [Sch. Pt. I, II](#); [S.I. 2001/2614](#), [art. 4](#); Sch. 8 para. 18 in force for certain purposes for W. at 21.1.2002 and Sch. 8 para. 18 in force in so far as not already in force for W. at 1.4.2002 by [S.I. 2002/74](#), arts. {4}, {5}, Sch. Pts. I, II; Sch. 8 para. 18 in force in so far as not already in force at 1.9.2002 by [S.I. 2002/2217](#), art. {3}, Sch. 1 Pt. 1

The Tribunals and Inquiries Act 1992 (c. 53)

- 19 The Tribunals and Inquiries Act 1992 is amended as follows.
- 20 In section 11(1) (appeals from certain tribunals)—
 - (a) for “15(a), (d) or (e)” substitute “ 15(a) or (d) ”; and
 - (b) after “40A” insert “ , 40B ”.
- 21 In paragraph 15 of Schedule 1 (bodies subject to the supervision of the Council) omit sub-paragraph (e).
- 22 After paragraph 40A of that Schedule, insert—

“Special educational needs and disability discrimination.	40B. The Special Educational Needs and Disability Tribunal.”
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The School Standards and Framework Act 1998 (c. 31)

- 23 (1) The School Standards and Framework Act 1998 is amended as follows.
 - ^{F3}(2)
 - (3) In paragraph 6 of Schedule 5 (duty of adjudicators to have regard to anti-discrimination duties of other bodies)—
 - (a) omit “or”, at the end of sub-paragraph (a); and
 - (b) after sub-paragraph (b), insert “or
 - (c) Chapter 1 of Part 4 of the Disability Discrimination Act 1995,”.
 - (4) In Schedule 30 (minor and consequential amendments), omit paragraph 186(2)(b).

Textual Amendments

F3 Sch. 8 para. 23(2) repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 18 Pt. 3](#); [S.I. 2007/935](#), art. 7(q)

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