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SCHEDULES

SCHEDULE 17 **E+W+S**

DISABLED PUPILS: ENFORCEMENT

Modifications etc. (not altering text)

- C1** Sch. 17: power to amend or repeal conferred (10.2.2012) by Education (Wales) Measure 2009 (nawm 5), s. 18(2)(c) (as amended by S.I. 2011/1651, **art. 12(b)**); S.I. 2012/320, **art. 2(g)**

VALID FROM 01/10/2010

PART 3 **E+W+S**

TRIBUNALS IN SCOTLAND

Introductory

- 7 This Part of this Schedule applies in relation to the Scottish Tribunal.

Commencement Information

- I1** Sch. 17 para. 7 wholly in force; Sch. 17 not in force at Royal Assent see s. 216; Sch. 17 Pt. 3 in force for certain purposes at 1.10.2010 by S.I. 2010/2317, **art. 2(1)(9)(k)(ii)** (with art. 15, and subject to transitional provision in art. 7); Sch. 17 Pt. 3 in force in so far as not already in force at 18.3.2011 by S.I. 2010/2317, **art. 3(d)** (with art. 15, and subject to transitional provision in art. 7)

Jurisdiction

- 8 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;
 - where the person has capacity to make the claim, the person.

Commencement Information

- I2** Sch. 17 para. 8 wholly in force; Sch. 17 not in force at Royal Assent see s. 216; Sch. 17 Pt. 3 in force for certain purposes at 1.10.2010 by S.I. 2010/2317, **art. 2(1)(9)(k)(ii)** (with art. 15, and subject to transitional provision in art. 7); Sch. 17 Pt. 3 in force in so far as not already in force at 18.3.2011 by S.I. 2010/2317, **art. 3(d)** (with art. 15, and subject to transitional provision in art. 7)

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Powers

- 9 (1) This paragraph applies if the Tribunal finds 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.

Commencement Information

I3 Sch. 17 para. 9 wholly in force; Sch. 17 not in force at Royal Assent see s. 216; Sch. 17 Pt. 3 in force for certain purposes at 1.10.2010 by S.I. 2010/2317, art. 2(1)(9)(k)(ii) (with art. 15, and subject to transitional provision in art. 7); Sch. 17 Pt. 3 in force in so far as not already in force at 18.3.2011 by S.I. 2010/2317, art. 3(d) (with art. 15, and subject to transitional provision in art. 7)

Procedure etc.

- 10 (1) The Scottish Ministers may make rules as to—
- (a) the proceedings on a claim under paragraph 8;
 - (b) the making of a claim.
- (2) The rules may, in particular, include provision for or in connection with—
- (a) the form and manner in which a claim must be made;
 - (b) the time within which a claim is to be made;
 - (c) the withdrawal of claims;
 - (d) the recovery and inspection of documents;
 - (e) the persons who may appear on behalf of the parties;
 - (f) the persons who may be present at proceedings alongside any party or witness to support the party or witness;
 - (g) enabling specified persons other than the parties to appear or be represented in specified circumstances;
 - (h) requiring specified persons to give notice to other specified persons of specified matters;
 - (i) the time within which any such notice must be given;
 - (j) enabling Tribunal proceedings to be conducted in the absence of any member of a Tribunal other than the convener;
 - (k) enabling any matters that are preliminary or incidental to the determination of proceedings to be determined by the convener of a Tribunal alone or with such other members of the Tribunal as may be specified;
 - (l) enabling Tribunals to be held in private;
 - (m) enabling a Tribunal to exclude any person from attending all or part of Tribunal proceedings;
 - (n) enabling a Tribunal to impose reporting restrictions in relation to all or part of Tribunal proceedings;
 - (o) enabling a Tribunal to determine specified matters without holding a hearing;
 - (p) the recording and publication of decisions and orders of a Tribunal;

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- (q) enabling a Tribunal to commission medical and other reports in specified circumstances;
- (r) requiring a Tribunal to take specified actions, or to determine specified proceedings, within specified periods;
- (s) enabling a Tribunal to make an award of expenses;
- (t) the taxation or assessment of such expenses;
- (u) enabling a Tribunal, in specified circumstances, to review, or to vary or revoke, any of its decisions, orders or awards;
- (v) enabling a Tribunal, in specified circumstances, to review the decisions, orders or awards of another Tribunal and take such action (including variation and revocation) in respect of those decisions, orders or awards as it thinks fit.

Commencement Information

- I4** Sch. 17 para. 10 wholly in force; Sch. 17 not in force at Royal Assent see s. 216; Sch. 17 Pt. 3 in force for certain purposes at 1.10.2010 by S.I. 2010/2317, art. 2(1)(9)(k)(ii) (with art. 15, and subject to transitional provision in art. 7); Sch. 17 Pt. 3 in force in so far as not already in force at 18.3.2011 by S.I. 2010/2317, art. 3(d) (with art. 15, and subject to transitional provision in art. 7)

Appeals

- 11 (1) Either of the persons specified in sub-paragraph (2) may appeal on a point of law to the Court of Session against a decision of a Tribunal relating to a claim under this Schedule.
- (2) Those persons are—
- (a) the person who made the claim;
 - (b) the responsible body.
- (3) Where the Court of Session allows an appeal under sub-paragraph (1) it may—
- (a) remit the reference back to the Tribunal or to a differently constituted Tribunal to be considered again and give the Tribunal such directions about the consideration of the case as the Court thinks fit;
 - (b) make such ancillary orders as it considers necessary or appropriate.

Commencement Information

- I5** Sch. 17 para. 11 wholly in force; Sch. 17 not in force at Royal Assent see s. 216; Sch. 17 Pt. 3 in force for certain purposes at 1.10.2010 by S.I. 2010/2317, art. 2(1)(9)(k)(ii) (with art. 15, and subject to transitional provision in art. 7); Sch. 17 Pt. 3 in force in so far as not already in force at 18.3.2011 by S.I. 2010/2317, art. 3(d) (with art. 15, and subject to transitional provision in art. 7)

Amendment of Education (Additional Support for Learning) (Scotland) Act 2004

- 12 The Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) is amended as follows—
- (a) in section 17(1), omit “to exercise the functions which are conferred on a Tribunal by virtue of this Act”;
 - (b) after section 17(1), insert—

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- “(1A) Tribunals are to exercise the functions which are conferred on them by virtue of—
- (a) this Act, and
 - (b) the Equality Act 2010”;
 - (c) in the definition of “Tribunal functions” in paragraph 1 of Schedule 1, after “Act” insert “ or the Equality Act 2010 ”.

Commencement Information

- I6** Sch. 17 para. 12 wholly in force; Sch. 17 not in force at Royal Assent see s. 216; Sch. 17 Pt. 3 in force for certain purposes at 1.10.2010 by S.I. 2010/2317, art. 2(1)(9)(k)(ii) (with art. 15, and subject to transitional provision in art. 7); Sch. 17 Pt. 3 in force in so far as not already in force at 18.3.2011 by S.I. 2010/2317, art. 3(d) (with art. 15, and subject to transitional provision in art. 7)

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