
EXPLANATORY NOTE

(This note is not part of the Order)

The Education (Wales) Measure 2009 (“the Measure”) amended Part 4 of the Disability Discrimination Act 1995, which related to discrimination in schools, to enable children themselves to make a disability discrimination claim to the Special Educational Needs Tribunal for Wales (“the Tribunal”). The Equality Act 2010 repealed the Disability Discrimination Act 1995.

This Order, made under section 20 of the Measure, amends the Measure to remove the provisions that amended the Disability Discrimination Act 1995, and to insert instead corresponding and other appropriate provisions amending the Equality Act 2010.

Article 3 of the Order inserts a new section 9 into the Measure which amends the Equality Act 2010 in order to give a child the right to make a claim to the Tribunal.

Article 4 of the Order inserts a new section 10 into the Measure which inserts provisions into the Equality Act 2010 about time limits for bringing proceedings.

Article 5 of the Order inserts a new section 11 into the Measure which inserts provisions into the Equality Act 2010 about Tribunal procedure.

Article 6 of the Order inserts a new section 12 into the Measure, inserting provisions into the Equality Act 2010 allowing a child to have a person (known as a “case friend”) to make representations on behalf of the child to avoid or resolve disputes with the responsible body of a school or to exercise a child’s right to make a claim to the Tribunal on behalf of the child.

Article 7 of the Order inserts a new section 13 into the Measure, inserting provisions into the Equality Act 2010 about arrangements for a child to be provided with advice and information.

Article 8 of the Order inserts a new section 14 into the Measure, inserting provisions into the Equality Act 2010 about resolution of disputes.

Article 9 of the Order inserts a new section 15 into the Measure, inserting provisions into the Equality Act 2010 about the provision of independent advocacy services.

Article 10 of the Order inserts a new section 16 into the Measure, inserting provisions into the Equality Act 2010 about the Welsh Ministers' power of direction when a local authority acts or proposes to act unreasonably in the discharge of a duty or has failed to discharge a duty.

Article 11 of the Order amends section 17 of the Measure to ensure that regulations about piloting can operate by reference to the provisions inserted into the Equality Act 2010 by the Measure provisions amended by this Order.

Article 12 of the Order amends section 18 of the Measure to allow the Welsh Ministers to make provision by order under that section about the right of a person to make a claim to the Tribunal in respect of matters for which a parent of that person has a right to make a claim under paragraph 3 of Schedule 17 to the Equality Act 2010. This includes power to amend or repeal provisions of Chapter 1 of Part 6 of, and Schedule 17 to, the Equality Act 2010.

Article 13 of the Order makes minor and consequential amendments to the Measure to substitute references to the Equality Act 2010 for references to the Disability Discrimination Act 1995 and to make it clear that the Welsh Ministers' power under section 26(3) of the Measure to commence provisions extends, in the case of provisions amended by this Order, to those provisions as amended.