

Executive Note

The Additional Support Needs Tribunals for Scotland (Practice and Procedure) Rules 2006 S.S.I. 2006/88

The above instrument was made in exercise of the powers conferred by section 17(4) and Schedule 1 of the Education (Additional Support for Learning) (Scotland) Act 2004 (“the Act”). The instrument is subject to negative resolution procedure.

Policy Objectives

This instrument fulfils the commitment given by the Executive to the Parliament’s Education and Subordinate Legislation Committees to bring forward an amendment to the Additional Support Needs for Scotland (Practice and Procedure) Rules 2005 (SSI 2005/514) (“the previous rules”) and in drafting that amendment to have regard to the Committees’ helpful comments as well as those supplied by the Scottish Committee of the Council of Tribunals.

The rules amended in terms of this instrument and the amendments effected are as follows:

Rule 5 to make provision for and clarify the period for, and information to be provided in relation to, appeals against deemed decisions in respect of placing requests, where parents do not receive written notification about their request in the specified time limits;

Rules 21 and 22 by removal of the “in Scotland” restriction in relation to the persons upon whom citations may be served requiring production of documents and attendance as a witness bringing these rules into line with the provisions of paragraph 13 of schedule 1 to the Act and with the equivalent rules of the Mental Health Tribunal for Scotland;

Rule 24 to remove the provision in relation to the payment of fees and other payments to experts appointed by a Tribunal on the basis that these are provided for in paragraph 17 of schedule 1 to the Act;

Rules 27 and 28 to distinguish the role of interpreter from that of a person, such as a carer, providing necessary assistance to another and to clarify that only an interpreter may take part in the proceedings of the Tribunal;

Rule 37 to clarify that the decision of a Tribunal will always be recorded in writing in line with paragraph 14(1)(b) of schedule 1 to the Act; and

Rule 39 to remove the provision enabling the making of an order against a party for payment of the expenses of an expert appointed to assist the Tribunal.

In relation to expenses it should be noted that rule 39(1) remains unchanged. The Tribunal will not normally make an order as to expenses, but may after disposing of a reference make such an order in the limited circumstances specified. It is expected that Tribunals will only make an order against an appellant in exceptional circumstances.

This instrument revokes the previous rules.

Consultation

The Scottish Committee of the Council on Tribunals were given a draft of the revised rules on 16 January 2006. The Executive has largely accepted their recommendations in finalising the rules. In 2005 the previous rules were the subject of public consultation as well as consultation with the Scottish Committee.

Financial Effects

As with the Executive's assessment of the previous rules, the instrument has no financial effects on the Scottish Executive, local government and Health Boards or business.

Scottish Executive Education Department
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