

EXECUTIVE NOTE

THE ADDITIONAL SUPPORT NEEDS TRIBUNALS FOR SCOTLAND (DISABILITY CLAIMS PROCEDURE) RULES 2011 (S.S.I 2011/ 104)

The above instrument was made in exercise of the powers conferred by sections 17(4) and 34(2)(b) of, and paragraph 11 to schedule 1 to, the Education (Additional Support for Learning) (Scotland) Act 2004, section 210(5) of, and paragraph 10 of schedule 17 to, the Equality Act 2010 and all other powers enabling them to do so. The instrument is subject to negative resolution procedure

Policy Objectives

The purpose of the instrument is to introduce rules which will enable the Additional Support Needs Tribunals for Scotland (ASNTS) to hear disability claims cases in schools education in line with the provisions of the Equality Act 2010. The rules are, with one exception, to come into force on 18th March 2011. Rule 5(5) is to come into force on 6 April 2011. The reason for that is because amending regulations are being made in Westminster to enable the provisions of the Equality Act 2006 referred to in Rule 5(5) to apply in Scotland. Those regulations are expected to come into force on 6 April 2011 and so it is necessary to have the same commencement date.

These Rules are largely based on the existing Tribunal Rules – the Additional Support Needs Tribunals for Scotland (Practice and Procedure) Rules 2006 (S.S.I. 2006/88). This was done to ensure consistency between the two sets of rules, in so far as is appropriate for the new jurisdiction conferred.

Consultation

A formal consultation process began on 1 July 2010 with the publication and distribution of *The Equality Act 2010: Consultation on Secondary legislation that will enable the Additional Support Needs Tribunal for Scotland (ASNTS) to hear Disability Claims Cases in school education*. The consultation process ended on 24 September 2010 and 45 responses were received from a broad range of consultees including 11 of the 32 Scottish local authorities. Those responses for which consent to publish has been received have been published on the Scottish Government's website. A consultation analysis report can also be found on the Scottish Government's website at

<http://www.scotland.gov.uk/Publications/2011/02/01113830/0>

The Scottish Committee of the Administrative Justice and Tribunals Council were also consulted during the preparation of the instrument.

An Equality Impact Assessment has been completed.

Financial Effects

The instrument to establish the rules has no financial effects on the Scottish Executive, local government or on business.

Scottish Executive Learning Directorate
December 2011