

## **EXECUTIVE NOTE**

### **THE ADDITIONAL SUPPORT NEEDS TRIBUNALS FOR SCOTLAND (PRACTICE AND PROCEDURE) RULES 2011 (S.S.I 2011/105 )**

The above instrument was made in exercise of the powers conferred by sections 17(4) and 34(2) of, and paragraph 11 to schedule 1 to, the Education (Additional Support for Learning) (Scotland) Act 2004, 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 Additional Support Needs Tribunals Scotland (Practice and Procedure) Rules 2006 make provision for the procedures to be followed for referrals to the Tribunals under the Education (Additional Support for Learning) (Scotland) Act 2009. The Additional Support Needs Tribunals Scotland (Disability Claims Procedures) Rules 2011 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 Additional Support Needs Tribunals Scotland (Disability Claims Procedures) Rules 2011 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. The Additional Support Needs Tribunals Scotland (Disability Claims Procedures) Rules 2011 includes provision to allow a reference under section 18 of the Education (Additional Support for Learning) (Scotland) Act 2004 and a claim under Chapter 1 of Part 6 of the Equality Act to be heard at the same hearing.

These rules make a corresponding provision in the Additional Support Needs Tribunals Scotland (Practice and Procedure) Rules 2006 to maintain consistency between the two rules.

The rules are to come into force on 18<sup>th</sup> March 2011.

#### **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 complete.

### **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