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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 104**

**The Additional Support Needs Tribunals for  
Scotland (Disability Claims Procedure) Rules 2011**

**PART 1**

**GENERAL**

**Citation and commencement**

**1.—(1)** These Rules may be cited as the Additional Support Needs Tribunals for Scotland (Disability Claims Procedure) Rules 2011 and, subject to paragraph (2), come into force on 18th March 2011.

(2) Rule 5(5) comes into force on 6th April 2011.

**Interpretation**

**2.—(1)** In these Rules, unless the context otherwise requires—

“the 2004 Act” means the Education (Additional Support for Learning) (Scotland) Act 2004(1);

“the 2010 Act” means the Equality Act 2010;

“case statement period” means the period referred to in rule 8(2);

“claim” means a claim under paragraph 8 of Schedule 17 to the 2010 Act and “claimant” shall be construed accordingly;

“convener” means the President or individual selected by the President from the panel (“the panel of conveners”) appointed by the Scottish Ministers under paragraph 3(1)(a) of schedule 1 to the 2004 Act to act as the convener of a Tribunal;

“electronic communication” has the meaning given to it by section 15(1) of the Electronic Communications Act 2000(2) and “electronic signature” has the same meaning as in section 7 of that Act;

“hearing” means the proceedings of a Tribunal for the purpose of enabling the Tribunal to take a decision on a claim or on any question or matter at which the parties are entitled to attend and be heard;

“members” means the individuals selected by the President from the panel (“the panel of members”) appointed by the Scottish Ministers under paragraph 3(1)(b) of Schedule 1 to the 2004 Act to act as a member of a Tribunal;

“overriding objective” means the objective referred to in rule 3;

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(1) [2004 asp 4](#) as amended by the Education (Additional Support for Learning) (Scotland) Act 2009 ([asp 7](#)) and the Equality Act 2010 [c.15](#), Schedule 17, paragraph 12 and Schedule 27.

(2) [2000 c.7](#).

“party” means either the claimant or responsible body in respect of any claim made to a Tribunal;

“Register” means the Register of Claims to the Tribunals kept in pursuance of rule 45;

“response” means a written response submitted by a responsible body under rule 10;

“responsible body” has the same meaning as in section 85(9) of the 2010 Act;

“Secretary” means the member of the Tribunal staff for the time being appointed to act as secretary to the Tribunals;

“working day” means any day which is not—

- (a) a Saturday;
- (b) a Sunday;
- (c) a day from 27th December to 31st December inclusive;
- (d) a day in July; or
- (e) a day specified as a bank holiday in Scotland in or by virtue of the Banking and Financial Dealings Act 1971(3); and

“written evidence” includes evidence recorded in any way.

(2) In these Rules—

- (a) a reference to a rule is a reference to a rule in these Rules, and in any rule a reference to a paragraph or sub-paragraph is, unless the context requires otherwise, a reference to a paragraph or sub-paragraph in the rule;
- (b) where the time prescribed by these Rules for doing any act expires on a day which is not a working day, that act is done in time if it is done on the next working day; and
- (c) references to the doing of anything in writing include references to the doing of that thing by means of a document—
  - (i) transmitted by electronic means;
  - (ii) received in legible form; and
  - (iii) capable of being used for subsequent reference.

### **The overriding objective**

**3.—**(1) These Rules are a procedural code with the overriding objective of enabling a Tribunal with the assistance of the parties to deal with claims fairly and justly.

(2) Dealing with claims fairly and justly includes—

- (a) dealing with the claim in ways which are proportionate to the complexity of the issues and to the resources of the parties;
- (b) seeking informality and flexibility in the proceedings under these Rules;
- (c) ensuring, so far as practicable, that the parties are on an equal footing procedurally and are able to participate fully in the proceedings, including assisting any party in the presentation of their case without advocating the course they should take;
- (d) using a Tribunal’s special expertise effectively; and
- (e) avoiding delay, so far as compatible with the proper consideration of the issues.

**Application by Tribunal of the overriding objective**

- 4.—(1) A Tribunal must seek to give effect to the overriding objective when it—
- (a) exercises any power under these Rules; or
  - (b) interprets any rule.
- (2) In particular a Tribunal must manage claims actively in accordance with the overriding objective.