
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 514

**The Additional Support Needs Tribunals for
Scotland (Practice and Procedure) Rules 2005**

**PART I
GENERAL**

Citation and Commencement

1. These Rules may be cited as the Additional Support Needs Tribunals for Scotland (Practice and Procedure) Rules 2005 and shall come into force on 14th November 2005.

Interpretation

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

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

“the appellant” means the person who makes a reference to a Tribunal under section 18 of the Act;

“an appeal committee” means a committee set up under section 28D of the Education (Scotland) Act 1980(1);

“the authority” means the education authority responsible for the school education of the child or young person;

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

“the child or young person” means the child or young person to whom a reference relates;

“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 Act to act as the convener of a Tribunal;

“decision” in relation to a Tribunal includes—

(a) an order, including dismissal of a reference;

(b) a requirement under section 19 of the Act; and

(c) a reference by a Tribunal to an appeal committee under section 19(5)(c) of the Act;

“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;

“grounds of reference” includes the matters specified in rule 5(2)(f) and (g);

(1) 1980 c. 44; section 28D was inserted by section 1 of the Education (Scotland) Act 1981 (c. 58).

(2) 2000 c. 7.

“hearing” means a sitting of a Tribunal for the purpose of enabling the Tribunal to take a decision on a reference 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 Act to act as a member of a Tribunal;

“party” means either the appellant or authority in respect of any reference made to a Tribunal;

“reference” means a reference under section 18(1) of the Act;

“Register” means the Register of References to the Tribunals kept in pursuance of rule 44;

“response” means a written response submitted by an authority under rule 10;

“the 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);
- (f) “in writing” has the meaning in section 29(5) of the Act; and
- (g) “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; and
- (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.

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 references fairly and justly.

(2) Dealing with references fairly and justly includes—

- (a) dealing with the reference 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 his or her case without advocating the course he or she 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 references actively in accordance with the overriding objective.