

2011 No. 105

EDUCATION

The Additional Support Needs Tribunals for Scotland (Practice and Procedure) Amendment Rules 2011

Made - - - - - *10th February 2011*

Laid before the Scottish Parliament *15th February 2011*

Coming into force - - - *18th March 2011*

The Scottish Ministers make the following Rules in exercise of the powers conferred by sections 17(4) and 34(2) of, and paragraph 11 of schedule 1 to, the Education (Additional Support for Learning) (Scotland) Act 2004(a) and paragraph 10 of schedule 17 to the Equality Act 2010(b) and all other powers enabling them to do so.

In accordance with section 44 of, and paragraph 24 of Schedule 7 to, the Tribunals, Courts and Enforcement Act 2007(c) they have consulted with the Administrative Justice and Tribunals Council and its Scottish Committee(d).

Citation and commencement

1. These Rules may be cited as the Additional Support Needs Tribunals for Scotland (Practice and Procedure) Amendment Rules 2011 and come into force on 18th March 2011.

Amendment of the Additional Support Needs Tribunals for Scotland (Practice and Procedure) Rules 2006

2.—(1) The Additional Support Needs Tribunals for Scotland (Practice and Procedure) Rules 2006(e) are amended as follows.

(2) In rule 20(3) (consolidation of references)—

- (a) after “convener” where it first appears insert “to”; and
- (b) after “heard” insert “, and to have their views taken into account,”.

(a) 2004 asp 4. Paragraph 11 was amended by section 20 of the Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7).
(b) 2010 c.15.
(c) 2007 c.15.
(d) The Additional Support Needs Tribunals for Scotland are a “listed tribunal” for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 under S.S.I. 2007/436.
(e) S.S.I. 2006/88, amended by S.S.I. 2010/152 and 274.

(3) After rule 20 insert—

“20A. Consolidation of hearings of claims and references

(1) Where a claim under paragraph 8 of Schedule 17 to the Equality Act 2010 and a reference relate to the same person, and the other party to the claim and the reference is also the same, the person or, where the claim was made by the person’s parent, the parent or the other party may apply to the Tribunal for an order that such a claim and reference be heard at the same hearing.

(2) A convener may—

- (a) make an order under paragraph (1);
- (b) make an order varying or revoking an earlier order made under paragraph (1).

(3) An order under this rule shall only be made if it appears to the convener to be fair and just to do so and, before an order is made, the parties have had the opportunity to be heard, and their views taken into account, either by a convener alone or with such other members of a Tribunal as the convener may consider appropriate.

(4) A convener must not make an order under this rule if it would cause a breach of any of these rules or the Additional Support Needs Tribunals for Scotland (Disability Claims Procedure) Rules 2011.”.

(4) In rule 45A(7)(a) (review) for “Registrar” substitute “Secretary”.

ADAM INGRAM

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
10th February 2011

(a) Rule 45A was inserted by rule 20 of the Additional Support Needs Tribunals for Scotland (Practice and Procedure) Amendment Rules 2010 (S.S.I. 2010/152).

EXPLANATORY NOTE

(This note is not part of the Rules)

The Additional Support Needs Tribunals for Scotland (“the ASNTS”) were created under section 17 of, and Schedule 1 to, the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) (“the 2004 Act”) to deal with referrals to it under that Act. The Equality Act 2010 (“the 2010 Act”) extended the jurisdiction of the ASNTS to include claims made under Chapter 6 of Part 1 of the 2010 Act.

The Additional Support Needs Tribunals for Scotland (Practice and Procedure) Rules 2006 (S.S.I. 2006/88) (“the principal rules”) make provision for the procedure to be followed for referrals under the 2004 Act. The Additional Support Needs Tribunals for Scotland (Disability Claims Procedure) Rules 2011 (“the 2011 rules”) make provision for the procedure to be followed for claims under the 2010 Act.

Rule 2(2) corrects a minor grammatical error in rule 20(3) of the principal rules and further amends that rule to harmonise its provisions with the new rule 20A (as inserted by rule 2(3)).

Rule 2(3) amends the principal rules to make a corresponding provision to that made by rule 21 of the 2011 rules which provides that a reference under section 18 of the 2004 Act and a claim under Chapter 1 of Part 6 of the 2010 Act may be heard at the same hearing.

Rule 2(4) corrects rule 45A(7) of the principal rules by substituting the word “Secretary” for the word “Registrar”.

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