

Explanatory Memorandum to the Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011

This Explanatory Memorandum has been prepared by the Department for Education and Skills and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011.

Leighton Andrews
Minister for Education and Skills
June 2011

1. Description

The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 amends the Education (Wales) Measure 2009 to enable children to make claims of disability discrimination to the Special Educational Needs Tribunal for Wales themselves under the Equality Act 2010.

2. Matters of special interest to the Constitutional Affairs Committee

There are no matters of special interest to the Constitutional Affairs Committee.

3. Legislative background

3.1 The Education (Wales) Measure 2009 (“Measure”) was passed by the National Assembly for Wales on 3 November 2009 and received Royal Approval on 9 December 2009.

3.2 Sections 9 to 16 of the Measure amended Part 4 of the Disability Discrimination Act 1995, which related to discrimination in schools, to give children the right to make claims of disability discrimination to the Special Educational Needs Tribunal for Wales themselves.

3.3. The Equality Act 2010 repealed Part 4 of the Disability Discrimination Act 1995 on 1 October 2010 and as a consequence the disability discrimination provisions in sections 9 to 16 of the Measure were repealed on that date. The Equality Act 2010 consolidates discrimination law and re-states with modifications, the provisions that were in Part 4 of the Disability Discrimination Act 1995

3.4 Section 20 of the Measure gives the Welsh Ministers the power to make an order to remove the provisions in the Measure that amended Part 4 of the Disability Discrimination Act 1995 and to insert instead corresponding and consequential provisions to amend the Equality Act 2010.

3.5. The Education (Wales) Measure 2009 (Commencement No.1) Order 2011 was made on the 10 June 2011 and brought section 20 of the Measure into force on 11 June 2011.

3.6 An order made under section 20 of the Measure is subject to the affirmative resolution procedure.

4. Purpose & intended effect of the legislation

The Right of a Child to make a Disability Discrimination Claim (Schools) (Wales) Order 2011, made under section 20 of the Measure, will amend the Measure to enable children to make claims of disability discrimination to the Special Educational Needs Tribunal for Wales themselves under the Equality

Act 2010. The order will also ensure that children have the same rights to make claims of disability discrimination to the Tribunal as parents currently have under the Equality Act 2010.

5. Consultation

As this Order is of a technical nature no consultation has been undertaken.

6. Regulatory Impact Assessment (RIA)

6.1 No Regulatory Impact Assessment has been conducted as this Order is designed to replicate the intended effect of the Measure.

6.2 We do not believe that the Order has any impact on the statutory duties of Welsh Ministers (sections 77 -79 Government of Wales Act 2006) nor does this Order place any new obligation, duty or cost on our statutory partners (sections 72-75 Government of Wales Act 2006).