

Explanatory Memorandum to the Special Educational Needs Tribunal for Wales (Amendment) Regulations 2012

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 Special Educational Needs Tribunal for Wales (Amendment) Regulations 2012.

Leighton Andrews
Minister for Education and Skills
25 May 2012

1. Description

- 1.1** These Regulations amend the Special Educational Needs Tribunal for Wales Regulations 2012 (“SENTW Regulations 2012”) to rectify an omission in the Welsh text. Specifically, regulation 13(4)(c)(ii) of the English Text is missing from the Welsh text of the SENTW Regulations 2012.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1** There are no matters of special interest to the Constitutional and Legislative Affairs Committee.

3. Legislative background

- 3.1** The SENTW Regulations 2012 came into force on 6 March 2012 [S.I. 2012/322].
- 3.2** The Special Educational Needs Tribunal for Wales Regulations 2012 set out the procedure to be followed in proceedings before the Special Educational Needs Tribunal for Wales (“Tribunal”). They make provision relating to the exercise of the Tribunal’s jurisdiction under Part 4 of the Education Act 1996 (“1996 Act”) which concerns special educational needs (SEN) appeals and Chapter 1 of Part 6 of the Equality Act 2010 (“2010 Act”) which concerns claims of disability discrimination in respect of school pupils. The Regulations also make provision to enable children in the local authority pilot areas of Carmarthenshire and Wrexham to make appeals and claims to the Tribunal themselves in accordance with section 17 of the Education (Wales) Measure 2009 and the Education (Wales) Measure 2009 (Pilot) Regulations 2012.

4. Purpose & intended effect of the legislation

- 4.1** The purpose of the legislation is to rectify an omission in regulation 13(4)(c) of the Welsh version of the SENTW Regulations 2012 so that where an appeal application states the name of an independent school, the application must be accompanied by written confirmation that the person making the appeal has informed the proprietor of the school that he or she proposes to request that that the school is named in the statement of special educational needs.

5. Consultation

- 5.1** On the 18 April 2012 Welsh Government officials consulted the Administrative Justice Tribunal Council (AJTC) on these draft

regulations. On 27 April 2012, the AJTC confirmed that they had no comments to make

6. Regulatory Impact Assessment (RIA)

- 6.1** No Regulatory Impact Assessment has been conducted as these Regulations are made to rectify an omission in the Welsh text of the SENTW Regulations 2012.
- 6.2** We do not believe that the Regulations have any impact on the statutory duties of Welsh Ministers (sections 77 -79 Government of Wales Act 2006).