

Constitutional and Legislative Affairs Committee

(CLA(4)-02-11)

CLA5

Constitutional and Legislative Affairs Committee Report

Title: The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011

Procedure: Affirmative

The Education (Wales) Measure 2009 (“the Measure”) amended Part 4 of the Disability Discrimination Act 1995, which related to discrimination in schools, to enable children themselves to make a disability discrimination claim to the Special Educational Needs Tribunal for Wales. The Equality Act 2010 repeals the Disability Discrimination Act 1995.

This Order, made under section 20 of the Measure, amends the Measure to remove the provisions that amended the Disability Discrimination Act 1995, and to insert instead corresponding and other appropriate provisions amending the Equality Act 2010.

Technical Scrutiny

No points are identified for reporting under Standing Order 15.2 in respect of this instrument.

Merits Scrutiny

The Assembly is invited to pay special attention to this instrument under Standing Order 21.3 for the following reasons –

This Order is made under unique circumstances. When the Measure was considered by the Assembly, extensive changes to equality legislation were under consideration at Westminster. However, it was not clear what the final form of those changes would be, or the timescale for their implementation. For that reason, the Measure gave Welsh Ministers the unusual power referred to above to make extensive amendments to a measure being considered by the Assembly

Section 20 limits the nature of the permitted amendments, but because the changes arising from the Equality Act 2010 are so extensive, those amendments do not precisely reflect the legislation passed by the Assembly. The changes made to the Measure by this Order correspond as closely as is practicable to what was agreed by

the Assembly, ensuring that the rights given to children by the Measure are secured under the new arrangements.

David Melding AM
Chair, Constitutional and Legislative Affairs Committee

29 June 2011