EXECUTIVE NOTE

THE SCOTTISH COMMISSION FOR HUMAN RIGHTS (SPECIFICATION) ORDER 2008 - SSI/DRAFT

The above instrument is proposed to be made in exercise of the powers conferred by **section 9(6)(d)** of **The Scottish Commission for Human Rights Act 2006**. The instrument is subject to affirmative resolution procedure.

Policy Objectives

The purpose of the instrument is to bring the human rights contained in the United Nations Convention on the Rights of Persons with Disabilities within the definition of "human rights" for the purposes of subsections 9(2)(b) and 9(5)(b) of the 2006 Act, and thereby enable the Scottish Commission for Human Rights to conduct inquiries into whether the rights contained in the Convention are being respected by individual Scottish public authorities or institutions. The United Kingdom signed the Convention on 30 March 2007, and plans to ratify it (and thereby agree to be bound by it as a matter of international law, although it will not form part of domestic law) by the end of 2008. The Scottish Government strongly supports ratification.

Before ratification can take place, the UK must be satisfied that domestic law and policy meets the requirements of the Convention. One of these requirements is for states to establish a 'framework', including one or more independent mechanisms as appropriate, to promote, protect and monitor implementation of the Convention. The (Great Britain) Equality and Human Rights Commission will be the principal UK monitoring body for the Convention. However, the EHRC has competence in Scotland only in relation to reserved human rights issues. Monitoring of devolved human rights issues therefore needs to be covered through other mechanisms and the Scottish Commission for Human Rights, which is currently in course of being established, has agreed to undertake this role. The SCHR will be able to use the general powers conferred on it by the 2006 Act for this purpose; but the instrument will enable the SCHR also to use for the purposes of the Convention its power to conduct inquiries into particular public bodies and institutions, and so will contribute to the UK meeting the Convention's requirements as regards monitoring. There are already plans for the SCHR to work closely with the EHRC in Scotland in relation to their general activities, and it is expected that the SCHR and EHRC will similarly co-operate on matters relating to the Convention.

Consultation

The following bodies have been consulted during the preparation of the instrument:

The Equality and Human Rights Commission
The Scottish Commission for Human Rights

Financial Effects

The instrument has no financial effects on the Scottish Executive, local government or on business.

Scottish Executive

September 2008