SCOTTISH STATUTORY INSTRUMENTS

2002 No. 62

RACE RELATIONS

The Race Relations Act 1976 (Statutory Duties) (Scotland) Order 2002

Made - - - -	*14th February 2002*
Laid before the Scottish Parliament - - - -	*15th February 2002*
Coming into force - -	*13th March 2002*

The Scottish Ministers, in exercise of the powers conferred by section 71(2) and (3) of the Race Relations Act 1976(**1**) and of all other powers enabling them in that behalf, after consultation with the Commission for Racial Equality in accordance with section 71(4) of that Act, hereby make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Race Relations Act 1976 (Statutory Duties) (Scotland) Order 2001 and shall come into force on 13th March 2002.

(2) In this Order–

"cross-border public authority" and "Scottish public authority with mixed functions or no reserved functions" have the meaning given by the Scotland Act 1998(**2**);

"the Race Relations Act" means the Race Relations Act 1976;

"staff" includes any person treated as an employee for the purposes of Part II (Discrimination in the Employment Field) of the Race Relations Act;

references to "150 full-time staff" are references to such number of staff as would, if the hours they work were aggregated, amount to 150 staff working on a full-time basis;

"Scottish functions" has the meaning given by section L.2 of Part II of Schedule 5 to the Scotland Act 1998;

"education authority" has the meaning given by section 135 of the Education (Scotland) Act 1980(**3**); and

(**1**) 1976 c. 74; section 71 was substituted by section 2 of the Race Relations (Amendment) Act 2000 (c. 34) ("the 2000 Act"). Subsections (2) to (4) of section 71 are deemed by virtue of section 71B(1) of the 2000 Act to be pre-commencement enactments within the meaning of the Scotland Act 1998 (c. 46). The functions conferred on the Secretary of State by those subsections are therefore transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act.

(**2**) 1998 c. 46.

(**3**) 1980 c. 44.

"school" has the meaning given by section 135 of the Education (Scotland) Act 1980 but excluding independent schools and in addition includes a place, other than a school, at which an education authority provides school education for pupils who are under school age, other than such a place at which school education is being provided by a person with whom that authority has, by virtue of section 35 of the Standards in Scotland's Schools etc Act 2000(**4**), entered into arrangements for the provision of that education; where "independent school", "school education", "pupil" and "school age" have the meanings given by section 135 of the Education (Scotland) Act 1980.

Race Equality Schemes

2.—(1) This article applies to a body or person specified in Schedule 1 to this Order.

(2) A body or person to which this article applies shall, before 30th November 2002, publish a Race Equality Scheme, that is a scheme showing how it intends to fulfil its duties under section 71(1) of the Race Relations Act and this Order.

(3) A Race Equality Scheme shall state, in particular–

(a) those of its functions and policies, or proposed policies, which that body or person has assessed as relevant to its performance of the duty imposed by section 71(1) of the Race Relations Act; and

(b) that body or person's arrangements for–

(i) assessing and consulting on the likely impact of its proposed policies on the promotion of race equality;

(ii) monitoring its policies for any adverse impact on the promotion of race equality;

(iii) publishing the results of such assessments and consultation as are mentioned in paragraph (i) and of such monitoring as is mentioned in paragraph (ii);

(iv) ensuring public access to information and services which it provides; and

(v) training staff in connection with the duties imposed by section 71(1) of the Race Relations Act and this Order.

(4) Such a body or person shall, by no later than 30th November 2005 and at three yearly intervals thereafter, review the assessment referred to in paragraph (3)(a).

Educational Bodies or Persons

3.—(1) A body or person specified in Part I or II of Schedule 2 to this Order shall, before 30th November 2002–

(a) prepare a written statement of its policy for promoting race equality (referred to in this article as its "race equality policy"); and

(b) have in place arrangements for fulfilling, as soon as is reasonably practicable, its duties under paragraph (4) or (5), as the case may be.

(2) Such a body or person shall–

(a) maintain a copy of its race equality policy and in the case of an education authority ensure that each school under its management maintains such a copy; and

(b) fulfil those duties in accordance with such arrangements and in the case of an education authority ensure that each school under its management complies with the arrangements.

(3) A race equality policy prepared under paragraph (1)(a) and the arrangements put in place under paragraph (1)(b) by an education authority will apply to each school under its management.

(**4**) 2000 asp 6.

(4) It shall be the duty of a body or person specified in Part I of Schedule 2 to this Order to make arrangements for each school under its management to–

(a) assess the impact of its policies, including its race equality policy, on pupils, staff and parents of different racial groups including, in particular, the impact on attainment levels of such pupils; and

(b) monitor, by reference to their impact on such pupils, staff and parents, the operation of such policies including, in particular, their impact on the attainment levels of such pupils.

(5) It shall be the duty of a body or person specified in Part II of Schedule 2 to this Order to–

(a) assess the impact of its policies, including its race equality policy, on students and staff of different racial groups;

(b) monitor, by reference to those racial groups, the admission and progress of students and the recruitment and career progress of staff; and

(c) include in its written statement of its race equality policy an indication of its arrangements for publishing that statement and the results of its assessment and monitoring under sub-paragraphs (a) and (b).

(6) Such a body or person shall take such steps as are reasonably practicable to publish annually the results of its monitoring under this article.

4.—(1) A body or person specified in Part I, III or IV of Schedule 2 to this Order shall, before 30th November 2002, have in place arrangements for fulfilling, as soon as is reasonably practicable, its duties under paragraph (2), (3) or (4), as the case may be, and shall fulfil those duties in accordance with such arrangements.

(2) It shall be the duty of a body or person specified in Part I of Schedule 2 to this Order to monitor, by reference to the racial groups to which they belong–

(a) the numbers at each school under its management of–

(i) staff in post; and

(ii) applicants for employment, training and promotion, from each such group; and

(b) in the case of bodies or persons specified in Part I of Schedule 2 to this Order which have 150 or more full-time staff in total in all schools under their management, the numbers of staff from each school and each such group who–

(i) receive training;

(ii) benefit or suffer detriment as a result of its performance assessment procedures;

(iii) are involved in grievance procedures;

(iv) are the subject of disciplinary procedures; or

(v) cease employment with such schools.

(3) It shall be the duty of a body or person specified in Part III of Schedule 2 to this Order to–

(a) monitor, by reference to the racial groups to which they belong, the numbers of teaching staff from each such group at all schools in respect of which it exercises its functions; and

(b) take such steps as are reasonably practicable to use, for that purpose, data provided by education authorities and schools.

(4) It shall be the duty of a body or person specified in Part IV of Schedule 2 to this Order to monitor, by reference to the racial groups to which they belong, the numbers of teaching staff from each such group at all educational establishments in respect of which it exercises its functions.

(5) Such a body or person shall take such steps as are reasonably practicable to publish annually the results of its monitoring under this article.

Monitoring by Employers

5.—(1) A body or person to which this article applies shall–

(a) before 30th November 2002, have in place arrangements for fulfilling, as soon as is reasonably practicable, its duties under paragraph (2); and

(b) fulfil those duties in accordance with such arrangements.

(2) It shall be the duty of such a body or person to monitor, by reference to the racial groups to which they belong–

(a) the numbers of–

(i) staff in post; and

(ii) applicants for employment, training and promotion, from each such group; and

(b) where that body or person has 150 or more full-time staff, the numbers of staff from each such group who–

(i) receive training;

(ii) benefit or suffer detriment as a result of its performance assessment procedures;

(iii) are involved in grievance procedures;

(iv) are the subject of disciplinary procedures; or

(v) cease employment with that person or other body.

(3) Such a body or person shall publish annually the results of its monitoring under paragraph (2).

(4) Except as provided for in paragraph (5), this article applies to a body or person specified in Schedule 1A to the Race Relations Act which is–

(a) a Scottish public authority with mixed functions or no reserved functions; or

(b) a cross-border public authority in relation to the exercise of its Scottish functions.

(5) This article does not apply to–

(a) education authorities but only in respect of staff employed at schools under their management;

(b) any other body or person specified in Part I or II of Schedule 2 to this Order;

(c) a body or person specified in Schedule 3 to this Order to the extent, if any, so specified.

St Andrew's House,
Edinburgh
14th February 2002

IAIN GRAY
A member of the Scottish Executive