STATUTORY INSTRUMENTS

2017 No. 353

EQUALITY

The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017

Made - - - -	*9th March 2017*
Coming into force - -	*31st March 2017*

These Regulations are made in exercise of the powers conferred by sections 151(1), 153(1), 154(2) and 207(4) of the Equality Act 2010 [F1].

The Secretary of State has consulted the Commission for Equality and Human Rights in accordance with sections 152(1), 153(4) and 154(4) of that Act; and the Welsh Ministers in accordance with section 152(1) and 154(3) of that Act so far as these Regulations relate to relevant Welsh authorities and cross-border Welsh authorities.

In accordance with section 151(8) of that Act, the Secretary of State considers that the extension of the application of section 149 relates to persons by whom a public function is exercisable.

In accordance with section 208(2) and (4), (5)(f) and (8) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

The Secretary of State, in exercise of those powers, makes the following Regulations:

F1 2010 c. 15.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017 and come into force on 31st March 2017.

(2) In these Regulations—

"the Act" means the Equality Act 2010;

"the 1996 Act" means the Employment Rights Act 1996 [F2];

"the 2011 Regulations" means the Equality Act 2010 (Specific Duties) Regulations 2011 [F3];

"employment" and related expressions have the meaning given in regulation 2;

"English local authority" has the same meaning as in section 162 of the Education and Inspections Act 2006 [F4];

"maintained school" has the same meaning as in section 20(7) of the School Standards and Framework Act 1998 [F5].

F2 1996 c. 18.
F3 S.I. 2011/2260.
F4 2006 c. 40. There are amendments to section 162, not relevant here.
F5 1998 c. 31. Section 20 was amended by S.I. 2010/1158. There are further amendments to the section, not relevant here.

Meaning of "employment"

2.—(1) In these Regulations, "employment" means—

(a) employment under a contract of employment, a contract of apprenticeship or a contract personally to do work, and

(b) Crown employment (within the meaning of section 191(3) of the 1996 Act [F6]).

(2) Section 191(4) of the 1996 Act [F7] applies for the purposes of these Regulations as it applies for the purposes set out in that subsection.

(3) For the purposes of these Regulations, an employee of an English local authority at a maintained school is to be treated as an employee of the governing body of that school.

(4) These Regulations apply to service in the armed forces as they apply to employment by, (or in the case of Crown employment, under or for the purposes of) a public authority, and for that purpose, references to terms of employment, or to a contract of employment, are to be read as including references to terms of service.

(5) For the purposes of these Regulations, the holding, otherwise than under a contract of employment, of the office of constable, or of an appointment as a police cadet, is to be treated as employment by the relevant officer (and for that purpose, references to terms of employment, or to a contract of employment, are to be read as including references to terms of service).

(6) In paragraph (4)—

(a) "constable" does not include a special constable;

(b) "police cadet" means a person appointed to undergo training with a view to becoming a constable;

(c) "relevant officer" means—

(i) in relation to a member of a police force or a police cadet appointed for a police area, the chief officer of police;

(ii) in relation to any other person holding the office of constable or an appointment as a police cadet, the person who has the direction and control of the body of constables or cadets in question.

F6 1996 c. 18.
F7 Section 191(4) was amended by paragraph 34(2) and (3) of Schedule 1, and paragraph 1 of Schedule 2, to the Employment Relations Act 2004 (c. 24).

Gender pay gap reporting

3. Schedule 1 to these Regulations (which imposes obligations on public authorities to publish gender pay gap information relating to employees) has effect.

Publication of information

4.—(1) Each public authority listed in Schedule 2 to these Regulations must publish information to demonstrate its compliance with the duty imposed by section 149(1) of the Act.

(2) The public authority must publish the information required by paragraph (1)—

(a) not later than 30th March 2018; and

(b) subsequently at intervals of not greater than one year beginning with the date of last publication.

(3) The information a public authority publishes in compliance with paragraph (1) must include, in particular, information relating to persons who share a relevant protected characteristic who are—

(a) its employees;

(b) other persons affected by its policies and practices.

(4) Paragraph (3)(a) does not apply to a public authority with fewer than 150 employees.

Equality objectives

5.—(1) Each public authority listed in Schedule 2 to these Regulations must prepare and publish one or more objectives it thinks it should achieve to do any of the things mentioned in paragraphs (a) to (c) of section 149(1) of the Act.

(2) The objectives must be published—

(a) not later than 30th March 2018 (subject to regulation 9(2)); and

(b) subsequently at intervals of not greater than four years beginning with the date of last publication.

(3) An objective published by a public authority in compliance with paragraph (1) must be specific and measurable.

Manner of publication

6.—(1) The requirements in regulations 4 and 5 to publish information are requirements to publish the information in a manner that is accessible to the public.

(2) A public authority may comply with the requirements to publish information in regulation 4 or 5 by publishing the information within another published document.

Monitor and the NHS Trust Development Authority

7. Monitor [F8] and the NHS Trust Development Authority [F9] may jointly comply with the obligations imposed by these Regulations as if they were a single public authority.

F8 Monitor is a body corporate previously called the Independent Regulator of NHS Trusts, renamed Monitor by section 61 of the Health and Social Care Act 2012 (c. 7).

F9 The NHS Trust Development Authority is a Special Health Authority established under section 28 of the National Health Service Act 2006 (c. 41).

Amendment of Schedule 19 to the Act

8. Schedule 3 to these Regulations (which amends Parts 1 and 2 of Schedule 19 to the Act) has effect.

Revocation, saving and transitional provision

9.—(1) The 2011 Regulations are revoked (subject to paragraph (3)).

(2) Where a public authority has, within the period of four years ending with 30th March 2018, published equality objectives in compliance with regulation 3(1) of the 2011 Regulations—

(a) regulation 5(2)(a) does not apply; and

(b) regulation 5(2)(b) is to be read as if—

(i) the word "subsequently" were omitted, and

(ii) the "date of last publication" referred to the date of last publication under regulation 3 of the 2011 Regulations.

(3) Where—

(a) immediately before the commencement date a public authority is required by regulation 2 of the 2011 Regulations to publish the information referred to in paragraph (1) of that regulation,

(b) that information is required to be published on or before 6 April 2017, and

(c) the information is not published before the commencement date in a form and manner that complies with regulations 2 and 4 of those Regulations,

regulations 2 and 4 are to continue to have effect on and after the commencement date in so far as they relate to the publication of that information by that authority.

Justine Greening
Secretary of State for Education and Minister for Women and Equalities
Department for Education

SCHEDULE 1

Regulation 3

Gender pay gap reporting

1.—(1) In this Schedule—

"bonus pay" has the meaning given in paragraph 4;

"full-pay relevant employee" means a relevant employee who is not, during the relevant pay period, being paid at a reduced rate or nil as a result of the employee being on leave;

"hourly rate of pay" has the meaning given in paragraph 6;

"ITEPA 2003" means the Income Tax (Earnings and Pensions) Act 2003 [F10];

"leave" includes—

(a) annual leave;

(b) maternity, paternity, adoption, parental or shared parental leave;

(c) sick leave; and

(d) special leave;

"ordinary pay" has the meaning given in paragraph 3;

"pay period" has the meaning given in paragraph 5(1);

"piecework" means work in respect of which an employee is entitled to be paid by reference to a number of pieces made or processed, or a number of tasks performed, instead of by reference to a period of time worked;

"relevant employee" means a person who is employed by, (or in the case of Crown employment, under or for the purposes of) the relevant public authority on the snapshot date;

"relevant pay period" has the meaning given in paragraph 5(2);

"relevant public authority" means a public authority listed in Schedule 2 to these Regulations which has 250 or more employees on the snapshot date;

"snapshot date" means the 31st March in the year to which the information required by paragraph 2 relates.

(2) For the purposes of this Schedule, the amount of an employee's ordinary pay or bonus pay is to be calculated before deductions made at source (for example deductions in relation to income tax).

F10 2003 c. 1.

Duty to publish annual information relating to pay

2.—(1) A relevant public authority must publish, for 2017 and each subsequent year, the following information—

(a) the difference between the mean hourly rate of pay of male full-pay relevant employees and that of female full-pay relevant employees (see paragraph 8);

(b) the difference between the median hourly rate of pay of male full-pay relevant employees and that of female full-pay relevant employees (see paragraph 9);

(c) the difference between the mean bonus pay paid to male relevant employees and that paid to female relevant employees (see paragraph 10);

(d) the difference between the median bonus pay paid to male relevant employees and that paid to female relevant employees (see paragraph 11);