

Draft Regulations laid before the Scottish Parliament under section 210(2) of the Equality Act 2010, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2011 No.

EQUALITY

**The Equality Act 2010 (Statutory
Duties) (Scotland) Regulations 2011**

Made - - - - *2011*
Coming into force - - *6th April 2011*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 153(3), section 155(1)(c) and section 207 of the Equality Act 2010⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 153(4) of that Act the Scottish Ministers have consulted the Commission for Equality and Human Rights.

In accordance with section 210(2) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Equality Act 2010 (Statutory Duties) (Scotland) Regulations 2011 and come into force 6th April 2011.

Interpretation

2. In these Regulations—

“equality outcome” means a result intended to be achieved in order to further one or more of the aims mentioned in paragraphs (a) to (c) of section 149(1) of the Equality Act 2010 in relation to equality, as a consequence of action taken by a listed authority;

“employee” is to be construed in accordance with section 83 of the Equality Act 2010;

“listed authority” means a public authority listed in the Schedule to these Regulations⁽²⁾;

“relevant protected characteristics” has the meaning set out in section 149(7) of the Equality Act 2010; and

(1) 2010 c.15.

(2) The Schedule names those bodies listed in Part 3 of Schedule 19 to the Equality Act 2010 which are to be made subject to the duties in these Regulations.

“section 149(1) duty” means the duty under section 149(1) of the Equality Act 2010.

Publication of equality outcomes by listed authorities

3.—(1) Each listed authority must prepare and publish equality outcomes, which must be informed by how those outcomes will assist the authority to fulfil the section 149(1) duty.

(2) In order to fulfil the requirements of paragraph (1) a listed authority must—

- (a) take reasonable steps to involve persons with relevant protected characteristics and any person which appears to the listed authority to represent the interests of those persons; and
- (b) consider relevant evidence relating to persons with relevant protected characteristics and take reasonable steps to involve those persons and any person which appears to the listed authority to represent the interests of those persons in the process of gathering the evidence.

(3) A listed authority must publish its equality outcomes not later than 6th April 2012.

(4) Within each period of four years, beginning with the date of publication of its equality outcomes the listed authority must—

- (a) review progress towards achieving those outcomes;
- (b) publish equality outcomes that comply with the criteria in paragraph (1).

(5) Each listed authority must publish a report on progress in respect of its equality outcomes—

- (a) not later than 6th April 2014; and
- (b) subsequently at intervals of not more than two years beginning with the date of publication of the last report.

Mainstreaming equality

4. Each listed authority must publish a report on the action it has taken and the progress it has made to ensure that, in carrying out its functions, the section 149(1) duty is being taken into account —

- (a) not later than 6th April 2012; and
- (b) subsequently, at intervals of not more than two years, beginning with the date of publication of the last report.

Impact assessment

5. Each listed authority must—

- (a) assess the impact of its proposed policies and practices, including changes to and revisions of its existing policies and practices, on persons with relevant protected characteristics and on its ability to fulfil the section 149(1) duty;
- (b) consider relevant evidence relating to persons with relevant protected characteristics in relation to such assessments of impact; and
- (c) have due regard to the results of such assessments of impact.

Publication of employment information

6.—(1) Subject to paragraphs (3) and (4), paragraph (2) applies where the number of employees that a listed authority has is 150 or more on 6th March in any year.

(2) The listed authority must, not later than 6th April in that year publish—

- (a) employment information on—

- (i) the percentage of its workforce comprised of—
 - (aa) ethnic minority groups;
 - (bb) disabled people;
 - (cc) women; and
 - (dd) men; and
 - (ii) the gender pay gap, which for the purposes of this provision means the percentage difference between men’s average hourly pay (excluding overtime) and women’s average hourly pay (excluding overtime), and
- (b) an equal pay statement specifying—
- (i) the authority’s policy on equal pay between women and men; and
 - (ii) occupational segregation within its workforce, being the concentration of women and men in particular grades and in particular occupations.

(3) Where a listed authority has published employment information under paragraph (2)(a), it must publish such information subsequently at intervals of no more than two years beginning with the date on which the last set of information was published, provided that the number of employees that it has is 150 or more on 6th March in the year in which it decides to publish the information.

(4) Where a listed authority has published an equal pay statement under paragraph (2)(b) it must review that statement and publish a report on it no later than the end of the period of four years beginning with the date of publication of its first equal pay statement and subsequently at intervals of not more than four years, beginning with the date of publication of the last revision of its equal pay statement provided that the number of employees that it has is 150 or more on 6th March in the year on which it decides to publish the report.

(5) A listed authority which is no longer subject to the duties in paragraphs (3) and (4) shall be subject to those duties again if the number of employees that it has is 150 or more on 6th March in any year subsequent to the year in which the duties did not apply with the modification that the information or report referred to in those paragraphs must be published in that year.

Duty on Scottish Ministers

7.—(1) Scottish Ministers must publish proposals for activity which has the purpose of assisting listed authorities to fulfil the section 149(1) duty—

- (a) not later than 31st December 2012;
- (b) subsequently, at intervals of not more than four years, beginning with the date of publication of the last set of proposals.

(2) Scottish Ministers must publish a report on progress in relation to the activity—

- (a) not later than 31st December 2014; and
- (b) subsequently, at intervals of not more than four years beginning with the date of publication of the last report.

Compliance with publication duty

8.—(1) A listed authority must comply with its duty to publish under regulations 3, 4 and 6 in a manner that is reasonably accessible to the public.

(2) At least three months prior to publishing under regulations 3, 4 and 6, a listed authority must state where and when it will publish its equality outcomes, any report or, as the case may be, information.