Draft Order laid before Parliament under section 208(2) and (8) of the Equality Act 2010, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No. 000

EQUALITY

The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010

Made - - - - 2010

Coming into force in accordance with Article 1

A draft of this Order was laid before and approved by a resolution of each House of Parliament in accordance with section 208(2) and (8) of the Equality Act 2010(**1**).

This Order is made in exercise of the powers conferred by sections 207(4), (6) and (7) and 216 of the Equality Act 2010. The power under section 207(4)(b) of that Act is exercised in its application to section 216 of that Act.

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

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010.

(2) This Order comes into force on 1st October 2010.

(3) In this Order "the Act" means the Equality Act 2010.

Amendments to the Act

2. The Act is amended as follows.

3. In section 87 (the title to which becomes "Application of enforcement powers under education legislation")—

(a) in subsection (1), after "the Education Act 1996(**2**)" insert "and section 70 of the Education (Scotland) Act 1980(**3**)", and

(b) in subsection (2)—

(**1**) 2010 c. 15.
(**2**) 1996 c. 56.
(**3**) 1980 c. 44.

(i) for "that Act" substitute "the Education Act 1996", and

(ii) insert at the end "; and section 70 of the Education (Scotland) Act 1980 does not apply to the performance of a duty under that section by the proprietor of an independent school".

4. In section 94 (further and higher education: interpretation), after subsection (11), insert—

"(11A) A reference to conferring a qualification includes a reference—

(a) to renewing or extending the conferment of a qualification;

(b) to authenticating a qualification conferred by another person.".

5. In section 108(4) (reasonable adjustments after a relationship has come to an end) for "in so far as B continues to be" substitute "if B is".

6. In sections 132(5)(b) and 134(6)(b) (equality of terms: special provision for arrears period in Scottish cases involving fraud, error or incapacity), for "the period of 20 years ending with that day" substitute "the period determined in accordance with section 135(6) and (7)".

7. In section 135(6) (equality of terms: determination of length of arrears period in Scottish cases involving fraud, error or incapacity)—

(a) after "section 132(5)(a)" insert "or 134(6)(a)", and

(b) for "20 years" substitute—

"5 years; and—

(a) if, as a result of subsection (7), that period is reckoned as a period of more than 5 years but no more than 20 years, the period for the purposes of section 132(5)(b) or (as the case may be) section 134(6)(b) is that extended period;

(b) if, as a result of subsection (7), that period is reckoned as a period of more than 20 years, the period for the purposes of section 132(5)(b) or (as the case may be) section 134(6)(b) is a period of 20 years.".

8. In Part 4 of Schedule 3 (services and public functions: exceptions for immigration), in paragraph 17(5)(d), for "Community law" substitute "EU law".

9. In Part 9 of that Schedule (services and public functions: exceptions for transport), after paragraph 34 (the cross-heading above which becomes "Transport by land: road"), insert—

"**Transport by land: rail**

34A. Section 29 does not apply to anything governed by Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations.(**4**)

10. In Schedule 11 (schools: exceptions for single sex schools turning co-educational) omit sub-paragraph 4(4).

11. In Schedule 18 (public sector equality duty: exceptions for immigration), in paragraph 2(2)(h), for "Community law" substitute "EU law".

12. Schedule 1 (which amends Schedule 26 to the Act to include further consequential amendments) has effect.

13. Schedule 2 (which amends Schedule 27 to the Act to include further repeals) has effect.

(**4**) OJNo. L315, 3.12.2007, p.14.

Amendments of existing provisions about public sector equality duties

14.—(1) Section 76A the Sex Discrimination Act 1975(**5**) (public authorities: general statutory duty) is amended as follows.

(2) In subsection (1)(a) for "discrimination and harassment" substitute "discrimination, harassment and victimisation".

(3) For subsection (2)(c) substitute—

"(c) "discrimination" means—

(i) sex discrimination;

(ii) gender reassignment discrimination;

(iii) marriage and civil partnership discrimination;

(iv) pregnancy and maternity discrimination;

(v) a breach of an equality clause.".

(4) After subsection (2)(c) insert—

"(d) "harassment" is any act that is harassment for the purposes of the Equality Act 2010 ("the 2010 Act") but, in the case of harassment within subsection (1) of section 26, only so far as that subsection relates to sex or gender reassignment.

(e) "victimisation" means victimisation where the protected act in question relates to sex, gender reassignment, marriage and civil partnership or pregnancy and maternity.".

(5) After subsection (2) insert—

"(2A) An expression used in subsection (2) and in the 2010 Act has the same meaning in that subsection as it does in that Act.".

(6) Despite the repeal of the Sex Discrimination Act 1975 ("the 1975 Act") by Schedule 27 to the Act, the following provisions of the 1975 Act, so far as they relate to sections 76A to 76C(**6**) of that Act, continue to have effect—

(a) section 81(**7**) (orders),

(b) in section 82(**8**) (interpretation) the definitions of "act", "Commission", "man" and "woman", and

(c) section 85(**9**) (Crown application).

15.—(1) Section 71 of the Race Relations Act 1976(**10**) is amended as follows.

(2) In subsection (1)(a) for "racial discrimination" substitute "discrimination and victimisation".

(3) In subsection (7) for "other provision of this Act" substitute "provision of the Equality Act 2010 ("the 2010 Act"), so far as relating to race (within the meaning of that Act)".

(**5**) 1975 c. 65; section 76A was inserted by the Equality Act 2006 (c. 3), section 84(1) and was amended by the Government of Wales 2006 (Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), Schedule 1 paragraphs 2, 7(1) to (3) and by the Transfer of Functions (Equality) Order 2007 (S.I. 2007/2914), Schedule, paragraph 6(c).

(**6**) Sections 76B and 76C were inserted by the Equality Act 2006 (c. 3), section 85(1) and were amended by S.I. 2007/2914, Schedule, paragraph 6(d) and (e). Section 76B was also amended by S.I. 2007/1388, Schedule 3, paragraphs 1 and 8.

(**7**) Section 81 was amended by; the Education (Scotland) Act 1980 (c. 44), Schedule 4, paragraph 10; the Sex Discrimination Act 1986 (c. 59), section 9(2) and Schedule, Part I; the Employment Act 1989 (c.38) section 29(4) and Schedule 7, Part II; and the Equality Act 2006 (c. 3), sections 83(3), 84(2) and 85(2), Schedule 3 paragraphs 3 and 17 and Schedule 4 and S.I. 2007/2914, Schedule, paragraphs 6(h) and 8.

(**8**) In section 82 the definition of "Commission" was amended by the Equality Act 2006 (c. 3), Schedule 3, paragraphs 6 and 18(1)(a)(i).

(**9**) Section 85 was amended by; the Armed Forces Act 1996 (c. 46), section 21(1), (3), (4) and (5); the Employment Rights (Dispute Resolution) Act 1998 (c. 8), section 1(2)(a); the Armed Forces Act 2006 (c. 52), Schedule 16, paragraph 71; S.I. 1994/3276, regulation 2; S.I. 2005/2467, regulation 34 and S.I. 2005/2712, Schedule 2, paragraph 1.

(**10**) 1976 c.74; section 71 of the Race Relations Act 1976 was substituted by the Race Relations (Amendment) Act 2000 (c. 21) section 2(1) and was amended by S.I. 2007/2914, Schedule, paragraph 10(d).

(4) After that subsection insert—

"(8) In this section—

(a) "discrimination" means race discrimination within the meaning of section 25 of the 2010 Act;

(b) "victimisation" means victimisation within the meaning of section 27 of the 2010 Act, where the protected act in question relates to race, and

(c) "racial group" has the meaning given in section 9 of the 2010 Act.".

(5) Despite the repeal of the Race Relations Act 1976 ("the 1976 Act") by Schedule 27 to the Act, the following provisions of the 1976 Act, so far as they relate to sections 71 to 71B(**11**) of that Act, continue to have effect—

(a) section 74(**12**) (orders and regulations),

(b) section 75(**13**) (application to Crown), and

(c) in section 78(**14**) (interpretation) the definitions of "Commission" and "enactment".

16.—(1) The Disability Discrimination Act 1995(**15**) is amended as follows.

(2) In section 49A(**16**), subsection (1)(a) for "discrimination that is unlawful under this Act" substitute "unlawful discrimination and victimisation".

(3) In subsection (2) for "other provision of this Act" substitute "provision of the Equality Act 2010 ("the 2010 Act"), so far as relating to disability".

(4) After that subsection insert —

"(3) In this section—

(a) "discrimination" means disability discrimination within the meaning of sections 25(2)(a), (b) and (d) of the 2010 Act;

(b) "disability" and "disabled person" each have the same meaning as in section 6 of the 2010 Act; and

(c) "victimisation" means victimisation within the meaning of section 27 of that Act where the protected act in question relates to disability."

(5) Despite the repeal of the Disability Discrimination Act 1995 ("the 1995 Act") by Schedule 27 to the Act, the following provisions of the 1995 Act, so far as they relate to sections 49A to 49D(**17**) of that Act, continue to have effect—

(a) section 21B(3)(**18**) (list of public authorities excluded from duty not to discriminate),

(**11**) Sections 71A and 71B were substituted by the Race Relations (Amendment) Act 2000 (c. 21), section 2(1). Section 71A was amended by the Nationality, Immigration and Asylum Act 2002 (c. 41), section 6(5) and Schedule 9. Section 71B was amended by S.I. 2007 1388, Schedule 1, paragraphs 10 and 12 and S.I. 2007/2914, Schedule, paragraph 10(e).

(**12**) Section 74 was amended by the Race Relations (Remedies) Act 1994 (c. 10), section 2(2); the Armed Forces Act 1996 (c. 46), section 23(5) and the Equality Act 2006 (c. 3), Schedule 3, paragraphs 21 and 32 and Schedule 4.

(**13**) Section 75 was amended by; the Armed Forces Act 1981 (c. 55), section 28(2) and Schedule 5, Part I; the Armed Forces Act 1996 (c. 46), section 23; the Employment Rights (Dispute Resolution) Act 1998 (c. 8), section 1(2)(a); the Race Relations (Amendment) Act 2000 (c. 34), Schedule 2, paragraph 18; the Armed Forces Act 2006 (c. 52), Schedule 16, paragraph 80 and S.I. 2005/2712, Schedule 2, paragraph 2.

(**14**) In Section 78 the definition of "Commission" was amended by the Equality Act 2006 (c. 3), Schedule 3, paragraphs 6 and 18(1)(a)(i).

(**15**) 1995 c. 50.

(**16**) Section 49A was inserted by the Disability Discrimination Act 2005 (c. 13), section 3.

(**17**) Sections 49B to 49D were inserted by the Disability Discrimination Act 2005 (c. 13), section 3. Section 49B was amended by S.I. 2007/1388, Schedule 1, paragraphs 55 and 57. Section 49C was amended by the Equality Act 2006 (c. 3), section 88 and S.I. 2007/1388, Schedule 1, paragraphs 47 and 58. Section 49D was amended by the Equality Act 2006 (c. 3), Schedule 3, paragraphs 41 and 48 and S.I. 2007/1388, Schedule 1, paragraphs 47 and 59(1) and (2).

(**18**) Section 21B was inserted by the Disability Discrimination Act 2005 (c.13) section 2.

(b) section 64(**19**) (Crown application),

(c) section 67(**20**) (orders and regulations) and

(d) in section 68 (interpretation) the definitions of "prescribed" and "regulations".

name

Date

Secretary of State for the Home Department

(**19**) Section 64 was amended by the Disability Discrimination Act 2005 (c.13), Schedule 1, paragraphs 1 and 31; S.I. 2003/1673, regulations 3(1) and 24 and S.I. 2005/2712, Schedule 2, paragraph 3.

(**20**) Section 67 was amended by the Disability Discrimination Act 2005 (c.13), Schedule 1, paragraphs 1 and 33; the Equality Act 2006 (c.3), Schedule 3 paragraphs 41 and 44 and Schedule 4 and S.I. 2007/1388, Schedule 1, paragraphs 47 and 62.