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Equalities, Human Rights and Civil Justice Committee

Subordinate Legislation considered by the Equalities, Human Rights and Civil Justice Committee on 16 November 2021



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Equalities, Human Rights and Civil Justice Committee

To consider and report on the following (and any additional matter added under Rule 6.1.5A)—

- a. matters relating to equal opportunities, and upon the observance of equal opportunities within the Parliament; and
- b. matters relating to human rights.
- c. matters relating to civil justice within the responsibility of the Cabinet Secretary for Justice and Veterans.

2. In these Rules

(a) “equal opportunities” includes the prevention, elimination or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds or on grounds of disability, age, sexual orientation, language or social origin or of other personal attributes, including beliefs or opinions such as religious beliefs or political opinions; and

(b) “human rights” includes Convention rights (within the meaning of section 1 of the Human Rights Act 1998) and other human rights as for example contained in any international convention, treaty or other international instrument ratified by the United Kingdom.



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Committee Membership



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Fulton MacGregor
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Alexander Stewart
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Introduction

1. At its meeting on 16 November 2021, the Equalities, Human Rights and Civil Justice Committee considered the following instruments:
 - [The Equality Act 2010 \(Specific Duties\) \(Scotland\) Amendment Regulations 2021 \[draft\]](#)
 - [The Equality Act 2010 \(Specification of Public Authorities\) \(Scotland\) Order 2021 \[draft\]](#)
2. The instruments are subject to the affirmative procedure (Rule 10.6).

The Equality Act 2010 (Specific Duties) (Scotland) Amendment Regulations 2021 [draft]

3. The draft SSI was laid before the Scottish Parliament on 30 September 2021 and referred to the Equalities, Human Rights and Civil Justice Committee.
4. The purpose of the instrument is to apply the Scottish specific equalities duties, as set out in the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012, to South of Scotland Enterprise (“SOSE”).
5. The purpose of this instrument is to list SOSE in the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 (“the 2012 Regulations”), making SOSE subject to the equalities duties in the 2012 Regulations. These duties include:
 - assessing the impact of new or revised policies or practices on the needs set out in the public sector equality duty;
 - publishing equality outcomes and reporting on progress on meeting those outcomes;
 - reporting on mainstreaming equality;
 - publishing information on the gender pay gap and equal pay;
 - gathering employee information in relation to protected characteristics and using this information to better perform the public sector equality duty; and
 - taking account of the public sector equality duty in the context of procurement.
6. This instrument also makes provision for the time periods within which certain duties must be complied with.

Delegated Powers and Law Reform Committee consideration

7. The Delegated Powers and Law Reform Committee (DPLR) considered the instrument at its meeting on [26 October 2021](#). The DPLR Committee agreed that it did not need to draw the Parliament's attention to the instrument on any grounds within its remit.

Equalities, Human Rights and Civil Justice Committee consideration

8. It is for the Equalities, Human Rights and Civil Justice Committee to recommend to the Parliament whether the Regulations should be approved.
 9. The Minister for Business, Trade, Tourism and Enterprise ("the Minister"), Ivan McKee MSP, has, by motion [S6M-01530](#) proposed that the Committee recommends the approval of the Regulations.
 10. The Committee took evidence from the Minister at its meeting on 16 November 2021.
 11. Following the evidence session, the Minister moved motion S6M-01530—That the Equalities, Human Rights and Civil Justice Committee recommends that The Equality Act 2010 (Specific Duties) (Scotland) Amendment Regulations 2021 [draft] be approved.
 12. The motion was agreed to without division or dissent.
13. The Equalities, Human Rights and Civil Justice Committee recommends to the Scottish Parliament that The Equality Act 2010 (Specific Duties) (Scotland) Amendment Regulations 2021 [draft] be approved.

The Equality Act 2010 (Specification of Public Authorities) (Scotland) Order 2021 [draft]

14. The draft SSI was laid before the Scottish Parliament on 30 September 2021 and referred to the Equalities, Human Rights and Civil Justice Committee.
15. The purpose of the instrument is to add South of Scotland Enterprise (“SOSE”) to the list of public authorities in Part 3 of schedule 19 of the 2010 Act required to comply with the public sector equality duty.
16. The public sector equality duty in section 149(1) of the 2010 Act requires public authorities to have due regard, when exercising their functions, to the need to:
 - eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the 2010 Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
17. Those bodies and office holders subject to the public sector equality duty are listed in Part 3 of schedule 19 of the 2010 Act.
18. The South of Scotland Enterprise Act 2019 (“the 2019 Act”) established SOSE and sets out its strategic aims – namely, to further the economic and social development, and improve the amenity and environment, of the south of Scotland.
19. This draft Order proposes to add SOSE to Part 3 of schedule 19 of the 2010 Act so as to require SOSE to comply with the public sector equality duty.

Delegated Powers and Law Reform Committee consideration

20. The Delegated Powers and Law Reform Committee (DPLR) considered the instrument at its meeting on [26 October 2021](#). The DPLR Committee agreed that it did not need to draw the Parliament's attention to the instrument on any grounds within its remit.

Equalities, Human Rights and Civil Justice Committee consideration

21. It is for the Equalities, Human Rights and Civil Justice Committee to recommend to the Parliament whether the Order should be approved.
 22. The Minister for Business, Trade, Tourism and Enterprise ("the Minister"), Ivan McKee MSP, has, by motion [S6M-01531](#) proposed that the Committee recommends the approval of the Order.
 23. The Committee took evidence from the Minister at its meeting on 16 November 2021.
 24. Following the evidence session, the Minister moved motion S6M-01531—That the Equalities, Human Rights and Civil Justice Committee recommends that The Equality Act 2010 (Specification of Public Authorities) (Scotland) Order 2021 [draft] be approved.
 25. The motion was agreed to without division or dissent.
26. The Equalities, Human Rights and Civil Justice Committee recommends to the Scottish Parliament that The Equality Act 2010 (Specification of Public Authorities) (Scotland) Order 2021 [draft] be approved.

