

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

2011 No. 0000

EQUALITY

**The Equality Act 2010 (Public Authorities and
Consequential and Supplementary Amendments) Order 2011**

Made - - - -

Coming into force in accordance with article 1

This Order is made in exercise of the powers conferred by sections 151(1), (5) and (6), 154(1), 207(4), (6) and (7) and 216(3) of the Equality Act 2010⁽¹⁾. The power under section 207(4)(b) is exercised in its application to section 216 of that Act.

The Secretary of State has consulted the Commission for Equality and Human Rights and the Welsh Ministers in accordance with section 152(1) of that Act.

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.

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 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 (Public Authorities and Consequential and Supplementary Amendments) Order 2011.

(2) This Order comes into force on 4th April 2011 except for article 5 which comes into force on 5th April 2011.

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

Amendment of Schedule 19 to the Act

2.—(1) Schedule 19 to the Act is amended in accordance with paragraphs (2) and (3).

(2) Schedule 1 to this Order (which amends Part 1 of Schedule 19) has effect.

(3) After Part 3 (public authorities: relevant Scottish authorities), insert Part 4 set out in Schedule 2 to this Order.

Consequential amendments

3.—(1) The Act is amended in accordance with paragraphs (2) and (3).

(2) In Schedule 26 (amendments) after paragraph 106 of Part 2(2), insert—

“Housing (Scotland) Act 2006

106A. In section 194(1) of the Housing (Scotland) Act 2006(3) (interpretation), in the definition of “disabled person”, for “Disability Discrimination Act 1995 (c. 50)(4)” substitute “Equality Act 2010”.”.

(3) In Schedule 27 (repeals and revocations)—

(a) before Part 2, insert Part 1A set out in Schedule 3 to this Order;

(b) after Part 2, insert Part 3 set out in Schedule 4 to this Order.

4. In consequence of the repeal of sections 19B, 19D and 19E of the Race Relations Act 1976(5), in the Nationality, Immigration and Asylum Act 2002(6)—

(a) omit section 6(1) to (4), and

(b) in section 84(1)(b), omit “section 19B of the Race Relations Act 1976 (c. 74) or”.

Consequential amendment coming into force on 5th April 2011

5. In paragraph 6 of Schedule 5 to the School Standards and Framework Act 1998(7) (adjudicators: procedure), for paragraph (a) substitute—

“(a) section 149 of the Equality Act 2010,”.

Supplementary amendments

6.—(1) The Act is amended in accordance with paragraphs (2) and (3).

(2) In paragraph 20(1)(b) of Part 3 of Schedule 8 (work: limitations on the duty to make reasonable adjustments where there is lack of knowledge of disability, etc.), for “in any other case referred to in this Part of this Schedule” substitute “in any case referred to in Part 2 of this Schedule”.

(3) In paragraph 14(4) of Part 4 of Schedule 17 (disabled pupils: enforcement in relation to exclusions), after “enabling an appeal to be made by” insert “the person or”.

(2) Paragraph 106 of Part 2 of Schedule 26 to the Act was inserted by paragraph 6 of Schedule 1 to [S.I. 2010/2279](#).

(3) [2006 asp 1](#).

(4) The Disability Discrimination Act 1995 was repealed by Part 1 of Schedule 27 to the Act, as amended by Schedule 2 to [S.I. 2010/2279](#). The repeal of the Disability Discrimination Act 1995 came into force by virtue of [S.I. 2010/2317 \(C. 112\)](#) except in respect of sections 49A to 49D.

(5) [1976 c. 74](#); sections 19B, 19D and 19E were inserted by section 1 of the Race Relations (Amendment) Act 2000 ([c. 34](#)) which was partially repealed by Schedule 27 to the Act, as amended by Schedule 2 to [S.I. 2010/2279](#).

(6) [2002 c. 41](#); section 6(1) to (4) amended sections 19D and 19E of the Race Relations Act 1976, which was repealed by Part 1 of Schedule 27 to the Act, as amended by Schedule 2 to [S.I. 2010/2279](#). The repeal of the Race Relations Act 1976 came into force by virtue of [S.I. 2010/2317 \(C. 112\)](#) except in respect of sections 71 to 71B and Schedule 1A. Section 84(1)(b) of the Nationality, Immigration and Asylum Act 2002 was amended by [S.R. \(NI\) 2003 No. 341](#).

(7) [1998 c. 31](#); paragraph 6 of Schedule 5 was amended by paragraph 45 of Schedule 26 to the Act, as inserted by paragraph 5 of Schedule 1 to [S.I. 2010/2279](#).

7. In section 27(1) of the Equality Act 2006⁽⁸⁾ (disputes in relation to which the Commission for Equality and Human Rights may make arrangements for the provision of conciliation services), after “section 114” insert “or 116”.

Date

Name
Secretary of State for the Home Department

⁽⁸⁾ 2006 c.3; section 27(1) was substituted by paragraph 16 of Schedule 26 to the Act; paragraph 16 was renumbered as paragraph 71 of Schedule 26 by paragraph 1(e) of Schedule 1 to [S.I. 2010/2279](#).

SCHEDULE 1

Article 2(2)

AMENDMENTS TO PART 1 OF SCHEDULE 19 TO THE ACT

1. Part 1 of Schedule 19 to the Act (public authorities: general) is amended as follows.
2. After the entry under the heading “*Armed forces*”, insert—

“Broadcasting

The British Broadcasting Corporation (“BBC”), except in respect of functions relating to the provision of a content service (within the meaning given by section 32(7) of the Communications Act 2003⁽⁹⁾); and the reference to the BBC includes a reference to a body corporate which—

- (a) is a wholly owned subsidiary of the BBC,
- (b) is not operated with a view to generating a profit, and
- (c) undertakes activities primarily in order to promote the BBC’s public purposes.

The Channel Four Television Corporation, except in respect of—

- (a) functions relating to the provision of a content service (within the meaning given by section 32(7) of the Communications Act 2003), and
- (b) the function of carrying on the activities referred to in section 199 of that Act⁽¹⁰⁾.

The Welsh Authority (as defined by section 56(1) of the Broadcasting Act 1990⁽¹¹⁾), except in respect of functions relating to the provision of a content service (within the meaning given by section 32(7) of the Communications Act 2003).

Civil liberties

The Commission for Equality and Human Rights.

The Information Commissioner.

Court services and legal services

The Children and Family Court Advisory and Support Service.

The Judicial Appointments Commission.

The Legal Services Board.

The Legal Services Commission.

Criminal justice

Her Majesty’s Chief Inspector of Constabulary.

Her Majesty’s Chief Inspector of the Crown Prosecution Service.

Her Majesty’s Chief Inspector of Prisons.

Her Majesty’s Chief Inspector of Probation for England and Wales.

The Parole Board for England and Wales.

A probation trust established by an order made under section 5(1) of the Offender Management Act 2007⁽¹²⁾.

(9) 2003 c. 21.

(10) Section 199 was amended by the Digital Economy Act 2010 (c. 24), section 22(2).

(11) 1990 c. 42; section 56(1) was amended by the Communications Act 2003, Schedule 19(1).

(12) 2007 c. 21.

The Youth Justice Board for England and Wales.

Environment, housing and development

The Homes and Communities Agency.

Natural England.

The Office for Tenants and Social Landlords.

The Olympic Delivery Authority.”

3. For the heading “*National Health Service*” and the entries under it, substitute—

“Health, social care and social security

The Care Quality Commission.

The Child Maintenance and Enforcement Commission.

The Health Service Commissioner for England, in respect of—

(a) the Commissioner’s functions set out in paragraph 11 of Schedule 1 to the Health Service Commissioners Act 1993(13); and

(b) the Commissioner’s public procurement functions (as defined in section 155(3) of this Act).

The Independent Regulator of NHS Foundation Trusts.

An NHS foundation trust within the meaning given by section 30 of the National Health Service Act 2006(14).

An NHS trust established under section 25 of that Act.

A Primary Care Trust established under section 18 of that Act, or continued in existence by virtue of that section.

A Special Health Authority established under section 28 of that Act other than NHS Blood and Transplant and the NHS Business Services Authority.

A Strategic Health Authority established under section 13 of that Act, or continued in existence by virtue of that section.”

4. After the entries under the heading “*Health, social care and social security*”, insert—

“Industry, business, finance etc.

The Advisory, Conciliation and Arbitration Service.

The Bank of England, in respect of its public functions.

The Civil Aviation Authority.

The Competition Commission.

The Financial Services Authority.

The National Audit Office.

The Office of Communications.”

(13) 1993 c. 46; paragraph 11 of Schedule 1 was amended by the Public Services Ombudsman (Wales) Act 2005 (c. 10), Schedule 6, paragraphs 27 and 53(1) and (8); the Government of Wales Act 1998 (c. 38), Schedule 10, paragraph 16(7) and Schedule 18, Part 1; and S.I. 2007/1889. It was repealed in relation to Scotland by the Scottish Public Services Ombudsman Act 2002 (2002 asp 11), paragraph 14 of schedule 6.

(14) 2006 c. 41.

5. Under the heading “*Local government*”, insert at the end—

“The Audit Commission for Local Authorities and the National Health Service in England.

A Local Commissioner in England as defined by section 23(3) of the Local Government Act 1974(15), in respect of—

- (a) the Commissioner’s functions under sections 29(6A) and 34G(6) of that Act(16), and section 210(5) of the Apprenticeships, Skills, Children and Learning Act 2009(17); and
- (b) the Commissioner’s public procurement functions (as defined in section 155(3) of this Act).

The Standards Board for England.”

6. Under the heading “*Other educational bodies*”, insert at the end—

“The Higher Education Funding Council for England.

A local authority with respect to the pupil referral units it establishes and maintains by virtue of section 19 of the Education Act 1996(18).

The proprietor of a City Technology College, a City College for Technology or the Arts, or an Academy.”

7. After the entries for “*Other educational bodies*”, insert—

“Parliamentary and devolved bodies

The National Assembly for Wales Commission (Comisiwn Cynulliad Cenedlaethol Cymru).

The Parliamentary Commissioner for Administration, in respect of—

- (a) the Commissioner’s functions set out in section 3(1) and (1A) of the Parliamentary Commissioner Act 1967(19); and
- (b) the Commissioner’s public procurement functions (as defined in section 155(3) of this Act).

The Scottish Parliamentary Corporate Body.”

8. For the heading “*Police*” and the entries under it, substitute—

“Police

The British Transport Police Force.

A chief constable of a police force maintained under section 2 of the Police Act 1996(20).

The Chief Inspector of the UK Border Agency.

The Civil Nuclear Police Authority.

The Commissioner of Police for the City of London.

(15) 1974 c. 7; section 23(3) was amended by the Government of Wales Act 1998, Schedule 12, paragraph 13(3); the Local Government and Housing Act 1989 (c. 42), section 22(1) to (3); the Public Services Ombudsman (Wales) Act 2005, Schedule 6, paragraphs 7 and 8(1) and (4); and S.I. 2004/2359.

(16) Section 29(6A) was inserted by S.I. 2007/1889 and amended by the Health Act 2009 (c. 21), Schedule 5, Part 2, paragraphs 4 and 8(1) and (3). Section 34G was inserted by the Health Act 2009, Schedule 5, Part 1, paragraphs 1 and 2.

(17) 2009 c. 22.

(18) 1996 c. 56; section 19 was amended by the Children, Schools and Families Act 2010 (c. 26), section 3, Schedule 3, Part 1, paragraph 1 and Schedule 4, Part 1; the Education and Inspections Act 2006 (c. 40), section 101; the Education Act 1997 (c. 44), section 47(2) to (4), Schedule 8; and S.I. 2010/1158 and 2007/1507.

(19) 1967 c. 13; section 3(1A) was inserted by S.I. 2007/1889.

(20) 1996 c. 16.

- The Commissioner of Police of the Metropolis.
 - The Common Council of the City of London in its capacity as a police authority.
 - The Independent Police Complaints Commission.
 - The Metropolitan Police Authority established under section 5B of the Police Act 1996(21).
 - A police authority established under section 3 of that Act.
 - A Port Police Force established under an order made under section 14 of the Harbours Act 1964(22).
 - The Port Police Force established under Part 10 of the Port of London Act 1968(23).
 - A Port Police Force established under section 79 of the Harbours, Docks and Piers Clauses Act 1847(24).
 - The Serious Organised Crime Agency.”
9. After the entries for “Police”, insert—

“Regulators

- The Association of Authorised Public Accountants, in respect of its public functions.
- The Association of Certified Chartered Accountants, in respect of its public functions.
- The Association of International Accountants, in respect of its public functions.
- The Chartered Institute of Patent Attorneys, in respect of its public functions.
- The Council for Licensed Conveyancers, in respect of its public functions.
- The General Chiropractic Council, in respect of its public functions.
- The General Council of the Bar, in respect of its public functions.
- The General Dental Council, in respect of its public functions.
- The General Medical Council, in respect of its public functions.
- The Health and Safety Executive.
- The Insolvency Practitioners Association, in respect of its public functions.
- The Institute of Chartered Accountants in England and Wales, in respect of its public functions.
- The Institute of Legal Executives, in respect of its public functions.
- The Institute of Trade Mark Attorneys, in respect of its public functions.
- The Law Society of England and Wales, in respect of its public functions.
- The Nursing and Midwifery Council, in respect of its public functions.
- The Office of the Immigration Services Commissioner.”

(21) Section 5B was inserted by section 310(1) of the Greater London Authority Act 1999 (c. 29).

(22) 1964 c. 40; section 14 was amended by the Planning Act 2008 (c. 29), Schedule 2, paragraphs 8 and 9; the Transport and Works Act 1992 (c. 42), Schedule 3, paragraph 1 (6); the Transport Act 1981 (c. 56), Schedule 6 and Schedule 12, Part 2; the Criminal Justice Act 1982 (c. 48), sections 37 and 46; and S.I. 2006/1177 and 2009/1941.

(23) 1968 c. 32; section 156 was amended by the Serious Organised Crime and Police Act 2005 (c. 15), Schedule 7, Part 3, paragraph 41(1) and (3); the Port of London Act 1982 (c. 9), section 3(1), Schedule 1, Part 1 and Schedule 2; and the Criminal Justice Act 1982, section 46.

(24) 1847 c. 27.

SCHEDULE 2

Article 2(3)

AMENDMENTS TO SCHEDULE 19 TO THE ACT (CROSS-BORDER AUTHORITIES)

“PART 4

PUBLIC AUTHORITIES: CROSS-BORDER AUTHORITIES

Cross-border Welsh authorities

The Environment Agency – D
 NHS Blood and Transplant – D
 The NHS Business Services Authority – D
 The Student Loans Company Limited – D”

SCHEDULE 3

Article 3(3)(a)

AMENDMENTS TO SCHEDULE 27 TO THE ACT (REPEALS)

“PART 1A

REPEALS RELATING TO THE COMMENCEMENT OF THE
PUBLIC SECTOR EQUALITY DUTY ON 5TH APRIL 2011

<i>Short title</i>	<i>Extent of repeal</i>
Race Relations (Amendment) Act 2000(25)	Section 2. Schedule 1. In Schedule 2, paragraph 17.
Nationality, Immigration and Asylum Act 2002(26)	Section 6(5).
Water Act 2003(27)	In Schedule 7, paragraph 22.
Courts Act 2003(28)	In Schedule 8, paragraph 187.
Health and Social Care (Community Health and Standards) Act 2003(29)	In Schedule 4, paragraphs 21 and 22.
Health Protection Agency Act 2004(30)	In Schedule 3, paragraph 8.
Energy Act 2004(31)	In Schedule 14, paragraph 4.

(25) 2000 c. 34.
 (26) 2002 c. 41.
 (27) 2003 c. 37.
 (28) 2003 c. 39.
 (29) 2003 c. 43.
 (30) 2004 c. 17.
 (31) 2004 c. 20.

<i>Short title</i>	<i>Extent of repeal</i>
Fire and Rescue Services Act 2004 (32)	In Schedule 1, paragraph 48.
Civil Contingencies Act 2004 (33)	In Schedule 2, paragraph 10(3)(a).
Disability Discrimination Act 2005 (34)	Section 3.
Serious Organised Crime and Police Act 2005 (35)	In Schedule 4, paragraphs 33 to 35.
Education Act 2005 (36)	In Schedule 14, paragraphs 6 and 8.
Gambling Act 2005 (37)	In Schedule 16, paragraph 9.
London Olympic Games and Paralympic Games Act 2006 (38)	In Schedule 1, paragraph 21.
Natural Environment and Rural Communities Act 2006 (39)	In Schedule 11— (a) paragraph 61, and (b) in paragraph 175(2), “in the Race Relations Act 1976 (c. 74), Part 2 of Schedule 1A;”.
National Health Service (Consequential Provisions) Act 2006 (40)	In Schedule 1, paragraphs 55 and 56.
Police and Justice Act 2006 (41)	In Schedule 1, paragraph 60.
Tourist Boards (Scotland) Act 2006 (42)	In Schedule 2, paragraph 3.
Tribunals, Courts and Enforcement Act 2007 (43)	In Schedule 8, paragraph 7.
Offender Management Act 2007 (44)	In Schedule 3, paragraphs 1 and 7.
Legal Services Act 2007 (45)	In Schedule 21, paragraph 39.
Health and Social Care Act 2008 (46)	In Schedule 5, paragraph 59. In Schedule 10, paragraph 6.
Housing and Regeneration Act 2008 (47)	In Schedule 8, paragraph 21. In Schedule 9, paragraph 4.
Local Transport Act 2008 (48)	In Schedule 4, paragraph 49.

(32) 2004 c. 21.

(33) 2004 c. 36.

(34) 2005 c. 13.

(35) 2005 c. 15.

(36) 2005 c. 18.

(37) 2005 c. 19.

(38) 2006 c. 12.

(39) 2006 c. 16.

(40) 2006 c. 43.

(41) 2006 c. 48.

(42) 2006 asp 15.

(43) 2007 c. 15.

(44) 2007 c. 21.

(45) 2007 c. 29.

(46) 2008 c. 14.

(47) 2008 c. 17.

(48) 2008 c. 26.

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<i>Short title</i>	<i>Extent of repeal</i>
Climate Change Act 2008 (49)	In Schedule 1, paragraph 32.
Pensions Act 2008 (50)	In Schedule 1, paragraph 25.
Local Democracy, Economic Development and Construction Act 2009 (51)	In Schedule 6, paragraph 44.
Apprenticeships, Skills, Children and Learning Act 2009 (52)	In Schedule 6, paragraph 1. In Schedule 12, paragraph 7.
Marine and Coastal Access Act 2009 (53)	In Schedule 2, paragraph 4.
Policing and Crime Act 2009 (54)	Section 2(3).”

SCHEDULE 4

Article 3(3)(b)

AMENDMENTS TO SCHEDULE 27 TO THE ACT (REVOCATIONS)

“PART 3

REVOCATIONS RELATING TO THE COMMENCEMENT OF
THE PUBLIC SECTOR EQUALITY DUTY ON 5TH APRIL 2011

<i>Title</i>	<i>Extent of revocation</i>
National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002 (S.I. 2002/2469)	In Schedule 1, paragraph 9.
Health Professions Order 2001 (Consequential Amendments) Order 2003 (S.I. 2003/1590)	In the Schedule, paragraph 4.
Further and Higher Education (Scotland) Act 2005 (Consequential Modifications) Order 2005 (S.I. 2005/2077)	Article 5.
Water Services etc. (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005 (S.I. 2005/3172)	In the Schedule, paragraph 2.
References to Health Authorities Order 2007 (S.I. 2007/961)	In the Schedule, paragraph 12.
Tourist Boards (Scotland) Act 2006 (Consequential Modifications) Order 2007 (S.I. 2007/1103)	In the Schedule, paragraph 3.

(49) 2008 c. 27.

(50) 2008 c. 30.

(51) 2009 c. 20.

(52) 2009 c. 22.

(53) 2009 c. 23.

(54) 2009 c. 26.

<i>Title</i>	<i>Extent of revocation</i>
Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388)	In Schedule 1, paragraphs 10 to 16.
Agriculture and Horticulture Development Board Order 2008 (S.I. 2008/576)	In Schedule 5, paragraph 4.
Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080)	In Schedule 1, paragraphs 9 to 11.
Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158)	In Schedule 2, in Part 2, paragraph 30."

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Equality Act 2010 (c. 15) (“the Act”). The Order amends the Act by adding to the list in Schedule 19 of public authorities which are subject to the public sector equality duty under section 149 of the Act. The Order also makes amendments to the Act which are consequential on or supplementary to the commencement of the amended provisions, which were brought into force by the Equality Act 2010 (Commencement Order No. 4, Savings, Consequential, Transitional, Transitory and Incidental Provisions and Revocation) Order 2010 (S.I. 2010/2317 (C. 112)). In addition, the Order makes amendments which are consequential to the commencement of section 149 of the Act on 5th April 2011.

Article 2 amends Schedule 19 to the Act, which lists specific public authorities which are subject to the public sector equality duty.

Articles 3 and 4 make consequential amendments which come into force on 4th April 2011 and which provide for amendments and repeals in relation to the Act and the Nationality, Immigration and Asylum Act 2002 (c. 41). Article 5 makes a consequential amendment to the School Standards and Framework Act 1998 (c. 31) which comes into force on the same day as the commencement of the public sector equality duty on 5th April 2011.

Articles 6 and 7 make supplementary amendments to correct inadvertent omissions or drafting errors to ensure that provisions introduced by the Act work effectively.

Schedule 1 adds bodies and offices to the list of public authorities in Part 1 of Schedule 19 to the Act which are subject to the public sector equality duty. Schedule 2 adds a new Part 4 to Schedule 19 to the Act relating to cross-border Welsh authorities that have some functions that are devolved and some that are not devolved. Schedule 3 adds a new Part 1A to Schedule 27 to the Act with a table setting out repeals relating to the commencement of the public sector equality duty on 5th April 2011. Schedule 4 adds a new Part 3 to Schedule 27 to the Act with a table setting out revocations relating to the commencement of the public sector equality duty. These revocations revoke certain instruments which inserted a number of bodies into Schedule 1A of the Race Relations Act 1976 (c. 74), making

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them subject to the general statutory duty imposed by section 71 of that Act; section 71 will be repealed once the public sector equality duty comes into force.