

EQUALITY ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Discrimination on Grounds of Sexual Orientation

Section 81: Regulations

268. *Section 81* provides a power under which the Secretary of State can make regulations that prohibit sexual orientation discrimination (including indirect discrimination, victimisation and harassment). The regulations may make provision similar to Part 2, which means that the regulations may prohibit – either generally or in specified circumstances – discrimination in the provision of goods, facilities and services; the exercise of public functions; education and the disposal of premises.
269. *Section 81* also makes clear that the regulations will be able to prohibit discriminatory advertisements and instructing or causing discrimination or harassment. It will also be possible to provide general or specific exceptions to the prohibition on sexual orientation discrimination in the areas covered by the Regulations.
270. The regulations will be subject to the affirmative procedure. They will set out the remedies available to those who consider that their rights have been breached and otherwise provide for enforcement. Regulations will be able to allow individuals to bring cases via the county courts in England and the sheriff court in Scotland. Judicial review could also be made available in appropriate cases. The regulations will also be able to create criminal offences corresponding to those in other enactments relating to discrimination or equality and with the same maximum penalties.

Section 82: Northern Ireland Regulations

271. *Section 82* provides a power under which the Office of the First Minister and deputy First Minister can make regulations that prohibit sexual orientation discrimination (including indirect discrimination, victimisation and harassment). The regulations may make provision similar to Part 3 of the [Race Relations \(Northern Ireland\) Order 1997 \(S.I. 1997/869 \(N.I. 6\)\)](#), which means that the regulations may prohibit – either generally or in specified circumstances – discrimination in the provision of goods, facilities and services; the exercise of public functions; education and the disposal of premises.
272. *Section 82* also makes clear that the regulations will be able to prohibit discriminatory advertisements and instructing or causing discrimination or harassment. It will also be possible to provide general or specific exceptions to the prohibition on sexual orientation discrimination in the areas covered by the regulations.
273. The regulations will be subject to the affirmative procedure in the Northern Ireland Assembly. They will set out the remedies available to those who consider that their rights have been breached and otherwise provide for enforcement. Regulations will be able to allow individuals to bring cases via the county courts in Northern Ireland. Judicial review could also be made available in appropriate cases. The regulations will

*These notes refer to the Equality Act 2006 (c.3)
which received Royal Assent on 16 February 2006*

also be able to create criminal offences corresponding to those in other enactments relating to discrimination or equality and with the same maximum penalties.