

EXPLANATORY MEMORANDUM TO
THE EQUALITY ACT 2006 (DISSOLUTION OF COMMISSIONS AND
CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) ORDER 2007

2007 No. 2602

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Order dissolves the Commission for Racial Equality, the Disability Rights Commission and the Equal Opportunities Commission (“the former Commissions”), makes certain consequential amendments and modifications necessary as a result of their dissolution and the establishment of the Commission for Equality and Human Rights (“the CEHR”) and provides for the CEHR to exercise certain of their functions.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 Part 1 of the Equality Act 2006 (“the Equality Act”) establishes the CEHR as a body corporate and defines its powers, duties and constitution. It also provides for the dissolution of the CEHR’s predecessor bodies, the former Commissions.

4.2 The Equality Act 2006 (Commencement No.3 and Savings) Order 2007 (S.I. 2007/2603) (“the Commencement No.3 Order”), which was made immediately after this Order, commences on 1st October 2007 those sections of the Equality Act which have not yet been commenced. As a result, the CEHR will be given its full powers and duties and the repeal of the legislation creating the former Commissions and making provision for their functions will take effect.¹

4.3 This Order dissolves the former Commissions and provides for the CEHR to exercise certain functions of the former Commissions, such as finalisation of their annual reports and statements of account. It also provides for the CEHR to maintain the registers of non-discrimination notices of the Commission for Racial Equality (“the CRE”) and the Equal Opportunity Commission (“the EOC”) (but not the Disability Rights Commission (“the DRC”), because it has not issued any non-discrimination notices).

4.5 In addition, because the CRE and the EOC both have on-going and recently concluded investigations, it provides for CEHR to conclude any outstanding investigations and take relevant enforcement action (under the Equality Act). It

¹ Subject to savings preserving the legislation necessary for the CEHR to discharge the functions of the former Commissions consistent with this Order and to restrict the disclosure of information obtained in the course of conducting formal investigations.

will also allow the CEHR to take relevant enforcement action in relation to compliance notices recently issued by the CRE and EOC. Finally, the Order modifies the application of the Equality Act to facilitate the CEHR's exercise of these powers.

- 4.6 This Order also makes amendments and modifications to legislation which are necessary as a result of the dissolution of the former Commissions, the Commencement No.3 Order and the creation of the CEHR. The modifications include that necessary to impose upon the CEHR the restrictions on the disclosure of information obtained in the course of conducting formal investigations which apply to the former Commissions. The restriction will apply to any such information the CEHR receives from the former Commissions on their dissolution and any it obtains in the course of discharging their investigatory functions.

5. Territorial Extent and Application

- 5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 The primary objective of Part 1 of the Equality Act is to establish a new body that will be the independent advocate for equality and human rights in Britain. As such, the CEHR will work to reduce inequality, eliminate discrimination, strengthen good relations between groups and promote and protect human rights. It will challenge prejudice and disadvantage and promote the importance of human rights, enforce equality legislation on age, disability, gender (including gender reassignment), race, religion or belief and sexual orientation, and encourage compliance with the Human Rights Act 1998.
- 7.2 The CEHR will carry on the work of the former Commissions, with additional responsibility for enforcing legislation and promoting equality in relation to age, religion or belief, and sexual orientation and for the first time provide institutional support for human rights. This instrument (along with the Commencement No.3 Order) fulfils these objectives by dissolving the former Commissions and providing for the CEHR to exercise certain functions of the former Commissions in relation to transitional matters.
- 7.3 The change is politically and legally important because it will for the first time allow discrimination and inequality to be addressed in a co-ordinated way rather than by addressing each strand (race, gender, disability, etc.) in isolation.
- 7.4 The dissolution of the former Commissions and creation of the CEHR follows widespread consultation on these proposals and is largely supported by the general public. In October 2002, the Government issued a consultation paper ("Equality and Diversity: Making it Happen – Consultation on future structures for equality institutions") comprising a review of existing institutional support for

equality legislation and options for the future, in particular the feasibility of creating a single Commission for Great Britain. As well as seeking written responses, the consultation exercise included ten Ministerial roundtables, a Citizens Forum in Manchester, an online consultation and further targeted events. A majority of respondents to the consultation supported the establishment of a single equality body. However, stakeholders in the former Commissions initially opposed unification out of concern that a diminution in efficacy and influence might result. A report of the consultation exercise *Equality and Diversity - Making it Happen: Report on the consultation exercise* was produced and is available for consideration².

- 7.5 In October 2003, the Government announced its intention to bring together the work of the former Commissions in a new body that would also take responsibility for new laws on age, religion or belief, and sexual orientation, and for the first time provide institutional support for human rights. A White Paper (Cm 6165 “Fairness for All: A new Commission for Equality and Human Rights”) was published on 12 May 2004, setting out the Government’s detailed proposals for the CEHR, including its role, duties and powers, and outlining the way in which the CEHR will deliver services to its key stakeholders. Views were invited on the proposals by 6 August 2004. 433 responses to the White Paper were received. The proposals met with general support, particularly for the three pillars of equality, human rights and good relations between and within groups which were proposed to underpin the new Commission. Nevertheless some individuals and groups expressed strong reservations about many of the proposals. The Government committed to continue to work with all concerned to ensure that their proposals were developed in a satisfactory way. The Government’s response to that consultation *Commission for Equality and Human Rights: The Government response to consultation*³ was published on 18 November 2004. The Equality Bill was introduced on 18 May 2005, reflecting the further development of the Government's proposals.
- 7.6 Although it was initially anticipated that the CRE would not merge with the CEHR until 2009, it was subsequently decided (in October 2006) following further consultation with CRE Commissioners and staff and the chairs of the EOC and DRC that it would in fact join at the same time as the other two Commissions.

8. Impact

- 8.1 A Regulatory Impact Assessment for the Commission for Equality and Human Rights was prepared in relation to the Equality Act 2006 and is available at http://www.womenandequalityunit.gov.uk/cehr/equality_bill.htm. A further impact assessment has not been prepared for this instrument as it has no additional impact on business, charities or voluntary bodies.

² <http://www.womenandequalityunit.gov.uk/equality/project/project.htm>

³ <http://www.womenandequalityunit.gov.uk/equality/project/project.htm>

9. Contact

Zyg Kowalczyk at the Government Equalities Office Tel: 0207 9445916 or e-mail: zyg.kowalczyk@communities.gsi.gov.uk can answer any queries regarding the instrument.