

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Socio-Economic Inequalities

Section 1: Public sector duty regarding socio-economic inequalities

Effect

23. This section requires specified public bodies, when making strategic decisions such as deciding priorities and setting objectives, to consider how their decisions might help to reduce the inequalities associated with socio-economic disadvantage. Such inequalities could include inequalities in education, health, housing, crime rates, or other matters associated with socio-economic disadvantage. It is for public bodies subject to the duty to determine which socio-economic inequalities they are in a position to influence.
24. The duty applies to the listed public bodies, which have strategic functions – these include Government departments, local authorities and NHS bodies. In addition, the duty applies to other public bodies which work in partnership with a local authority to draw up the sustainable community strategy for an area, when they are drawing up that strategy. These partner public bodies are specified in the Local Government and Public Involvement in Health Act 2007.
25. Public bodies are required to take into account guidance issued by a Minister of the Crown when deciding how to fulfil the duty.
26. The duty does not require public bodies to consider how to reduce inequalities resulting from people being subject to immigration control.

Background

27. This is a new provision.

Examples

- The Department of Health decides to improve the provision of primary care services. They find evidence that people suffering socio-economic disadvantage are less likely to access such services during working hours, due to their conditions of employment. The Department therefore advises that such services should be available at other times of the day.
- Under the duty, a Regional Development Agency (RDA), when reviewing its funding programmes, could decide to amend the selection criteria for a programme designed to promote business development, to encourage more successful bids from deprived areas. The same RDA could also decide to continue a programme aimed at generating more jobs in the IT sector which, despite not contributing to a reduction in socio-economic inequalities, has wider economic benefits in attracting more well-paid jobs to the region. This decision would comply with the duty, because the RDA would have given due consideration to reducing socio-economic inequalities.

- The duty could lead a local education authority, when conducting a strategic review of its school applications process, to analyse the impact of its campaign to inform parents about the applications process, looking particularly at different neighbourhoods. If the results suggest that parents in more deprived areas are less likely to access or make use of the information provided, the authority could decide to carry out additional work in those neighbourhoods in future campaigns, to ensure that children from deprived areas have a better chance of securing a place at their school of choice.

Section 2: Power to amend section 1

Effect

28. This section enables a Minister of the Crown or, in the case of Welsh or Scottish bodies, the Welsh or Scottish Ministers to make regulations amending the list of public bodies which are subject to the duty in section 1, and to limit or extend the functions of a listed body to which the duty applies. The duty can only be imposed on Welsh or Scottish bodies that carry out the same or a similar role to those carried out by a body listed in section 1.
29. It also enables the Welsh or Scottish Ministers to make other consequential amendments to section 1 which they consider are needed as a result of adding bodies to section 1. This includes adding a power for the Welsh or Scottish Ministers to issue guidance for Welsh or Scottish bodies respectively and to impose a requirement that those bodies take the relevant guidance into account. Where they issue guidance to bodies they have listed, the Welsh or Scottish Ministers can remove the requirement for those bodies to take into account guidance issued by a Minister of the Crown.
30. It also provides that a Minister of the Crown may not apply the duty to any devolved Welsh or Scottish functions.

Background

31. This is a new provision.

Examples

- A new public body is created in England to deal with regeneration. The Minister decides that it should give consideration to reducing socio-economic inequalities when making strategic decisions. The Minister makes regulations to add the body to the list in section 1.
- The Welsh Ministers decide they would like the duty to apply to local authorities in Wales, starting a year after the duty starts to apply in England. They consult the relevant Minister of the Crown, and make regulations to apply the duty to those bodies from their proposed commencement date.
- The Welsh Ministers then decide they would like to issue guidance to Welsh local authorities on how to fulfil the duty. They consult the relevant Minister of the Crown about this, and take into account the guidance the Minister of the Crown has issued in relation to English local authorities. They then issue their guidance, which Welsh local authorities must take account of in fulfilling the duty.

Section 3: Enforcement

Effect

32. This section ensures that individuals have no recourse to private law because of a failure by a public body to comply with the duty imposed by section 1. This means that individuals are not able to claim damages for breach of statutory duty for a breach of this duty. However, this section does not prevent an individual from bringing judicial review proceedings against a public body which is covered by the duty, if he or she

*These notes refer to the Equality Act 2010 (c.15)
which received Royal Assent on 8 April 2010*

believes the public body has not considered socio-economic disadvantage when taking decisions of a strategic nature.

Background

33. This is a new provision.

Example

- An individual feels that the socio-economic disadvantages he faces should entitle him to a flat in a new social housing development, ahead of those whom he judges to be less disadvantaged. However, there is no provision in this Act for him to bring a case against the local council or other public body in such circumstances.