

# EQUALITY ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 16: General and Miscellaneous**

##### *Section 207: Exercise of power*

###### **Effect**

645. This section makes provision for the powers to make secondary legislation under the Act. Unless it is stated otherwise, they will be exercised by a Minister of the Crown and be statutory instruments. It also provides that orders and regulations may deal with different situations differently and include consequential and other provisions dealing with transition to the new provisions.
646. In some cases, the power to make consequential provision can be exercised to amend an enactment, including in relation to section 197 (age) and section 216 (commencement) of this Act. For example, this power would enable a consequential amendment to be made to this Act where it is necessary to update a reference to other legislation that has been passed since this Act received Royal Assent but before it comes into force.
647. The section also enables matters that need to be dealt with on commencement of a particular section, such as transitional provisions and consequential amendments, to be dealt with in more than one order and, if necessary, at different times and by different procedures. For example, it would enable consequential amendments to primary legislation, which require an affirmative resolution, to be dealt with in a separate commencement order or orders from other provisions which do not require a parliamentary procedure.
648. This section also provides that the negative parliamentary procedure applies to an Order in Council made under section 82.

###### **Background**

649. As with any Act delegating the power to legislate, this section is needed to set out the arrangements for how Ministers are to exercise such delegated power. This is a large Act with a number of provisions that confer power to amend primary legislation. Much of the Act involves consolidation and harmonisation of previous legislation, so that the range of possible consequential amendments is likely to be limited. It is thought convenient to specify in one place those powers to amend primary legislation that include a power to make consequential amendments to primary legislation. It is also thought that having a general broad power of the kind often found in other legislation would create duplication in those cases where it is considered that power to make consequential amendments is required and might raise doubt in those cases where it is not. The power in the form used in this Act allows for separate orders for consequential amendments and will in practice produce the same result as a general consequential power of the usual kind would.