

*Changes to legislation:* There are currently no known outstanding effects for the Northern Ireland Act 1998, SCHEDULE 9. (See end of Document for details)

## SCHEDULES

### SCHEDULE 9

Section 75(4).

#### EQUALITY: ENFORCEMENT OF DUTIES

##### *The Equality Commission*

- 1 The Equality Commission for Northern Ireland shall—
- (a) keep under review the effectiveness of the duties imposed by section 75;
  - (b) offer advice to public authorities and others in connection with those duties; and
  - (c) carry out the functions conferred on it by the following provisions of this Schedule.

##### **Commencement Information**

- II** Sch. 9 para. 1 wholly in force at 1.1.2000; Sch. 9 para. 1 not in force at Royal Assent see s. 101(3); Sch. 9 para. 1(b) in force for specified purposes at 1.10.1999 by [S.I. 1999/2204, art. 3](#); Sch. 9 para. 1 in force at 1.1.2000 insofar as not already in force by [S.I. 1999/2204, art. 4](#)

##### *Equality schemes*

- 2 (1) A public authority to which this sub-paragraph applies shall, before the end of the period of six months beginning with the commencement of this Schedule or, if later, the establishment of the authority, submit a scheme to the Commission.
- (2) Sub-paragraph (1) applies to any public authority except one which is notified in writing by the Commission that that sub-paragraph does not apply to it.
- 3 (1) Where it thinks appropriate, the Commission may—
- (a) request a public authority to which paragraph 2(1) does not apply to make a scheme;
  - (b) request any public authority to make a revised scheme.
- (2) A public authority shall respond to a request under this paragraph by submitting a scheme to the Commission before the end of the period of six months beginning with the date of the request.
- 4 (1) A scheme shall show how the public authority proposes to fulfil the duties imposed by section 75 in relation to the relevant functions.
- (2) A scheme shall state, in particular, the authority's arrangements—
- (a) for assessing its compliance with the duties under section 75 and for consulting on matters to which a duty under that section is likely to be relevant (including details of the persons to be consulted);

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- (b) for assessing and consulting on the likely impact of policies adopted or proposed to be adopted by the authority on the promotion of equality of opportunity;
- (c) for monitoring any adverse impact of policies adopted by the authority on the promotion of equality of opportunity;
- (d) for publishing the results of such assessments as are mentioned in paragraph (b) and such monitoring as is mentioned in paragraph (c);
- (e) for training staff;
- (f) for ensuring, and assessing, public access to information and to services provided by the authority.

(3) A scheme shall—

- (a) conform to any guidelines as to form or content which are issued by the Commission with the approval of the Secretary of State;
- (b) specify a timetable for measures proposed in the scheme; and
- (c) include details of how it will be published.

(4) In this paragraph—

“equality of opportunity” means such equality of opportunity as is mentioned in section 75(1);

“the relevant functions” means the functions of the public authority or, in the case of a scheme submitted in response to a request which specifies particular functions of the public authority, those functions.

[<sup>F1</sup>(5) But where the public authority is designated by order under section 75(3)(a) or (d)—

“equality of opportunity” does not include equality of opportunity in relation to which (by virtue of the order) the public authority has no obligations under section 75(1);

“the relevant functions” does not include functions of the public authority so far as the obligations imposed by section 75 do not (by virtue of the order) apply to their exercise.]

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#### **Textual Amendments**

**F1** Sch. 9 para. 4(5) inserted (13.3.2014) by [Northern Ireland \(Miscellaneous Provisions\) Act 2014 \(c. 13\)](#), [ss. 22\(2\)](#), [28\(1\)\(f\)](#)

5 Before submitting a scheme a public authority shall consult, in accordance with any directions given by the Commission—

- (a) representatives of persons likely to be affected by the scheme; and
- (b) such other persons as may be specified in the directions.

6 (1) On receipt of a scheme the Commission shall—

- (a) approve it; or
- (b) refer it to the Secretary of State.

(2) Where the Commission refers a scheme to the Secretary of State under subparagraph (1)(b), it shall notify the Assembly in writing that it has done so and send the Assembly a copy of the scheme.

7 (1) Where a scheme is referred to the Secretary of State he shall—

- (a) approve it;

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- (b) request the public authority to make a revised scheme; or
  - (c) make a scheme for the public authority.
- (2) A request under sub-paragraph (1)(b) shall be treated in the same way as a request under paragraph 3(1)(b).
- (3) Where the Secretary of State—
- (a) requests a revised scheme under sub-paragraph (1)(b); or
  - (b) makes a scheme under sub-paragraph (1)(c),
- he shall notify the Assembly in writing that he has done so and, in a case falling within paragraph (b), send the Assembly a copy of the scheme.
- 8 (1) If a public authority wishes to revise a scheme it may submit a revised scheme to the Commission.
- (2) A revised scheme shall be treated as if it were submitted in response to a request under paragraph 3(1)(b).
- (3) A public authority shall, before the end of the period of five years beginning with the submission of its current scheme, or the latest review of that scheme under this sub-paragraph, whichever is the later, review that scheme and inform the Commission of the outcome of the review.

#### *Duties arising out of equality schemes*

- 9 (1) In publishing the results of such an assessment as is mentioned in paragraph 4(2)(b), a public authority shall state the aims of the policy to which the assessment relates and give details of any consideration given by the authority to—
- (a) measures which might mitigate any adverse impact of that policy on the promotion of equality of opportunity; and
  - (b) alternative policies which might better achieve the promotion of equality of opportunity.
- (2) In making any decision with respect to a policy adopted or proposed to be adopted by it, a public authority shall take into account any such assessment and consultation as is mentioned in paragraph 4(2)(b) carried out in relation to the policy.
- (3) In this paragraph “equality of opportunity” has the same meaning as in paragraph 4.

#### *Complaints*

- 10 (1) If the Commission receives a complaint made in accordance with this paragraph of failure by a public authority to comply with a scheme approved or made under paragraph 6 or 7, it shall—
- (a) investigate the complaint; or
  - (b) give the complainant reasons for not investigating.
- (2) A complaint must be made in writing by a person who claims to have been directly affected by the failure.
- (3) A complaint must be sent to the Commission during the period of 12 months starting with the day on which the complainant first knew of the matters alleged.
- (4) Before making a complaint the complainant must—
- (a) bring the complaint to the notice of the public authority; and

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- (b) give the public authority a reasonable opportunity to respond.

#### *Investigations*

- 11 (1) This paragraph applies to—
- (a) investigations required by paragraph 10; and
  - (b) any other investigation carried out by the Commission where it believes that a public authority may have failed to comply with a scheme approved or made under paragraph 6 or 7.
- (2) The Commission shall send a report of the investigation to—
- (a) the public authority concerned;
  - (b) the Secretary of State; and
  - (c) the complainant (if any).
- (3) If a report recommends action by the public authority concerned and the Commission considers that the action is not taken within a reasonable time—
- (a) the Commission may refer the matter to the Secretary of State; and
  - (b) the Secretary of State may give directions to the public authority in respect of any matter referred to him.
- (4) Where the Commission—
- (a) sends a report to the Secretary of State under sub-paragraph (2)(b); or
  - (b) refers a matter to the Secretary of State under sub-paragraph (3)(a),
- it shall notify the Assembly in writing that it has done so and, in a case falling within paragraph (a), send the Assembly a copy of the report.
- (5) Where the Secretary of State gives directions to a public authority under sub-paragraph (3)(b), he shall notify the Assembly in writing that he has done so.

#### *Government departments*

- 12 (1) Paragraphs 6, 7 and 11(2)(b) and (3) do not apply to a government department which is such a public authority as is mentioned in section 75(3)(a).
- (2) On receipt of a scheme submitted by such a government department under paragraph 2 or 3 the Commission shall—
- (a) approve it; or
  - (b) request the department to make a revised scheme.
- (3) A request under sub-paragraph (2)(b) shall be treated in the same way as a request under paragraph 3(1)(b).
- (4) Where a request is made under sub-paragraph (2)(b), the government department shall, if it does not submit a revised scheme to the Commission before the end of the period of six months beginning with the date of the request, send to the Commission a written statement of the reasons for not doing so.
- (5) The Commission may lay before Parliament and the Assembly a report of any investigation such as is mentioned in paragraph 11(1) relating to a government department such as is mentioned in sub-paragraph (1).

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