

EQUALITY ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 1, Part 5 – Disability Committee

329. *Paragraph 49* requires the CEHR to establish a Disability Committee before either the equality and diversity duties set out in section 8 or the duties with regard to groups set out in section 10 of the Act comes into force, in either case in so far as they relate to disability
330. *Paragraph 50* sets out the requirements for the number of members of the Disability Committee. Members of the Committee may be Commissioners, staff or other non-Commissioners by virtue of *paragraph 12(2) of Schedule 1* to the Act. *Paragraphs 50(b)* and *(c)* require that the Chairman and at least half of the members of the Disability Committee are or have been disabled people. This reflects a requirement in the Disability Rights Commission Act concerning the composition of the DRC. By virtue of *paragraph 50(c) of Schedule 1* in conjunction with *paragraph 12(3) of Schedule 1* to the Act, the Chairman of the Committee must be a Commissioner who is or has been a disabled person. The Chairman need not be the same Commissioner appointed to give effect to the requirement in paragraph 2(3)(a) of Schedule 1. “Disabled person” for the purposes of paragraph 50 bears the same meaning as in section 8(4) of the Act. *Paragraph 50 (2)* provides that the DRC Transition Commissioner appointed under section 41 may not be a member (or Chairman) of the Committee.
331. *Paragraph 51* sets a period of two to five years as the term of office of members of the Disability Committee, subject to the possibility of reappointment, or dismissal, or in accordance with paragraph 51(c) lapsing of the appointment of members of the Committee when the Committee is dissolved following the process set out in *paragraphs 57 to 62*.
332. *Paragraph 52* sets out the functions of the CEHR which are delegated to the Disability Committee. These are the duties under section 8 of the Equality Act 2006 (equality and diversity) and duties under section 10 of the Equality Act 2006 (groups) in so far as they relate to “disability matters”. “Disability matters” is defined in *paragraph 52(3)* as matters provided for under Parts 1, 3, 4, 5 and 5B of the DDA, sections 8 and 10 Equality Act 2006 in so far as they relate to disability; and sections 14(3) and (4), 27(2) and (3) and 29(2) and (3) of the Equality Act 2006. Part 1 of the DDA sets out the meaning of “disabled person” and “disability”; Part 3 of the DDA sets out the duties on providers of goods, facilities, services and premises to the public, public authorities exercising their functions; and associations providing benefits, facilities and services to applicants for membership, members, associates and guests; Part 4 of the DDA sets out the duties in relation to education; and Part 5 of the DDA provides powers for the Secretary of State to make accessibility regulations in respect of taxis, public service vehicles, and rail vehicles; Part 5B of the DDA makes procedural and evidential provision with regard to consent to improvements to let dwelling houses in England and Wales; and sections 14(3) and (4), 27(2) and (3) and 29(2) and (3) of the Equality Act 2006 make provision for the CEHR to provide conciliation services and

legal assistance and to issue codes of practice in relation to the making of disability related works in Scotland. Matters provided for in Part 2 of the DDA, which deals with discrimination and harassment in the employment field will not be delegated to the Disability Committee. The Committee's remit with regard to Part 2 of the DDA is set out in *paragraphs 53 and 54*.

333. In carrying out the duties of the CEHR under sections 8 and 10, so far as they relate to disability, or in relation to disability matters generally (as defined in *paragraph 52(3)*), the Disability Committee may exercise any of the powers listed in *paragraph 52(1)(a)*.
334. For example, the Disability Committee will be able to issue codes of practice (delegated by virtue of *paragraph 52(1)(a)(ii)*) which deal with disability discrimination in the provision of goods, facilities, services and premises or education, as provided for in Parts 3 and 4 of the DDA respectively, as the latter fall within the definition of "disability matters" in paragraph 52(3) of Schedule 1.
335. *Paragraph 52(2)* allows the CEHR to exercise the powers and fulfil the duties delegated to the Disability Committee, where they relate partly to disability and partly to other matters. This would allow the CEHR, for instance, to establish a GB-wide helpline offering advice on all of the equality enactments listed at section 33. However, the CEHR is required under paragraph 53 to consult the Committee before doing so.
336. *Paragraph 53* imposes a duty on the CEHR to consult the Disability Committee before taking action on matters affecting disabled people, in particular where such action affects Part 2 of the DDA (employment field). This means that, for example, if the CEHR were to prepare a code of practice relating to discrimination in employment across all equality strands, it would be required to involve the Disability Committee by seeking their advice and expertise on all areas of the proposed code affecting disabled people, such as reasonable adjustments for disabled people in the workplace. Or, for example, if drawing up a programme of investigations and inquiries which would impact on disabled people, the CEHR would be required to consult the Disability Committee prior to doing so.
337. *Paragraph 54* imposes a corresponding duty on the Disability Committee to provide advice to the CEHR on the exercise of any of the CEHR's functions affecting disabled people.
338. *Paragraph 55* requires the CEHR to allocate a sufficient share of its total allocated resources (which will include staff and funding) to the Disability Committee to enable it to carry out its delegated functions effectively.
339. *Paragraphs 57 to 59* make provision for a mandatory review of the Disability Committee to assess whether it is expedient for the Committee to continue. The review is to take place after the Disability Committee has been operating for five years.
340. *Paragraph 58* lists the persons who are excluded from participating in the review, to ensure that the review will be carried out independently of the CEHR.
341. *Paragraph 59* requires the CEHR to ensure that the review involves a consultation with disabled people and other interested parties, and that a report of the findings of the review is submitted to the CEHR and published. The report must include a recommendation by the reviewing body on how long the Committee should continue in existence.
342. *Paragraph 60* requires the CEHR, after receiving the report, to make a recommendation to the Secretary of State on how long the Disability Committee should continue in existence.
343. *Paragraph 61* requires the Secretary of State to make an order specifying the date on which the dissolution of the Disability Committee will take effect, which may be after

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

a period of continuation. In accordance with section 39(3)(e) such an order is subject to the negative resolution procedure.

344. *Paragraph 62* provides that an order made by the Secretary of State under paragraph 59 may also make provision in relation to the Committee's conduct of its business prior to dissolution. For example, this may include provision about activities the Committee must complete before it is dissolved. The order may also make provision as to how the CEHR will carry out functions that were previously delegated to the Committee before its dissolution.
345. *Paragraph 63* clarifies that paragraphs 12-15 of *Schedule 1* to the Act allow the CEHR to create a subsequent committee with responsibility for disability issues, or to delegate to another committee any functions that were originally delegated to the Disability Committee, after the Disability Committee has been dissolved.
346. *Paragraph 64* ensures that the Disability Committee can only be dissolved following the review process set out in paragraphs 57 to 62.