



Equality Act 2006

2006 CHAPTER 3

PART 1

THE COMMISSION FOR EQUALITY AND HUMAN RIGHTS

Miscellaneous

39 Orders and regulations

- (1) An order of a Minister of the Crown under this Part and regulations under this Part shall be made by statutory instrument.
- (2) An order of a Minister of the Crown under this Part and regulations under this Part—
 - (a) may make provision generally or only for specified purposes,
 - (b) may make different provision for different purposes, and
 - (c) may include transitional, incidental or consequential provision.
- (3) An order or regulations under any of the following provisions shall be subject to annulment in pursuance of a resolution of either House of Parliament—
 - (a) section 15(3),
 - (b) section 28,
 - (c) section 29,
 - (d) section 36, and
 - (e) Part 5 of Schedule 1.
- (4) An order under section 10(6), 15(6), 27(10) or 33(3)—
 - (a) may, in particular, make consequential amendment of an enactment (including this Act and including an enactment in or under an Act of the Scottish Parliament), and
 - (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

Status: Point in time view as at 18/04/2006.

Changes to legislation: Equality Act 2006, Cross Heading: Miscellaneous is up to date with all changes known to be in force on or before 04 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) An incidental provision included in an order or regulations by virtue of subsection (2) (c) may, in particular, impose a requirement for consent to action under or by virtue of the order or regulations.

40 Consequential amendments

Schedule 3 (consequential amendments) shall have effect.

Commencement Information

- II** [S. 40](#) wholly in force at 1.10.2007; [s. 40](#) not in force at Royal Assent, see [s. 93](#); [s. 40](#) in force for certain purposes at 18.4.2006 by [S.I. 2006/1082](#), [art. 2](#); [s. 40](#) in force for certain further purposes at 30.4.2007 by [S.I. 2007/1092](#), [art. 2](#); [s. 40](#) in force at 1.10.2007 in so far as not already in force by [S.I. 2007/2603](#), [art. 2](#)

41 Transitional: the Commission

- (1) If an order under section 93 provides for any of sections 1 to 3 and Schedule 1 to come into force (to any extent) at a time before any of sections 8 to 32 come into force (to any extent)—
- (a) the period between that time and the commencement of any of sections 8 to 32 (to any extent) is the “transitional period” for the purposes of this section, and
 - (b) the following provisions of this section shall have effect.
- (2) During the transitional period the minimum number of Commissioners shall be five (and not as provided by paragraph 1 of Schedule 1).
- (3) The Secretary of State shall, as soon as is reasonably practicable after making the first appointments under that paragraph, appoint as additional members of the Commission (to be known as Transition Commissioners)—
- (a) a commissioner of the Equal Opportunities Commission nominated by its chairman,
 - (b) a commissioner of the Commission for Racial Equality nominated by its chairman, and
 - (c) a commissioner of the Disability Rights Commission nominated by its chairman.
- (4) A person may nominate himself as a Transition Commissioner.
- (5) If a Transition Commissioner ceases to be a commissioner of the Commission whose chairman nominated him—
- (a) he shall cease to be a Transition Commissioner,
 - (b) the chairman of that Commission shall nominate a replacement, and
 - (c) the Secretary of State shall appoint the nominated replacement.
- (6) A person shall hold appointment as a Transition Commissioner until a time specified by order of the Secretary of State (subject to subsection (5)); and the Secretary of State shall specify a time which in his opinion is not more than two years after the time when, by virtue of section 36, the Commission whose chairman nominated the Transition Commissioner—
- (a) ceases to exist, or

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(b) loses its principal functions.

(7) In all other respects the provisions of this Part apply in relation to a Transition Commissioner as in relation to another Commissioner.

42 Transitional: functions of the dissolved Commissions

- (1) An order under section 36(1)(a) or (b) may—
 - (a) provide for a former Commission to continue to exercise a function in respect of a transitional case of a kind specified;
 - (b) provide for the Commission for Equality and Human Rights to exercise a function of a former Commission in respect of a transitional case of a kind specified.
- (2) An order under section 93 commencing a provision of Schedule 3 or 4 may include a saving or a consequential or incidental provision for the purpose of the operation of provision made by virtue of subsection (1) above; and the saving, consequential or incidental provision may, in particular, include provision applying, disapplying or modifying the application of a provision of this Act or of another enactment (including an enactment in or under an Act of the Scottish Parliament).
- (3) A code of practice issued by a Commission dissolved by virtue of section 36, or which relates to a function of a Commission removed by virtue of section 36(1)(b)—
 - (a) shall continue to have effect until revoked by the Secretary of State, at the request of the Commission for Equality and Human Rights, by order made by statutory instrument, and
 - (b) may be revised by the Commission for Equality and Human Rights as if it had been issued under section 14.
- (4) Consultation undertaken by a former Commission in relation to the issue or revision of a code of practice may be relied upon by the Commission for Equality and Human Rights for a purpose of section 14.
- (5) An order under subsection (3)(a) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

43 Transitional: rented housing in Scotland

- (1) In the Disability Discrimination Act 1995 (c. 50), the following shall be inserted after section 49H (conciliation of disputes about improvements to let dwelling houses in England and Wales)—

“49I Conciliation of disputes: rented housing in Scotland

- (1) The Disability Rights Commission may make arrangements with any other person for the provision of conciliation services by, or by persons appointed by, that person in relation to a dispute of any description concerning the question whether—
 - (a) it is unreasonable for a landlord to withhold consent to the carrying out of any relevant work in relation to a house (within the meaning of the Housing (Scotland) Act 2006 (asp 01)) in Scotland, or
 - (b) any condition imposed by a landlord on consenting to the carrying out of any such work is unreasonable.

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- (2) Subsections (2) to (8) of section 28 apply for the purpose of this section as they apply for the purpose of that section and for that purpose a reference in that section to—
- (a) a dispute arising under Part 3 is to be construed as a reference to a dispute mentioned in subsection (1), and
 - (b) arrangements under that section is to be construed as a reference to arrangements under subsection (1).
- (3) In subsection (1), “relevant work”, in relation to a house, means work for the purpose of making the house suitable for the accommodation, welfare or employment of any disabled person who occupies, or intends to occupy, the house as a sole or main residence.”
- (2) In section 53A (codes of practice) of that Act—
- (a) after subsection (1E) insert—

“(1F) The Commission may prepare and issue codes of practice giving practical guidance to landlords and tenants of houses (within the meaning of the Housing (Scotland) Act 2006 (asp 01)) in Scotland as to—

 - (a) circumstances in which the tenant requires the consent of the landlord to the carrying out of work in relation to the house for the purpose of making the house suitable for the accommodation, welfare or employment of any disabled person who occupies, or intends to occupy, the house as a sole or main residence,
 - (b) circumstances in which it is unreasonable to withhold such consent,
 - (c) circumstances in which any condition imposed on the granting of such consent is unreasonable, and
 - (d) the application, in relation to such work, of—
 - (i) sections 28 to 31 and 34(6) of the Housing (Scotland) Act 2001 (asp 10), and
 - (ii) sections 52, 53 and 64(6) of the Housing (Scotland) Act 2006 (asp 01).”
 - (b) after subsection (4A) insert—

“(4B) Where a draft code of practice under subsection (1F) is submitted to the Secretary of State for approval, the Secretary of State must, before deciding whether to approve it, consult the Scottish Ministers.”
 - (c) after subsection (6A) insert—

“(6B) Before appointing a day under subsection (6)(a) for the coming into effect of a code of practice under subsection (1F), the Secretary of State shall consult the Scottish Ministers.”
 - (d) after subsection (8A) insert—

“(8B) Subsection (8A) does not apply to a code of practice under subsection (1F).”
- (3) In section 7 of the Disability Rights Commission Act 1999 (c. 17) (provision of assistance in relation to proceedings), in subsection (1), after paragraph (aa) insert—

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- “(ab) proceedings in Scotland of any description to the extent that the question whether—
- (i) it is unreasonable for a landlord to withhold consent to the carrying out of work in relation to a house (within the meaning of the Housing (Scotland) Act 2006 (asp 01)) in Scotland for the purpose of making the house suitable for the accommodation, welfare or employment of any disabled person who occupies, or intends to occupy, the house as a sole or main residence, or
 - (ii) any condition imposed by a landlord on consenting to the carrying out of any such work is unreasonable,
- falls to be considered in the proceedings,”.

Commencement Information

I2 [S. 43](#) wholly in force at 4.12.2006; [s. 43](#) not in force at Royal Assent, see [s. 93](#); [s. 43\(2\)](#) in force at 18.4.2006 by [S.I. 2006/1082](#), [art. 2](#); [s. 43\(1\)\(3\)](#) in force at 4.12.2006 by [S.I. 2006/1082](#), [art. 3](#)

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