

EQUALITY ACT 2010

EXPLANATORY NOTES

INTRODUCTION

Scotland

16. The Act contains provisions that triggered the Sewel Convention in relation to Scotland. The Scottish Ministers can already impose specific equality duties on Scottish public bodies and on the devolved functions of cross-border bodies following appropriate consultation. Provisions in this Act replicate this situation. The Scottish Ministers will be able to impose specific duties on relevant Scottish bodies (sections 153 and 154) and by order to amend Part 3 of Schedule 19 which lists the relevant Scottish bodies to which the general public sector equality duty applies (section 151). A procedure will be specified in relation to imposition of specific duties on cross-border Scottish bodies added to Schedule 19 by a Minister of the Crown when a cross-border body is added to Part 4 of that Schedule. The procedure enables the Scottish Ministers to impose specific duties in relation to the devolved Scottish functions of the cross-border bodies. The Act also contains a number of provisions which confer additional powers on the Scottish Ministers to make secondary legislation, for example: a power for the Scottish Ministers to add a relevant Scottish body to the bodies subject to the duty in section 1 to consider socio-economic inequalities and to make consequential amendments (section 2); the power to make regulations setting out a process for the making of adjustments to common parts of residential premises in Scotland (section 37); the power to make procedural rules for the hearing of disability discrimination claims by the Additional Support Needs Tribunals for Scotland (paragraph 10 of Schedule 17); the power, on the application of the governing body of an educational establishment (and if satisfied that it would be educationally beneficial) to modify an endowment whose benefits are restricted to persons of one sex (paragraph 2 of Schedule 14); the power to prescribe the regulator, qualifications body and relevant qualifications in Scotland (section 96); the power to make transitional exemption orders for single-sex education authorities or grant-aided schools in Scotland which alter their admissions arrangements so as to cease being a single-sex establishment (paragraph 4 of Schedule 11); a power to make regulations in relation to designated transport facilities (section 162).
17. The Sewel Convention provides that Westminster will not normally legislate with regard to devolved matters in Scotland without the consent of the Scottish Parliament. A Legislative Consent Motion in respect of the Act was passed by the Scottish Parliament on 28 January 2010.