



Equality Act 2010

2010 CHAPTER 15

PART 16

GENERAL AND MISCELLANEOUS

Subordinate legislation

208 Ministers of the Crown, etc.

- (1) This section applies where the power to make an order or regulations under this Act is exercisable by a Minister of the Crown or the Treasury.
- (2) A statutory instrument containing (whether alone or with other provision) an order or regulations that amend this Act or another Act of Parliament, or an Act of the Scottish Parliament or an Act or Measure of the National Assembly for Wales, is subject to the affirmative procedure.
- (3) But a statutory instrument is not subject to the affirmative procedure by virtue of subsection (2) merely because it contains—
 - (a) an order under section 59 (local authority functions);
 - (b) an order under section 151 (power to amend list of public authorities for the purposes of the public sector equality duty) that provides for the omission of an entry where the authority concerned has ceased to exist or the variation of an entry where the authority concerned has changed its name;
 - (c) an order under paragraph 1(3) of Schedule 14 (educational charities and endowments) that modifies an enactment.
- (4) A statutory instrument containing (whether alone or with other provision) an order or regulations mentioned in subsection (5) is subject to the affirmative procedure.
- (5) The orders and regulations referred to in subsection (4) are—
 - (a) regulations under section 30 (services: ships and hovercraft);
 - (b) regulations under section 78 (gender pay gap information);
 - (c) regulations under section 81 (work: ships and hovercraft);

Status: Point in time view as at 31/12/2020.

Changes to legislation: Equality Act 2010, Section 208 is up to date with all changes known to be in force on or before 24 April 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)

- (d) an order under section 105 (election candidates: expiry of provision);
 - (e) regulations under section 106 (election candidates: diversity information);
 - [^{F1}(ea) regulations under section 139A (equal pay audits);]
 - (f) regulations under section 153 or 154(2) (public sector equality duty: powers to impose specific duties);
 - [^{F2}(fa) regulations under section 181A or 181B (information for bus passengers);]
 - ^{F3}(g)
 - ^{F4}(h)
 - (i) regulations under paragraph 9(3) of Schedule 20 (rail vehicle accessibility: determination of turnover for purposes of penalties).
- (6) A statutory instrument that is not subject to the affirmative procedure by virtue of subsection (2) or (4) is subject to the negative procedure.
- (7) But a statutory instrument is not subject to the negative procedure by virtue of subsection (6) merely because it contains—
- ^{F5}(a)
 - (b) an order under section 216 (commencement) that—
 - (i) does not amend an Act of Parliament, an Act of the Scottish Parliament or an Act or Measure of the National Assembly for Wales, and
 - (ii) is not made in reliance on section 207(7).
- (8) If a statutory instrument is subject to the affirmative procedure, the order or regulations contained in it must not be made unless a draft of the instrument is laid before and approved by a resolution of each House of Parliament.
- (9) If a statutory instrument is subject to the negative procedure, it is subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) If a draft of a statutory instrument containing an order or regulations under section 2, 151, 153, 154(2) or 155(5) would, apart from this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.

Textual Amendments

- F1** S. 208(5)(ea) inserted (25.4.2013) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), **ss. 98(4), 103(1)**
- F2** S. 208(5)(fa) inserted (26.6.2018) by [Bus Services Act 2017 \(c. 21\)](#), **ss. 17(3), 26(2)**; S.I. 2018/758, reg. 2
- F3** S. 208(5)(g) omitted (1.10.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), **Sch. 10 para. 30(c)(i)**; S.I. 2015/994, art. 11(p)
- F4** S. 208(5)(h) omitted (31.12.2020) by virtue of [The Equality \(Amendment and Revocation\) \(EU Exit\) Regulations 2019 \(S.I. 2019/305\)](#), regs. 1, **5(6)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** S. 208(7)(a) omitted (1.10.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), **Sch. 10 para. 30(c)(ii)**; S.I. 2015/994, art. 11(p)

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