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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations impose duties on a public authority listed in the Schedule (“listed authority”) for the purpose of enabling the better performance by the listed authority of the duty imposed by section 149(1) of the Equality Act 2010 (“the equality duty”).

Regulation 3 requires a listed authority to report, at least every 2 years, on the progress made to make the equality duty integral to the exercise of its functions so as to better perform that duty.

Regulation 4 requires a listed authority to publish a set of equality outcomes which it considers will enable it to better perform the equality duty (by, for example, enabling the authority to take account of the extent to which progress towards achieving those outcomes has helped to meet the needs mentioned in section 149(1) of the Equality Act 2010) at least every 4 years, and to report on the progress it has made to achieve these outcomes at least every 2 years.

Regulation 5 requires a listed authority to assess, where and to the extent necessary to fulfil the equality duty, the impact of applying a proposed new or revised policy or practice against the needs mentioned in section 149(1) of the Equality Act 2010. Any consideration as to whether or not it is necessary to assess the impact of a policy or practice for these purposes is not to be treated as an assessment of impact. Paragraphs (2) to (4) do not therefore apply in relation to, for example, an initial screening exercise to establish whether or not an assessment is required. Where an assessment is made and the authority decides to apply the policy or practice to which it relates, the authority must publish the results of that assessment within a reasonable period. A listed authority must also make arrangements to review any policy or practice that it applies to ensure that, in exercising its functions, it complies with the equality duty.

Regulation 6 requires a listed authority to take steps to gather information on the composition of its employees and on the recruitment, development and retention of individuals (including applicants who are not offered employment) with respect to their number and relevant protected characteristics. It also requires the listed authority to use this information to better perform the equality duty, and to publish a breakdown of information gathered and details of the progress made in gathering and using that information to better perform the equality duty.

Regulation 7 requires a listed authority with 150 or more employees to publish information on the gender pay gap within the authority.

Regulation 8 requires a listed authority with 150 or more employees to publish statements specifying its policy on equal pay and certain information on occupational segregation. The reference to a ‘minority racial group’ includes a minority ethnic group.

Regulation 9 requires a listed authority that is a contracting authority for the purposes of the Public Contracts (Scotland) Regulations 2012 to have regard to whether certain award criteria and conditions relating to the performance of a relevant agreement should include considerations that are relevant for the purposes of enabling the listed authority to better perform the equality duty.

Regulation 10 requires a listed authority to publish the information required by regulations 3, 4, 7 and 8 in a manner that makes the information accessible to the public and that employs, so far as practicable, existing arrangements for public performance reporting by the authority.

Regulation 11 provides that a listed authority may, in carrying out its duties under these Regulations, be required to consider such matters as may be specified by the Scottish Ministers.

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 No. 162

Regulation 12 requires the Scottish Ministers to publish proposals for activity to enable a listed authority to better perform the equality duty and to report on progress at least every 4 years.

The Schedule lists the public authorities that are subject to duties under these Regulations.