

## EXECUTIVE NOTE

### **The Race Relations Act 1976 (Statutory Duties) (Scotland) Amendment Order 2006 SSI/2006/467**

1. The above instrument is made in exercise of the powers conferred by sections 71(2) and (3) of the Race Relations Act 1976. The instrument is subject to the negative resolution procedure.

#### **Policy Objectives**

2. A Westminster Order is being made by the Secretary of State to extend the general duty to promote race equality and not to unlawfully discriminate on racial grounds to certain devolved bodies (as well as some reserved bodies). Only the Secretary of State can make bodies subject to the general duty. Scottish Ministers can impose specific duties on devolved bodies (Scottish public authorities and Cross Border Public Authorities in respect of their Scottish functions) to ensure the better performance of the general duty.

3. The purpose of this Order is to make various amendments to the Race Relations Act 1976 (Statutory Duties) (Scotland) Order 2002 (2002 No. 62) (“the 2002 Order”) <http://www.scotland-legislation.hmso.gov.uk/legislation/scotland/ssi2002/20020062.htm> some of which are in consequence of the Westminster Order.

- It applies the employment monitoring duties in Article 5 of the original Order to the following bodies, and gives them to 31 May 2007 to comply -
  - Architecture and Design Scotland
  - Bòrd na Gàidhlig
  - Chief Officers of Community Justice Authorities
  - Chief Fire Officers
  - Commissioner for Children and Young People in Scotland
  - Community Justice Authorities
  - Joint Fire and Rescue Boards
  - Risk Management Authority
  - Scottish Further and Higher Education Funding Council
  - Scottish Library and Information Council
  - Scottish Museums Council
  - Scottish University for Industry
  - Transport Partnerships in Scotland
  - Water Industry Commission for Scotland
  
- It adds the following bodies to Schedule 1 of the original Order which lists bodies required to publish a Race Equality Scheme, and gives them until 30 November 2007 to comply-
  - Bòrd na Gàidhlig
  - Cairngorms National Park Authority
  - Chief Officers of Community Justice Authorities
  - Chief Fire Officers
  - Commissioner for Children and Young People in Scotland

- Community Justice Authorities
  - Joint Fire and Rescue Boards
  - Loch Lomond and the Trossachs National Park Authority
  - National Galleries of Scotland
  - National Libraries of Scotland
  - National Museums of Scotland
  - Scottish Arts Council
  - Scottish Further and Higher Education Funding Council
  - Scottish Natural Heritage
  - Scottish Screen
  - Scottish Sports Council
- It amends article 4 of the 2002 Order to apply the duty under article 4(4) of the 2002 Order (monitoring of numbers of teaching staff by reference to racial group) to the Scottish Further and Higher Education Funding Council, provide that the Council shall have in place arrangements to fulfil that duty before 31st May 2007, and that the Council shall take steps annually to publish the results of its monitoring.
  - It amends Schedule 1 and Schedule 2 of the 2002 Order to reflect the abolition of the two previous funding councils and the creation of the new Scottish Further and Higher Education Funding Council.
  - It amends Schedule 3 of the 2002 Order which lists bodies excepted, i.e. those that are not employers, from the employment monitoring duties in Article 5.

### **Consultation**

4. The bodies concerned were fully consulted on the proposals.
5. This Order has been drafted in consultation with the Commission for Racial Equality (Scotland) as required by the 1976 Act.

### **Financial Effects**

6. There may be some limited financial implications for public bodies as a result of the Order. However, in implementing the duties, bodies are urged to work within existing mechanisms where possible, to avoid any unnecessary burdens and duplication. The promotion of race equality should be an integral part of the way in which public bodies perform their functions, not a resource intensive “add on”. The new duties are about putting in place minimum standards. Many of the bodies will already be taking action that meets or goes beyond the duty. In addition, avoiding unlawful discrimination before it occurs should actually avoid the cost of discrimination claims.

7. No Regulatory Impact Assessment has been prepared; the legislation will not affect the private sector (other than where they are discharging public functions).

**Scottish Executive Development Department  
September 2006**