

EXECUTIVE NOTE

THE EQUALITY ACT 2010 (QUALIFICATIONS BODY REGULATOR AND RELEVANT QUALIFICATIONS) (SCOTLAND) REGULATIONS 2010

SSI 2010/315

Introduction

The above instrument was made in exercise of the powers conferred by sections 96(10)(c) and 97(3)(c) of the **Equality Act 2010**. The instrument is subject to negative resolution procedure.

Policy Objectives

The objective of the instrument is to designate the appropriate regulator of qualifications bodies in Scotland, and prescribe relevant qualifications in Scotland, for the purposes of the relevant sections of the Equality Act 2010. While the instrument is technical in nature, its intention is to support implementation of those sections of the Act which aim to ensure non-discrimination in access to qualifications.

Parallel regulations are being brought into force in England and Wales (Northern Ireland is not covered by the Act).

The Equality Act 2010 consolidates existing equality legislation, such as the Sex Discrimination Act 1975, the Race Relations Act 1976 and the Disability Discrimination Act 1995. Section 96(6) places a duty on qualifications bodies to make reasonable adjustments for disabled people, while section 96(7) provides for the regulator of qualifications bodies to specify where the qualifications body is not subject to this duty or where it is subject to this obligation but can specify which adjustments need not be made.

Section 96(10)(c) and 97(3)(c) provide for Scottish Ministers to, respectively, prescribe the regulator of qualifications bodies in Scotland and prescribe relevant qualifications in Scotland. The instrument provides for the Scottish Qualifications Authority (SQA) to be the regulator and prescribes National Qualifications in Scotland as the relevant qualifications.

The term “National Qualifications in Scotland” includes Standard Grades and National Courses (Access, Intermediate, Higher, Advanced Higher plus the new National qualifications to be introduced under Curriculum for Excellence from 2013/14). It does not encompass national qualifications which are vocational in nature such as National Qualification Group Awards (National Certificates and National Progression Awards) nor other types of qualifications such as Scottish Vocational Qualifications or Higher National qualifications.

The regulations formally designate the SQA as regulator for the purposes of determining when, or to what extent, the duty to make reasonable adjustments applies. The SQA is also an awarding body, but it should be emphasised that these various functions do not present a

conflict of interest. The SQA is a public body accountable to Scottish Ministers and the Scottish Parliament and it is overseen by its Board, which has a responsibility to ensure that SQA fulfils its statutory obligations. The Board's Qualifications Committee includes strong stakeholder involvement and an Advisory Council, established under legislation, provides stakeholder advice to the SQA Board. These arrangements ensure that standards are maintained and equality of access to qualifications is promoted. SQA has a strong record in regard to meeting equality obligations.

SQA is the sole awarding body in Scotland of the general qualifications covered by the relevant sections of the Act. There is no question of competing bodies applying different standards or practices in interpreting the requirements of the Act. These arrangements differentiate Scotland's position from that in England where a number of different private sector awarding bodies operate in competition and so a separate regulator is required to ensure that they operate to the same standards.

Consultation

Scottish Government officials participated in consultative meetings with the various UK qualifications bodies and regulators and disability groups, to discuss the implementation of aspects of the qualifications provisions of the Bill, in particular reasonable adjustments issues.

The instrument has no significant financial effects on the Scottish Government, business, local authorities or the SQA.

Equality Impact Assessment

An Equality Impact Assessment has been carried out. The Equality Act is expressly intended to provide protection from discrimination; implementation of the relevant sections of the Act through these regulations will support equality of access to qualifications for disabled people.

Scottish Government Learning Directorate
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