



Equality Act 2006

2006 CHAPTER 3

PART 4

PUBLIC FUNCTIONS

Sex discrimination

85 Specific duties

- (1) In the Sex Discrimination Act 1975 (c. 65) the following shall be inserted after section 76A (inserted by section 84 above)—

“76B Specific duties

- (1) The Secretary of State may by order impose on a person to whom the duty in section 76A(1) applies, or in so far as that duty applies to a person, a duty which the Secretary of State thinks will ensure better performance of the duty under section 76A(1).
- (2) Before making an order under subsection (1) the Secretary of State shall consult the Commission.
- (3) The Secretary of State—
 - (a) must consult the National Assembly for Wales before making an order under subsection (1) in respect of a person exercising functions in relation to Wales, and
 - (b) may not, without the consent of the National Assembly for Wales, make an order under subsection (1) in respect of a person all of whose functions are public functions in relation to Wales.
- (4) A failure in respect of performance of a duty imposed under subsection (1) does not confer a cause of action at private law.

Status: This is the original version (as it was originally enacted).

76C Specific duties: Scotland

- (1) Section 76B(1) shall not apply in relation to a person who is a relevant Scottish authority or a cross-border authority.
- (2) The Secretary of State may by order impose on a cross-border authority to whom the duty under section 76A(1) applies, or in so far as that duty applies to the cross-border authority, a duty which the Secretary of State thinks will ensure better performance of the duty under section 76A(1), to the extent that the cross-border authority's functions are not Scottish functions.
- (3) The Scottish Ministers may by order impose on a relevant Scottish authority to whom the duty under section 76A(1) applies, or in so far as that duty applies to the relevant Scottish authority, a duty which the Scottish Ministers think will ensure better performance of the duty under section 76A(1).
- (4) The Scottish Ministers may by order impose on a cross-border authority to whom the duty under section 76A(1) applies, or in so far as that duty applies to the cross-border authority, a duty which the Scottish Ministers think will ensure better performance of the duty under section 76A(1), to the extent that the cross-border authority's functions are Scottish functions.
- (5) Before making an order under any of subsections (2) to (4) the person making the order shall consult the Commission.
- (6) Before making an order under subsection (2) the Secretary of State shall consult the Scottish Ministers.
- (7) Before making an order under subsection (4) the Scottish Ministers shall consult the Secretary of State.
- (8) A failure in respect of performance of a duty imposed under this section does not confer a cause of action at private law.
- (9) In this section—
 - “relevant Scottish authority” means—
 - (a) a member of the Scottish Executive or a junior Scottish Minister,
 - (b) the Registrar General of Births, Deaths and Marriages for Scotland, the Keeper of the Registers of Scotland or the Keeper of the Records of Scotland,
 - (c) an office of a description specified in an Order in Council under section 126(8)(b) of the Scotland Act 1998 (c. 46) (other non-ministerial offices in the Scottish Administration), or
 - (d) a public body, public office or holder of a public office—
 - (i) which is not a cross-border authority or the Scottish Parliamentary Corporate Body,
 - (ii) whose functions are exercisable only in or as regards Scotland, and
 - (iii) some at least of whose functions do not relate to reserved matters (within the meaning of the Scotland Act 1998),

“cross-border authority” means a cross-border public authority within the meaning given by section 88(5) of the Scotland Act 1998, and

“Scottish functions” means functions which are exercisable in or as regards Scotland and which do not relate to reserved matters (within the meaning of the Scotland Act 1998).

76D Specific duties: enforcement

- (1) This section applies where the Commission thinks that a person has failed to comply with a duty imposed under section 76B or 76C.
 - (2) The Commission may give the person a notice requiring him—
 - (a) to comply with the duty, and
 - (b) to give the Commission, within the period of 28 days beginning with the date on which he receives the notice, written information of steps taken for the purpose of complying with the duty.
 - (3) A notice under this section may require a person to give the Commission information required by the Commission for the purposes of assessing compliance with the duty; in which case the notice shall specify—
 - (a) the period within which the information is to be given (which shall begin with the date on which the notice is received and shall not exceed three months), and
 - (b) the manner and form in which the information is to be given.
 - (4) A person who receives a notice under this section shall comply with it.
 - (5) But a notice under this section shall not oblige a person to give information that he could not be compelled to give in proceedings before the High Court or the Court of Session.
 - (6) If the Commission thinks that a person, to whom a notice under this section has been given, has failed to comply with a requirement of the notice, the Commission may apply to a county court (in England and Wales) or to the sheriff (in Scotland) for an order requiring the person to comply.”
- (2) In section 81 of the Sex Discrimination Act 1975 (c. 65) (orders) after subsection (2B) (inserted by section 84 above) insert—
- “(2C) An order under section 76C(3) or (4) is subject to annulment in pursuance of a resolution of the Scottish Parliament.”