

EXPLANATORY MEMORANDUM TO
THE SCOTLAND ACT 1998 (MODIFICATIONS OF SCHEDULE 5) ORDER
2006

2006 No. 609

1. This Explanatory Memorandum has been prepared by the Department of Trade and Industry and is laid before the UK Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 The Order is being made under section 30(2) of the Scotland Act 1998. It amends Schedule 5 to the Scotland Act by adding the Commission for Equality and Human Rights (“the CEHR”) to the list of reserved bodies in Part 3.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative background**
 - 4.1 The Order amends the reservation at paragraph 3(2) of Part 3 to Schedule 5 (Reserved bodies) of Schedule 5 to the Scotland Act 1998. The amendment will add the Commission for Equality and Human Rights (CEHR) to the list of reserved bodies.
5. **Extent**
 - 5.1 This Order extends to all of the United Kingdom.
6. **European Convention on Human Rights**
 - 6.1 The Parliamentary Under Secretary of State for Women and Equality has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Scotland Act 1998 (Modifications of Schedule 5) Order 2006 are compatible with the Convention rights.
7. **Policy background**
 - 7.1 The Equality Bill, which is currently before Parliament, will replace the existing equality Commissions, the Commission for Racial Equality (CRE), the Disability Rights Commission (DRC) and the Equal Opportunities Commission (EOC) with a Commission for

Equality and Human Rights (CEHR) which will take on the work of the existing Commissions and also take responsibility for combating discrimination on the grounds of sexual orientation, religion or belief and age. The new Commission will also have responsibility for promoting human rights.

- 7.2 As the CEHR will be a non-departmental public body, funded by the Secretary of State and responsible through the Secretary of State to the UK Parliament, it is appropriate that its constitution and functions are reserved to the UK Parliament.
- 7.3 Paragraph 3(2)(c) of Part 3 to Schedule 5 currently lists the Commission for Racial Equality (CRE), Equal Opportunities Commission (EOC) and Disability Rights Commission (DRC) as reserved bodies whose constitution and functions are reserved matters. As the CEHR will eventually take over the work of those bodies, the amendment is necessary to preserve the effect of paragraph 3(2)(c).
- 7.4 The references to the existing equality commissions will be retained in the meantime, as the CEHR will not take on all their functions for at least 2 years. It is expected that those references be tidied up by future section 30(2) order or during a statute law revision exercise once the existing Commissions have been dissolved.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this order, as it has no impact on business, charities or voluntary bodies. This is a constitutional measure that concerns the reservation of legislative competence to the UK Parliament. A full Regulatory Impact Assessment has been carried out for the Equality Bill that will establish the CEHR.
- 8.2 There is no impact on the public sector or public spending.

9. Contact

Katherine Stoate at the Department of Trade and Industry (katherine.stoate@dti.gsi.gov.uk) can answer any queries regarding the order.