

**EXPLANATORY MEMORANDUM TO
THE EMPLOYMENT EQUALITY (SEXUAL ORIENTATION) (RELIGION OR
BELIEF) (AMENDMENT) REGULATIONS 2007**

2007 No. 2269

1. 1.1 This explanatory memorandum has been prepared by the Department for Children, Schools and Families and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.
2. **Description**

2.1 These Regulations implement the provisions of Council Directive 2000/78/EC (“the Directive”) (which establishes a general framework for equal treatment in employment and vocational training) so far as they relate to Sexual Orientation and Religion or Belief discrimination in vocational training. Similar provision has been made in relation to age (in the Employment Equality (Age) Regulations 2006).

2.2 These Regulations amend the Employment Equality (Sexual Orientation) Regulations 2003 and the Employment Equality (Religion or Belief) Regulations 2003 (together “the 2003 Regulations”). The amendments are required to protect those receiving school workforce training (under new arrangements which have come into force since the 2003 regulations), at schools by which they are not employed. They also extend protection to school pupils who are undergoing work experience placements at schools, further education colleges or universities where they are not employed or registered as pupils, and to students at further education colleges or universities doing work experience at colleges or universities where they are not employed or studying.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 The Joint Committee will note that the Regulations are being made by the negative resolution procedure rather than the affirmative procedure. This is because the issue of providing protection from discrimination in relation to employment and vocational training on grounds of Sexual Orientation and Religion or Belief was debated in 2003 when the 2003 Regulations were made by the affirmative procedure.

3.2 In addition, a draft of the regulations was consulted upon in 2006.
4. **Legislative Background**

4.1 These Regulations amend the 2003 Regulations. The 2003 Regulations implement the provisions of Council Directive 2000/78/EC (“the Directive”) (which establishes a general framework for equal treatment in employment and vocational training) so far as they relate to Sexual Orientation and Religion or Belief discrimination in vocational training. Similar provision has been made in relation to age in 2006.

5. Extent

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Government was required to implement the Directive fully by December 2006. DCSF are making the proposed amendments to the 2003 Regulations at the earliest practical opportunity after making changes identified as necessary to reflect fully the methods of school governance and the system of pupil registration at schools in Scotland.

7.2 As set out in para. 2.2, the 2003 Regulations are being amended to extend protection against discrimination to people who, under new arrangements, receive training at schools by which they are not employed - for example, new teacher training arrangements, which were implemented in 2005, or through the Extended Schools initiative, which started in 2003, and provides a full range of services including lifelong learning and ICT facilities to the wider community.

7.3 Schools will have additional responsibilities in relation to:

(i) any member of the school workforce or trainees receiving training (such as initial teacher training or continuing professional development) at a school where the school is not their employer. This amendment is required to extend protection to those due to new developments in training practices since the original regulations were made.

(ii) in any training (within the meaning of the regulations) received by adults, or children who are not registered pupils at that school, as part of the Extended Schools initiative, which started in 2003, provides a full range of services to the wider community. including, for example, after-school CV writing classes, English or Maths classes to help adults into work.

This amendment is required to extend protection to people who are receiving training through extended schools since the original regulations were made.

(iii) a pupil from another school who is undertaking a practical work experience placement provided by the school, but is not employed by it. This puts schools in the same position as other employers who provide work-shadowing opportunities.

7.4 The 2003 Regulations are also being amended to extend protection to pupils undertaking a practical work experience placement at a further or higher education institution. Further education institutions (further education colleges) and higher education institutions (universities) will now have an additional responsibility in relation to a school pupil who is undertaking a work experience placement with them but is not employed by them. This puts further them in the same position as schools

providing work experience placements to pupils not registered at that school, and other employers who provide work-shadowing opportunities..

7.5 The 2003 Regulations are also being amended to extend protection to students in further or higher education who are undertaking a practical work experience placement at a further education college or a university where they are not employed or enrolled as students. This puts further education colleges and universities providing work experience placements to further or higher education students in the same position as further education colleges or universities offering work experience placements to school pupils, and other employers who provide work-shadowing opportunities to students.

7.6 The definition of “training” and “training provider” in the 2003 Regulations are also both amended by these proposed amendment regulations to reflect provisions made in the Education Act 2005, to ensure consistency. The changes to the definitions allow the element of vocational training delivered in schools to be covered by these Regulations, but only bring schools within the definition of training provider in a limited way.

7.7 The public were consulted over a three-month period, via the former Department for Education and Skills website. The consultation received fourteen responses, which were broadly supportive. One respondent commented that the terminology used in relation to pupils did not accurately reflect the position in Scotland. We have made changes to take account of their concerns. Two other respondents felt that the regulations should not apply to schools. However, through the Equality Act 2006, registered pupils will be protected from discrimination on grounds of sexual orientation and religion or belief in their own schools. These amendment regulations carry forward that protection to the small minority of pupils doing work experience in other schools. There was no media attention.

7.8 We are not producing guidance on these amendments. School governors will be informed via “governor net” a fortnightly email bulletin and “*Governors*” a newsletter published each term by the Department for Children, Schools and Families . We are informing school governors as they are the body legally responsible for running a school.

7.8 The Department does not intend to consolidate the legislation.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument given that schools as employers already have clear responsibilities under existing equality legislation. These regulations are required due to new developments in training practices and new policy initiatives around extended schools that have appeared since the original regulations were made.

8.2 There is no impact on public spending.

9. Contact

9.1 Queries concerning this instrument can be addressed to Lindsay Morris at the Department for Children, Schools and Families. Tel: 020 7273 6803 or e-mail: lindsay.morris@dcf.gsi.gov.uk