

**EXPLANATORY MEMORANDUM TO**  
**THE SEX DISCRIMINATION CODE OF PRACTICE (PUBLIC AUTHORITIES)**  
**(DUTY TO PROMOTE EQUALITY) (APPOINTED DAY) ORDER 2007**

**2007 No. 741**

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty. It is subsequent to the explanatory memorandum which accompanied the Sex Discrimination Act 1975 (Public Authorities) (Statutory Duties) Order 2006 (2006/2930) (the Specific Duties Order) and the draft Gender Equality Duty Code of Practice both of which were laid before both Houses on 10 November 2006.

**2. Description**

2.1. This Order appoints 6 April 2007 as the day on which the Code of Practice on the gender equality duty, prepared by the Equal Opportunities Commission (EOC), will come into effect.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1. None.

**4. Legislative background**

4.1. Part 4 of the Equality Act 2006 inserted new sections 76A to 76E into the Sex Discrimination Act 1975 (SDA). Section 76A(1) imposes a general duty on public authorities when carrying out their functions to have due regard to the need to eliminate unlawful discrimination and harassment and to promote equality of opportunity between men and women. Sections 76B(1) and 76C(2) of the SDA allow the Secretary of State to impose by order specific gender equality duties on prescribed public authorities which would assist them in carrying out their duty under section 76A(1). These powers have been exercised in the Specific Duties Order. Section 76E gives the EOC powers to issue a code of practice about the performance of the general duty at section 76A(1) of the SDA and the duties imposed by the Specific Duties Order.

4.2. The draft Code of Practice was approved by the Secretary of State under section 56A(4)(a) of the SDA (as applied by section 76E(2)) and was laid before both Houses of Parliament on 10 November 2006 for a period of 40 days as required by section 56A(5). As neither House resolved that no further proceedings should be taken on the draft, the Secretary of State has made this Order in exercise of the power in section 56A(7) (as applied by section 76E(2)) to appoint 6 April 2007 as the day on which the Code of Practice comes into effect.

**5. Territorial Extent and Application**

5.1. The parts of the Code of Practice which deal with the general gender equality duty in section 76A(1) of the SDA apply to all public authorities in England and Wales and

to reserved functions of public authorities in Scotland. The parts of the Code of Practice which deal with the duties imposed by the Specific Duties Order apply only to the public authorities listed in the Schedule to the Specific Duties Order. This does not include authorities all of whose functions are public functions in Wales. A similar but separate code will apply to Scotland.

## **6. European Convention on Human Rights**

6.1. As this Order is subject to negative procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1. The new public sector duty on gender equality will, from 6 April 2007, require public authorities to have due regard to the need to eliminate unlawful discrimination and harassment, and to promote equality of opportunity between men and women. It follows the earlier public sector duties to promote race equality and disability equality introduced in 2003 and 2006 respectively. On 10 November 2006, the Government laid the Specific Duties Order which, from 6 April 2007, will require public authorities to:

- draw up and publish, by 30 April 2007, a gender equality scheme which should identify gender equality objectives and show the steps that the public authority will take to implement them. Public authorities will also be required to consider the need to have objectives that address the causes of any gender pay gap;
- ensure their gender equality schemes set out actions taken to assess the impact of policies and practices;
- review and revise their gender equality schemes every 3 years.

7.2. The Government also laid the EOC's draft Code of Practice which gives assistance and guidance to public authorities in their compliance with the general and specific duties. Both the Specific Duties Order and the Code of Practice were accompanied by an explanatory memorandum.

7.3. The EOC carried out a public consultation on a draft of the code of practice as required by section 56A(2) and (3) of the SDA (as applied by section 76E(2)). The consultation took place for over 13 weeks from 16 February to 23 May 2006. Around 680 people participated in consultation events and 524 registered online for the consultation. The EOC received 110 submissions. Many of the comments and specific suggestions regarding content and layout were taken into account in the final version of the draft code produced following the consultation process.

7.4. In accordance with section 76E(3)(b) of the SDA, both the National Assembly for Wales and Scottish Ministers have been consulted on this Order to appoint 6 April 2007 as the day on which the Code of Practice comes into effect.

## **8. Impact**

8.1. As this memorandum concerns the Order which does not itself impose any legal obligations on public authorities, no impact assessment has been produced.

## **9. Contact**

9.1. Ian Shaw, Communities and Local Government, tel 020 7944 0644 or email–  
[Ian.Shaw@communities.gsi.gov.uk](mailto:Ian.Shaw@communities.gsi.gov.uk) , can answer any queries regarding the Order.