

2005 No. 565

DISABLED PERSONS

The Disability Discrimination (Public Authorities) (Statutory Duties) (Scotland) Regulations 2005

Made - - - - - *9th November 2005*

Laid before the Scottish Parliament *10th November 2005*

Coming into force - - - *5th December 2005*

The Scottish Ministers, in exercise of the powers conferred upon them by sections 49D(3) and (4) of the Disability Discrimination Act 1995(a), and all other powers enabling them in that behalf, having consulted with the Disability Rights Commission and the Secretary of State hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Disability Discrimination (Public Authorities) (Statutory Duties) (Scotland) Regulations 2005 and shall come into force on 5th December 2005.

(2) In these Regulations—

“section 49A(1) duty”, in relation to a public authority, means its duty under section 49A(1) of the Disability Discrimination Act 1995;

“school” has the meaning given by section 135 of the Education (Scotland) Act 1980(b) but excluding independent schools and in addition includes a place, other than a school, at which an education authority provides school education for pupils who are under school age, other than such a place at which school education is being provided by a person with whom that authority has, by virtue of section 35 of the Standards in Scotland’s Schools etc Act 2000(c), entered into arrangements for the provision of that education; where “independent school”, “school education”, “pupil” and “school age” have the meanings given by section 135 of the Education (Scotland) Act 1980.

Preparation and Publication of a Disability Equality Scheme

2.—(1) A public authority specified in Parts I to III of the Schedule to these Regulations shall, on or before the relevant publication date, publish a Disability Equality Scheme (“Scheme”), that is, a scheme showing how it intends to fulfil its section 49A(1) duty and its duties under these Regulations.

(2) Such an authority shall involve in the development of the Scheme those disabled persons who appear to that authority to have an interest in the way it carries out its functions.

(a) 1995 c.50. Sections 49D was inserted by section 3 of the Disability Discrimination Act 2005 c.13 which was commenced by Article 2(2)(b) of the Disability Discrimination Act 2005 (Commencement No. 1) Order 2005 (S.I. 2005/1676).
(b) 1980 c.44.
(c) 2000 asp 6.

- (3) The Scheme shall include a statement of–
- (a) the ways in which such disabled persons have been involved in its development;
 - (b) that authority’s methods for assessing the impact of its policies and practices, or the likely impact of its proposed policies and practices, on equality for disabled persons;
 - (c) the steps which that authority proposes to take towards the fulfilment of its section 49A(1) duty;
 - (d) that authority’s arrangements for gathering information on the effect of its policies and practices on disabled persons and in particular its arrangements for gathering information on–
 - (i) their effect on the recruitment, development and retention of its disabled employees,
 - (ii) their effect, in the case of an authority specified in Parts II or III of the Schedule, on the educational opportunities available to, and on the achievements of, disabled pupils and students; and
 - (iii) the extent to which, in the case of an authority other than one specified in Parts II or III of the Schedule, the services it provides and those other functions it performs take account of the needs of disabled persons; and
 - (e) that authority’s arrangements for making use of such information to assist it in the performance of its section 49A(1) duty and, in particular, its arrangements for–
 - (i) reviewing on a regular basis the effectiveness of the steps referred to in sub-paragraph (c), and
 - (ii) preparing subsequent Schemes.
- (4) Such an authority shall review its Scheme and publish a revised Scheme–
- (a) no later than the end of the period of three years beginning with the date of publication of its first Scheme; and
 - (b) subsequently at intervals of not more than three years beginning with the date of publication of the last revision of the Scheme.
- (5) Such an authority may comply with the duty to publish under paragraph (1) or (4) by setting out its Scheme as part of another published document or within a number of other published documents.
- (6) In this regulation, “the relevant publication date” means 4th December 2006.

Education bodies or persons

3. It shall be the duty of a body or person specified in Part II of the Schedule to make arrangements for each school under its management to–

- (a) assess the impact of its policies and practices, or the likely impact of its proposed policies and practices, on equality for disabled pupils;
- (b) gather information on the effects of its policies and practices and the educational opportunities available to, and on the achievements of, disabled pupils;
- (c) provide such a body or person with an annual report in respect of the matters contained in paragraphs (a) and (b);
- (d) carry out such steps which that body or person proposes to take towards the fulfilment of its section 49A(1) duty; and
- (e) maintain a copy of the Scheme.

Implementation of the Disability Equality Scheme

4.—(1) A public authority specified in Parts I to III of the Schedule shall within the period of three years beginning with the date when a Scheme prepared for the purposes of regulation 2 is published–

- (a) take the steps which it is required to as set out in the Scheme by virtue of regulation 2(3)(c);
- (b) put into effect its arrangements, which it has been required to set out in the Scheme by virtue of regulations 2(3)(d) and (e), for–
 - (i) gathering information, and
 - (ii) making use of such information.

(2) Nothing in this regulation imposes any duty on an authority where, in all the circumstances of the case, it would be unreasonable and impracticable for it to perform the duty.

Annual Reporting

5.—(1) A public authority specified in Parts I to III of the Schedule shall publish a report–

- (a) not later than the end of the period of one year beginning with the date of publication of its first Scheme: and
- (b) subsequently at intervals of not more than one year beginning with the date of publication of the last report.

(2) The report shall contain a summary of–

- (a) the steps it has taken for the purposes of regulation 4(1)(a);
- (b) the results of the information – gathering it has carried out for the purposes of regulation 4(1)(b)(i);and
- (c) the use it has made of the information it has gathered for the purposes of regulation 4(1)(b)(ii).

(3) Such an authority may comply with the duty to publish under paragraph (1) by setting out its report within another published document.

Duty on Scottish Ministers

6.—(1) The Scottish Ministers shall publish reports–

- (a) not later than 1st December 2008; and
- (b) subsequently not later than the end of each successive period of three years beginning with 1st December 2008.

(2) The reports shall–

- (a) give an overview of progress towards equality of opportunity between disabled persons and other persons made by public authorities; and
- (b) set out the Scottish Ministers proposals for the coordination of action by public authorities so as to bring about further progress towards equality of opportunity between disabled persons and other persons.

JOHANN M LAMONT

Authorised to sign on behalf of the Scottish Ministers

St Andrew's House,
Edinburgh
9th November 2005

SCHEDULE 1

PART I

The Accounts Commission for Scotland

Audit Scotland

Bord na Gaidhlig (Alba)

The Cairngorms National Park Authority established under section 6 of the National Parks (Scotland) Act 2000**(a)**

The Criminal Injuries Compensation Authority in respect of its Scottish functions

A Chief Constable of a police force maintained under s.1 of the Police (Scotland) Act 1967**(b)**

NHS National Services Scotland

A council constituted under section 2 of the Local Government etc(Scotland) Act 1994**(c)**

A Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978**(d)**

A joint board within the meaning of section 235(1) of the Local Government (Scotland) Act 1973**(e)**

A joint fire and rescue board constituted by a scheme under section 2(1) of the Fire (Scotland) Act 2005**(f)**

The Keeper of the Records of Scotland

The Keeper of the Registers of Scotland

The Law Society of Scotland, in respect of its public functions

The Loch Lomond and the Trossachs National Park Authority established under section 6 of the National Parks (Scotland) Act 2000

A licensing board constituted under section 1 of the Licensing (Scotland) Act 1976**(g)**

The Board of Trustees for the National Galleries of Scotland established under section 3 of the National Galleries of Scotland Act 1906**(h)**

The Trustees of the National Library of Scotland, constituted under section 1 of the National Library of Scotland Act 1925**(i)**

The Board of Trustees of the National Museums of Scotland established by the National Heritage (Scotland) Act 1985**(j)**

A Passenger Transport Executive within the meaning of Part II of the Transport Act 1968**(k)** for a passenger transport area within Scotland

(a) 2000 asp 10.

(b) 1967 c.77.

(c) 1994 c.39.

(d) 1978 c.29.

(e) 1973 c.65.

(f) 2005 asp 5.

(g) 1976 c.66.

(h) 1906 c.50.

(i) 1925 c.73.

(j) 1985 c.16.

(k) 1968 c.73.

A police authority established under section 2 of the Police (Scotland) Act 1967

The Registrar General of Births, Deaths and Marriages for Scotland

The Scottish Arts Council

Scottish Natural Heritage

Scottish Screen

Sportscotland

Scottish Water

The Scottish Commission for the Regulation of Care

Scottish Enterprise and Highlands and Islands Enterprise established under the Enterprise and New Towns (Scotland) Act 1990(a)

The Scottish Further and Higher Education Funding Council

The Scottish Legal Aid Board

The Scottish Ministers

The Service Authority for the National Criminal Intelligence Service in respect of its Scottish functions

The Scottish Qualifications Authority

The Scottish Social Services Council

A Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978

Visitscotland

PART II

Education authorities

The managers of a grant-aided school (within the meaning of section 135 of the Education (Scotland) Act 1980)(b)

PART III

Fundable Bodies as defined in Schedule 2 of the Further and Higher Education (Scotland) Act 2005(c)

The managers of a central institution (within the meaning of section 135 of the Education (Scotland) Act 1980)

(a) 1990 c.35
(b) 1980 c.44.
(c) 2005 asp 6.

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations impose duties on specified public authorities with the aim of assisting them to perform better their duties to promote equality of opportunity for disabled persons under section 49A(1) of the Disability Discrimination Act 1995 (as amended by the Disability Discrimination Act 2005).

Regulation 2 requires specified public authorities to publish by 4th December 2006 a Disability Equality Scheme and prescribes the various components of such a Scheme. The authorities are required to publish a revised scheme every three years thereafter.

Regulation 3 requires certain education bodies listed in Part II of the Schedule to make arrangements for each school under its management to do certain tasks including providing it with an annual report in relation to those matters.

Regulation 4 requires the public authorities to implement stipulated components of the Disability Equality Scheme they published pursuant to regulation 2.

Regulation 5 requires those same public authorities to report annually on the implementation of their Disability Equality Scheme.

Regulation 6 requires the Scottish Ministers to publish annual reports with an overview of progress made towards equality of opportunity for disabled persons. The first report is to be published no later than 1st December 2008 and every three years thereafter.

The Schedule has three parts listing the authorities to whom the specific duties will apply.

A full regulatory impact assessment of the effect this instrument will have on the costs of business is available from the Scottish Parliament Information Centre, Scottish Parliament, EH99 1SP.

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The Disability Discrimination (Public Authorities) (Statutory
Duties) (Scotland) Regulations 2005

£3.00

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