

**EXPLANATORY MEMORANDUM TO  
THE TRANSFER OF FUNCTIONS (EQUALITY) ORDER 2010**

**2010 No. 1839**

1. This explanatory memorandum has been prepared by the Government Equalities Office and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 The Transfer of Functions (Equality) Order 2010 transfers to the Secretary of State for the Home Department various equality functions conferred by legislation on the Lord Privy Seal ('LPS') along with property (except immovable property), rights and liabilities in connection with those functions. In view of the fact the Secretary of State for the Home Department is not a corporation sole, the Order transfers immovable property in connection with the equality functions in addition to rights and liabilities associated with that property to the Secretary of State for Communities and Local Government. The Order makes supplemental provision and consequential amendments to primary legislation.

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

3.1 This Order reflects a commitment to transfer functions to the Secretary of State for the Home Department at the meeting of Her Majesty's Privy Council on 21 July 2010 to enable the holder of that office effectively to take responsibility for equality policy and for the Government Equalities Office ("GEO").

4. **Legislative Background**

4.1 This Order transfers certain functions under the following legislation, for which the LPS at present has legal responsibility:

- the Equal Pay Act 1970
- the Sex Discrimination Act 1975
- the Race Relations Act 1976
- the Sex Discrimination (Election Candidates) Act 2002
- the Civil Partnership Act 2004
- the Equality Act 2006.

4.2 Functions under this legislation along with rights and liabilities in connection with those functions were conferred upon the LPS by The Transfer of Functions (Equality) Order 2007 (SI 2007/2914) on the establishment of GEO as a government department. However some functions, namely under sections 24, 25, 66(5), 78, 79, 85(9E) and Schedule 2 of the Sex Discrimination Act 1975, sections 19E, 57(5) and 75(10)(aa) of the Race Relations Act 1976 and section 66(2) and paragraph 14(4) of Schedule 2 of

Equality Act 2006 were not transferred and remained with the relevant Secretaries of State.

4.3 The present Order is made under section 1 of the Ministers of the Crown Act 1975 which confers power to transfer functions of one Minister to another and make any necessary or expedient provisions which are incidental, consequential and supplemental to the transfer of those functions. A “Minister of the Crown” is defined in section 8(1) of the Ministers of the Crown Act 1975 as meaning the holder of an office in Her Majesty’s Government in the United Kingdom. This Order makes it possible for the Secretary of State for the Home Department to exercise the relevant functions.

## **5. Territorial Extent and Application**

5.1 This instrument applies to Great Britain, but does not affect devolved functions.

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

The Secretary of State for the Home Department has made the following statement regarding Human Rights:

In my view the provisions of the Transfer of Functions (Equality) Order 2010 are compatible with the Convention rights.

## **7. Policy background**

7.1 Without this Order, the Secretary of State for the Home Department would not be empowered to act under the legislation for which the GEO has responsibility.

7.2 The GEO has responsibility for leading an overarching approach on equality across Government, taking forward implementation of the Equality Act 2010 and for sponsorship of the Commission for Equality and Human Rights (EHRC). It leads on policy in relation to the Equal Pay Act 1970, Sex Discrimination Act 1975, the Race Relations Act 1976, the Equality Act 2006 and Equality Act 2010. It is also specifically responsible for policy on gender equality, sexual orientation, transgender issues and on religion or belief and age discrimination legislation outside of the workplace. The lead on race and faith policy (other than in respect of certain equality matters) currently remains with CLG where it links strongly with the Department’s work on community cohesion and preventing extremism. The lead on disability and age policy remains in the Department for Work and Pensions.

## **8. Consultation outcome**

8.1 No consultation was carried out as this Order transfers certain functions from the Lord Privy Seal to the Secretary of State for the Home Department, which in itself has no impact on business, charities or voluntary bodies.

## **9. Guidance**

9.1 The Department does not intend to issue any guidance alongside this instrument. This is not considered necessary as the Order is self-explanatory and has no impact on business, charities or voluntary bodies.

## **10 Impact**

10.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

## **11. Regulating small business**

11.1 This Order does not apply to small businesses.

## **12. Monitoring and review**

12.1 There are no plans to perform monitoring or review.

## **13. Contact**

Charles M Ramsden at the Government Equalities Office (tel: 0303 44 43254 or e-mail: [Charles.Ramsden2@geo.gsi.gov.uk](mailto:Charles.Ramsden2@geo.gsi.gov.uk) ) can answer any queries regarding the instrument.