

Scotland Bill

Equality and Human Rights Commission

The Equality and Human Rights Commission (EHRC) is the National Equality Body (NEB)¹ for Scotland, England and Wales, working across the nine protected grounds set out in the Equality Act 2010: age, disability, gender, race, religion and belief, pregnancy and maternity, marriage and civil partnership, sexual orientation and gender reassignment. We are an “A-status” National Human Rights Institution (NHRI)², and share our human rights mandate in Scotland with our colleagues in the Scottish Human Rights Commission (SHRC). Thank you for the opportunity to comment on the Scotland Bill.

Legislative Competence for Equal Opportunities

As you know, equal opportunities remained largely reserved under Schedule 5 of the Scotland Act 1998, and the Commission does not believe that the new provisions in the Bill will significantly alter this. To take the provisions in turn:

- Socio-Economic Duty (Part 1 of the Equality Act 2010): a legislative consent motion was passed by the Scottish Parliament in January 2010 in relation to the socio-economic duty. The Bill will allow Scottish Ministers to set a commencement date for Part 1 of the Act by order, at a date of their choosing.
- Equal opportunities are devolved in relation to the functions of Scottish (or cross-border) public authorities. However, the power to modify the Equality Act 2006 or the Equality Act 2010 remains reserved. In effect this would allow Scottish Ministers to:
 - make provisions that supplement or are additional to the Equality Acts (but don't modify the Acts), particularly provisions that require public authorities to take action so long as the action is not already prohibited by the Equality Acts: this may mean for example, requiring Scottish public authorities to undertake equal pay audits
 - reproduce or apply any part of the Equality Acts, with or without modification, so long as the Equality Acts themselves are not affected. In other words, it confers the power to lift provisions from the Equality Acts and place them directly in devolved legislation.

To emphasise, these provisions could only be applied to devolved public authorities and could only apply to the -devolved functions of those authorities.

¹ www.equineteurope.org/-Equality-bodies-

² www.ohchr.org/en/countries/nhri/pages/nhrimain.aspx

Enhanced Accountability

We also note the Secretary of State for Scotland's Comments in the House of Commons on 6 July³:

"The Smith commission agreed that the Equality Act 2010 should remain reserved and that the subject matter of the Equality Act 2006 falls within the scope of the equal opportunities reservation. That is why the clause is clear on this point. No reference was made in the agreement to devolving the functions of the Equality and Human Rights Commission. **The commission is open to discussion as to how accountability to the Scottish Parliament for its activities in Scotland might be strengthened. I would expect that to be a matter of discussion with the Scottish Government, should they wish to make it so.**"

So, in addition to the limited changes to devolved competence over equal opportunities in the Bill, there may be scope for new provisions to strengthen the lines of accountability between the Commission in Scotland and the Scottish Parliament. We have been and will be meeting ministers and officials from the Scottish and UK Governments to discuss this, and would be happy to explore this further with the Committee as well if that would be useful.

I hope this information is of use to the Committee. Please don't hesitate to get in touch if you have any further questions.

³ www.publications.parliament.uk/pa/cm201516/cmhansrd/cm150706/debtext/150706-0003.htm