POLICY NOTE

THE EQUALITY ACT 2010 (SPECIFICATION OF PUBLIC AUTHORITIES) (SCOTLAND) ORDER 2021

SSI 2021/XXX

The above instrument is proposed to be made in exercise of the powers conferred by section 151(3) of the Equality Act 2010 ("the 2010 Act"). The instrument is subject to affirmative procedure.

Summary Box

The purpose of the instrument is to add South of Scotland Enterprise ("SOSE") to the list of public authorities in Part 3 of schedule 19 of the 2010 Act required to comply with the public sector equality duty.

1. Policy Objectives

The public sector equality duty in section 149(1) of the 2010 Act requires public authorities to have due regard, when exercising their functions, to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the 2010 Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Those bodies and office holders subject to the public sector equality duty are listed in Part 3 of schedule 19 of the 2010 Act.

The South of Scotland Enterprise Act 2019 ("the 2019 Act") established SOSE and sets out its strategic aims – namely, to further the economic and social development, and improve the amenity and environment, of the south of Scotland.

This draft Order proposes to add SOSE to Part 3 of schedule 19 of the 2010 Act so as to require SOSE to comply with the public sector equality duty.

Consultation

In accordance with the requirement under section 152(3) of the 2010 Act, the Commission for Equality and Human Rights was consulted and is content with the proposal to add SOSE to Part 3 of schedule 19 of the 2010 Act.

Stakeholders are aware of the intention to add SOSE to the list of authorities subject to the public sector equality duty and are supportive.

Impact Assessments

An equality impact assessment (EQIA) was undertaken in relation to the South of Scotland Enterprise Bill ("the Bill") which preceded the 2019 Act. That EQIA was carried out in November 2018 and is published here: https://www.gov.scot/publications/south-scotland-enterprise-bill-equality-impact-assessment/

That EQIA made reference to the intention for SOSE to be made subject to the public sector equality duty. This instrument therefore seeks to achieve that policy objective. As the proposal in this instrument is primarily consequential in nature to the 2019 Act, it was considered that only a refresher of the previous EQIA was required for this instrument, published here:- https://www.legislation.gov.uk/

A Child Rights and Wellbeing Impact Assessment was not considered required for this instrument however one was carried out in the development of the Bill and is available here: https://www.gov.scot/publications/south-scotland-enterprise-bill-child-rights-wellbeing-impact-assessment/.

A Fairer Scotland Duty Assessment was not considered required for this instrument. SOSE was added to the Fairer Scotland Duty by the Scottish National Investment Bank p.l.c. and South of Scotland Enterprise (Miscellaneous Listings) Regulations 2020.

An Island Communities Impact Assessment was not required for this instrument, as the instrument is not considered likely to have an effect on an island community which is significantly different from its effect on other communities.

A Data Protection Impact Assessment was not required for this instrument as the instrument is not considered to have any impact on the collecting or processing of personal data.

A Strategic Environmental Assessment was not required for this instrument as the instrument is not considered to have any significant environmental effects.

Financial Effects

The Cabinet Secretary for Finance and Economy confirms that no Business and Regulatory Impact Assessment (BRIA) is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
September 2021