EXPLANATORY MEMORANDUM TO

THE EQUALITY ACT 2006 (DISSOLUTION OF COMMISSIONS AND CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) (AMENDMENT) ORDER 2007

2007 No. 3555

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. Description

2.1 This Order amends the deadline applicable to the Commission for Equality and Human Rights ("the Commission") for compliance with the statutory duties imposed on it as a public authority by equality legislation.

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

3.1 The Government Equalities Office was unable to lay this instrument 21 days before it must come into force. Because this Order amends a deadline of 1 January 2008, it must take effect by 31 December 2007. The process of arriving at an amended deadline agreed with the Commission has been protracted and complex and has prevented us from laying the instrument by 7 December 2007. It was necessary to evaluate the ability of the Commission to comply with the statutory duties, assess the further work required to become compliant and consider the various options available. The time that it has taken to give proper consideration to these issues has resulted in a breach of the 21 day rule.

4. Legislative Background

4.1 The Equality Act 2006 (Dissolution of Commissions and Consequential and Transitional Provisions) Order 2007 (S.I. 2007/2602) ("the Dissolution Order") dissolved the Commission for Racial Equality, the Disability Rights Commission and the Equal Opportunities Commission ("the former Commissions"), made certain consequential amendments and modifications necessary as a result of the dissolution of the former Commissions and the establishment of the Commission and provided for the Commission to exercise certain functions of the former Commissions.

4.2 Among the consequential modifications made in the Dissolution Order were those necessary to subject the Commission to the requirements of the Race Relations Act 1976 (Statutory Duties) Order 2001 (S.I. 2001/3458), the Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005 (S.I. 2005/2966) and the Sex Discrimination Act 1975 (Public Authorities) (Statutory Duties) Order 2006 (S.I.

2006/2930) and establish the deadlines for compliance. This Order amends those modifications to change the relevant deadlines for compliance by the Commission.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The legislation listed in paragraph 4.2 has the effect of requiring the Commission to (among other things) produce a Race Equality Scheme, a Disability Equality Scheme and a Gender Equality Scheme by 1 January 2008.

7.2 The Commission is the first full spectrum equality and human rights body in Britain. It is an independent, influential champion whose purpose is to reduce inequality, eliminate discrimination, strengthen good relations between people and protect human rights. It has responsibility for assessing compliance with the statutory duties applicable to public authorities and can take enforcement action when necessary and appropriate.

7.3 As such it is important that the equality schemes, or scheme, produced by the Commission are exemplary. It is likely that other public authorities who are subject to the statutory duties will refer to the Commission's scheme(s) to use as a model.

7.4 The Commission was subjected to the statutory duties from 1 October 2007 and originally given a deadline of 1 January 2008 to comply. The Commission believes it is unable to meet this deadline. Senior staff who will take ownership of parts of the scheme were not all able to take up their appointments until shortly before 1 October 2007 and until these senior staff were in place, the Commission was unable to develop the detailed programmes that impact on the equality scheme(s). The staff who will give effect to the scheme(s) (and who themselves need to be consulted on their preparation) did not join the Commission from the former Commissions until 1 October 2007. Moreover, the Commission believes it should develop a scheme that covers all the equality strands – thereby going beyond its statutory obligations.

7.5 In order to enable the Commission to produce a fully compliant, exemplary scheme we are extending the deadline for compliance to 1 April 2008. This extension will allow the Commission to consult widely both internally and externally, develop an effective action plan and cover all equality strands for which they have responsibility, not just the three required by the current statutory duties.

8. Impact

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

9. Contact

Zyg Kowalczyk at the Government Equalities Office Tel: 0207 944 5916 or e-mail: zyg.kowalczyk@communities.gsi.gov.uk can answer any queries regarding the instrument.