EXPLANATORY MEMORANDUM TO

THE EQUALITY ACT 2010 (CODE OF PRACTICE ON SERVICES, PUBLIC FUNCTIONS AND ASSOCIATIONS) (REVOCATION) ORDER 2026

2026 No. 787

AND

THE EQUALITY ACT 2010 (CODE OF PRACTICE ON SERVICES, PUBLIC FUNCTIONS AND ASSOCIATIONS) (COMMENCEMENT) ORDER 2026

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1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information that may be of relevance for the Secondary Legislation Scrutiny Committee and the Joint Committee on Statutory Instruments.

2. Declaration

2.1 The Rt Hon Bridget Phillipson MP, the Secretary for State for Education at the Department for Education and the Minister for Women and Equalities confirms that this Explanatory Memorandum meets the required standard.

2.2 Marcus Bell, Director of the Office for Equality and Opportunity at the Cabinet Office, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Laura Bruce at the Cabinet Office can be contacted by email at the following address with any queries regarding the instrument: eftsponsorship@cabinetoffice.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The purpose of these statutory instruments is to revoke, with effect from 5 August 2026, the Equality Act 2010 Code of Practice for Services, Public Functions and Associations ("the 2011 Code of Practice"), which was brought into force on 6th April 2011 (SI 2011 No. 857[1]), and to commence the new Equality Act 2010 Code of Practice for Services, Public Functions and Associations ("the Code").

Where does the legislation extend to, and apply?

4.2 The extent of these statutory instruments is England and Wales, and Scotland.

4.3 The application of these statutory instruments is in England and Wales, and Scotland.

[1] https://www.legislation.gov.uk/uksi/2011/857/note/made

5. Policy Context

5.1 The process for issuing and replacing an active statutory Code of Practice is governed by sections 14 and 15 of the Equality Act 2006 ("the 2006 Act").

5.2 Section 14 mandates that the Equality and Human Rights Commission (EHRC) drafts and consults on any new code, which the Secretary of State then may approve and lay before Parliament for a 40-day scrutiny period. In accordance with this requirement, the Secretary of State laid the Equality Act 2010 draft Code of Practice for Services, Public Functions and Associations before Parliament on 21 May 2026.

5.3 If there is no resolution within 40 days by either House moving a fatal prayer motion against the draft Code, the EHRC may "issue" the Code under section 14(8). However, the Code will not take effect until a separate commencement order is made by the Secretary of State.

5.4 There are two statutory instruments to complete the process.

5.5 First, a revocation order made under section 15(3) of the 2006 Act ("the revocation order"): Under section 15(3), a code of practice issued under section 14 may be revoked by the Secretary of State, by order, following a formal request from EHRC. In accordance with this provision, EHRC requested on 29 May 2026 that the Secretary of State revoke the 2011 Code of Practice. The revocation order is a negative procedure statutory instrument which is laid before Parliament for 21 days in accordance with the "21-day rule" before it is due to come into force.

5.6 Second, immediately after the revocation order takes effect, a separate commencement statutory instrument ("the commencement order") will commence the new Code. This is subject to no Parliamentary procedure.

5.7 This is in accordance with sections 39(1) and 39(3)(a) of the Equality Act 2006 which set out that an order made under section 15(3) revoking a code of practice is to be made by statutory instrument and be subject to the negative resolution procedure.

5.8 More detailed information on this legislative sequencing is set out in paragraphs 11 to 11.4.

5.9 The Cabinet Office's *Guide to Preparing Explanatory Memoranda (EMs) to Statutory Instruments* sets out that EMs are required for all statutory instruments subject to Parliamentary procedure, and may be appropriate for statutory instruments which are not subject to a Parliamentary procedure. Although the commencement order is not subject to Parliamentary procedure, this EM covers both statutory instruments as they are so closely linked in subject matter and timing.

What was the previous policy, how is this different?

5.10 As an independent Non-Departmental Public Body, the EHRC is responsible for providing guidance on the Equality Act 2010 ("the 2010 Act") and issuing codes of practice. In line with section 14(1) of the 2006 Act, the EHRC may issue a Code of Practice in connection with any matter addressed by the 2010 Act.

5.11 The Code of Practice on Services, Public Functions and Associations (SI 2011 No. 857[2]) has been in force since 6th April 2011.

5.12 The EHRC has developed a revised Code. This new Code provides guidance for duty bearers on how to comply with the 2010 Act.

[2] https://www.legislation.gov.uk/uksi/2011/857/note/made

5.13 The EHRC has updated the Code because there have been legislative changes, new case law, a change or clarification of terminology, or new guidance issued since the original Code was published in 2011. The revised Code more accurately reflects the position on all protected characteristics, following developments since the 2011 Code was published.

5.14 Further information can be found in the Explanatory Memorandum to the Code of Practice at this link: https://www.gov.uk/government/publications/equality-act-2010-draft-code-of-practice-for-services-public-functions-and-associations-2026/explanatory-memorandum--2

6. Legislative and Legal Context

How has the law changed?

6.1 The 2011 Code of Practice is being revoked to allow for a new code to be commenced. This will ensure legal clarity for duty bearers regarding which standards apply.

Why was this approach taken to change the law?

6.2 The Code will come into force immediately after the revocation of the 2011 Code of Practice takes effect. Revoking the 2011 Code of Practice is the best way to facilitate a seamless transition to the new Code.

6.3 Retaining the older Code alongside updated guidance would risk confusion regarding which standards apply.

7. Consultation

Summary of consultation outcome and methodology

7.1 Details of the previous consultations on the Code itself before it was laid in Parliament are explained in the Explanatory Memorandum on the Code referenced at paragraph 5.14 above.

7.2 No statutory consultation is required before making a revocation order.

7.3 The Secretary of State consulted with the Scottish Ministers and the Welsh Ministers before making the commencement order, as required by section 14(9)(b) of the 2006 Act. She informed them about her proposal to commence the new Code, and took their feedback into account when making the commencement order.

8. Applicable Guidance

8.1 No guidance is necessary in relation to this instrument.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

Impact on businesses, charities and voluntary bodies

9.1 A full impact assessment has not been produced for these instruments as no, or no significant, impact on the private, voluntary or public sector is foreseen.

9.2 A full impact assessment that the 2026 Code of Practice is likely to have on the costs of business, the voluntary sector and the public sector is available at https://www.gov.uk/government/publications/equality-act-2010-draft-code-of-

practice-for-services-public-functions-and-associations-2026/final-stage-impact-assessment.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 There is no plan to monitor or review this legislation as its purpose is limited to revoking legislation which has a one-off effect.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 These instruments form a coordinated legislative sequence designed to ensure the seamless replacement of the 2011 Code of Practice, while adhering to statutory scrutiny requirements. The instruments are sequenced in this particular order for the following reasons:

11.2 First, laying of the new Code: the revised draft Code was laid before Parliament on 21 May 2026 to satisfy the 40-day statutory scrutiny period required under section 14 of the 2006 Act. No further steps to bring the new Code into force can be taken until this period has elapsed without a negative resolution.

11.3 Second, the revocation order: this instrument revokes the 2011 Code using the made negative procedure. This should be made and come into force before the new Code is active to avoid a situation where two conflicting Codes of Practice on the same subject co-exist.

11.4 The Secretary of State previously considered revoking the 2011 Code while the new draft Code was in preparation but assessed that approach as disproportionate. This is because the 2011 Code covers all protected characteristics, revoking it prematurely would leave service providers, individuals, and the courts without legal guidance for an undefined period.

11.5 Third, the commencement order: finally, a separate commencement statutory instrument—subject to no Parliamentary procedure—will be made for the new Code to take effect immediately after the revocation order comes into force. This specific sequencing ensures that the 2011 Code is extinguished and the new Code is activated at the same moment, thereby preventing any regulatory gap where users would be left without statutory guidance.

12. European Convention on Human Rights

12.1 As the revocation instrument is subject to negative procedure and does not amend primary legislation, and the commencement order is subject to no Parliamentary procedure, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).