



Government Equalities Office

Rt Hon Justine Greening MP
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The Rt. Hon Maria Miller MP
Chair, Select Committee on Women and Equalities
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8 December 2017

Dear Maria,

EU (WITHDRAWAL) BILL AS IT RELATES TO EQUALITY LAW

I am writing to draw your attention to two equalities-related developments in connection with the EU (Withdrawal) Bill.

Dominic Raab indicated during Commons Committee debate on the Bill on 14 November that the government would respond to concerns expressed about the use of the Bill's delegated powers as regards equality legislation. He committed to bringing a government amendment in this area before Report stage. This was a response to the concerns that you and your Committee have expressed about the need to be clear that EU-related legislation will not compromise protections in the Equality Acts.

The government has been able to progress work rapidly in this area. We have now tabled our amendment and, for additional assurance, have published on gov.uk¹ a paper which explains the limited changes to the Equality Acts that are planned as a result of EU exit using the delegated powers provided by the Bill.

Government amendment. Amendment 391 (see annex) is an addition to Schedule 7 and applies to the key delegated powers exercised by Ministers of the Crown under the Bill. In relation to equalities, it will mean that all statutory instruments made under those powers will need to be the subject of a statement by the relevant Minister. The statement will have two parts and will confirm:

- whether or not the draft legislation revokes, repeals or amends the Equality Act 2010 – if so, how; and
- that the Minister has had due regard to the need to eliminate discrimination,

¹https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/665442/171206_Equalities_SI_summary_FINAL_.pdf



harassment, victimisation and any other conduct prohibited by or under the Equality Act 2010.

The government's intention is that similar statements will also be made by Ministers in relation to EU exit related Bills, and any relevant secondary legislation made under powers created by those Bills.

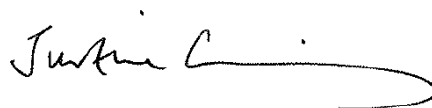
These statements will ensure real transparency in relation to any changes that are made to our domestic equalities legislation as a result of EU exit, with the additional express assurance that Ministers have considered their obligations under the equalities legislation when preparing draft legislation.

Changes to the Equality Acts 2006 and 2010 and secondary legislation made under the Acts. The paper on this (see footnote 1 for the link) is inevitably fairly technical, and includes relevant background and key information. This paper should provide assurance that the changes we plan to make under delegated powers in the Bill will be technical changes to address provisions in the Acts that will otherwise become redundant or inoperable after exit day.

I know that the responses made by the government in this area will be of considerable interest to you and your fellow committee members, particularly given your report on '*Ensuring strong equalities legislation after the EU exit*' published in February 2017 and to which the government responded in October.

I would like to take this opportunity to reiterate the firm commitment that the government has made to maintaining the UK's long-standing record on equalities. As you know, some of our domestic equalities legislation predates or goes beyond what is prescribed by the EU. Together with the specific work we are now undertaking, outlined in this letter, I trust that this provides further assurance of the importance this government attaches to equality protections as we leave the EU.

I am copying this letter to the Chair of the Joint Committee on Human Rights and will place a copy in the House Libraries along with a copy of the paper on changes to the Equality Acts.



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Schedule 7, page 47, line 26, at end insert—

“Explanatory statements for certain powers: appropriateness, equalities etc.

(1) This paragraph applies where a statutory instrument containing regulations under section 7, 8 or 9, or a draft of such an instrument, is to be laid before each House of Parliament.

(2) Before the instrument or draft is laid, the relevant Minister must make a statement to the effect that in the Minister’s opinion the instrument or draft does no more than is appropriate.

(3) Before the instrument or draft is laid, the relevant Minister must make a statement—

- (a) as to whether the instrument or draft amends, repeals or revokes any provision of equalities legislation, and
- (b) if it does, explaining the effect of each such amendment, repeal or revocation.

(4) Before the instrument or draft is laid, the relevant Minister must make a statement to the effect that, in relation to the instrument or draft, the Minister has, so far as required to do so by equalities legislation, had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.

(5) Before the instrument or draft is laid, the relevant Minister must make a statement otherwise explaining—

- (a) the instrument or draft,
- (b) the reasons for it,
- (c) the law before exit day which is relevant to it, and
- (d) its effect (if any) on retained EU law.

(6) If the relevant Minister fails to make a statement required by sub-paragraph (2), (3), (4) or (5) before the instrument or draft is laid, a Minister of the Crown must make a statement explaining why the relevant Minister has failed to do so.

(7) A statement under sub-paragraph (2), (3), (4), (5) or (6) must be made in writing and be published in such manner as the Minister making it considers appropriate.

(8) For the purposes of this paragraph, where an instrument or draft is laid before each House of Parliament on different days, the earlier day is to be taken as the day on which it is laid before both Houses.

(9) This paragraph does not apply in relation to any laying before each House of Parliament of an instrument or draft instrument where an equivalent draft instrument (ignoring any differences relating to procedure) has previously been laid before both Houses.

(10) In this paragraph—

“equalities legislation” means the Equality Act 2006, the Equality Act 2010 or any subordinate legislation made under either of those Acts;

“the relevant Minister” means the Minister of the Crown who makes, or is to make, the instrument.”

Member’s explanatory statement

This amendment imposes requirements on Ministers of the Crown to make explanatory statements in relation to regulations or draft regulations under Clause 7, 8 or 9. The statements will be published and must, in particular, deal with the appropriateness of the regulations and their relationship to equalities legislation as well as providing specified further information.