

EXPLANATORY MEMORANDUM TO
THE RELIGION OR BELIEF (QUESTIONS AND REPLIES) ORDER 2007

2007 No. 1038

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Equality Act 2006 (“the Act”) contains a procedure for asking questions and making replies about alleged discrimination on grounds of religion or belief under Part 2 of the Act. This Order prescribes the forms to be used and procedural matters for the questions and replies procedure.

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

3.1 None

4. Legislative Background

4.1 Section 70 of the Equality Act 2006 sets out the questions and replies procedure for alleged discrimination on grounds of religion or belief. This is a formal mechanism by means of which someone can obtain information from the person who he thinks has acted unlawfully against him to help him decide whether or not to take proceedings.

4.2 Section 70(2) requires the Secretary of State to prescribe the questions and replies forms for use in cases of alleged religion or belief discrimination. This Order prescribes these forms and also prescribes certain procedural matters such as the period in which questions must be served in order to be admissible in related court proceedings.

4.3 The prescribed forms are used to gather information about the reasons for an alleged unlawful act, and might enable a dispute to be resolved without going to court. If a matter is taken to court and the complainant has used the prescribed form (or similar ones) the information collected is admissible as evidence. A court may draw an inference from any failure by a respondent to reply to questions within the period of eight weeks without reasonable excuse, or from an evasive or equivocal reply.

5. Territorial Extent and Application

5.1 This instrument extends to England and Wales and to Scotland.

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 Part 2 of the Act prohibits discrimination on grounds of religion or belief in the provision of goods facilities and services, education, public functions, and management and disposal of premises. Under section 66 of the Act claims for breach of the provisions in Part 2 can be brought in a county court in England and Wales, and the sheriff court in Scotland.

7.2 The forms prescribed by this Order are designed to assist a person who thinks he or she has been treated unlawfully by another to obtain information from that person about the alleged treatment. This can help that person decide whether or not to bring legal proceedings and, if proceedings are brought, to present any complaint in an effective way. The forms encourage them to set out clearly the relevant facts concerning the treatment received and assist the person against whom the complaint is being made to understand the complaint and respond accordingly.

7.3 The forms are very similar to existing forms designed to assist claimants under other anti-discrimination legislation, for example under the Disability Discrimination Act 1995 and the Equality Act (Sexual Orientation) Regulations 2007.

8. Impact

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

8.2 There is no impact on the public sector.

9. Contact

David Ware at the Department for Communities and Local Government can answer any queries regarding the instrument. Tel:0207 944 0552 or e-mail: david.ware@communities.gsi.gov.uk