

Race Equality Scheme



May 2005



HM TREASURY

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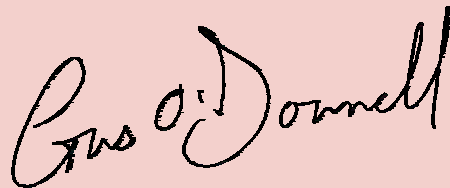
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STATEMENT OF COMMITMENT

The Treasury is at the heart of the Government's aim to achieve rising prosperity and a better quality of life, with economic and employment opportunities for all. As a department we recognise that diversity enriches our economy and is an essential ingredient of change and progress. We want to ensure that we realise the benefits of a diverse society through developing economic policy that is sensitive to impacts on different groups and by listening and learning from all the interests we serve. These considerations also apply to how we recruit and manage ourselves so that we promote a culture of openness, trust and respect in the department and where all our staff have the opportunity to thrive. Our legal duties to promote racial equality and a cohesive society are integral to how we plan our work and measure our success. Everyone in the department has a responsibility to familiarise themselves with the Race Equality Scheme and apply its principles in their day to day responsibilities.



Gus O'Donnell, Permanent Secretary, HM Treasury

In reviewing our arrangements for meeting the duties under the Act the department has identified an opportunity to strengthen our approach through monitoring and reporting progress. It will be part of my responsibilities to prepare an annual report, which sets out how we are meeting our duties on race equality as well as our wider objectives on diversity. I will be working with directorates to identify where we can improve our approach to public policy development so that it promotes social cohesion and leads to a more just and fair society. I will also be reporting on how we are managing ourselves and what progress we have made.

This updated Race Equality Scheme sets out a few examples of the action the department has already taken when evidence and analysis indicated that barriers existed for some communities and groups. The annual report will provide a regular opportunity for us all to learn from these examples as well as others and also to note the progress we have and will continue to make.

All the teams in the department contributed to this update of the Race Equality Scheme. I am extremely grateful to them, to the Ethnic Minority Advisory Group and to the many individuals who have helped develop the scheme as a practical tool for achieving progress in eliminating discrimination, promoting equality and fostering a cohesive society.



Nick Stern, Diversity Champion, HM Treasury



INTRODUCTION

1.1 The Race Relations Act 1976 (the Act) provides the legislative foundation for eliminating unlawful discrimination on grounds of race, and for promoting equality of treatment between persons of different races, in the United Kingdom. Section 71 of the 1976 Act (as amended by the Race Relations Amendment Act 2000) requires the Treasury, as well as other listed public authorities, to comply with a General Duty to promote racial equality. The Treasury (along with others) is also bound by the Specific Duties under the Act to publish a Race Equality Scheme setting out how it will meet the General duty and has Employment Duties under the Act in relation to its own staff.

1.2 This document sets out how the Treasury fulfils its duties under the Act. It updates the first Race Equality Scheme published by the Treasury in May 2002.

1.3 This updated scheme aims to show how the Treasury has worked and will continue to work - on its own account and with and through its partners - to fulfil its duties under the Act and has regard to the Act in its activities.

The Treasury's Role and Functions

1.4 The Treasury is responsible for formulating and implementing the Government's financial and economic policy. Its aim is to raise the rate of sustainable growth, and achieve rising prosperity and a better quality of life, with economic and employment opportunities for all.

1.5 The Treasury's Public Service Agreement (PSA) sets out the objectives towards which it will work in carrying out its aim and the targets by which it will measure progress towards its objectives. The PSA aim and objectives to which the Treasury will work between April 2005 and March 2008 are set out in chapter 2. All our objectives are directed towards inclusion, equality and fairness.

Treasury's Equality & Diversity policy

1.6 The Treasury aims to be a world class finance ministry that seeks to improve opportunities for all. We actively promote a departmental culture that values difference and recognises that diversity enriches the economy and our society, and is an essential ingredient of change and progress. As an employer, the Treasury seeks to recruit and develop a diverse and talented workforce, which is representative of the society we serve. We aim to foster a culture of trust and openness in which people support and develop each other, and feel valued for the contribution they make.

AIM

Raise the rate of sustainable growth and achieve rising prosperity and a better quality of life, with economic and employment opportunities for all.

MAINTAINING STABILITY AT HOME AND OVERSEAS

Objective 1: Maintain a stable macroeconomic environment with low inflation and sound public finances in accordance with the Code for Fiscal Stability.

Objective 5: Promote UK economic prospects by pursuing increased productivity and efficiency in the EU, international financial stability and increased global prosperity, including especially protecting the most vulnerable.

RAISING TREND GROWTH

Objective 2: Increase the productivity of the economy and expand economic and employment opportunities for all.

Objective 3: Promoting efficient, stable and fair financial markets, for their users and the economy.

PROMOTING FAIRNESS AND OPPORTUNITY FOR ALL

Objective 4: Promote a fair, efficient and integrated tax and benefit system with incentives to work, save and invest.

Objective 8: Protect and improve the environment by using instruments that will deliver efficient and sustainable outcomes through evidence-based policies.

DELIVERING HIGH QUALITY PUBLIC SERVICES

Objective 6: Improve the quality and the cost effectiveness of public services.

Objective 7: Achieve world class standards of financial management in government.

3

GENERAL AND SPECIFIC DUTIES

The Treasury's duties under the Act

3.1 Under the Section 71 of the Act, the Treasury has a general duty, in carrying out its functions, to have due regard to the need

- to eliminate unlawful discrimination;
- to promote equality of opportunity; and
- to promote good relations between people of different racial groups.

3.2 The Treasury also has a specific duty to set out in a Race Equality Scheme:

- which functions and policies are relevant to the general duty ;
- arrangements for assessing, consulting and monitoring policies for any adverse impact on the promotion of race equality ;
- arrangements for publishing any such assessments;
- how the public can access information and services; and
- how staff are trained in connection with these duties.

3.3 The Treasury also has employment duties, which are set out in chapter 5.

4

TREASURY FUNCTIONS

4.1 This section identifies the Treasury policy functions that are most relevant to race equality and sets out how we meet our objectives. In deciding relevance and importance, the key consideration was whether any policy directly or indirectly affected members of the public. We also took into consideration our central role in government and how that impacted on our responsibilities.

4.2 The Treasury sets economic and financial policy for the United Kingdom. It has statutory duties in relation to the regulation of UK financial markets and managing and accounting for public expenditure. It has ownership duties, in particular, to the Bank of England.

4.3 In most of its functions, the Treasury achieves its objectives by working with and through other organisations. Six of the ten PSA targets by which progress towards the objectives will be measured are joint – that is, they are the responsibility of the Treasury and of another government department. The Treasury is not generally responsible for policy implementation or for service delivery. It meets its duties under the Act primarily through its leadership role. It does this by prompting policies and setting standards and requiring and using evidence from partnership bodies to demonstrate that the impact of relevant public policy and service delivery avoids discrimination, promotes equality and good race relations.

4.4 *The areas in which we operate that are most relevant to meeting our duties under the Act are economic strategy and fiscal policy for the UK and regulation of financial markets. Our responsibilities for setting standards and reporting and accounting for the public finances have less direct impact on the public and are less relevant.*

Economic and Financial Policy

The Government is committed to promoting fairness alongside flexibility and enterprise to ensure that everyone can take advantage of opportunities to fulfil their potential. The Government's reforms of the welfare state reflect its aims of eradicating child poverty, supporting families to balance their work and family life, promoting saving and ensuring security for all in old age.

Budget Report 2005

4.5 The Treasury sets out the government's economic strategy and fiscal policies in annual Pre-Budget and Budget reports. Successive pre-Budget and Budget Reports in recent years have given explicit commitments to equality, fairness and opportunity, (see box above) and to the distributional analysis necessary to deliver this.

4.6 Until 2004 the responsibility for developing tax policy fell between the Treasury, Inland Revenue and Customs and Excise. Following the O'Donnell Review responsibility for developing strategic tax policy was transferred to the Treasury with effect from September 2004.

4.7 In carrying out this new work the Treasury will ensure that the evidence base for tax policy development is sensitive to impacts on different groups and will ensure different groups in society are consulted when formulating policies. Her Majesty's Revenue and Customs (HMRC) will continue to be responsible for implementing tax policies. HMRC has its own duties under the Act to publish a Race Equality Scheme and to measure and consult on the race, gender and other diversity impacts of the policies they implement on behalf of government. The Treasury will work in partnership (as before) with HMRC when developing tax measures and in this way strategic tax policy will be formulated taking account of race impacts as well as considering other research and evidence including information in the Regulatory Impact Assessments that accompany measures included in the Budget reports.

4.8 As well as tax policy the Budget sets out a range of measures to promote inclusion and fairness and, particularly in supporting documents, contributes to the analytical understanding of the impact of economic and financial policies on different groups. For example, the series of documents on "The modernisation of Britain's tax and benefit system" which are available in the Budget section of our public website. The box below is an example of a Budget measure that was developed in response to evidence of unequal labour market outcomes for Black and Asian ethnic minority groups.

Good practice

Policy Area	Labour Market Policy
Issue Identified	Low employment rates – and a persistent gap with the UK national employment rate – among some ethnic minority groups.
Evidence	Labour Force Survey data showed consistently lower employment rates for ethnic minority groups in general, and particularly for Black and Asian ethnic minority groups. Reports from the Strategy Unit and others identified low skills, geography and discrimination as contributory factors to this situation of entrenched labour market disadvantage.
Policy intervention	Fair Cities initiative announced in Budget 2004 to develop employer-led strategies to improve employment outcomes for people from disadvantaged ethnic minority groups in three cities with high ethnic minority populations, in three cities with high ethnic minority populations.
Monitoring and review	Department for Work & Pensions

4.9 As part of its stewardship of the public finances, the Treasury manages biennial Spending Reviews of public expenditure after which the government allocates resources to departments to deliver public services. Each department has public service agreement targets, by which the department delivering the service measures progress towards its objective: for example, targets on improving the performance of schools are owned by the Department for Education and Science. Each department's targets are agreed in partnership between the Treasury, the delivery department and (for some departments) the Prime Minister's Delivery Unit.

4.10 Although the Treasury does not have a direct role in delivering public services, it uses the Spending Review process to ensure that public spending boundaries do not inhibit effective public service delivery and to promote better public services through improved analyses and targeting. Delivery departments will undertake their own race and equality impact assessment of services and measure progress. An example of how the Treasury has used its role in the spending review to focus departments on promoting race equality is set out below:

Good practice	Policy Area	Improving Public Services
	Issue Identified	Government wanted to improve access to public services as part of its broader agenda on equality and social inclusion.
	Evidence	Research indicated that ethnic minority people had difficulty accessing public services and confidence and trust in the quality of services was low.
	Policy intervention	The role of Home Office to monitor and account for government departments' performance was strengthened. Responsibility for delivering the HO PSA target to improve race equality and community cohesion will held jointly with key service delivery departments and measured in relation to the number of race equality impact assessments that departments undertake.
	Monitoring and review	Home Office will be responsible for establishing the baseline of the number of REIAs undertaken and reporting progress.
	Publication	Announced in 2004 Spending Review Report. Progress will be published in Home Office Departmental Report

4.11 The economic and financial policies that flow from the Budget and Spending Review processes affect all taxpayers and public service users. As such they are important and relevant to the duty to promote race equality and the Treasury will ensure that the objectives set for key relevant programmes promote race equality; that the evidence base for developing policy and measuring progress is sensitive to the impacts for different racial groups and that delivery partners put in place monitoring and review arrangements that can assess change in race impacts.

Regulation

4.12 The Treasury's role in relation to regulation of financial markets is exercised in partnership with the Financial Services Authority (and the Bank Of England). Both of these organisations are listed public authorities under the Act and are bound by the General duty to promote race equality and by the Employment duties in relation to their own work forces. Neither has a specific duty to publish a Race Equality Scheme.

4.13 The regulation of financial markets includes banking and insurance and is important in increasing the stability and value of personal and corporate assets and in encouraging enterprise in the economy. The promotion of racial equality is relevant in ensuring fair access to financial markets and services and in guaranteeing equality of opportunity in the market.

4.14 The Treasury operates a policy of economic inclusion and actively seeks to remove the barriers that some communities face (see box on Islamic Banking below). It also addresses under-representation through promoting in partnership with the Department for Trade and Industry a programme of out-reach and targeted support for small businesses.

Good practice	Policy Area	Fair tax treatment for Shari'a compliant financial products.
	Issue Identified	Government wants to remove uncertainty and potential impediments concerning the tax treatment of Shari'a compliant financial products.
	Evidence	Research suggests that British Muslims on average have less access to and uptake of financial services than the majority of the population, in part due to the lack of availability of Shari'a compliant products. There was evidence that tax uncertainty was hindering innovation in this field.
	Policy intervention	Officials from HM Treasury, the Inland Revenue, and Customs and Excise have met with providers of Shari'a compliant financial products to discuss potential tax impediments and how to encourage further innovation in product development, including consideration of legislative solutions where appropriate.
	Monitoring and review	Consultation with providers and users of Shari'a compliant financial services is ongoing. A review mechanism will be established to assess the effectiveness of any new legislation and to identify longer-term issues after the 2005 Finance Bill.
	Publication	Consultation announced in 2004 Pre-Budget Report. Progress was announced in 2005 Budget.

4.15 In identifying and addressing the barriers to financial inclusion, the Treasury consults across a broad range of interest groups and business representatives as well as individuals and consumers.

Ownership

4.16 The Treasury is the sole shareholder of the Bank of England and the Royal Mint, and the majority shareholder of Partnerships UK. The Bank is itself a listed public authority under the Act and has its own responsibilities under the General duty to promote race equality in all that it does. It is also bound by the Employment duties under the Act in relation to its own staff but does not have a specific duty to publish a Race Equality Scheme. The Royal Mint and Partnerships UK are not listed under the Act. In exercising its ownership duties the Treasury will ensure that race equality issues are considered where relevant.

Associate Bodies

4.17 The Treasury has two agencies. The Office of Government Commerce has fully delegated Accounting Officer arrangements and will publish its own arrangements for meeting the duties under the Act. The Debt Management Office is covered by the arrangements set out in this scheme and the Treasury will ensure that when exercising its sponsorship duties race equality issues are considered where relevant.

Standard Setting

4.18 The Treasury has responsibilities for setting standards in audit and financial accounting across government. It also sets the standards for determining economic business cases for public spending and in recruiting professional economists to Government.

4.19 The standards for government audit seek to ensure public trust in the conduct of government business and transactions. The standards are published on the Treasury website and already specify that Accounting Officers in each department must have due regard to their legal obligations which include their duties under the Act to promote racial equality. In setting out how they will meet their duties in their own Race Equality Schemes, government departments must determine their own plans for auditing progress, monitoring and review.

4.20 The standards for financial accounting in Government are published in 'Government Accounting' available on the Treasury web site and from HMSO. They are technical in nature and apply to the running of public bodies and not directly to individuals. They are not directly material to the promotion of racial equality.

4.21 The standards for economic business cases seek to ensure value for money in public spending through a framework of guidance for project managers and policy developers in determining costs and benefits for individual projects. The guidance is available on the Treasury website and via HMSO. It makes no direct reference to promoting racial equality but business cases can include in their costs and benefits any material factor to the successful outcome of a project including issues such as community cohesion.

4.22 The Government Economic Service (GES) is a cross-departmental body with its own Board and governance and is not directly accountable to the Treasury. Its arrangements are included in this scheme because of the close association of the GES with the Treasury and because the functions of the GES which include setting standards for the recruitment of Government economists are material to the promotion of race equality.

4.23 The GES publishes its own annual report. It runs some central recruitment schemes on behalf of other government departments and, where it does so, monitors ethnicity and other data. GES recruits who enter the service via departmental schemes or the fast stream are subject to the monitoring arrangements of their departmental employer or the Cabinet Office respectively. The GES will be publishing the results of their recruitment monitoring in their 2005 annual report.

5

THE EMPLOYMENT DUTIES

5.1 As an employer, the Treasury's has duties under the Act to promote race equality in employment.

The purpose of the employment duties is to:

- help make the workforce more representative of the community it serves;
- attract able staff;
- avoid losing or under-valuing able staff;
- improve staff morale and productivity;
- improve the way staff are managed;
- help to develop good practice;
- help to avoid claims of unlawful discrimination.

Extract from Code of Practice: Commission For Racial Equality

5.2 The employment duties require the Treasury to monitor by ethnicity and publish, annually, the number of:

- staff in post;
- applicants for employment, training and promotion
- those receiving training
- those benefiting or suffering detriment from performance assessment procedures
- those involved in formal grievance procedures or disciplinary procedures
- those who leave employment.

5.3 The results of the department's monitoring of recruitment and staff in post have been published in our annual departmental report. Statistics on leavers, promotions and appraisal have been compiled and discussed with managers and staff including our internal Ethnic Minority Advisory Group and published on our website.

5.4 We have recently introduced a computerised learning management system that will automatically capture data on the ethnicity and other diversity profiles of staff that have received training. We are in the process of populating the system with historical data covering 2004-05. Data covering April 2004-April 05 will be incorporated at the end of this financial year and we will publish it on our website soon after.

5.5 Every member of the Treasury is required to have a learning and development plan, drawn up as part of their annual individual performance review. Individual development plans are reviewed formally at mid-year and end of year, and discussed and updated with line managers on a regular basis. Over 60 different courses and programmes are available internally, covering a wide range of topics to meet development needs of staff at all level and disciplines. Staff wishing to attend a central

training programme can do so subject to their line manager's agreement. Resources are made available so that every employee has the opportunity to attend training and developmental courses.

5.6 The total number of staff from all ethnic backgrounds who have been involved in grievance procedures and disciplinary action is small (less than 5 annually) and information has not been published.

5.7 The department seeks the views of different groups of staff including ethnic minorities through the annual staff attitude survey and seeks to work closely with our Ethnic Minority Advisory Group. The feedback from our 2005 staff survey indicated a strong degree of cohesion between different ethnic groups with no group registering a significantly different score from the Treasury norm at category level.

5.8 The Treasury is taking an active approach to addressing the results of monitoring and ensuring that new Human Resources policies and procedures consider race and other diversity and equality impacts. We have set targets to increase representation at senior management level of under-represented groups including ethnic minorities. We are benchmarking our approach with Race for Opportunity and work closely with our Ethnic Minority Advisory Group (EMAG) and other stakeholders in taking forward action. An example of how we work with our internal stakeholders to deliver change is in the box below.

Good practice

Employment area Issue Identified	Performance Management. Some ethnic minority groups were more often in middle and lower performance categories.
Evidence	Although annual monitoring data showed a gradual increase in the proportion of ethnic minority staff in the top performance group, the proportion in the middle and lower performance categories remained higher than expected.
Intervention	The Diversity team worked in partnership with EMAG to develop a presentation for senior managers and Performance Review Teams. The aim was to remind them before the annual appraisal cycle of the outcome from previous years and what they could do during the appraisal process and through out the year to ensure fairness and equality for all staff. This approach was supported in revised central guidance and training on appraisal.
Monitoring and review	Human Resources will monitor the outcome of the 2005 appraisal round review progress in conjunction with EMAG and the Diversity Champion.

6

TRAINING, TRANSPARENCY AND ACCOUNTABILITY

Training Arrangements

6.1 Race awareness is integral to our diversity training, which is mainstreamed into our management and employment learning and development for senior managers and all staff. In addition we have held specific events around race to address particular learning needs and to role model the need to promote equality across all diversity strands. In 2003 presentations were given to all directorates on the duty to promote race equality. In 2004 a seminar 'Raising our Sights on Race' was conducted with our Ethnic Minority Advisory Group to raise awareness with representatives across all directorates of our duties under the Act and the experience of ethnic minority staff in the department. Also in 2004 our 'Learning at Work Week' included sessions on 'Evidence Based Policy Making', which were based around case studies involving diversity and race data. In 2005 a department wide seminar involved all directorates in designing approaches to fulfil our obligations under the Act and meet our wider aspirations on diversity. The Diversity Champion will be following up with Managing Directors on how some of the learning from the 2005 seminar will be embedded in internal working practices. As part of this review we have identified a need to include a short summary of our duties under the Act for new entrants.

Access to Information and Publication Arrangements

6.2 Information on the annual Budget and Pre-Budget Reports is made available on our website together with any associated Regulatory Impact Assessments. Budget Reports and other major publications are also available in hard copy from HMSO and public information leaflets of the Budget summary are made available in a number of public places including public libraries. We have a consultation facility for new policies on our website. Any relevant information, which is an outcome of impact assessments, will be published by contribution to the Home Office annual publication, 'Race Equality in Public Services'. Staff monitoring information is published in our departmental report and on the Race Equality Section of our website.

Accountability and Review

6.3 The Permanent Secretary as Accounting Officer has overall responsibility for ensuring that the Department complies with its duties under the Race Relations Act. The department's Diversity Champion will monitor and review actions under the Act and report to the Permanent Secretary annually. The Director of Operations is responsible for ensuring that systems are in place for monitoring and reporting data to meet the employment duties. The Managing Directors are responsible for ensuring the general duties are met in relation to their individual areas. Team Leaders are responsible for ensuring race impacts are addressed during policy development.

SECTION 71 RACE RELATIONS ACT 1976

AS AMENDED BY SECTION 2 RACE RELATIONS (AMENDMENT) ACT 2001

Specified authorities: general statutory duty.

2. - (1) For section 71 of the 1976 Act (local authorities: general statutory duty) there is substituted-

71. - (1) Every body or other person specified in Schedule 1A or of a description falling within that Schedule shall, in carrying out its functions, have due regard to the need-

(a) to eliminate unlawful racial discrimination; and

(b) to promote equality of opportunity and good relations between persons of different racial groups.

(2) The Secretary of State may by order impose, on such persons falling within Schedule 1A as he considers appropriate, such duties as he considers appropriate for the purpose of ensuring the better performance by those persons of their duties under subsection (1).

(3) An order under subsection (2)-

(a) may be made in relation to a particular person falling within Schedule 1A, any description of persons falling within that Schedule or every person falling within that Schedule;

(b) may make different provision for different purposes.

(4) Before making an order under subsection (2), the Secretary of State shall consult the Commission.

(5) The Secretary of State may by order amend Schedule 1A; but no such order may extend the application of this section unless the Secretary of State considers that the extension relates to a person who exercises functions of a public nature.

(6) An order under subsection (2) or (5) may contain such incidental, supplementary or consequential provision as the Secretary of State considers appropriate (including provision amending or repealing provision made by or under this Act or any other enactment).

(7) This section is subject to section 71A and 71B and is without prejudice to the obligation of any person to comply with any other provision of this Act.

General statutory duty: special cases

71A. - (1) In relation to the carrying out of immigration and nationality functions (within the meaning of section 19D(1)), section 71(1)(b) has effect with the omission of the words "equality of opportunity and".

(2) Where an entry in Schedule 1A is limited to a person in a particular capacity, section 71(1) does not apply to that person in any other capacity.

(3) Where an entry in Schedule 1A is limited to particular functions of a person, section 71(1) does not apply to that person in relation to any other functions.

General statutory duty: Scotland and Wales. 71B. - (1) For the purposes of the Scotland Act 1998, subsections (2) to (4) of section 71 (and sections 71(6) and 74 so far as they apply to the power conferred by subsection (2) of section 71) shall be taken to be pre-commencement enactments within the meaning of that Act.

(2) Before making an order under section 71(2) in relation to functions exercisable in relation to Wales by a person who is not a Welsh public authority, the Secretary of State shall consult the National Assembly for Wales.

(3) The Secretary of State shall not make an order under section 71(2) in relation to functions of a Welsh public authority except with the consent of the National Assembly for Wales.

(4) In this section “Welsh public authority” means any person whose functions are exercisable only in relation to Wales and includes the National Assembly for Wales.

General statutory duty: codes of practice 71C. - (1) The Commission may issue codes of practice containing such practical guidance as the Commission think fit in relation to the performance by persons of duties imposed on them by virtue of subsections (1) and (2) of section 71.

(2) When the Commission propose to issue a code of practice under this section, they-

- (a) shall prepare and publish a draft of the code;
- (b) shall consider any representations made to them about the draft; and
- (c) may modify the draft accordingly.

(3) In the course of preparing any draft code of practice under this section the Commission shall consult such organisations or bodies as appear to the Commission to be appropriate having regard to the content of the draft code.

(4) If the Commission determine to proceed with a draft code of practice, they shall transmit the draft to the Secretary of State who shall consult the Scottish Ministers and the National Assembly for Wales.

(5) After consulting the Scottish Ministers and the National Assembly for Wales, the Secretary of State shall-

- (a) if he approves of the draft code, lay it before both Houses of Parliament; and
- (b) if he does not approve of it, publish details of his reasons for withholding approval.

(6) If, within the period of forty days beginning with the day on which a copy of a draft code of practice is laid before each House of Parliament, or, if such copies are laid on different days, with the later of the two days, either House so resolves, no further proceedings shall be taken on the draft code of practice, but without prejudice to the laying before Parliament of a new draft.

(7) In reckoning the period of forty days referred to in subsection (6), no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(8) If no such resolution is passed as is referred to in subsection (6), the Commission shall issue the code in the form of the draft and the code shall come into effect on such day as the Secretary of State may, after consulting the Scottish Ministers and the National Assembly for Wales, by order appoint.

(9) Without prejudice to section 74(3), an order under subsection (8) may contain such transitional provisions or savings as appear to the Secretary of State to be necessary or expedient in connection with the code of practice thereby brought into operation.

(10) The Commission may revoke, or from time to time revise, the whole or any part of a code of practice issued under this section; and, where they revise the whole or any part of such a code, they shall issue the revised code, and subsections (2) to (9) shall apply (with appropriate modifications) to such a revised code as they apply to the first issue of a code.

(11) A failure on the part of any person to observe any provision of a code of practice shall not of itself render that person liable to any proceedings; but any code of practice issued under this section shall be admissible in evidence in any legal proceedings, and if any provision of such a code appears to the court or tribunal concerned to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.

(12) Without prejudice to subsection (1), a code of practice issued under this section may include such practical guidance as the Commission think fit as to what steps it is reasonably practicable for persons to take for the purpose of preventing their staff from doing in the course of their duties acts made unlawful by this Act.

**General
statutory
duty:
compliance
notices**

71D. - (1) If the Commission are satisfied that a person has failed to comply with, or is failing to comply with, any duty imposed by an order under section 71(2), the Commission may serve on that person a notice ("a compliance notice").

(2) A compliance notice shall require the person concerned-

(a) to comply with the duty concerned; and

(b) to inform the Commission, within 28 days of the date on which the notice is served, of the steps that the person has taken, or is taking, to comply with the duty.

(3) A compliance notice may also require the person concerned to furnish the Commission with such other written information as may be reasonably required by the notice in order to verify that the duty has been complied with.

(4) The notice may specify-

(a) the time (no later than three months from the date on which the notice is served) at which any information is to be furnished to the Commission;

(b) the manner and form in which any such information is to be so furnished.

(5) A compliance notice shall not require a person to furnish information which the person could not be compelled to furnish in evidence in civil proceedings before the High Court or the Court of Session.

**Enforcement
of compliance
notices**

71E. - (1) The Commission may apply to a designated county court or, in Scotland, a sheriff court for an order requiring a person falling within Schedule 1A to furnish any information required by a compliance notice if-

(a) the person fails to furnish the information to the Commission in accordance with the notice; or

(b) the Commission have reasonable cause to believe that the person does not intend to furnish the information.

(2) If the Commission consider that a person has not, within three months of the date on which a compliance notice was served on that person, complied with any requirement of the notice for that person to comply with a duty imposed by an order under section 71(2), the Commission may apply to a designated county court or, in Scotland, a sheriff court for an order requiring the person to comply with the requirement of the notice.

(3) If the court is satisfied that the application is well-founded, it may grant the order in the terms applied for or in more limited terms.

(4) The sanctions in section 71D and this section shall be the only sanctions for breach of any duty imposed by an order under section 71(2), but without prejudice to the enforcement under section 57 or otherwise of any other provision of this Act (where the breach is also a contravention of that provision).”

(2) Schedule 1 (which inserts Schedule 1A into the 1976 Act) is to have effect.