

# EQUALITY ACT 2010

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## EXPLANATORY NOTES

### INTRODUCTION

#### *Background and summary*

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3. Domestic discrimination law has developed over more than 40 years since the first Race Relations Act in 1965. Subsequently, other personal characteristics besides race have been protected from discrimination and similar conduct, sometimes as a result of domestic initiatives and sometimes through implementing European Directives.
4. The domestic law is now mainly contained in the following legislation (where applicable, as amended):
  - the Equal Pay Act 1970;
  - the Sex Discrimination Act 1975;
  - the Race Relations Act 1976;
  - the Disability Discrimination Act 1995;
  - the Employment Equality (Religion or Belief) Regulations 2003;
  - the Employment Equality (Sexual Orientation) Regulations 2003;
  - the Employment Equality (Age) Regulations 2006;
  - the Equality Act 2006, Part 2;
  - the Equality Act (Sexual Orientation) Regulations 2007.
5. The main European Directives affecting domestic discrimination legislation are:
  - Council Directive [2000/43/EC](#) implementing the principle of equal treatment between persons irrespective of racial or ethnic origin;
  - Council Directive [2000/78/EC](#) establishing a general framework for equal treatment in employment and occupation;
  - Council Directive [2004/113/EC](#) implementing the principle of equal treatment between men and women in the access to and supply of goods and services;
  - European Parliament and Council Directive [2006/54/EC](#) on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast). Also relevant in this context is Article 157 of the Treaty on the Functioning of the European Union.
6. In addition, in July 2008 the European Commission published a new draft Directive which would prohibit discrimination because of disability, religion or belief, sexual orientation and age, in access to goods and services, housing, education, social protection, social security and social advantage. This Directive is under negotiation.

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7. In February 2005, the Government set up the Discrimination Law Review to address long-term concerns about inconsistencies in the current discrimination law framework. The Review was tasked with considering the fundamental principles of discrimination legislation and its underlying concepts, and the opportunities for creating a clearer and more streamlined framework of equality legislation which produces better outcomes for those who experience disadvantage.
8. In June 2007 the Department for Communities and Local Government published a consultation paper, *A Framework for Fairness: Proposals for a Single Equality Bill for Great Britain*. This was followed in June and July 2008 by two Command Papers published by the Government Equalities Office: *Framework for a Fairer Future – the Equality Bill (Cm 7431)*; and *The Equality Bill – Government Response to the Consultation (Cm 7454)*. In January 2009, the Government published the *New Opportunities White Paper (Cm 7533)* which, amongst other things, committed the Government to considering legislation to address disadvantage associated with socio-economic inequality.
9. The following further documents were published by the Government Equalities Office during the passage of the Bill that became the Equality Act: in April 2009, *Equality Bill: Assessing the impact of a multiple discrimination provision* (a summary of responses was published in October 2009); in June 2009, *Equality Bill: Making it work - Policy proposals for specific duties*; and in January 2010 *Equality Bill: Making it work - Ending age discrimination in services and public functions*.

### **Summary**

10. The Act has two main purposes – to harmonise discrimination law, and to strengthen the law to support progress on equality.
11. The Act brings together and re-states all the enactments listed in paragraph 4 above and a number of other related provisions. It will harmonise existing provisions to give a single approach where appropriate. Most of the existing legislation will be repealed. The Equality Act 2006 will remain in force (as amended by the Act) so far as it relates to the constitution and operation of the Equality and Human Rights Commission; as will the Disability Discrimination Act 1995, so far as it relates to Northern Ireland.
12. The Act also strengthens the law in a number of areas. It:
  - places a new duty on certain public bodies to consider socio-economic disadvantage when making strategic decisions about how to exercise their functions;
  - extends the circumstances in which a person is protected against discrimination, harassment or victimisation because of a protected characteristic;
  - extends the circumstances in which a person is protected against discrimination by allowing people to make a claim if they are directly discriminated against because of a combination of two relevant protected characteristics;
  - creates a duty on listed public bodies when carrying out their functions and on other persons when carrying out public functions to have due regard when carrying out their functions to: the need to eliminate conduct which the Act prohibits; the need to advance equality of opportunity between persons who share a relevant protected characteristic and those who do not; and the need to foster good relations between people who share a relevant protected characteristic and people who do not. The practical effect is that listed public bodies will have to consider how their policies, programmes and service delivery will affect people with the protected characteristics;
  - allows an employer or service provider or other organisation to take positive action so as to enable existing or potential employees or customers to overcome or minimise a disadvantage arising from a protected characteristic;

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- extends the permission for political parties to use women-only shortlists for election candidates to 2030;
- enables an employment tribunal to make a recommendation to a respondent who has lost a discrimination claim to take certain steps to remedy matters not just for the benefit of the individual claimant (who may have already left the organisation concerned) but also the wider workforce;
- amends family property law to remove discriminatory provisions and provides additional statutory property rights for civil partners in England and Wales;
- amends the Civil Partnership Act 2004 to remove the prohibition on civil partnerships being registered in religious premises.