

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Equality: Key Concepts

Chapter 2: Prohibited conduct

Section 13: Direct discrimination

Effect

58. This section defines direct discrimination for the purposes of the Act.
59. Direct discrimination occurs where the reason for a person being treated less favourably than another is a protected characteristic listed in section 4. This definition is broad enough to cover cases where the less favourable treatment is because of the victim's association with someone who has that characteristic (for example, is disabled), or because the victim is wrongly thought to have it (for example, a particular religious belief).
60. However, a different approach applies where the reason for the treatment is marriage or civil partnership, in which case only less favourable treatment because of the victim's status amounts to discrimination. It must be the victim, rather than anybody else, who is married or a civil partner.
61. This section uses the words "because of" where the previous legislation contains various definitions using the words "on grounds of". This change in wording does not change the legal meaning of the definition, but rather is designed to make it more accessible to the ordinary user of the Act.
62. The section also provides that:
 - for age, different treatment that is justified as a proportionate means of meeting a legitimate aim is not direct discrimination;
 - in relation to disability it is not discrimination to treat a disabled person more favourably than a person who is not disabled;
 - racial segregation is always discriminatory;
 - in non-work cases, treating a woman less favourably because she is breast-feeding a baby who is more than six months old amounts to direct sex discrimination; and
 - men cannot claim privileges for women connected with pregnancy or childbirth.