

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8: Prohibited Conduct: Ancillary

Section 112: Aiding contraventions

Effect

368. This section makes it unlawful for a person to help someone carry out an act which he or she knows is unlawful under the Act. However, this is not unlawful if the person giving assistance has been told that the act is lawful and he or she reasonably believes this to be true.
369. It makes it an offence, punishable by a fine of (currently) up to £5,000, knowingly or recklessly to make a false statement about the lawfulness of doing something under the Act.
370. For the purposes of enforcement, breaches of the prohibition on aiding contraventions are dealt with under the same procedures in the Act as the contraventions themselves.

Background

371. This section is designed to replicate the effect of similar provisions in previous legislation. It ensures that a person who helps another to do something which he or she knows to be prohibited by the Act is liable in his or her own right. Taken together with the provisions on “Liability of employers and principals” (section 109), “Liability of employees and agents” (section 110) and “Instructing, causing or inducing contraventions” (section 111) this section is designed to ensure that both the person carrying out an unlawful act and any person on whose behalf or with whose help he or she was acting can be held to account where appropriate.

Example

- On finding out that a new tenant is gay, a landlord discriminates against him by refusing him access to certain facilities, claiming that they are not part of the tenancy agreement. Another tenant knows this to be false but joins in with the landlord in refusing the new tenant access to the facilities in question. The new tenant can bring a discrimination claim against both the landlord and the tenant who helped him.