
STATUTORY INSTRUMENTS

2023 No. 1425

The Equality Act 2010 (Amendment) Regulations 2023

Indirect discrimination: same disadvantage

- 3.—(1) The Equality Act 2010 is amended in accordance with paragraphs (2) to (7).
(2) After section 19 (indirect discrimination) insert—

“19A Indirect discrimination: same disadvantage

- (1) A person (A) discriminates against another (B) if—
- (a) A applies to B a provision, criterion or practice,
 - (b) A also applies, or would apply, the provision, criterion or practice to—
 - (i) persons who share a relevant protected characteristic, and
 - (ii) persons who do not share that relevant protected characteristic,
 - (c) B does not share that relevant protected characteristic,
 - (d) the provision, criterion or practice puts, or would put, persons with the relevant protected characteristic at a particular disadvantage when compared with persons who do not share the relevant protected characteristic,
 - (e) the provision, criterion or practice puts, or would put, B at substantively the same disadvantage as persons who do share the relevant protected characteristic, and
 - (f) A cannot show that the provision, criterion or practice is a proportionate means of achieving a legitimate aim.
- (2) The relevant protected characteristics for the purposes of this section are—
- age;
 - disability;
 - gender reassignment;
 - marriage and civil partnership;
 - race;
 - religion or belief;
 - sex;
 - sexual orientation.”.
- (3) In section 23(1) (comparison by reference to circumstances), for “or 19” substitute “19 or 19A”.
- (4) In section 25 (references to particular strands of discrimination), in each of the following places after “section 19” insert “or 19A” —
- (a) subsection (1)(b);
 - (b) subsection (2)(c);
 - (c) subsection (3)(c);

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- (d) subsection (4)(b);
 - (e) subsection (6)(b);
 - (f) subsection (7)(b);
 - (g) subsection (8)(b);
 - (h) subsection (9)(b).
- (5) In section 119(5)(a) (remedies), after “section 19” insert “or 19A”.
- (6) In section 124(4)(a) (remedies: general), after “section 19” insert “or 19A”.
- (7) In Schedule 28 (definitions), in the second column of the row beginning “Discrimination”, for “19” substitute “19A”.
- (8) In section 24A(1)(e) of the Equality Act 2006 (enforcement powers: supplemental)(**1**), after “section 19” insert “or 19A”.

(1) 2006 c. 3. Section 24A was inserted by paragraph 68 of Schedule 26 to the Equality Act 2010.