

Equality Act 2010 c. 15

Part 2 EQUALITY: KEY CONCEPTS

Chapter 1 PROTECTED CHARACTERISTICS

This version in force from: **October 1, 2010** to **present**

(version 1 of 1)

5 Age

(1) In relation to the protected characteristic of age—

(a) a reference to a person who has a particular protected characteristic is a reference to a person of a particular age group;

(b) a reference to persons who share a protected characteristic is a reference to persons of the same age group.

(2) A reference to an age group is a reference to a group of persons defined by reference to age, whether by reference to a particular age or to a range of ages.

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Subject: Employment **Other related subjects:** Human rights

Keywords: Age; Protected characteristics

Equality Act 2010 c. 15
Part 2 EQUALITY: KEY CONCEPTS
Chapter 2 PROHIBITED CONDUCT
Discrimination

This version in force from: **October 1, 2010** to **present**

(version 1 of 1)

13 Direct discrimination

(1) A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.

(2) If the protected characteristic is age, A does not discriminate against B if A can show A's treatment of B to be a proportionate means of achieving a legitimate aim.

(3) If the protected characteristic is disability, and B is not a disabled person, A does not discriminate against B only because A treats or would treat disabled persons more favourably than A treats B.

(4) If the protected characteristic is marriage and civil partnership, this section applies to a contravention of Part 5 (work) only if the treatment is because it is B who is married or a civil partner.

(5) If the protected characteristic is race, less favourable treatment includes segregating B from others.

(6) If the protected characteristic is sex—

(a) less favourable treatment of a woman includes less favourable treatment of her because she is breast-feeding;

(b) in a case where B is a man, no account is to be taken of special treatment afforded to a woman in connection with pregnancy or childbirth.

(7) Subsection (6)(a) does not apply for the purposes of Part 5 (work).

(8) This section is subject to sections 17(6) and 18(7).

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Subject: Employment **Other related subjects:** Human rights

Keywords: Direct discrimination; Protected characteristics

Equality Act 2010 c. 15
Part 2 EQUALITY: KEY CONCEPTS
Chapter 2 PROHIBITED CONDUCT

Discrimination

This version in force from: **October 1, 2010** to **present**

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19 Indirect discrimination

(1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.

(2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if—

(a) A applies, or would apply, it to persons with whom B does not share the characteristic,

(b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,

(c) it puts, or would put, B at that disadvantage, and

(d) A cannot show it to be a proportionate means of achieving a legitimate aim.

(3) The relevant protected characteristics are—

age;

disability;

gender reassignment;

marriage and civil partnership;

race;

religion or belief;

sex;

sexual orientation.

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Subject: Employment **Other related subjects:** Human rights

Keywords: Indirect discrimination; Protected characteristics

Equality Act 2010 c. 15
Part 2 EQUALITY: KEY CONCEPTS
Chapter 2 PROHIBITED CONDUCT
Other prohibited conduct

This version in force from: **October 1, 2010** to **present**

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26 Harassment

- (1) A person (A) harasses another (B) if—
- (a) A engages in unwanted conduct related to a relevant protected characteristic, and
 - (b) the conduct has the purpose or effect of—
 - (i) violating B's dignity, or
 - (ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.
- (2) A also harasses B if—
- (a) A engages in unwanted conduct of a sexual nature, and
 - (b) the conduct has the purpose or effect referred to in subsection (1)(b).
- (3) A also harasses B if—
- (a) A or another person engages in unwanted conduct of a sexual nature or that is related to gender reassignment or sex,
 - (b) the conduct has the purpose or effect referred to in subsection (1)(b), and
 - (c) because of B's rejection of or submission to the conduct, A treats B less favourably than A would treat B if B had not rejected or submitted to the conduct.
- (4) In deciding whether conduct has the effect referred to in subsection (1)(b), each of the following must be taken into account—
- (a) the perception of B;
 - (b) the other circumstances of the case;
 - (c) whether it is reasonable for the conduct to have that effect.
- (5) The relevant protected characteristics are—
- age;

disability;
gender reassignment;
race;
religion or belief;
sex;
sexual orientation.

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Subject: Employment **Other related subjects:** Human rights

Keywords: Harassment; Protected characteristics

Equality Act 2010 c. 15
Part 2 EQUALITY: KEY CONCEPTS
Chapter 2 PROHIBITED CONDUCT
Other prohibited conduct

This version in force from: **October 1, 2010** to **present**

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27 Victimisation

- (1) A person (A) victimises another person (B) if A subjects B to a detriment because—
- (a) B does a protected act, or
 - (b) A believes that B has done, or may do, a protected act.
- (2) Each of the following is a protected act—
- (a) bringing proceedings under this Act;
 - (b) giving evidence or information in connection with proceedings under this Act;
 - (c) doing any other thing for the purposes of or in connection with this Act;
 - (d) making an allegation (whether or not express) that A or another person has contravened this Act.
- (3) Giving false evidence or information, or making a false allegation, is not a protected act if the evidence or information is given, or the allegation is made, in bad faith.
- (4) This section applies only where the person subjected to a detriment is an individual.
- (5) The reference to contravening this Act includes a reference to committing a breach of an equality clause or rule.

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Subject: Employment **Other related subjects:** Human rights

Keywords: Equal treatment; Victimisation

Equality Act 2010 c. 15

Part 3 SERVICES AND PUBLIC FUNCTIONS

Preliminary

This version in force from: **October 1, 2010** to **present**

(version 1 of 1)

28 Application of this Part

- (1) This Part does not apply to the protected characteristic of—
 - (a) age, so far as relating to persons who have not attained the age of 18;
 - (b) marriage and civil partnership.

- (2) This Part does not apply to discrimination, harassment or victimisation—
 - (a) that is prohibited by Part 4 (premises), 5 (work) or 6 (education), or
 - (b) that would be so prohibited but for an express exception.

- (3) This Part does not apply to—
 - (a) a breach of an equality clause or rule;
 - (b) anything that would be a breach of an equality clause or rule but for section 69 or Part 2 of Schedule 7;
 - (c) a breach of a non-discrimination rule.

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Subject: Employment **Other related subjects:** Human rights; Local government

Keywords: Equal treatment; Public functions; Public services

Equality Act 2010 c. 15

Part 3 SERVICES AND PUBLIC FUNCTIONS

Provision of services, etc.

This version in force from: **October 1, 2010** to **present**

(version 1 of 1)

29 Provision of services, etc.

(1) A person (a “service-provider”) concerned with the provision of a service to the public or a section of the public (for payment or not) must not discriminate against a person requiring the service by not providing the person with the service.

(2) A service-provider (A) must not, in providing the service, discriminate against a person (B)—

(a) as to the terms on which A provides the service to B;

(b) by terminating the provision of the service to B;

(c) by subjecting B to any other detriment.

(3) A service-provider must not, in relation to the provision of the service, harass—

(a) a person requiring the service, or

(b) a person to whom the service-provider provides the service.

(4) A service-provider must not victimise a person requiring the service by not providing the person with the service.

(5) A service-provider (A) must not, in providing the service, victimise a person (B)—

(a) as to the terms on which A provides the service to B;

(b) by terminating the provision of the service to B;

(c) by subjecting B to any other detriment.

(6) A person must not, in the exercise of a public function that is not the provision of a service to the public or a section of the public, do anything that constitutes discrimination, harassment or victimisation.

(7) A duty to make reasonable adjustments applies to—

(a) a service-provider (and see also section 55(7));

(b) a person who exercises a public function that is not the provision of a service to the public or a section of the public.

(8) In the application of section 26 for the purposes of subsection (3), and subsection (6) as it relates to harassment, neither of the following is a relevant protected characteristic—

(a) religion or belief;

(b) sexual orientation.

(9) In the application of this section, so far as relating to race or religion or belief, to the granting of entry clearance (within the meaning of the Immigration Act 1971), it does not matter whether an act is done within or outside the United Kingdom.

(10) Subsection (9) does not affect the application of any other provision of this Act to conduct outside England and Wales or Scotland.

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Subject: Employment **Other related subjects:** Human rights; Local government

Keywords: Discrimination; Harassment; Powers rights and duties; Public functions; Reasonable adjustments; Service providers; Victimisation

Equality Act 2010 c. 15

Part 11 ADVANCEMENT OF EQUALITY

Chapter 2 POSITIVE ACTION

This version in force from: **October 1, 2010** to **present**

(version 1 of 1)

158 Positive action: general

- (1) This section applies if a person (P) reasonably thinks that—
- (a) persons who share a protected characteristic suffer a disadvantage connected to the characteristic,
 - (b) persons who share a protected characteristic have needs that are different from the needs of persons who do not share it, or
 - (c) participation in an activity by persons who share a protected characteristic is disproportionately low.
- (2) This Act does not prohibit P from taking any action which is a proportionate means of achieving the aim of—
- (a) enabling or encouraging persons who share the protected characteristic to overcome or minimise that disadvantage,
 - (b) meeting those needs, or
 - (c) enabling or encouraging persons who share the protected characteristic to participate in that activity.
- (3) Regulations may specify action, or descriptions of action, to which subsection (2) does not apply.
- (4) This section does not apply to—
- (a) action within section 159(3), or
 - (b) anything that is permitted by virtue of section 104.
- (5) If section 104(7) is repealed by virtue of section 105, this section will not apply to anything that would have been so permitted but for the repeal.
- (6) This section does not enable P to do anything that is prohibited by or under an enactment other than this Act.

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Subject: Employment

Keywords: Positive action

Equality Act 2010 c. 15

Part 11 ADVANCEMENT OF EQUALITY

Chapter 2 POSITIVE ACTION

This version in force from: **October 1, 2010** to **present**

(version 1 of 1)

159 Positive action: recruitment and promotion

- (1) This section applies if a person (P) reasonably thinks that—
- (a) persons who share a protected characteristic suffer a disadvantage connected to the characteristic, or
 - (b) participation in an activity by persons who share a protected characteristic is disproportionately low.
- (2) Part 5 (work) does not prohibit P from taking action within subsection (3) with the aim of enabling or encouraging persons who share the protected characteristic to—
- (a) overcome or minimise that disadvantage, or
 - (b) participate in that activity.
- (3) That action is treating a person (A) more favourably in connection with recruitment or promotion than another person (B) because A has the protected characteristic but B does not.
- (4) But subsection (2) applies only if—
- (a) A is as qualified as B to be recruited or promoted,
 - (b) P does not have a policy of treating persons who share the protected characteristic more favourably in connection with recruitment or promotion than persons who do not share it, and
 - (c) taking the action in question is a proportionate means of achieving the aim referred to in subsection (2).
- (5) “Recruitment” means a process for deciding whether to—
- (a) offer employment to a person,
 - (b) make contract work available to a contract worker,
 - (c) offer a person a position as a partner in a firm or proposed firm,
 - (d) offer a person a position as a member of an LLP or proposed LLP,
 - (e) offer a person a pupillage or tenancy in barristers' chambers,

(f) take a person as an advocate's devil or offer a person membership of an advocate's stable,

(g) offer a person an appointment to a personal office,

(h) offer a person an appointment to a public office, recommend a person for such an appointment or approve a person's appointment to a public office, or

(i) offer a person a service for finding employment.

(6) This section does not enable P to do anything that is prohibited by or under an enactment other than this Act.

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Subject: Employment

Keywords: Positive action; Promotion; Recruitment

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Part 14 GENERAL EXCEPTIONS

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(version 1 of 1)

191 Statutory provisions

Schedule 22 (statutory provisions) has effect.

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Subject: Education **Other related subjects:** Employment; Human rights; Transport

Keywords: Equal treatment; Exemptions; Statutory provisions

Equality Act 2010 c. 15

Part 16 GENERAL AND MISCELLANEOUS

Final provisions

This version in force from: **April 8, 2010 to present**

(version 1 of 1)

217 Extent

- (1) This Act forms part of the law of England and Wales.
- (2) This Act, apart from section 190 (improvements to let dwelling houses) and Part 15 (family property), forms part of the law of Scotland.
- (3) Each of the following also forms part of the law of Northern Ireland—
 - (a) section 82 (offshore work);
 - (b) section 105(3) and (4) (expiry of Sex Discrimination (Election Candidates) Act 2002);
 - (c) section 199 (abolition of presumption of advancement).

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Subject: Education **Other related subjects:** Employment; Human rights; Transport

Keywords: Equal treatment; Extent

Equality Act 2010 c. 15

Schedule 3 SERVICES AND PUBLIC FUNCTIONS: EXCEPTIONS

Part 5 Insurance and other financial services

This version in force from: **October 1, 2012** to **present**

(version 1 of 1)

[

20A.— Age

(1) A person (A) does not contravene section 29, so far as relating to age discrimination, by doing anything in connection with the provision of a financial service.

(2) Where A conducts an assessment of risk for the purposes of providing the financial service to another person (B), A may rely on sub-paragraph (1) only if the assessment of risk, so far as it involves a consideration of B's age, is carried out by reference to information which is relevant to the assessment of risk and from a source on which it is reasonable to rely.

(3) In this paragraph, "financial service" includes a service of a banking, credit, insurance, personal pension, investment or payment nature.

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1. Added by Equality Act 2010 (Age Exceptions) Order 2012/2466 art.3 (October 1, 2012)

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Subject: Employment **Other related subjects:** Immigration

Keywords: Age discrimination; Exemptions; Immigration; Public functions; Risk assessment

Equality Act 2010 c. 15

Schedule 3 SERVICES AND PUBLIC FUNCTIONS: EXCEPTIONS

Part 7 Separate, single and concessionary services, etc

This version in force from: **October 1, 2012** to **present**

(version 1 of 1)

[

30A.— Concessions

(1) A person does not contravene section 29, so far as relating to age discrimination, by giving a concession in respect of a service to persons of a particular age group.

(2) The reference to a concession in respect of a service is a reference to a benefit, right or privilege having the effect that the manner in which the service is provided is, or the terms on which it is provided are, more favourable than the manner in which, or the terms on which, it is usually provided to the public (or, where it is provided to a section of the public, that section).

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1. Added by Equality Act 2010 (Age Exceptions) Order 2012/2466 art.4(1) (October 1, 2012)

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Subject: Human rights

Keywords: Concessions; Exemptions; Public functions

Equality Act 2010 c. 15

Schedule 3 SERVICES AND PUBLIC FUNCTIONS: EXCEPTIONS

Part 7 Separate, single and concessionary services, etc

This version in force from: **October 1, 2012 to present**

(version 1 of 1)

[

30C.— Age restricted services

(1) This paragraph applies where a person (P)—

(a) provides a service the provision of which is prohibited by or under an enactment to persons under the age specified in or under the enactment (“the statutory age”), and

(b) displays on the premises on which the service is provided an age warning in relation to the provision of the service.

(2) An age warning in relation to the provision of a service is a statement to the effect that the service will not be provided to a person who—

(a) appears to P, or an employee or agent of P's, to be under the age specified in the statement, and

(b) on being required to do so by P or the employee or agent, fails to produce satisfactory identification.

(3) P does not contravene section 29, so far as relating to age discrimination, by not providing the service to a person, who—

(a) appears to P, or an employee or agent of P's, to be under the age specified in the age warning in relation to the provision of the service, and

(b) on being required to do so by P or the employee or agent, fails to produce satisfactory identification.

(4) In this paragraph—

(a) a reference to the provision of a service includes a reference to provision of access to the service, and

(b) “satisfactory identification”, in relation to a person, means a valid document which—

(i) in the case of licensed premises where an age condition applies, meets that condition, and

(ii) in any other case includes a photograph of the person and establishes that the person has attained the statutory age in relation to the provision of a service;

“licensed premises” means premises in respect of which a relevant premises licence within the meaning of section 19A of the Licensing Act 2003 ² (mandatory conditions where alcohol sold) has effect; and

“age condition” means a condition specified in an order under subsection (1) of section 19A of that Act requiring the age of certain persons to be verified in the manner specified in the condition before they are served alcohol in premises where the condition applies.

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1. Added by Equality Act 2010 (Age Exceptions) Order 2012/2466 art.6 (October 1, 2012)
 2. Section 19A was inserted by section 32 of and paragraph 2 in Part 1 of Schedule 4 to the Policing and Crime Act 2009 (c.26). The Licensing Act 2003 (Mandatory Licensing Conditions) Order (S.I. 2010/860) specifies mandatory conditions including an age condition.

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Subject: Human rights

Keywords: Age; Exemptions; Public functions; Restrictions

