

# What is this Equality Act 2010 Really About?

September 2010



## Introduction

The Equality Act is the single largest piece of anti-discrimination legislation to be created in this country. The Act will bring together and re-state the existing discrimination legislation. The aim of the Act is to make the laws surrounding discrimination easier to understand and help employers to make workplaces fair environments.

## When does it happen?

The majority of the Act will come into force on 1 October 2010. However, certain elements will come into force at different times to allow time for the people and organisations affected by the new laws to prepare for them.

## Changes, big and small

The Act will protect individuals on the grounds of sex, race, age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion or belief (including lack of belief) and sexual orientation. These are called the 'protected characteristics'.

The definition of gender reassignment has been broadened and disability changed slightly, making it easier for employees to fall within this definition.

Significantly however, employees will not need to show that they themselves have a protected characteristic. Instead, if they can show they have been treated less favourably because they associate with someone who, for example, has a certain sexual orientation or is of a certain race, then this is potentially discriminatory.

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Furthermore, claims will also be able to be made on the basis of perception (even if it is mistaken) of a protected characteristic. So, for example, if an individual is not sent to client meetings because the employer thinks they are younger than they are, this is potentially discriminatory on the grounds of perception of age.

The Act will also prohibit the use of pre-employment questionnaires before a job offer is made. These should only be used in very limited circumstances and strictly to assess a candidate's ability to perform an 'intrinsic function' of the job. However, employers will still be able to ask generic health questions once a job offer is made.

Employers should also be aware that they are potentially liable if their employees are harassed by people they don't employ such as external suppliers or customers.

## Are salaries confidential?

A further change being brought in by this Act is in relation to pay secrecy. If your employee's contract of employment requires them to keep their own pay secret, the Act makes this requirement unenforceable. This is envisaged to be a problem in many organisations, especially in smaller businesses that often have this included in confidentiality statements.

This doesn't mean employers have to disclose the pay of individuals to other employees in the business; they just won't be able to take action if an employee decides to share this information. Action can still be taken against employees who, because of their roles (e.g. managers, payroll or HR personnel), have knowledge of salaries. They can still be required to keep this confidential.

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## More than employment...

The scope of this Act is far greater than previous legislation and extends well beyond the workplace to cover the provision of goods and services to consumers. This has potentially far reaching consequences. Just consider the comments of Chris Grayling, Shadow Home Secretary, to owners of a B&B suggesting that it would be fair to allow them to discriminate against guests on the grounds of sexual orientation. Under this new Act, it's unlawful discrimination.

## What should employers do?

As successful discrimination claims have unlimited financial liability, employers need to take notice of this new Act. At HR Insight, we would urge you to:

- Review your Equal Opportunities Policy and your contracts to make sure it covers the new provisions
- Train your managers so that they clearly understand what constitutes discrimination, especially in areas around association and perception. As a minimum, please do forward to them this Factsheet!
- Re-issue your Equal Opportunities Policy, making it clear that your organisation will not tolerate acts that could be considered discriminatory.

## Want to discuss?

If you want to discuss this Act or have specific concerns about any employment related matter, please call us on 01708 758958 or visit us at [www.hrinsight.co.uk](http://www.hrinsight.co.uk).

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