

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8: Prohibited Conduct: Ancillary

Section 108: Relationships that have ended

Effect

349. This section makes it unlawful to discriminate against or harass someone after a relationship covered by the Act has ended.
350. It covers any former relationship in which the Act prohibits one person from discriminating against or harassing another, such as in employment, or in the provision of goods, facilities and services. It is designed to ensure that treatment of the kind made unlawful by the Act which results from, and is closely linked to, the existence of a relationship is still unlawful even though the relationship no longer exists.
351. This provision applies to conduct which takes place after the Act is commenced, whether or not the relationship in question ended before that date. If the conduct occurred before this section was commenced, it would be dealt with under the previous legislation.
352. This section also requires reasonable adjustments to be made for disabled people even after a relationship has ended, if they continue to be at a substantial disadvantage in comparison with people without a disability. A person will be considered to have discriminated against a disabled person if he or she fails to comply with the duty to make reasonable adjustments.
353. A breach of this section triggers the same enforcement procedures as if the treatment had occurred during the relationship. However, if the treatment which is being challenged constitutes victimisation, it will be dealt with under the victimisation provisions and not under this section.

Background

354. This section replaces similar provisions in previous legislation. It also extends the protection after a relationship has ended to cover discrimination outside the workplace because of religion or belief and sexual orientation. It will provide similar protection against age discrimination and harassment outside the workplace when the age protection provisions are commenced.

Examples

- A school or employer refuses to give a reference to an ex-pupil or ex-employee because of his or her religion or belief. This would be direct discrimination.
- A builder or plumber addresses abusive and hostile remarks to a previous customer because of her sex after their business relationship has ended. This would be harassment. It would

*These notes refer to the Equality Act 2010 (c.15)
which received Royal Assent on 8 April 2010*

not be harassment, however, where the reason for the treatment was not the customer's sex but, for example, a dispute over payment.

- A disabled former employee's benefits include life-time use of the company's in-house gym facilities. The employer or owner of the premises must make reasonable adjustments to enable the former employee to continue using the facilities even after she has retired.