

# EQUALITY ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 8: Prohibited Conduct: Ancillary**

#### ***Section 111: Instructing, causing or inducing contraventions***

#### **Background**

367. This section replaces provisions in previous legislation in relation to race, sex, gender reassignment, pregnancy and maternity, age (within the workplace) disability (within the workplace), religion or belief (outside the workplace) and sexual orientation (outside the workplace). It extends protection to all protected characteristics in all areas covered by the Act and allows the Equality and Human Rights Commission to bring enforcement proceedings in relation to any action in breach of the section. (Previously, the Equality and Human Rights Commission's enforcement powers were not uniform even between the protected characteristics and fields where there were provisions on instructions to discriminate.) The provision expressly allowing persons instructed to bring proceedings is new (other than in relation to age within the workplace where such provision already exists), and is designed to codify the current position in common law (see *Weathersfield v Sargent* [1999] IRLR 94). The provision expressly allowing the intended victim to bring proceedings, even where the instruction is not carried out, is also new and is designed to ensure greater clarity about the protection than under previous legislation.