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STATUTORY INSTRUMENTS

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**2010 No. 2194**

**EQUALITY**

**The Equality Act 2010 (Obtaining Information) Order 2010**

*Made* - - - - *2nd September 2010*  
*Laid before Parliament* *7th September 2010*  
*Coming into force* - - *1st October 2010*

The Secretary of State makes the following Order in exercise of the powers conferred by section 138(2), 138(5)(d) and (e), 138(7) and section 207(1) and (4)(a) of the Equality Act 2010<sup>(1)</sup>:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Equality Act 2010 (Obtaining Information) Order 2010 and comes into force on 1st October 2010.

(2) In the Order “the Act” means the Equality Act 2010.

**Forms for obtaining information — prohibited conduct**

2. In relation to a contravention of the Act other than a breach of an equality clause or rule—

- (a) the form prescribed for the purposes of section 138(2)(a) of the Act is the form set out in Part 1 of Schedule 1 or a form to the like effect with such variations as the circumstances may require, and
- (b) the form prescribed for the purposes of section 138(2)(b) of the Act is the form set out in Part 2 of Schedule 1 or a form to the like effect with such variations as the circumstances may require.

**Forms for obtaining information — equality of terms**

3. In relation to a breach of an equality clause or rule—

- (a) the form prescribed for the purposes of section 138(2)(a) of the Act is the form set out in Part 1 of Schedule 2 or a form to the like effect with such variations as the circumstances may require, and

- (b) the form prescribed for the purposes of section 138(2)(b) of the Act is the form set out in Part 2 of Schedule 2 or a form to the like effect with such variations as the circumstances may require.

#### **Period for service of questions**

- 4. In order to be admissible under section 138(3) of the Act a question must be served—
  - (a) before proceedings under the Act relating to the contravention are commenced, or
  - (b) where proceedings under the Act relating to the contravention have been commenced, before—
    - (i) the end of the period of 28 days beginning on the day on which proceedings were commenced, or
    - (ii) such later time as the court or tribunal specifies.

#### **Manner of service for questions and answers**

- 5.—(1) P may serve a question on R—
  - (a) by delivering it to R or by sending it by post to R at R's usual or last-known residence or place of business, or
  - (b) if R has indicated in writing to P that R is willing to accept service of the question by electronic means, by sending it by electronic means to the number, address or other electronic identification given by R for the purpose.
- (2) R may serve an answer on P—
  - (a) by delivering it to P or by sending it by post to P at the address stated on the document containing the question, or, if no address is stated, at P's usual or last-known residence or place of business, or
  - (b) if P has stated on the document containing the question or has otherwise indicated in writing to R that P is willing to accept service of the answer by electronic means, by sending it by electronic means to the number, address or other electronic identification given by P for the purpose.
- (3) Where P or R is acting by a solicitor, a question or answer may be served—
  - (a) by delivering it at, or by sending it by post to, the solicitor's address for service, or
  - (b) if the solicitor has indicated in writing to P or R as the case may be that he or she is willing to accept service of the question or answer by electronic means, by sending it by electronic means to the number, address or other electronic identification given by the solicitor for the purpose.
- (4) Where P or R is a body corporate, or is a trade union or employers' association within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(2), a question or answer may be served—
  - (a) by delivering it to the secretary or clerk of the body, union or association at its registered or principal office, or by sending it by post to the secretary or clerk at that office, or
  - (b) if the secretary or clerk has indicated in writing to P or R as the case may be that he or she is willing to accept service of the question or answer by electronic means, by sending it by electronic means to the number, address or other electronic identification given by the secretary or clerk for the purpose.
- (5) For the purposes of service by electronic means—

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(2) 1992 c.52.

- (a) the following are to be taken as sufficient written indications—
  - (i) a number, address or other electronic identification set out on the writing paper of the person to be served, or, in the case of P, on the document containing the question, or
  - (ii) where the person to be served is acting by a solicitor, a number, address or other electronic identification set out on the writing paper of the solicitor, but for service other than by fax, only where it is stated that the number, address or other electronic identification may be used for service.
- (b) a question or answer is deemed to be served—
  - (i) if it is sent on a business day before 4:30pm, on that day, or
  - (ii) in any other case, on the next business day after the day on which it was sent.
- (6) For the purpose of paragraph (5)(b)—
  - (a) “business day” means any day except Saturday, Sunday, a bank holiday, Good Friday or Christmas Day, and
  - (b) “bank holiday” means a bank holiday under the Banking and Financial Dealings Act 1971(3) in the part of the United Kingdom where service is to take place.

### **National security**

6. For the purposes of section 138(5)(d) and (e) of the Act the circumstances specified are where R reasonably asserts that the reason for failing to answer or for giving an evasive or equivocal answer is the purpose of safeguarding national security.

2nd September 2010

*Theresa May*  
Secretary of State for the Home Department

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SCHEDULE 1

Article 2

Obtaining information on prohibited conduct

PART 1

Questions Form

(For P)

1. To.....(name of the person to be questioned (R))  
of.....(address)

2. I..... (name of the person asking questions (P))  
of.....(address)

think that you may have treated me in a way which is unlawful under the Equality Act 2010.

3. I think that the treatment I received may have been unlawful under the Act because of:

- Age  Disability  Gender Reassignment
- Marriage and Civil Partnership  Pregnancy and Maternity  Race
- Religion or Belief  Sex  Sexual Orientation

4. I think that the treatment I received amounted to:

- Direct Discrimination  Indirect Discrimination  Harassment
- Victimisation  Failure to make Reasonable Adjustments for Disabled Persons
- Gender Reassignment Discrimination  Discrimination arising from Disability
- Pregnancy and Maternity Discrimination

5. (If applicable) I think that you instructed, caused or induced or that you aided another person to treat me in a way which is unlawful under the Act as set out in paragraphs 3 and 4 of this questions form.

6. (Give date, approximate time and factual description of the treatment received and of the circumstances leading up to the treatment)

7. (If possible, give the reason(s) why you think that the treatment you have received was unlawful under the Act)

8. My questions to you are:

- (1) Do you agree that the statement at paragraph 6 above is an accurate description of what happened?
- (2) If not, in what respect do you disagree or what is your version of what happened?
- (3) Do you agree that your treatment of me was unlawful under the Act as set out at paragraphs 3 to 5 above? If not:
  - (a) why not?
  - (b) what was the reason for your treatment of me?
  - (c) did considerations of the protected characteristic stated in paragraph 3 affect your treatment of me and if so, how?
- (4) (Any other relevant question(s) to R)

9. Please send your answers to my home address above

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## PART 2

### Answers Form

(For R)

1. To.....(name of the person asking questions (P))  
of.....(address of the person asking questions)

2. I.....(name of the person answering questions(R))  
of.....(address)  
acknowledge receipt of the questions form signed by you and dated .....(date)  
which was served on me on .....(date)

3. My answers to the questions at paragraphs 8(1) and (2) of the questions form are:

(1) I agree in full / in part\* that the statement at paragraph 6 of the questions form is an accurate description of what happened   
(If applicable) I agree in full / in part\* because .....

(2) I do not agree that the statement at paragraph 6 of the questions form is an accurate description of what happened   
(If applicable) I do not agree because .....

4. My answers to the questions at paragraph 8(3) of the questions form are:

(1) I agree in full / in part\* that my treatment of you was unlawful under the Act   
(If applicable) I agree in full / in part\* because .....

(2) I do not agree that my treatment of you was unlawful under the Act   
(If applicable) I do not agree because .....

(3) The reasons for your treatment by me and the answers to the other questions at paragraph 8(3) of the questions form are .....

5. (If applicable) My answer(s) to the question(s) at paragraph 8(4) of the questions form are: .....

6. I am unable / unwilling\* to answer the question(s) numbered .....  
of the questions form because.....

(\*delete as appropriate)

.....(signature of R)  
.....(date)

(If applicable)

..... (name of R's representative)  
of.....(address)

.....5..... (signature of R's representative??)  
.....(date)

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SCHEDULE 2

Article 3

Obtaining information on equality of terms

PART 1

Questions Form

(For P)

1. To.....(*name of the person to be questioned (R)*)  
of.....(*address*)

2. I..... (*name of the person asking questions (P)*)  
of.....(*address*)  
think that I may not have received equality of terms in accordance with the Equality Act 2010 for the following reasons:.....  
.....  
(*Give a summary of the reasons why you think that you may not have received equality of terms*)

3. I am claiming equality of terms with the following comparator(s):.....  
.....  
(*Give the name(s) or, if not known, the job title(s) of the person(s) with whom you are claiming equality of terms*)

4. My questions are:

(1) Do you agree that I have not received equality of terms in accordance with the Equality Act 2010?

(2) Do you agree that my work is equal to that of my comparator(s)?

(3) If you do not agree, please explain why you disagree.

(4) Do you agree that I have received less favourable pay or other contractual terms than my comparator(s)?

(5) If you agree that I have received less favourable pay or other contractual terms than my comparator(s), please explain the reason(s) for this difference.

(6) If you do not agree that I have received less favourable pay or other contractual terms than my comparator(s), please explain why you disagree.

5. (*Any other relevant question(s) to R*)

6. Please send your answers to my home address above

or

Please send your answers to the following address:

.....(*address*)

.....(*signature of P*)

.....(*date*)

(*If applicable*)

Please send your answers to ..... (*name of P's representative*)

of .....(*address*)

..... (*signature of P's representative*)

.....(*date*)

By virtue of section 138(3) and (4) of the Act, these questions and any answers are admissible as evidence in proceedings under the Act. A court or tribunal may draw an inference from a failure by R to answer a question by P before the end of the period of 8 weeks beginning with the day on which the question was served or from an evasive or equivocal answer.

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## PART 2

### Answers Form

(For R)

1. To .....(name of the person asking question(s) (P))  
of .....(address)

2. I .....(name of the person answering question(s) (R))  
of .....(address)

acknowledge receipt of the questions form signed by you and dated .....(date)  
which was served on me on.....(date)

3. My answers to your questions at paragraph 4 of the questions form are:

(1) I agree / do not agree\* that you have not received equality of terms in accordance with the Equality Act 2010.

(2) I agree / do not agree\* that you are doing equal work to that of your comparator(s).

(3) I do not agree that you are doing equal work to that of your comparator(s) because.....  
.....

(4) I agree / do not agree\* that you have received less favourable pay or other contractual terms than your comparator(s).

(5) (If applicable) I agree that you have received less favourable pay or other contractual terms than your comparator(s) and the reason for this difference is.....  
.....

(6) (If applicable) I do not agree that you have received less favourable pay or other contractual terms than your comparator(s) because .....  
.....

4. (Answers to any questions at paragraph 5 of the questions form)

5. (If applicable) I am unable / unwilling\* to answer the question(s) numbered.....  
in the questions form because.....

(\*delete as appropriate)

.....(signature of R)  
.....(date)

(If applicable)

.....(name of R's representative)  
of .....(address)

.....(signature of R's representative)  
.....(date)

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order prescribes forms on which a person who thinks that he or she may have been the subject of a contravention of the Equality Act 2010 (“the Act”), including the breach of an equality clause or rule, (P), may ask questions of a person who he or she thinks was responsible for the contravention or breach (R) and also prescribes forms on which R may reply.

Article 2 of this Order prescribes forms for obtaining information about contraventions of the Act other than breaches of the provisions on equality of terms. P may use the questions form in Part 1 of Schedule 1 to the Order and R may use the answers form in Part 2 of that Schedule or P or R may use different forms with the same purpose.

Article 3 prescribes forms for obtaining information about breaches of the equality of terms provisions of the Act. P may use the questions form in Part 1 of Schedule 2 to the Order and R may use the answers form in Part 2 of that Schedule or P or R may use different forms with the same purpose.

Article 4 provides that for any question or answer to be admissible as evidence in proceedings under the Act, P must serve the questions either before the proceedings are commenced or within 28 days of commencement of proceedings or, if later, within a period specified by the court or tribunal.

Article 5 sets out the manner in which questions and answers may be served, including by delivery in person, by post or by electronic means such as fax or email.

Article 6 specifies that where R reasonably asserts that a refusal to answer or an unhelpful answer is due to the purpose of safeguarding national security, then a court or tribunal must not draw an inference from the answer or lack of an answer.

This Order is one of a series of instruments that implement the Act. A full impact assessment of the effect that the Act will have on the costs to business and the voluntary sector is available at the Government Equalities Office website at [www.equalities.gov.uk](http://www.equalities.gov.uk). A separate impact assessment has not been produced for this Order.