



# Equality Act 2010

## 2010 CHAPTER 15

### PART 8

#### PROHIBITED CONDUCT: ANCILLARY

#### **108 Relationships that have ended**

- (1) A person (A) must not discriminate against another (B) if—
  - (a) the discrimination arises out of and is closely connected to a relationship which used to exist between them, and
  - (b) conduct of a description constituting the discrimination would, if it occurred during the relationship, contravene this Act.
- (2) A person (A) must not harass another (B) if—
  - (a) the harassment arises out of and is closely connected to a relationship which used to exist between them, and
  - (b) conduct of a description constituting the harassment would, if it occurred during the relationship, contravene this Act.
- (3) It does not matter whether the relationship ends before or after the commencement of this section.
- (4) A duty to make reasonable adjustments applies to A [<sup>F1</sup>if B is] placed at a substantial disadvantage as mentioned in section 20.
- (5) For the purposes of subsection (4), sections 20, 21 and 22 and the applicable Schedules are to be construed as if the relationship had not ended.
- (6) For the purposes of Part 9 (enforcement), a contravention of this section relates to the Part of this Act that would have been contravened if the relationship had not ended.
- (7) But conduct is not a contravention of this section in so far as it also amounts to victimisation of B by A.

*Status: Point in time view as at 27/01/2022.*

*Changes to legislation: Equality Act 2010, Part 8 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

- F1** Words in s. 108(4) substituted (1.10.2010) by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279, arts. 1(2), 5

## 109 Liability of employers and principals

- (1) Anything done by a person (A) in the course of A's employment must be treated as also done by the employer.
- (2) Anything done by an agent for a principal, with the authority of the principal, must be treated as also done by the principal.
- (3) It does not matter whether that thing is done with the employer's or principal's knowledge or approval.
- (4) In proceedings against A's employer (B) in respect of anything alleged to have been done by A in the course of A's employment it is a defence for B to show that B took all reasonable steps to prevent A—
  - (a) from doing that thing, or
  - (b) from doing anything of that description.
- (5) This section does not apply to offences under this Act (other than offences under Part 12 (disabled persons: transport)).

## 110 Liability of employees and agents

- (1) A person (A) contravenes this section if—
    - (a) A is an employee or agent,
    - (b) A does something which, by virtue of section 109(1) or (2), is treated as having been done by A's employer or principal (as the case may be), and
    - (c) the doing of that thing by A amounts to a contravention of this Act by the employer or principal (as the case may be).
  - (2) It does not matter whether, in any proceedings, the employer is found not to have contravened this Act by virtue of section 109(4).
  - (3) A does not contravene this section if—
    - (a) A relies on a statement by the employer or principal that doing that thing is not a contravention of this Act, and
    - (b) it is reasonable for A to do so.
  - (4) A person (B) commits an offence if B knowingly or recklessly makes a statement mentioned in subsection (3)(a) which is false or misleading in a material respect.
  - (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- [<sup>F2</sup>(5A) A does not contravene this section if A—
- (a) does not conduct a relevant marriage,
  - (b) is not present at, does not carry out, or does not otherwise participate in, a relevant marriage, or
  - (c) does not consent to a relevant marriage being conducted,

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for the reason that the marriage is the marriage of a same sex couple.

(5B) Subsection (5A) applies to A only if A is within the meaning of “ person ” for the purposes of section 2 of the Marriage (Same Sex Couples) Act 2013; and other expressions used in subsection (5A) and section 2 of that Act have the same meanings in that subsection as in that section. ]

[<sup>F3</sup>(5BA) If A is a protected person, A does not contravene this section if A—

- (a) does not allow religious premises to be used as the place at which two people register as civil partners of each other under Part 2 of the Civil Partnership Act 2004 (“the 2004 Act”), or
- (b) does not provide, arrange, facilitate or participate in, or is not present at—
  - (i) an occasion during which two people register as civil partners of each other on religious premises under Part 2 of the 2004 Act, or
  - (ii) a ceremony or event in England or Wales to mark the formation of a civil partnership,

for the reason that the person does not wish to do things of that sort in relation to civil partnerships generally, or those between two people of the same sex, or those between two people of the opposite sex.

(5BB) In subsection (5BA)—

“protected person” has the meaning given by section 30ZA(2) of the 2004 Act;

“religious premises” has the meaning given by section 6A(3C) of the 2004 Act.]

[<sup>F4</sup>(5C) A does not contravene this section by refusing to solemnise a relevant Scottish marriage for the reason that the marriage is the marriage of two persons of the same sex.

[ A does not contravene this section by refusing to solemnise a relevant Scottish  
<sup>F5</sup>(5CA) marriage for the reason that the marriage is the marriage of two persons of the opposite sex who are in a civil partnership with each other.]

(5D) A does not contravene this section by refusing to register a relevant Scottish civil partnership for the reason that [<sup>F6</sup>A does not wish to register civil partnerships generally, or those between two persons of the same sex, or those between two persons of the opposite sex].

(5E) Subsections (5C)[<sup>F7</sup>, (5CA)] and (5D) apply only if A is an approved celebrant.

(5F) Expressions used in subsections (5C) to (5E) have the same meaning as in paragraph 25B of Schedule 3.

(5G) A chaplain does not contravene this section by refusing to solemnise a relevant Scottish forces marriage for the reason that the marriage is the marriage of two persons of the same sex.

(5H) Expressions used in subsection (5G) have the same meaning as in paragraph 25C of Schedule 3.]

(6) Part 9 (enforcement) applies to a contravention of this section by A as if it were the contravention mentioned in subsection (1)(c).

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- (7) The reference in subsection (1)(c) to a contravention of this Act does not include a reference to disability discrimination in contravention of Chapter 1 of Part 6 (schools).

#### Textual Amendments

- F2** S. 110(5A)(5B) inserted (13.3.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), ss. 2\(5\), 21\(3\); S.I. 2014/93, art. 3\(a\)](#)
- F3** S. 110(5BA)(5BB) inserted (E.W.S.) (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\), regs. 1\(2\), 10\(2\)](#)
- F4** S. 110(5C)-(5H) inserted (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\), art. 1\(2\), Sch. 5 para. 19\(4\)](#)
- F5** S. 110(5CA) inserted (27.1.2022) by [The Civil Partnership \(Scotland\) Act 2020 and Marriage and Civil Partnership \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2022 \(S.I. 2022/74\), art. 1, Sch. 1 para. 3\(2\)\(a\)](#)
- F6** Words in s. 110(5D) substituted (27.1.2022) by [The Civil Partnership \(Scotland\) Act 2020 and Marriage and Civil Partnership \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2022 \(S.I. 2022/74\), art. 1, Sch. 1 para. 3\(2\)\(b\)](#)
- F7** Word in s. 110(5E) inserted (27.1.2022) by [The Civil Partnership \(Scotland\) Act 2020 and Marriage and Civil Partnership \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2022 \(S.I. 2022/74\), art. 1, Sch. 1 para. 3\(2\)\(c\)](#)

## 111 Instructing, causing or inducing contraventions

- (1) A person (A) must not instruct another (B) to do in relation to a third person (C) anything which contravenes Part 3, 4, 5, 6 or 7 or section 108(1) or (2) or 112(1) (a basic contravention).
- (2) A person (A) must not cause another (B) to do in relation to a third person (C) anything which is a basic contravention.
- (3) A person (A) must not induce another (B) to do in relation to a third person (C) anything which is a basic contravention.
- (4) For the purposes of subsection (3), inducement may be direct or indirect.
- (5) Proceedings for a contravention of this section may be brought—
- (a) by B, if B is subjected to a detriment as a result of A's conduct;
  - (b) by C, if C is subjected to a detriment as a result of A's conduct;
  - (c) by the Commission.
- (6) For the purposes of subsection (5), it does not matter whether—
- (a) the basic contravention occurs;
  - (b) any other proceedings are, or may be, brought in relation to A's conduct.
- (7) This section does not apply unless the relationship between A and B is such that A is in a position to commit a basic contravention in relation to B.
- (8) A reference in this section to causing or inducing a person to do something includes a reference to attempting to cause or induce the person to do it.
- (9) For the purposes of Part 9 (enforcement), a contravention of this section is to be treated as relating—

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- (a) in a case within subsection (5)(a), to the Part of this Act which, because of the relationship between A and B, A is in a position to contravene in relation to B;
- (b) in a case within subsection (5)(b), to the Part of this Act which, because of the relationship between B and C, B is in a position to contravene in relation to C.

## **112 Aiding contraventions**

- (1) A person (A) must not knowingly help another (B) to do anything which contravenes Part 3, 4, 5, 6 or 7 or section 108(1) or (2) or 111 (a basic contravention).
- (2) It is not a contravention of subsection (1) if—
  - (a) A relies on a statement by B that the act for which the help is given does not contravene this Act, and
  - (b) it is reasonable for A to do so.
- (3) B commits an offence if B knowingly or recklessly makes a statement mentioned in subsection (2)(a) which is false or misleading in a material respect.
- (4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) For the purposes of Part 9 (enforcement), a contravention of this section is to be treated as relating to the provision of this Act to which the basic contravention relates.
- (6) The reference in subsection (1) to a basic contravention does not include a reference to disability discrimination in contravention of Chapter 1 of Part 6 (schools).

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