



# Equality Act 2010

## 2010 CHAPTER 15

### PART 8

#### PROHIBITED CONDUCT: ANCILLARY

#### 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>F1</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,
- for the reason that the marriage is the marriage of a same sex couple.

*Status: Point in time view as at 31/03/2021. This version of this provision has been superseded.*

*Changes to legislation: Equality Act 2010, Section 110 is up to date with all changes known to be in force on or before 31 May 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)*

(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>F2</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>F3</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.

(5D) A does not contravene this section by refusing to register a relevant Scottish civil partnership for the reason that the civil partnership is between two persons of the same sex.

(5E) Subsections (5C) 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).

(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

**F1** 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\(a\)](#)

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| <p><b>F2</b> 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), <b>10(2)</b></p> <p><b>F3</b> 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), <b>Sch. 5 para. 19(4)</b></p> |
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