



Equality Act 2010

2010 CHAPTER 15

PART 9

ENFORCEMENT

CHAPTER 5

MISCELLANEOUS

138 Obtaining information, etc.

- (1) In this section—
 - (a) P is a person who thinks that a contravention of this Act has occurred in relation to P;
 - (b) R is a person who P thinks has contravened this Act.
- (2) A Minister of the Crown must by order prescribe—
 - (a) forms by which P may question R on any matter which is or may be relevant;
 - (b) forms by which R may answer questions by P.
- (3) A question by P or an answer by R is admissible as evidence in proceedings under this Act (whether or not the question or answer is contained in a prescribed form).
- (4) A court or tribunal may draw an inference from—
 - (a) 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 is served;
 - (b) an evasive or equivocal answer.
- (5) Subsection (4) does not apply if—
 - (a) R reasonably asserts that to have answered differently or at all might have prejudiced a criminal matter;

Status: Point in time view as at 28/06/2013. This version of this provision has been superseded.

Changes to legislation: Equality Act 2010, Section 138 is up to date with all changes known to be in force on or before 23 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)

- (b) R reasonably asserts that to have answered differently or at all would have revealed the reason for not commencing or not continuing criminal proceedings;
 - (c) R's answer is of a kind specified for the purposes of this paragraph by order of a Minister of the Crown;
 - (d) R's answer is given in circumstances specified for the purposes of this paragraph by order of a Minister of the Crown;
 - (e) R's failure to answer occurs in circumstances specified for the purposes of this paragraph by order of a Minister of the Crown.
- (6) The reference to a contravention of this Act includes a reference to a breach of an equality clause or rule.
- (7) A Minister of the Crown may by order—
- (a) prescribe the period within which a question must be served to be admissible under subsection (3);
 - (b) prescribe the manner in which a question by P, or an answer by R, may be served.
- (8) This section—
- (a) does not affect any other enactment or rule of law relating to interim or preliminary matters in proceedings before a county court, the sheriff or an employment tribunal, and
 - (b) has effect subject to any enactment or rule of law regulating the admissibility of evidence in such proceedings.

Commencement Information

- II** S. 138 wholly in force; s. 138 not in force at Royal Assent see s. 216; s. 138(1)(2)(5)-(7) in force for certain purposes at 6.7.2010 by [S.I. 2010/1736](#), [art. 2](#), [Sch.](#); s. 138 in force at 1.10.2010 in so far as not already in force by [S.I. 2010/2317](#), [art. 2\(1\)\(9\)\(i\)](#) (with [art. 15](#), and subject to transitional provision in [art. 7](#))

Status:

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