UK Equality Legislation

Asylum and Immigration Act 1993: Accelerated and streamlined asylum decision making and appeal procedures. It also introduced in-country right of appeal.

Asylum and Immigration Act 1999: Introduced vouchers, dispersal of asylum seekers and new restrictions on illegal working.

British Nationality Act 1948: Enshrined the right of the Commonwealth citizens to enter the UK, work, settle and bring families.


British Nationality Act (Hong Kong) 1990: Specified who could and could not live in the UK from Hong Kong.

Civil Partnership Act 2004: Civil Partnership is a completely new legal relationship which can be formed by two people of the same sex and is distinct from marriage. It gives same sex couples the ability to obtain legal recognition for their relationship. The Act came into force on 5th December 2005.

Commonwealth Immigrants Act 1962: Restricted the admission of Commonwealth settlers to those who had been issued with employment vouchers. Entry control was established and convictions of an offence within five years of arrival lead to deportation.

Commonwealth Immigrant Act 1968: Widened anti-discrimination to include housing, employment and service provision. National Committee for Commonwealth Immigrants (NCCI) replaced by Community Relations Commission (CRC) which introduced local community relation’s councils.

Disability Discrimination Act (1995 and 2005): The Disability Discrimination Act (DDA) 1995 aims to end the discrimination that many disabled people face. This Act has been significantly extended, including by the Disability Discrimination Act 2005. It now gives disabled people rights in the areas of:

- employment
- education
- access to goods, facilities and services
- buying or renting land or property, including making it easier for disabled people to rent property and for tenants to make disability-related adaptations
The Act now requires public bodies to promote equality of opportunity for disabled people. It also allows the government to set minimum standards so that disabled people can use public transport easily.


DDA Part 1: Provides the definition of what is a disabled person

DDA Part 2: Applies to all employers and makes it unlawful for an employer to discriminate against a disabled person when applying for a job or when in employment

DDA Part 3: Applies to the discrimination in the provision of goods, facilities, services and premises and was rolled out in 3 phases:

- December 1996: it became unlawful for service providers to treat disabled people less favourably than non-disabled people.
- October 1999: obliged service providers to make reasonable adjustments for disabled people.
- October 2004: service providers have to make reasonable adjustments to physical features that are barriers to disabled people using their services.

DDA Part 4: Covers education and incorporated the Special Educational Needs and Disability Act (SENDA) 2001. This was rolled out in 3 phases, September 2002, September 2003 and September 2005.

Disability Equality Duty (2005): The Disability Equality Duty (DED) came into force in December 2005 and is a duty for all Public sector organisations to promote Disability Equality. The DED comprises a general duty and specific duties.


Employment Act 2000: This is a wide range of packages including: dispute resolution in the workplace; improvements to employment tribunal procedures; the introduction of an equal pay questionnaire; provisions to implement the Fixed Term Work Directive; a new right to time off work for union learning representatives; work focussed interviews for partners of people receiving working-age benefits and some data sharing provisions.

Employment Equality (Age) Regulations 2006: This came into effect on 1st October 2006. This gives protection against discrimination and harassment on the grounds of age. The regulations also introduce a national default retirement age of 65. Employees have the right to request to work beyond this age or any other retirement age set by their organisation. Regardless of age, employees, trainees and job seekers have the same rights in terms of training and promotion.
Default Retirement Age (DRA): The Default Retirement Age (DRA) changed on 6 April 2011. The DRA is being phased out over a transitional period running until 30 September 2011. Details are set out in regulations that came into force on 6 April 2011. The last date an employee could have been given notice of retirement under the DRA was 5 April 2011.

More information can be found at: https://www.gov.uk/retirement-age

Employment Equality (Religion or Belief) Regulations 2003:
This outlaws discrimination (direct or indirect discrimination, harassment and victimisation) in employment and vocational training on the grounds of religious belief or similar philosophical belief. Non-belief is also covered by the regulations. In view of these Regulations on religious discrimination coupled with the Race Relations (Amendment) Act, there is a positive duty to ensure that individual’s religious and cultural needs are taken into account. It is also important to note that Article 9 of the Human Rights Act gives important rights in this area: It states:

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his/her religion or belief and freedom, either alone or in community with others, and in public and private, to manifest his/her religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others’.

Employment Equality (Sexual Orientation) Regulations 2003:
These regulations outlaw discrimination (direct or indirect discrimination, harassment and victimisation) in employment and vocational training on the grounds of sexual orientation. It covers people whether they are gay, lesbian, bisexual or heterosexual. Discrimination on the grounds of perceived sexual orientation is also banned. The new legislation also protects those people who are discriminated against because of the sexual orientation of the people with whom they associate.

Employment Rights Act 1996:
This requires that certain terms and conditions must be set out in a single document. This can be a written “contract of employment” or a “statement of the main terms and conditions of employment”. The written terms and conditions will contain both contractual and statutory rights, that is, both those protected by law and those negotiated directly between the employer and the employee or representative.
Equality Act 2006:
The Equality Act has three functions:

- To create a single Commission, which will replace the Equal Opportunities Commission (EOC), the Commission for Racial Equality (CRE) and the Disability Rights Commission (DRC). This single commission will be called the Equality and Human Rights Commission (EHRC).
- To make unlawful (apart from certain exemptions), discrimination on the grounds of religion or belief or sexual orientation in the provision of goods, facilities and services, the management of premises, education and the exercise of public functions.
- To create a duty on public authorities to promote equality of opportunity between men and women and to prohibit sex discrimination in the workplace.

You can find more detailed information relating to the Equality Act by on the websites below:


The Equality Act 2010 brings disability, sex, race and other grounds of discrimination within one piece of legislation, and also makes changes to the law.

- **Public Sector Equality Duty:** This came into force from 5 April 2011. More information can be found at: https://www.gov.uk/equality-act-2010-guidance#public-sector-equality-duty

- **Section 153: Power to Impose Specific Duties:** Section 153(2) of the Equality Act 2010 states: The Welsh Ministers may by regulations impose duties on a public authority specified in Part 2 of Schedule 19 for that purpose.

- **Specific Equality Duties:**
The following provisions in the Act came into force as follows:

- **October 2010: Main provisions.**
- **April 2011:**
  - Public Sector Equality Duty
  - Positive action: Recruitment and promotion

Ministers are considering how to implement the remaining provisions in the best way for business and for others with rights and responsibilities under the act. Their decisions will be announced in due course.

**Equality Act Provisions that the UK Government has decided not to take forward**

- Public sector duty regarding socio-economic inequalities;
- Gender pay gap information; (more information)
- Combined discrimination: dual characteristics.

More information can be found at Annex H of this guidance and/or: http://www.homeoffice.gov.uk/equalities/equality-act/

Note: The Equality Act 2010 does not apply to Northern Ireland.

**Equal Pay Act 1970:** This gives an individual a right to the same contractual pay and benefits as a person of the opposite sex in the same employment, where the man and the woman are doing like work, work rated as equivalent under an analytical job evaluation study or work that is proved to be of equal value. The employer will not be required to provide the same pay and benefits if it can prove that the difference in pay or benefits is genuinely due to a reason other than one related to sex.

**Equal Pay Act (EPA) 1970 (Amendment) Regulations 2003:** The Equal Pay Act (EPA) 1970 (Amendment) Regulations 2003 introduced two amendments to the EPA. It allowed the six month time limit for bringing equal pay claims to be extended in cases of concealment or disability. It also allowed for the two-year limit on back pay to be extended to up to six years in cases of concealment and disability. The Regulations came into force on 19th July 2003.

**Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations:**

These Regulations came into effect in October 2002. The Regulations provide that a fixed term contract that is renewed or extended will become permanent automatically after 4 continuous years starting from 10th July 2002, unless the fixed-term contract can be justified for good business reasons. Examples of circumstances in which it might be acceptable to continue a fixed term contract include:

- The post requires specialist expertise or recent experience not already available within the institution in the short term;
- to cover staff absence as appropriate (e.g. parental and adoptive leave, long-term sickness, sabbatical leave or secondment);
• the contract is to provide a secondment or career development opportunity;
• input from specialist practitioners;
• where the individual’s, or other business demand can be clearly demonstrated as particularly uncertain;
• where there is no reasonably foreseeable prospect of short-term funding being renewed or other external or internal funding being available or becoming available. Where the short-term funding has already been renewed, continuing use of the fixed-term contract would need to be justified by objective reasons.

Objective justification means that there has to be a good reason for the less favourable treatment and one would have to take into account not just the needs of the organisation but also give due regard to the needs and rights of the individuals concerned. It is essential that there are transparent, necessary and objective reasons for placing a post initially on a fixed-term contract or for continuing a post on a fixed-term basis.

**Gender Equality Duty 2007:**
Requires public authorities to promote gender equality and eliminate sex discrimination. Instead of depending on individuals making complaints about sex discrimination, the duty places the legal responsibility on public authorities to demonstrate that they treat men and women fairly. The duty affects policy making, public services, such as transport, and employment practices such as recruitment and flexible working.

**Government of Wales Act (GOWA) 1998:**
The Government of Wales Act establishes how Wales will operate as a Devolved Administration. Sections 48 and 120 of GOWA state:

Section 48: Equal opportunities in conduct of business
The Assembly shall make appropriate arrangements with a view to securing that its business is conducted with due regard to the principle that there should be equality of opportunity for all people.

Section 120: Equality of opportunity
(1) The Assembly shall make appropriate arrangements with a view to securing that its functions are exercised with due regard to the principle that there should be equality of opportunity for all people.
(2) After each financial year the Assembly shall publish a report containing:
(a) a statement of the arrangements made in pursuance of subsection (1) which had effect during that financial year, and;
(b) an assessment of how effective those arrangements were in promoting equality of opportunity.
Government of Wales Act (GOWA) 2006:
Amended and increased the powers of the Government of Wales Act 1998.

Section 35: Equality of treatment
(1) The Assembly must, in the conduct of Assembly proceedings, give effect, so far as is both appropriate in the circumstances and reasonably practicable, to the principle that the English and Welsh languages should be treated on a basis of equality.
(2) The Assembly must make appropriate arrangements with a view to securing that Assembly proceedings are conducted with due regard to the principle that there should be equality of opportunity for all people.

Section 77: Equality of opportunity
(1) The Welsh Ministers must make appropriate arrangements with a view to securing that their functions are exercised with due regard to the principle that there should be equality of opportunity for all people.
(2) After each financial year the Welsh Ministers must publish a report containing:
(a) a statement of the arrangements made in pursuance of subsection (1) which had effect during that financial year, and
(b) an assessment of how effective those arrangements were in promoting equality of opportunity, and must lay a copy of the report before the Assembly.

Human Rights Act (HRA) 1998: Human Rights Act incorporates rights under the European Convention of Human Rights into domestic law. Individuals can bring claims under the HRA against public authorities for breaches of Convention rights. UK courts and tribunals are required to interpret domestic law, as far as possible, in accordance with Convention rights. Previous case law may be overturned if there is a breach of Convention rights and the relevant law can be re-interpreted in a way which is compatible with Convention rights. Convention rights include a right not to be discriminated against on non-exhaustive grounds, which include that of sex, where another Convention right is engaged.

Human Rights Act 1999: This incorporates the European Convention of Human Rights into UK legislation.

Immigration Act 1971: Moved away from vouchers scheme and established ‘partiality’ grandfather clause. This virtually ended all primary immigration.


National Assembly for Wales (Official Languages) Act 2012
The purpose of the Act is to clearly place the duties of the National Assembly and of the Assembly Commission in relation to the provision of bilingual services on a statutory footing.

Website:
Part-time workers (prevention of less favourable treatment)

**Regulations 2000:** Ensure that part-time workers are treated no less favourably, in their terms and conditions of employment, than their comparable full-time colleagues. The Sex Discrimination Act 1975 and the Race Relations Act 1976 make distinction between direct and indirect discrimination.

**Race Relations Act 1976:** (RRA) protects people from discrimination on the grounds of race, colour, nationality, and ethnic or national origins. Exceptions to the act include *genuine occupational requirements*. Employers will be able to recruit staff on the basis of a genuine occupational requirement if it can be shown that it is a genuine and determining requirement of the job to be of a particular race or of particular ethnic or national origin. In cases involving colour or nationality, the existing provisions in section 5 of the 1976 Race Relations Act will continue to apply.

**Race Relations Act 1976 (Amendment) Regulations 2003:** Enhances the RRA by, for example, amending the definition of indirect discrimination, removing a number of exceptions from the legislation and extending protection from discrimination on the grounds of race and ethnic or national origin. This also created the Commission for Racial Equality (CRE).

**Race Relations Amendment Act (2000):** (RRAA) placed a statutory obligation on all public bodies to develop a race equality policy and action plan, not only to eliminate race inequality but proactively to promote equality between different racial groups, to assess the impact of all its policies on staff and students from different racial groups, to ensure all staff are trained in their duties regarding promoting race equality, to monitor the recruitment and progress of minority ethnic staff and publish results and progress.

**Racial and Religious Hatred Act 2006:** This came into force on 1 October 2007. The Act, which amends the Public Order Act 1986, introduces a new criminal offence of stirring up racial hatred against a person on racial or religious grounds. If found guilty of the offence, the punishment can include a fine or even a prison sentence of up to seven years.

**Rights of Children and Young Person (Wales) Measures 2011**

In 2011 Wales became the first country in the UK to incorporate children’s rights into domestic law with the introduction of the Rights of Children and Young Persons (Wales) Measure 2011. The Measure embeds consideration of the United Nations Convention on the Rights of the Child (UNCRC) and the optional protocols into Welsh law.

The Children’s Rights Scheme sets out the arrangements that Ministers must have in place to comply with the duty to have due regard to the United Nations Convention on the Rights of the Child (UNCRC). This Scheme was revised on 1 May 2014 to reflect further commitment to children’s rights.
Sex Discrimination Act 1975 (SDA): Protects people from discrimination on the grounds of sex, and marital status. Exceptions to the Act include **genuine occupational requirements**. Employers will be able to recruit staff on the basis of a genuine occupational requirement if it can be shown that it is a genuine and determining requirement of the job to be of a particular gender.

Sexual Orientation - Goods and Services (Part of the Equality Act 2006): The legislation outlaws discrimination in a range of important areas, from hospitals to schools in the public sector and Bed & Breakfasts to banking in the private sector.

Website: [www.stonewallcymru.org.uk/cymru/english/at_home/discrimination_in_goods_and_services/default.asp](http://www.stonewallcymru.org.uk/cymru/english/at_home/discrimination_in_goods_and_services/default.asp)

United Nations Convention on the Right of the Child (UNCRC): The UNCRC is an international agreement that protects the human rights of children under the age of 18. It was ratified by the UN General Assembly in 1989.

In 1991 the United Kingdom formally agreed to ensure that every child in the UK has all the rights listed in the convention. The Welsh Government adopted the Convention as the basis for policy making for children and young people in Wales in 2004.


Welsh Language Act 1993: The Welsh Language Act 1993 establishes the Welsh Language Board, whose remit is to promote and facilitate the use of the Welsh Language and requires public bodies to prepare Welsh Language Schemes to take account of the Welsh Language in its business and administration.

Welsh Language (Wales) Measure 2011
The Welsh Language (Wales) Measure 2011 received royal assent on 9 February 2011 and establishes a framework for Public Sector bodies, some private companies and third sector organizations to comply with standards, and gives the Commissioner the power to require a company or an organisation to comply with a standard.

Some of the areas covered by this Measure include:

- gives the Welsh language official status in Wales
- makes provision for promoting and facilitating the use of the Welsh language
- makes provision about standards relating to the Welsh language
- establishes the principle that the Welsh language should be treated no less favourably than the English language
- makes provision for the investigation of interference with the freedom to use the Welsh language
establishes a Welsh Language Tribunal and abolishes the Welsh Language Board

Detailed information about how public organisations and crown bodies, private companies and third sector bodies can comply with the standards and a list of the types of private companies and third sector organisations that come under the Measure can be found on the Welsh Language Commissioners Website: http://www.comisiynyddygymraeg.org/English/Law/welshlanguagemeasure2011/Pages/homewelshlanguagemeasure2011.aspx

White Paper on Immigration from the Commonwealth 1965: 8,500 employment vouchers issued per annum, mainly to skilled/professional workers.

Work and Families Act 2006: This Act was added to The Employment Act 2002. The Work and Families Act 2006 came into force in October 2006 but only applies to babies born after 1 April 2007. The key measures include:

- Statutory Maternity Pay (SMP) and Statutory Adoption Pay (SAP) extended to 39 weeks
- Length of service requirement for additional maternity removed
- Optional keeping in touch days have been introduced enabling a woman to work for up to 10 days during her maternity leave period without losing her SMP
- The notice a woman must give if she is changing her date of return from maternity leave has been increased from 28 days to 8 weeks
- Additional Paternity Leave and Pay will entitle employed fathers to a new right of up to 26 weeks
- Additional Paternity Leave, some of which could be paid, if the mother returns to work
- The right to request flexible working has also been extended to carers from 6 April 2007.