



## NEWS REPORT

**Update of flash report nr:** UK-4,UK-6, UK-23

**Date:** 23<sup>th</sup> May 2009  
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**Title:** Long-Awaited Codifying Equality Bill Introduced into UK Parliament  
**Country:** UK

### Context

**Issue at stake:** New legislation  
**Ground of discrimination:** of All grounds  
**Source:** Legislative Proposal (Bill)  
**Field:** All

### **Legislative provisions:**

### Content

**Political development:** The UK Government has introduced the long-awaited Equality Bill 2009 into the UK parliament. The Bill was published on the 27th April and given its second reading on the 11th May. This bill codifies and extends British discrimination law (but for the most part does not apply to Northern Irish discrimination law, as discrimination legislation is now a devolved matter for the Northern Ireland Assembly).

The Bill replaces the existing complex structure of UK discrimination law with a common codified framework which applies across the six anti-discrimination grounds recognised in EU law, while also making special provision for disability discrimination and (to a more limited extent) for discrimination on the grounds of marriage or being in a civil partnership.

The Bill also imposes a single positive equality duty on public bodies, which brings together the three existing race equality, gender equality and disability equality duties and extend these duties to the grounds of gender reassignment, age, sexual orientation and religion or belief. This single equality duty will also require public bodies to tackle discrimination and promote equality through their public procurement functions. The Bill also imposes a duty upon certain ‘strategic’ public

authorities (government departments, regulators and so on) to promote socio-economic equality through how they exercise their strategic functions.

The Bill prevents employers to enforce contractual 'secrecy clauses', which do not allow employees to discuss their own payment, where this would prevent employees investigating equal pay. The Bill also gives the power to the UK government to require employers with a certain number of employees to publish statistics on pay disparities between their female and male workers.

According to the Bill, the scope available in UK law for positive action will be considerably increased, with employers permitted to take under-representation of disadvantaged groups, for example women and people from ethnic minority communities, into account when selecting between equally qualified applicants. (In other words, the Bill attempts to permit British employers to use the maximum scope of positive action permitted under the case-law of the ECJ in cases such as *Badeck*.)

The Bill also extends existing law by prohibiting age discrimination in the provision of goods and services, the performance of public functions and other areas: the legislation however also gives the UK government wide powers to amend these provisions and to make exceptions as required. In addition, the Bill prohibits indirect discrimination on the grounds of disability and 'discrimination based on disability', which taken together replace the previous prohibition in British law on 'disability-related discrimination'.

Employment tribunals will be permitted to make wider recommendations in discrimination cases; this will enable tribunals to suggest measures which will benefit other potential victims of discrimination in a given workplace in addition to the employee who brought the claim in question.

The Bill at present contains nothing on multiple discrimination, but the UK government is currently consulting on whether to prohibit multiple direct discrimination based upon a combination of two grounds, i.e. discrimination on the basis of gender and race, or disability and age. It proposes to make alterations to the Bill as it proceeds through the UK Parliament to reflect the results of the consultation exercise.

Civil society organisations, employers' associations and the Equality and Human Rights Commission have broadly welcomed the new Bill. The Conservative Party has opposed it, on the basis that it confers too much power on the government to legislate through regulations and because it imposes too many burdens upon private businesses in a time of recession.



**Internet link source and additional information:** For the text of the Bill, see <http://services.parliament.uk/bills/2008-09/equality.html>