

Updates in equality – An overview of new regulations

17 November 2023  William Carter

On 8 November 2023, The Equality Act 2010 (Amendment) Regulations 2023 were published in draft. They are due to come into effect on 1 January 2024, and their purpose is to update the existing legislation, and enshrine protections from EU law, which would otherwise have ceased.

Amongst the amendments to the legislation are:

- Clarification that discrimination relating to breastfeeding amounts to sex discrimination within the workplace, and that more favourable treatment on the grounds of maternity is permitted.
- Discrimination claims for the protected characteristic of pregnancy and maternity discrimination may arise where the individual has an entitlement to maternity leave which is equivalent to compulsory, ordinary or additional maternity leave.
- Indirect discrimination (where a practice, criterion or provision places a group with a protected characteristic at a particular disadvantage) can be claimed by association, where an individual without the characteristic suffers together with that group, nonetheless.
- The codification of the 'single source' test in equal pay claims, which allows workers to compare their pay to someone working for a different employer, so long as there is a single body responsible for setting or continuing their terms.
- Clarification of the definition of disability, to confirm that the ability to 'carry out normal day-to-day activities' should be considered with reference to the individual's ability to participate in their professional life 'on an equal basis with other workers'.
- Increased protection against discrimination in recruitment, in which there is not an active recruitment process taking place (for example, statements made about 'not wanting to recruit people that share certain protected characteristics').

Practically, this maintains the status quo, rather than creating swathes of new protection under discrimination law. However, this serves as a useful reminder to keep up to date and consider how these amendments may affect any policies and procedures you have implemented.

If you require advice in respect of how the above may affect your workforce, please talk to our [employment team](#).

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