



**Isle of Man**

*Ellan Vannin*

SD 2017/0384

**EQUALITY ACT 2017 (APPOINTED DAY  
NO. 3 AND TRANSITIONAL PROVISIONS)  
ORDER 2017**





## EQUALITY ACT 2017 (APPOINTED DAY NO. 3 AND TRANSITIONAL PROVISIONS) ORDER 2017

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Statutory Document No. 2017/0384



*Equality Act 2017*

## **EQUALITY ACT 2017 (APPOINTED DAY NO. 3 AND TRANSITIONAL PROVISIONS) ORDER 2017**

*Made:*

*20th December 2017*

The Council of Ministers makes the following Order under section 2 of the Equality Act 2017.

### **1 Title**

This Order is the Equality Act 2017 (Appointed Day No. 3 and Transitional Provisions) Order 2017.

### **2 Interpretation**

- (1) In this Order, “**the Act**” means the *Equality Act 2017*.
- (2) In the Schedules to this Order —
  - (a) a reference to a numbered section, Part or Schedule is a reference to the corresponding provision of the Act which bears that number; and
  - (b) a reference to the making of subordinate legislation includes a reference to the issuing of guidance or other ancillary documents.

### **3 Provisions coming into operation on 1 January 2018**

Schedule 1 has effect to provide for the commencement of provisions of the Act specified in columns 1 and 2 of Table 1 for the purposes specified in column 3 on 1 January 2018.

### **4 Provisions coming into operation on 1 January 2019**

Schedule 2 has effect to provide for the commencement of the Act, to the extent that it is not already in operation, on 1 January 2019, but subject to the qualifications in paragraphs 2 to 4 of that Schedule and the provisions of Schedule 3 to this Order.

**5 Provisions coming into operation on 1 January 2020**

- (1) Schedule 3 to this Order has effect to provide for the commencement of the provisions specified in columns 1 and 2 of Table 2 on 1 January 2020 for the purpose specified in column 3 of that table.
- (2) That Schedule also makes transitional provision in connection with the partial commencement of the repeal of the *Chronically Sick and Disabled Persons Act 1981*.

**MADE 20<sup>TH</sup> DECEMBER 2017**

**W GREENHOW**  
*Chief Secretary*

**SCHEDULE 1**

**PROVISIONS COMING INTO OPERATION ON 1 JANUARY 2018**

[Article 3]

**1 Provision commencing on 1 January 2018**

The provisions specified in column 1 of Table 1, and described in column 2, come into operation on 1 January 2018 for the purposes specified in column 3.

**TABLE 1**

<b>Provision</b>	<b>Description</b>	<b>Purpose</b>
Section 3(1) to (15) and (17).	Interpretation.	All purposes.
Section 4.	References to maternity leave etc.	The making of subordinate legislation.
Section 5.	The protected characteristics.	
Section 6.	Age.	
Section 7 (and Schedule 1).	Disability.	
Sections 8 to 13	The protected characteristics of – (a) gender reassignment (s.8); (b) marriage and civil partnership (s.9); (c) race (s.10); (d) religion or belief (s. 11); (e) sex (s. 12); (f) sexual orientation (s.13).	
Section 14	Direct discrimination.	
Section 16	Discrimination arising from disability.	
Section 17	Gender reassignment discrimination: absence from work.	
Section 18	Pregnancy and maternity discrimination: non work cases.	
Section 19	Pregnancy and maternity discrimination: work cases.	
Section 20	Indirect discrimination.	
Sections 21 and 22	Duty to make reasonable adjustments and failure to comply with duty.	
Section 23	Regulations.	
Sections 24 and 25	Comparison by reference to circumstances and	The issuing of guidance.

	irrelevance of alleged discriminator's characteristics.	
Section 26	References to particular strands of discrimination.	All purposes.
Sections 27 and 28	Harassment and victimisation.	The making of subordinate legislation.
Part 3 (sections 29 to 31 and Schedules 2 and 3)	Services and public functions.	
Part 4 (sections 32 to 37 and Schedules 4 and 5)	Premises.	
Part 5, Divisions 1 to 3 (sections 38 to 72 and Schedules 6 and 7).	Work.	The making of subordinate legislation.
Section 73	Offshore work.	All purposes.
Section 74	International pension arrangements.	All purposes.
Section 75 (and Schedules 8 and 9).	Interpretation (for Part 5) and exceptions.	The making of subordinate legislation.
Part 6 (sections 76 to 90 and Schedules 10 to 14), other than section 90.	Education.	The making of subordinate legislation; the preparation and publication of accessibility strategies and plans; the specification by the appropriate regulator of provisions, criteria and practices in respect of which the duty to make reasonable adjustments does not apply, or applies in modified form; and the designation by DESC of institutions having a religious ethos.
Section 90	Educational charities.	All purposes.
Part 7 (sections 91 to 95 and Schedules 15 and 16)	Associations.	The making of subordinate legislation.
Part 8 (sections 96 to 100)	Prohibited conduct.	The issuing of guidance.
Part 9 (sections 101 to 136 and Schedules 17 and 18)	Enforcement.	The appointment of members of the Tribunal and the making of rules for its procedure; the making of subordinate legislation (including Tribunal rules and rules of court and orders for the payment of expenses of persons involved in proceedings before the Tribunal) under any provision of the Part;



		the appointment of a person by DESC in relation to proceedings under section 107 and of persons by the Manx Industrial Relations Service under section 121(8).	
Part 10 (sections 137 to 142)	Contracts etc.	The issuing of guidance.	
Part 11 (sections 143 to 147)	Advancement of equality.	The making of subordinate legislation.	
Part 12 (sections 148 and 149 and Schedule 19)	Disability: miscellaneous.	The issuing of guidance in connection with all the provisions in column 1 and the making of regulations under paragraph 6 of Schedule 19.	
Part 13 (sections 150 to 156 and Schedules 20 and 21)	General exceptions.	All purposes.	
Sections 157 to 159	Codes of practice and arrangements promoting equality.		
Section 160	Manx ships, aircraft and hovercraft and those employed aboard them.		
Section 161	Crown application.		
Section 163	Information society services.		
Section 164	Gender identity and expression.		
Section 165	Application of UK and European Union equality legislation.		
Section 166	Amendment of employment legislation		So far as necessary to commence paragraph 36(5) of Schedule 22 for all purposes.
Section 167	Exercise of powers to make statutory documents.		All purposes.
Section 168	Tynwald procedure for statutory documents.		
Section 169	Consequential and minor amendments	So far as necessary to commence paragraph 5 of Schedule 23 for the purpose of making subordinate legislation.	
Section 171 (and Schedule 25)	Glossary.	All purposes.	

## SCHEDULE 2

## PROVISIONS COMING INTO OPERATION ON 1 JANUARY 2019

[Article 4]

**1 Provisions coming into operation on 1 January 2019 for all remaining purposes**

The Act, insofar as it is not in operation earlier, subject to the qualifications in the later provisions of this Schedule and subject also to Schedule 3 to this Order, comes into operation for all remaining purposes on 1 January 2019.

**2 Exceptions from paragraph 1**

- (1) Paragraph 1 does not apply in relation to —
- (a) section 5(a) and (b) (discrimination on grounds of age or disability);
  - (b) section 6 (age);
  - (c) section 7 (disability);
  - (d) section 14(2) and (3) (direct discrimination in respect of age or disability);
  - (e) section 15 (dual discrimination);
  - (f) section 16 (discrimination arising from disability);
  - (g) section 20(3)(a) and (b) (indirect discrimination relating to age or disability);
  - (h) section 21 (duty to make reasonable adjustments);
  - (i) section 22 (failure to comply with the section 21 duty);
  - (j) section 36 (reasonable adjustments — leasehold property and common parts of buildings);
  - (k) section 52 (enquiries about disability and health);
  - (l) Divisions 2 and 3 of Part 5 (discrimination in respect of occupational pensions and equality of terms), other than sections 65 to 69 (provisions concerning maternity equality clauses and maternity equality rules, and discussions about pay);
  - (m) section 79 (disabled pupils: accessibility) and Schedule 10;
  - (n) section 83 (disabled pupils at further and higher education institutions: accessibility) and Schedule 12;
  - (o) section 89 (education: reasonable adjustments) and Schedule 14;
  - (p) Part 9 (enforcement) to the extent that it relates to any provision excepted from paragraph 1 of this Schedule by virtue of an entry in this paragraph;

- (q) Part 12 (disability: miscellaneous);
  - (r) section 162 (Tynwald Equality Consultative Committee);
  - (s) section 166 (amendments to employment legislation) so far as it relates to paragraphs 9, 10 and 11 of Schedule 22;
  - (t) section 170 so far as it relates to the entries in paragraph 1(m)(i) to (iii) of Schedule 24 (repeals of certain enabling powers in the Employment Act 2006); and
  - (u) the following so far as relating to discrimination on grounds of age or disability—
    - (i) section 25(1) (irrelevance of alleged discriminator’s characteristics for the purposes of section 14(1));
    - (ii) section 33 (disposals of premises, etc) so far as relating to age or disability
    - (iii) section 35 (management of premises);
    - (iv) sections 92 and 93 (treatment of members, associates etc.);
    - (v) Part 10 (contracts etc).
- (2) For the avoidance of doubt, neither paragraph 1 of this Schedule nor anything in sub-paragraph (1) gives rise to a right—
- (a) to bring proceedings before the Tribunal in respect of age discrimination or disability discrimination (or anything relating to those strands of discrimination) before 1 January 2020;
  - (b) to claim compensation for anything done or suffered in relation to either of those strands of discrimination before that date.

**3 Discrimination: supplementary provision on comparison of circumstances – section 24 commenced with transitory modification**

- (1) Section 24(1) and (3) (comparison by reference to circumstances) comes into operation for the purposes of sections 14 and 20 in respect of all the protected characteristics other than age and disability on 1 January 2019, subject to subparagraph (2).
- (2) Until section 15 (combined discrimination) comes into operation for all purposes omit “, 15” in section 24(1).

**4 Other prohibited conduct: transitional provision**

Section 27(5) (harassment) comes into operation on 1 January 2019, but until 1 January 2020 paragraphs (a) and (b) are to be treated as omitted.

## SCHEDULE 3

## PROVISIONS COMING INTO OPERATION ON 1 JANUARY 2020

[Article 5]

**1 Provisions commencing on 1 January 2020**

The provisions specified in column 1 of Table 2, and described in column 2, are commenced in accordance with the corresponding entry in column 3.

TABLE 2

Provision	Description	Purpose
Sections 5(a) and (b), 6 and 7	Age and disability discrimination and the protected characteristics of age and disability.	All remaining purposes.
Section 14(2) and (3)	Direct discrimination in respect of age or disability.	
Section 16	Discrimination arising from disability.	
Section 20(3)(a) and (b)	Indirect discrimination on grounds of age and disability.	
Sections 21 and 22	Duty to make reasonable adjustments, failure to comply with that duty.	
Section 24(2)(a)	Comparison by reference to circumstances for section 14: disability.	So far as it relates to comparisons for the purposes of sections 14 and 20 in respect of age and disability.
Section 25(1)	Irrelevance of alleged discriminator's characteristics for the purposes of section 14(1).	So far as each of the sections relates to age and disability.
Section 33	Disposals of premises	
Section 35	Management of premises	
Section 36	Reasonable adjustments: leasehold premises and common parts of premises.	All remaining purposes.
Section 52	Enquiries about disability and health.	
In Part 5. Divisions 2 and 3 (sections 53 to 72 and	Work: provisions relating to discrimination in the	

Schedules 8 and 9), except sections 65 to 69 <sup>1</sup>	context of occupational pension schemes and equality of contractual terms.	
Section 79 and Schedule 10	Disabled pupils: accessibility	All remaining purposes.
Section 83 and Schedule 12	Disabled pupils at further and higher education institutions: accessibility.	
Section 89 and Schedule 14	Education: reasonable adjustments.	
Sections 92 and 93.	Treatment of members, associates etc.	
Part 9	Enforcement	
Part 10	Contracts etc.	
Part 12	Disability: miscellaneous	
Section 166 and Schedule 22	Employment legislation amendments.	All remaining purposes other than those of paragraphs 9 to 11 of that Schedule.
Section 169 and Schedule 23	Consequential and minor amendments.	All remaining purposes.
Section 170 and Schedule 24, paragraph 1(f) (except insofar as it repeals section 9 of the Chronically Sick and Disabled Persons Act 1981).	Repeals relating to disability discrimination.	All purposes.

**2 Transitional modification of section 9 of the Chronically Sick and Disabled Persons Act 1981**

- (1) Until the coming into operation of the repeal of section 9 of the *Chronically Sick and Disabled Persons Act 1981*, that section is modified, on and after the commencement of paragraph 1(f) of Schedule 24 to the Act, for other purposes, as follows.
- (2) In subsection (3), omit “to the execution of this Act or”.
- (3) For subsection (8) substitute—
 

(8)	For the purposes of this section —
(a)	a person is disabled if he or she has a disability for the purposes of the <i>Equality Act 2017</i> ; and
(b)	“disability” is to be construed in accordance with that Act. <b>22</b> .

<sup>1</sup> The excepted provisions come into operation on 1<sup>st</sup> January 2019 by virtue of Schedule 2, paragraph 1 and paragraph 2(1).

- (4) No other provision of this Order, and in particular the commencement of the repeals of the Disability Discrimination Act 2006 and the Chronically Sick and Disabled Persons (Amendment) Act 2011, affects the text of section 9 of the *Chronically Sick and Disabled Persons Act 1981*.

*EXPLANATORY NOTE*

*(This note is not part of the Order)*

This Order makes provision for the commencement of further provisions of the Equality Act 2017.

Articles 1 and 2 deal, respectively, with the title of the Order and its interpretation.

Article 3 commences those provisions which enable the making of subordinate legislation and the issuing of guidance (and access strategies for educational establishments) under the Act. These provisions come into operation on 1<sup>st</sup> January 2018.

Article 4 commences the great majority of the provisions of the Act on 1 January 2019. The uncommenced provisions excepted from this commencement are, in the main, those connected with disability and age discrimination, both of which strands of discrimination in the Act are brought into operation by article 5 on 1 January 2020.

Also excepted from commencement by this Order are section 15 (which concerns dual discrimination), section 162 (the Tynwald Equality Consultative Committee) and associated repeals.