

**CIVIL LITIGATION DEPARTMENT
EMPLOYMENT LAW
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EQUALITY ACT 2010 (CONT.)

This Act has now been passed and all or parts of it will come into effect over the coming months. The April newsletter dealt with the part of the Act dedicated to reforming and harmonising anti-discrimination law. The Act also covers ‘equality of terms’ (essentially the old Equal Pay Act), but allows for the possibility of an additional duty on employers with more than 250 employees to publish information showing differences between the pay of male and female employees.

If there is a breach of the anti-discrimination laws, the matter can be referred to an employment tribunal. In addition to its usual powers, a tribunal will be able to make an “appropriate recommendation”. This is a recommendation that, within a specified period, the company takes specified steps to prevent or reduce the adverse effect **not only on the complainant, but on any other person**. For practical purposes, this might have far-reaching consequences. If, for example, a firm (of whatever size) is found to have discriminated against a woman in the way in which it offers her employment (e.g. lower pay, fewer benefits), the tribunal *could* recommend that the employer takes steps to prevent the same discrimination affecting the whole of its female workforce. The Act is silent about what would happen if the firm failed to implement the recommendation in so far as it relates to employees other than the complainant.

If there is a breach of the ‘equality of terms’, arrears can be backdated by up to 6 years or to when the breach first occurred (in cases where there was deliberate concealment of the relevant facts and the worker did not or could not discover the relevant facts until after the end of employment).

Failing to answer any questions from an employee or giving evasive or equivocal answers will count against employers in tribunal proceedings (even if the question is not contained in a formal questionnaire).

Compromise agreements will have to be modified to comply with new requirements under the Act.

If you require any advice or assistance about an employment matter, please contact Deborah Driscoll in our Civil Litigation Department.

Disclaimer

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