



**So long, farewell, Auf Wiedersehen, adieu:  
what Brexit means for accessibility  
and you and you and you**

Heather Burns // Accessibility Scotland // 9 November 2018

# What are we going to discuss today?

What happens on  
29 March

An overview of  
the accessibility  
laws that come  
from Europe

What to be aware  
of after Brexit

# Who am I? (Not in the midlife crisis sense)

- I am a tech policy and regulation specialist (not a lawyer!)
- I support people projects at the intersection of law and code
- I am a consultant to the [All-Party Parliamentary Group for Assistive Technology](#) and a component maintainer of WordPress.org's core privacy team,
- I'm also a co-organiser of next week's [WordCamp Edinburgh](#)



Heather Burns

 ACCESSIBILITY SCOTLAND  
9TH NOVEMBER, EDINBURGH



**So how did we get here?**







# What will happen on March 29?\*

\*Or whenever. I don't have a clue. Really



# The Great Repeal Bill

- Repeals the 1972 European Communities Act
- Ends jurisdiction of the European Court of Justice
- Copies all current existing European-derived legislation into domestic UK law



No "falling off a cliff" on 29 March

# Henry VIII powers



- Because if you're going to have an ugly divorce, you might as well go all out\*
- Henry VIII powers allow government to change or repeal an act of Parliament without going through them
- In geek terms, it could be used as a bulk edit for convenience sake – or to bypass oversight and Parliamentary authority

\*subtweet



## Down the road, accessibility laws could be:

Left as they are

Replaced or  
amended in  
domestic  
versions

Thrown out with  
the bathwater



**What UK accessibility laws come from Europe?**



# Two kinds of accessibility regulations

## Disability and human rights laws

- The EU Charter of Fundamental Rights
- The Equality Act 2010
- The Human Rights Act 1998

## Practical access laws

- Web accessibility
- Public transport
- Services and manufactured goods
- Public procurement



# **Disability and human rights laws from Europe**



# The EU Charter of Fundamental Rights

## What it does

- Sets out the fundamental civil, political, economic, and social rights of everyone living within the European Union
- Bans discrimination against the disabled and requires them to be fully integrated into society
- Interpreted by the Court of Justice of the European Union (CJEU)
- Often confused with the European Convention on Human Rights

## What's happening to it

- It will NOT be retained after Brexit
- This is because of the CJEU, which is seen by Leave supporters as EU interference in domestic matters
- Leaves the UK with less power to protect rights, less flexibility to create new rights, gaps in human rights provision, and legal uncertainty and confusion

# Equality Act 2010

## What it does

- A human rights law which defines protected characteristics, including disability
- Implements the four EU equal treatment directives, banning discrimination on various grounds including disability
- Devolved to the Equality and Human Rights Commission, EHRC Scotland, NI Human Rights Commission, and the Equality Commission for NI

## What's happening to it

- It WILL be retained in the UK after Brexit
- But it is vulnerable to Henry VII powers
- It carries a lot of weight on its back, and after Brexit, it's going to carry more.

# Human Rights Act 1998

## What it does

- Incorporates the European Convention on Human Rights into UK law
- This came from the Council of Europe, not the EU
- Guarantees fundamental rights and freedoms for all, including disability rights
- Requires the UK to take into account (not necessarily follow) the judgements of the European Court of Human Rights

## What's happening to it

- It WILL be retained in the UK after Brexit, but is vulnerable
- It is "protected legislation", meaning the Great Repeal Bill can't touch it, but
- Government wants to replace it with a "British Bill of Rights"
- Government has said it has no intention to withdraw from the European Convention on Human Rights



# **Practical accessibility laws from Europe**





# Where is web accessibility in UK law anyway?

- It is held to be part of the Equality Act 2010, though it is not specifically discussed
- The Act has been held to imply web accessibility as non-discrimination in "the provision of a service"
- The guidance provided by the [Equality and Human Rights Commission](#) states that websites and online services must make "reasonable adjustments" for people with disabilities
- Most web professionals will facilitate this as much as possible by developing to [WCAG 2.0 standards](#)

# The Public Sector Accessibility Directive 2018

## What it does

- Implements EU Directive 2016/2102
- Pertains to public sector web sites and apps
- Requires them to carry an accountable accessibility statement
- <https://webdevlaw.uk/2016/12/05/plain-english-guide-eu-accessibility-directive/>

## What's happening to it

- It will be retained in the UK after Brexit
- Implementation is with GDS
- Enforcement is with the Equality and Human Rights Commission
- No reportage back to the European Commission



**The Public Sector Accessibility Directive:  
this is how laws and sausages are made**

# The European Accessibility Act

## What it does

- A **draft** regulation on the accessibility standards of products and services
- Will apply to TVs, ATMs, ticket machines, gadgets, e-commerce, and the environment around them
- Designed to serve the estimated 80 million people in Europe with disabilities as well as nearly 200 million older people

## What's happening to it

- Now entering its fourth year (sigh) of discussions
- The last triologue in Brussels was yesterday
- So if it isn't finalised and passed by March...
- ...its place in UK legislation might be optional...
- And the UK is very much the bad guy here, with UK government negotiators trying to water it down to save costs

## The Act as accidental Brexit case study

- After Brexit, UK manufacturers and service providers selling to Europe will still have to follow all European legislation – including the Act
- Do we really want inferior products for domestic use, and fully accessible products for export?



# The European-derived accessibility framework

The EU  
Charter of  
Fundamental  
Rights

The Equality  
Act 2010

The Human  
Rights Act  
1998

The Public  
Sector  
Accessibility  
Directive  
2018

The  
European  
Accessibility  
Act

# **The post-European-derived accessibility framework**

**The Equality  
Act 2010**

**The Human  
Rights Act  
1998**

**The Public  
Sector  
Accessibility  
Directive 2018**



**What should you look out for?**





# The Disability Rights UK manifesto

## What they want for people with disabilities:

- All existing EU-derived rights to be maintained;
- All existing domestic law rights to be maintained;
- Continued UK government commitment to support;
- Matching existing EU funding for disability issues:
- A full equality impact assessment for freedom of movement;
- Continued mutual recognition initiatives;
- Continued commitment to the European Convention on Human Rights

## Let's sum that up:

Preserve

Don't regress

Progress

# Prepare to stand up for your rights

Preserve

Discard

Don't regress

Regress

Progress

Failure to progress



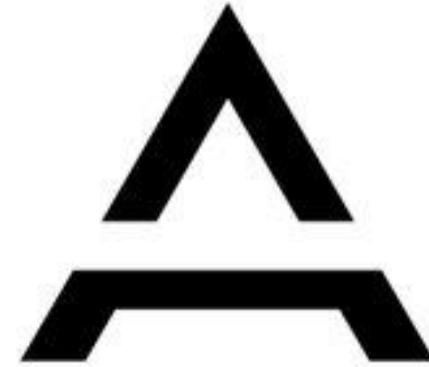
...but what do *you* want?

What do you expect for accessibility  
in Scotland after Brexit?

# Thank you!

You can find me at:

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Edinburgh,  
16-17 November
- Starbucks



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