So long, farewell, Auf Wiedersehen, adieu:
what Brexit means for accessibility
and you 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
I am a tech policy and regulation specialist (not a lawyer!)
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I’m also a co-organiser of next week’s WordCamp Edinburgh

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

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
Now entering its fourth year (sigh) of discussions.

The last triilogue 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 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

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- ...its place in UK legislation might be optional...
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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

Don’t regress

Progress

Discard

Regress

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:
• @webdevlaw
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• WordCamp Edinburgh, 16-17 November
• Starbucks