

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 16: General and Miscellaneous

Schedule 9: Work: exceptions

Part 2: Exceptions relating to age

Retirement: paragraph 8

Contributions to personal pension schemes: paragraph 16

Part 3: Other exceptions

Non-contractual payments to women on maternity leave: paragraph 17

Effect

844. This paragraph sets out an exception to the prohibitions on pregnancy and maternity discrimination by employers which allows an employer not to offer an applicant or provide an employee who is on maternity leave the benefits of the non-contractual terms and conditions of her employment. It also explains what is and is not covered by this exception.

Background

845. This paragraph is designed to replicate the effect of provisions in the Sex Discrimination Act 1975. It does for non-contractual terms and conditions of employment relating to pay what is done for contractual terms in section 74.

Examples

- An employer would not have to pay a woman on maternity leave a discretionary bonus if the only condition of eligibility for the bonus was that the employee must be in active employment at the time of payment.
- If a discretionary bonus amounted to retrospective payment for time worked over a specific period (such as the past year) during which a woman took maternity leave, the employer must include any part of that period the woman spent on compulsory maternity leave in calculating the bonus.