

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Work

Chapter 3: Equality of terms

Section 66: Sex equality clause

Effect

222. This section requires that a sex equality clause be read into the terms under which people are employed. The effect of this is that any term in the contract which is less favourable than that of the comparator of the opposite sex is modified so as to ensure that both have the same effect. Where the comparator benefits from a term which is not available to the employee, the effect of the sex equality clause is to include such a term in the employee's contract of employment.
223. A sex equality clause will operate similarly on the terms of a person who is an appointee to an office or a member of the armed forces, as it does in relation to an employee.
224. Subsection (3) is intended to ensure that the provisions relating to equality of terms at work and the provisions governing pension schemes in sections 67 and 68 operate effectively together so that action can be taken against an employer as it could against a trustee, to ensure, for example that a defence that operates in relation to one, will operate in relation to the other.
225. Where a job evaluation study has rated the work of an employee and comparator as equivalent, the equality clause will give the employee the benefit of all of the comparator's terms, including those which have not been determined by the rating of the work.

Background

226. This section is designed to replicate the effect of definitions contained in the Equal Pay Act 1970.

Example

- A male employee's contract includes a term that he can use his employer's car for private purposes. His female comparator who does equal work does not benefit from this term. A sex equality clause will have the effect of including in her contract a term corresponding to that of her male comparator.