



Pensions Act 2004

2004 CHAPTER 35

PART 2

THE BOARD OF THE PENSION PROTECTION FUND

CHAPTER 3

PENSION PROTECTION

Equal treatment

171 Equal treatment

- (1) [^{F1}Subsection (2)] applies where—
- (a) a woman has been employed on like work with a man in the same employment,
 - (b) a woman has been employed on work rated as equivalent with that of a man in the same employment, or
 - (c) a woman has been employed on work which, not being work in relation to which paragraph (a) or (b) applies, was, in terms of the demands made on her (for instance under such headings as effort, skill and decision), of equal value to that of a man in the same employment,
- and service in that employment was pensionable service under an occupational pension scheme.
- (2) If, apart from this subsection, any of the payment functions so far as it relates (directly or indirectly) to that pensionable service—
- (a) is or becomes less favourable to the woman than it is to the man, or
 - (b) is or becomes less favourable to the man than it is to the woman,
- that function has effect with such modifications as are necessary to ensure that the provision is not less favourable.

Changes to legislation: Pensions Act 2004, Cross Heading: Equal treatment is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (3) Subsection (2) does not operate in relation to any difference as between a woman and a man in the operation of any of the payment functions if the Board proves that the difference is genuinely due to a material factor which—
- (a) is not the difference of sex, but
 - (b) is a material difference between the woman's case and the man's case.
- (4) Subsection (2) does not apply in such circumstances as may be prescribed.
- [^{F2}(4A) Subsection (4B) applies where a person has been in pensionable service under an occupational pension scheme (regardless of whether subsection (2) also applies in that person's case).
- (4B) If, apart from this subsection, any of the payment functions so far as it relates (directly or indirectly) to that pensionable service is or becomes, by virtue of the application of the guaranteed minimum pension provisions, less favourable to that person than it would be if that person were of the opposite sex, that function has effect with such modifications as are necessary to ensure that the provision is not less favourable.]
- (5) This section has effect in relation to the exercise of any payment function in so far as it relates (directly or indirectly) to any pensionable service on or after 17th May 1990.
- (6) In this section—
- [^{F3}“guaranteed minimum pension provisions” means so much of the Pension Schemes Act 1993 and of any other enactment as relates to guaranteed minimum pensions (within the meaning of that Act);]
- “payment function” means any function conferred on the Board by or by virtue of this Chapter which relates to a person's entitlement to or the payment of any amount under or by virtue of—
- (a) the pension compensation provisions,
 - (b) section 166 (duty to pay scheme benefits unpaid at assessment date etc),
 - (c) section 169 (discharge of liabilities in respect of compensation), or
 - (d) section 170 (discharge of liabilities in respect of money purchase benefits);
- “pensionable service” has the meaning given by section 124(1) of the Pensions Act 1995 (c. 26).

Textual Amendments

- F1** Words in s. 171(1) substituted (coming into force in accordance with reg. 1(b) of the amending S.I.) by [The Pensions Act 2004 and the Equality Act 2010 \(Amendment\) \(Equal Treatment by Occupational Pension Schemes\) Regulations 2023 \(S.I. 2023/1308\)](#), [reg. 2\(2\)](#)
- F2** S. 171(4A)(4B) inserted (coming into force in accordance with reg. 1(b) of the amending S.I.) by [The Pensions Act 2004 and the Equality Act 2010 \(Amendment\) \(Equal Treatment by Occupational Pension Schemes\) Regulations 2023 \(S.I. 2023/1308\)](#), [reg. 2\(3\)](#)
- F3** Words in s. 171(6) inserted (coming into force in accordance with reg. 1(b) of the amending S.I.) by [The Pensions Act 2004 and the Equality Act 2010 \(Amendment\) \(Equal Treatment by Occupational Pension Schemes\) Regulations 2023 \(S.I. 2023/1308\)](#), [reg. 2\(4\)](#)

Commencement Information

- I1** S. 171 in force at 1.1.2006 for specified purposes and 6.4.2006 in so far as not already in force by [S.I. 2005/3331](#), [art. 2\(5\)](#), [Sch. Pt. 5](#)

Changes to legislation:

Pensions Act 2004, Cross Heading: Equal treatment is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 18(5A) inserted by [2014 c. 19 s. 52\(2\)](#)
- s. 18(6) words inserted by [2014 c. 19 s. 52\(3\)](#)
- s. 18(8) words inserted by [2014 c. 19 s. 52\(3\)](#)
- s. 23(1A) inserted by [2015 c. 8 Sch. 2 para. 26\(3\)](#)
- s. 23(10A) inserted by [2015 c. 8 Sch. 2 para. 26\(5\)](#)
- s. 38(1)-(1B) substituted for s. 38(1) by [2015 c. 8 Sch. 2 para. 27](#)
- s. 38(7)(da) inserted by [2021 c. 1 s. 104\(2\)](#)
- s. 43(1)-(1B) substituted for s. 43(1) by [2015 c. 8 Sch. 2 para. 28\(2\)](#)
- s. 52(1)-(1B) substituted for s. 52(1) by [2015 c. 8 Sch. 2 para. 29](#)
- s. 80(1)(a)(iib) inserted by [2021 c. 1 s. 109\(3\)](#)
- s. 102(2)(a) words in s. 102(2) renumbered as s. 102(2)(a) by [2008 c. 30 s. 44\(5\)\(a\)](#)
- s. 102(2)(b) inserted by [2008 c. 30 s. 44\(5\)\(b\)](#)
- s. 103(1A) inserted by [2008 c. 30 s. 44\(6\)](#)
- s. 117A inserted by [2008 c. 30 Sch. 10 para. 3](#)
- s. 126(1)-(1B) substituted for s. 126(1) by [2015 c. 8 Sch. 2 para. 31](#)
- s. 188(1)(ba) inserted by [2008 c. 30 Sch. 10 para. 6](#)
- s. 189A inserted by [2008 c. 30 Sch. 10 para. 7](#)
- s. 209(9) added by [2008 c. 30 Sch. 10 para. 8](#)
- s. 291(4)(f) and word inserted by [2021 c. 1 Sch. 3 para. 19\(b\)](#)
- s. 318(3)(a)(viii)-(x) inserted by [2015 c. 8 Sch. 2 para. 38\(3\)\(a\)](#)
- s. 318(3)(b)(vi)-(viii) inserted by [2015 c. 8 Sch. 2 para. 38\(3\)\(b\)](#)
- Sch. 4 para. 7(5)(b) inserted by [2008 c. 30 s. 44\(8\)\(b\)](#)
- Sch. 4 para. 13(3) inserted by [2008 c. 30 s. 44\(9\)\(b\)](#)
- Sch. 4 para. 7(5)(a) words in Sch. 4 para. 7(5) renumbered as Sch. 4 para. 7(5)(a) by [2008 c. 30 s. 44\(8\)\(a\)](#)
- Sch. 7 para. 21(2)(c)-(cc) substituted for Sch. 7 para. 21(2)(b)(c) by [2008 c. 30 Sch. 8 para. 11](#) (This amendment not applied to legislation.gov.uk. Sch. 8 para. 10 (3.1.2012) omitted without ever being in force by virtue of 2011 c. 19, Sch. 4 para. 20; S.I. 2011/3034 art. 3(i)(iv))