



# Equality Act 2010

## 2010 CHAPTER 15

### PART 5

#### WORK

#### CHAPTER 1

##### EMPLOYMENT, ETC.

##### *Office-holders*

#### **49 Personal offices: appointments, etc.**

- (1) This section applies in relation to personal offices.
- (2) A personal office is an office or post—
  - (a) to which a person is appointed to discharge a function personally under the direction of another person, and
  - (b) in respect of which an appointed person is entitled to remuneration.
- (3) A person (A) who has the power to make an appointment to a personal office must not discriminate against a person (B)—
  - (a) in the arrangements A makes for deciding to whom to offer the appointment;
  - (b) as to the terms on which A offers B the appointment;
  - (c) by not offering B the appointment.
- (4) A person who has the power to make an appointment to a personal office must not, in relation to the office, harass a person seeking, or being considered for, the appointment.
- (5) A person (A) who has the power to make an appointment to a personal office must not victimise a person (B)—
  - (a) in the arrangements A makes for deciding to whom to offer the appointment;
  - (b) as to the terms on which A offers B the appointment;

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- (c) by not offering B the appointment.
- (6) A person (A) who is a relevant person in relation to a personal office must not discriminate against a person (B) appointed to the office—
  - (a) as to the terms of B's appointment;
  - (b) in the way A affords B access, or by not affording B access, to opportunities for promotion, transfer or training or for receiving any other benefit, facility or service;
  - (c) by terminating B's appointment;
  - (d) by subjecting B to any other detriment.
- (7) A relevant person in relation to a personal office must not, in relation to that office, harass a person appointed to it.
- (8) A person (A) who is a relevant person in relation to a personal office must not victimise a person (B) appointed to the office—
  - (a) as to the terms of B's appointment;
  - (b) in the way A affords B access, or by not affording B access, to opportunities for promotion, transfer or training or for receiving any other benefit, facility or service;
  - (c) by terminating B's appointment;
  - (d) by subjecting B to any other detriment.
- (9) A duty to make reasonable adjustments applies to—
  - (a) a person who has the power to make an appointment to a personal office;
  - (b) a relevant person in relation to a personal office.
- (10) For the purposes of subsection (2)(a), a person is to be regarded as discharging functions personally under the direction of another person if that other person is entitled to direct the person as to when and where to discharge the functions.
- (11) For the purposes of subsection (2)(b), a person is not to be regarded as entitled to remuneration merely because the person is entitled to payments—
  - (a) in respect of expenses incurred by the person in discharging the functions of the office or post, or
  - (b) by way of compensation for the loss of income or benefits the person would or might have received had the person not been discharging the functions of the office or post.
- (12) Subsection (3)(b), so far as relating to sex or pregnancy and maternity, does not apply to a term that relates to pay—
  - (a) unless, were B to accept the offer, an equality clause or rule would have effect in relation to the term, or
  - (b) if paragraph (a) does not apply, except in so far as making an offer on terms including that term amounts to a contravention of subsection (3)(b) by virtue of section 13, 14 or 18.

## **50 Public offices: appointments, etc.**

- (1) This section and section 51 apply in relation to public offices.
- (2) A public office is—
  - (a) an office or post, appointment to which is made by a member of the executive;

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- (b) an office or post, appointment to which is made on the recommendation of, or subject to the approval of, a member of the executive;
  - (c) an office or post, appointment to which is made on the recommendation of, or subject to the approval of, the House of Commons, the House of Lords, the National Assembly for Wales or the Scottish Parliament.
- (3) A person (A) who has the power to make an appointment to a public office within subsection (2)(a) or (b) must not discriminate against a person (B)—
- (a) in the arrangements A makes for deciding to whom to offer the appointment;
  - (b) as to the terms on which A offers B the appointment;
  - (c) by not offering B the appointment.
- (4) A person who has the power to make an appointment to a public office within subsection (2)(a) or (b) must not, in relation to the office, harass a person seeking, or being considered for, the appointment.
- (5) A person (A) who has the power to make an appointment to a public office within subsection (2)(a) or (b) must not victimise a person (B)—
- (a) in the arrangements A makes for deciding to whom to offer the appointment;
  - (b) as to the terms on which A offers B the appointment;
  - (c) by not offering B the appointment.
- (6) A person (A) who is a relevant person in relation to a public office within subsection (2)(a) or (b) must not discriminate against a person (B) appointed to the office—
- (a) as to B's terms of appointment;
  - (b) in the way A affords B access, or by not affording B access, to opportunities for promotion, transfer or training or for receiving any other benefit, facility or service;
  - (c) by terminating the appointment;
  - (d) by subjecting B to any other detriment.
- (7) A person (A) who is a relevant person in relation to a public office within subsection (2)(c) must not discriminate against a person (B) appointed to the office—
- (a) as to B's terms of appointment;
  - (b) in the way A affords B access, or by not affording B access, to opportunities for promotion, transfer or training or for receiving any other benefit, facility or service;
  - (c) by subjecting B to any other detriment (other than by terminating the appointment).
- (8) A relevant person in relation to a public office must not, in relation to that office, harass a person appointed to it.
- (9) A person (A) who is a relevant person in relation to a public office within subsection (2)(a) or (b) must not victimise a person (B) appointed to the office—
- (a) as to B's terms of appointment;
  - (b) in the way A affords B access, or by not affording B access, to opportunities for promotion, transfer or training or for receiving any other benefit, facility or service;
  - (c) by terminating the appointment;
  - (d) by subjecting B to any other detriment.

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- (10) A person (A) who is a relevant person in relation to a public office within subsection (2)(c) must not victimise a person (B) appointed to the office—
- (a) as to B's terms of appointment;
  - (b) in the way A affords B access, or by not affording B access, to opportunities for promotion, transfer or training or for receiving any other benefit, facility or service;
  - (c) by subjecting B to any other detriment (other than by terminating the appointment).
- (11) A duty to make reasonable adjustments applies to—
- (a) a relevant person in relation to a public office;
  - (b) a person who has the power to make an appointment to a public office within subsection (2)(a) or (b).
- (12) Subsection (3)(b), so far as relating to sex or pregnancy and maternity, does not apply to a term that relates to pay—
- (a) unless, were B to accept the offer, an equality clause or rule would have effect in relation to the term, or
  - (b) if paragraph (a) does not apply, except in so far as making an offer on terms including that term amounts to a contravention of subsection (3)(b) by virtue of section 13, 14 or 18.

## **51 Public offices: recommendations for appointments, etc.**

- (1) A person (A) who has the power to make a recommendation for or give approval to an appointment to a public office within section 50(2)(a) or (b), must not discriminate against a person (B)—
- (a) in the arrangements A makes for deciding who to recommend for appointment or to whose appointment to give approval;
  - (b) by not recommending B for appointment to the office;
  - (c) by making a negative recommendation of B for appointment to the office;
  - (d) by not giving approval to the appointment of B to the office.
- (2) A person who has the power to make a recommendation for or give approval to an appointment to a public office within section 50(2)(a) or (b) must not, in relation to the office, harass a person seeking or being considered for the recommendation or approval.
- (3) A person (A) who has the power to make a recommendation for or give approval to an appointment to a public office within section 50(2)(a) or (b), must not victimise a person (B)—
- (a) in the arrangements A makes for deciding who to recommend for appointment or to whose appointment to give approval;
  - (b) by not recommending B for appointment to the office;
  - (c) by making a negative recommendation of B for appointment to the office;
  - (d) by not giving approval to the appointment of B to the office.
- (4) A duty to make reasonable adjustments applies to a person who has the power to make a recommendation for or give approval to an appointment to a public office within section 50(2)(a) or (b).

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- (5) A reference in this section to a person who has the power to make a recommendation for or give approval to an appointment to a public office within section 50(2)(a) is a reference only to a relevant body which has that power; and for that purpose “relevant body” means a body established—
- (a) by or in pursuance of an enactment, or
  - (b) by a member of the executive.

## 52 Interpretation and exceptions

- (1) This section applies for the purposes of sections 49 to 51.
- (2) “Personal office” has the meaning given in section 49.
- (3) “Public office” has the meaning given in section 50.
- (4) An office or post which is both a personal office and a public office is to be treated as being a public office only.
- (5) Appointment to an office or post does not include election to it.
- (6) “Relevant person”, in relation to an office, means the person who, in relation to a matter specified in the first column of the table, is specified in the second column (but a reference to a relevant person does not in any case include the House of Commons, the House of Lords, the National Assembly for Wales or the Scottish Parliament).

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<i>Matter</i>	<i>Relevant person</i>
A term of appointment	The person who has the power to set the term.
Access to an opportunity	The person who has the power to afford access to the opportunity (or, if there is no such person, the person who has the power to make the appointment).
Terminating an appointment	The person who has the power to terminate the appointment.
Subjecting an appointee to any other detriment	The person who has the power in relation to the matter to which the conduct in question relates (or, if there is no such person, the person who has the power to make the appointment).
Harassing an appointee	The person who has the power in relation to the matter to which the conduct in question relates.

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- (7) A reference to terminating a person's appointment includes a reference to termination of the appointment—
- (a) by the expiry of a period (including a period expiring by reference to an event or circumstance);
  - (b) by an act of the person (including giving notice) in circumstances such that the person is entitled, because of the relevant person's conduct, to terminate the appointment without notice.

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- (8) Subsection (7)(a) does not apply if, immediately after the termination, the appointment is renewed on the same terms.
- (9) Schedule 6 (excluded offices) has effect.

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