



# Equality Act 2010

## 2010 CHAPTER 15

### PART 9

#### ENFORCEMENT

#### CHAPTER 4

#### EQUALITY OF TERMS

#### 135 Supplementary

- (1) This section applies for the purposes of sections 132 to 134.
- (2) A standard case is a case which is not—
  - (a) a concealment case,
  - (b) an incapacity case, or
  - (c) a concealment case and an incapacity case.
- (3) A concealment case in relation to an equality clause is a case where—
  - (a) the responsible person deliberately concealed a qualifying fact (as defined by section 130) from the worker, and
  - (b) the worker commenced the proceedings before the end of the period of 6 years beginning with the day on which the worker discovered (or could with reasonable diligence have discovered) the qualifying fact.
- (4) A concealment case in relation to an equality rule is a case where—
  - (a) the employer or the trustees or managers of the occupational pension scheme in question deliberately concealed a qualifying fact (as defined by section 130) from the member, and
  - (b) the member commenced the proceedings before the end of the period of 6 years beginning with the day on which the member discovered (or could with reasonable diligence have discovered) the qualifying fact.

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*Status: This is the original version (as it was originally enacted).*

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- (5) An incapacity case is a case where the worker or member—
  - (a) had an incapacity when the breach first occurred, and
  - (b) commenced the proceedings before the end of the period of 6 years beginning with the day on which the worker or member ceased to have the incapacity.
- (6) A case involves a relevant incapacity or a relevant fraud or error if the period of 5 years referred to in section 132(5)(a) is, as a result of subsection (7) below, reckoned as a period of more than 20 years.
- (7) For the purposes of the reckoning referred to in subsection (6), no account is to be taken of time when the worker or member—
  - (a) had an incapacity, or
  - (b) was induced by a relevant fraud or error to refrain from commencing proceedings (not being a time after the worker or member could with reasonable diligence have discovered the fraud or error).
- (8) For the purposes of subsection (7)—
  - (a) a fraud is relevant in relation to an equality clause if it is a fraud on the part of the responsible person;
  - (b) an error is relevant in relation to an equality clause if it is induced by the words or conduct of the responsible person;
  - (c) a fraud is relevant in relation to an equality rule if it is a fraud on the part of the employer or the trustees or managers of the scheme;
  - (d) an error is relevant in relation to an equality rule if it is induced by the words or conduct of the employer or the trustees or managers of the scheme.
- (9) A reference in subsection (8) to the responsible person, the employer or the trustees or managers includes a reference to a person acting on behalf of the person or persons concerned.
- (10) In relation to terms of service, a reference in section 132(5) or subsection (3) or (5) (b) of this section to commencing proceedings is to be read as a reference to making a service complaint.
- (11) A reference to a pensioner member of a scheme includes a reference to a person who is entitled to the present payment of pension or other benefits derived through a member.
- (12) In relation to proceedings before a court—
  - (a) a reference to a complaint is to be read as a reference to a claim, and
  - (b) a reference to a complainant is to be read as a reference to a claimant.