



# Equality Act 2010

## 2010 CHAPTER 15

### PART 5

#### WORK

### CHAPTER 3

#### EQUALITY OF TERMS

#### *Sex equality*

#### **67 Sex equality rule**

- (1) If an occupational pension scheme does not include a sex equality rule, it is to be treated as including one.
- (2) [<sup>F1</sup>Where this section applies by virtue of section 64(1),] a sex equality rule is a provision that has the following effect—
  - (a) if a relevant term is less favourable to A than it is to B, the term is modified so as not to be less favourable;
  - (b) if a term confers a relevant discretion capable of being exercised in a way that would be less favourable to A than to B, the term is modified so as to prevent the exercise of the discretion in that way.

[<sup>F2</sup>(2A) Where this section applies by virtue of section 64(3), a sex equality rule is a provision that has the following effect—

- (a) if, by virtue of the application of the guaranteed minimum pension provisions, a relevant term is less favourable to A than it would be if A were of the opposite sex, the term is modified so as not to be less favourable;
- (b) if, by virtue of the application of those provisions, a term confers a relevant discretion capable of being exercised in a way that would be less favourable to A than it would be if A were of the opposite sex, the term is modified so as to prevent the exercise of the discretion in that way.

*Status: Point in time view as at 01/01/2024.*

*Changes to legislation: Equality Act 2010, Section 67 is up to date with all changes known to be in force on or before 02 June 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)*

- (2B) “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).]
- (3) A term is relevant if it is—
- (a) a term on which persons become members of the scheme, or
  - (b) a term on which members of the scheme are treated.
- (4) A discretion is relevant if its exercise in relation to the scheme is capable of affecting—
- (a) the way in which persons become members of the scheme, or
  - (b) the way in which members of the scheme are treated.
- (5) The reference in subsection (3)(b) to a term on which members of a scheme are treated includes a reference to the term as it has effect for the benefit of dependants of members.
- (6) The reference in subsection (4)(b) to the way in which members of a scheme are treated includes a reference to the way in which they are treated as the scheme has effect for the benefit of dependants of members.
- [<sup>F3</sup>(7) If the effect of a relevant matter on a person (A) differs according to the effect it has on a person of the same sex as A, according to whether A is married, in a civil partnership, or for some other reason due to A’s family status, a comparison for the purposes of this section of the effect of that matter on persons of the opposite sex must be with a person of the opposite sex to A who is in the same position as A and in particular—
- (a) where A is married to [<sup>F4</sup>, or the civil partner of,] someone of the opposite sex, A is to be compared to a person of the opposite sex to A (“B”) where B is married to [<sup>F5</sup> or (as the case may be) the civil partner of] someone of the opposite sex to B;
  - [<sup>F6</sup>(b) where A is married to, or the civil partner of, someone of the same sex, A is to be compared to B where B is married to or (as the case may be) the civil partner of someone of the same sex as B.]]
- (8) A relevant matter is—
- (a) a relevant term;
  - (b) a term conferring a relevant discretion;
  - (c) the exercise of a relevant discretion in relation to an occupational pension scheme.
- (9) This section, so far as relating to the terms on which persons become members of an occupational pension scheme, does not have effect in relation to pensionable service before 8 April 1976.
- (10) This section, so far as relating to the terms on which members of an occupational pension scheme are treated, does not have effect in relation to pensionable service before 17 May 1990.

#### Textual Amendments

- F1** Words in s. 67(2) 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. 3(4)(a)**

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- F2** S. 67(2A)(2B) 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. 3(4)(b)**
- F3** S. 67(7) substituted (16.12.2014) by The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229), art. 1(2), **Sch. 5 para. 19(2)**
- F4** Words in s. 67(7)(a) inserted (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), reg. 1(2), **Sch. 3 para. 32(3)(a)(i)**
- F5** Words in s. 67(7)(a) inserted (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), reg. 1(2), **Sch. 3 para. 32(3)(a)(ii)**
- F6** S. 67(7)(b) substituted (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), reg. 1(2), **Sch. 3 para. 32(3)(b)**

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