

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Work

Chapter 3: Equality of terms

Section 70: Exclusion of sex discrimination provisions

Effect

241. This section ensures that the sex discrimination provisions of the Act do not apply where an equality clause or rule operates (or would operate in the absence of a defence of material factor or the exceptions set out in Part 2 of Schedule 7).
242. The sex discrimination provisions prohibit sex discrimination in relation to non-contractual pay and benefits such as promotion, transfer and training and in relation to offers of employment or appointment.
243. The equality of terms provisions operate only in relation to the terms of a contract of employment, the terms of appointment to a personal or public office and the terms of service of members of the armed forces.

Background

244. This provision brings together sex discrimination and equality of terms provisions previously found in the Equal Pay Act 1970 and the Sex Discrimination Act 1975 and explains how they work together.

Example

- A female sales manager is entitled under her contract to a bonus every year in proportion to the number of sales her team achieves. She discovers that a male sales manager for the same firm doing the same job has a contract which includes a larger bonus payment in relation to the same number of sales. Her claim will be dealt with under the equality clause provisions.