

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Work

Chapter 3: Equality of terms

Section 75: Maternity equality rule

Effect

257. This section introduces a maternity equality rule into all occupational pension schemes.
258. The effect of the rule is that any period when a woman is on maternity leave should be treated as time when she is not, in particular in relation to any rule of an occupational pension scheme which can be applied in respect of:
- scheme membership,
 - accrual of scheme rights, and
 - determination of benefits.
259. The section makes similar provision in relation to any discretion under scheme rules which can be exercised in a way that treats a period of maternity leave differently from time when a woman is not on maternity leave.
260. The woman's contributions to the scheme during maternity leave need be determined only by reference to the amount she is paid during maternity leave.
261. The provisions of the section apply only to women on unpaid ordinary maternity leave where the expected week of confinement began on or after 6 April 2003.
262. The provisions of the section apply only to a woman on unpaid additional maternity leave where the expected week of confinement began on or after 5 October 2008 and they do not apply to the accrual of scheme rights.
263. Where there has been a breach of a term modified by a maternity equality rule, proceedings may be brought against the person responsible for the breach under Part 9 of the Act.

Background

264. This section replaces the previous provisions on "unfair maternity provisions" in paragraph 5 of Schedule 5 to the Social Security Act 1989 and replicates aspects of Regulations 9 and 18A of the Maternity and Parental Leave etc Regulations 1999.

Examples

- A woman who is on maternity leave will be entitled to continuing membership of the scheme throughout the period of maternity leave whether or not she is paid.

*These notes refer to the Equality Act 2010 (c.15)
which received Royal Assent on 8 April 2010*

- A woman who is paid whilst on maternity leave will be entitled to accrue rights in a scheme as though she were paid her usual salary but she will only be required to make contributions based on her actual pay.