

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 9: Enforcement

Chapter 4: Equality of terms

Section 130: Section 129: supplementary

Effect

422. Under section 129, the time limit for bringing a claim for breach of an equality clause is six months (nine months for members of the armed forces) from the date on which employment ended in a standard case. Different time limits apply to non-standard cases. This section defines what is not a standard case.
423. In a stable work case, a series of fixed- or short-term contracts and breaks between contracts is treated as a continuing single contract. In a standard case, the time limit would start at the end of the contract of employment. In a stable work case, the time limit only begins to run when the stable working relationship ends.
424. In a concealment case, the employer deliberately conceals relevant information from the employee. The time limit starts to run when the employee discovers, or could reasonably have discovered, the information.
425. In an incapacity case, the appropriate time limit will start to run when the incapacity ends. Section 141 sets out when a person has an incapacity.
426. The section makes similar provisions for claims by members of the armed forces and in relation to occupational pension schemes.

Background

427. This provision replaces similar provisions in the previous legislation.

Examples

- A woman's employment ends due to mental health problems which result in her temporary loss of capacity to make decisions for herself. She could make a claim for breach of an equality clause to an employment tribunal but is not well enough to do so. The six month time limit will start when she recovers sufficiently to make a claim.
- A woman suspects that her male colleagues who do the same work are better paid. Her employer reassures her that she and her colleagues get the same salary but he deliberately does not tell her that the men also receive performance bonuses under their contracts. Her male colleagues refuse to discuss their pay with her. The woman only discovers the discrepancy between her pay and the men's when one of the men tells her 18 months after she ceases employment. Within six months, she makes an equal pay claim to a tribunal based on the value of the bonus payments she would have received if her contract had provided for them. Although the woman's claim is made more than six months after her

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

employment ends, she shows that her employer deliberately misled her into believing that her salary was the same as the men's. She had no way of discovering the truth earlier. Her claim can proceed as a concealment case.