Status: Point in time view as at 01/05/2022.
Changes to legislation: Equality Act 2010, Chapter 2 is up to date with all changes known to be in force on
or before 24 April 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)

Equality Act 2010

2010 CHAPTER 15

PART 5

WORK

CHAPTER 2

OCCUPATIONAL PENSION SCHEMES

61   Non-discrimination rule

(1) An occupational pension scheme must be taken to include a non-discrimination rule.

(2) A non-discrimination rule is a provision by virtue of which a responsible person (A)—
    (a) must not discriminate against another person (B) in carrying out any of A's functions in relation to the scheme;
    (b) must not, in relation to the scheme, harass B;
    (c) must not, in relation to the scheme, victimise B.

(3) The provisions of an occupational pension scheme have effect subject to the non-discrimination rule.

(4) The following are responsible persons—
    (a) the trustees or managers of the scheme;
    (b) an employer whose employees are, or may be, members of the scheme;
    (c) a person exercising an appointing function in relation to an office the holder of which is, or may be, a member of the scheme.

(5) A non-discrimination rule does not apply in relation to a person who is a pension credit member of a scheme.

(6) An appointing function is any of the following—
    (a) the function of appointing a person;

    (b)   the function of terminating a person's appointment;

    (c)   the function of recommending a person for appointment;

    (d)   the function of approving an appointment.

(7) A breach of a non-discrimination rule is a contravention of this Part for the purposes of Part 9 (enforcement).

(8) It is not a breach of a non-discrimination rule for the employer or the trustees or managers of a scheme to maintain or use in relation to the scheme rules, practices, actions or decisions relating to age which are of a description specified by order by a Minister of the Crown.

(9) An order authorising the use of rules, practices, actions or decisions which are not in use before the order comes into force must not be made unless the Minister consults such persons as the Minister thinks appropriate.

(10) A non-discrimination rule does not have effect in relation to an occupational pension scheme in so far as an equality rule has effect in relation to it (or would have effect in relation to it but for Part 2 of Schedule 7).

(11) A duty to make reasonable adjustments applies to a responsible person.

Modifications etc. (not altering text)

C1 S. 61 excluded (10.3.2022 for specified purposes) by the Public Service Pensions and Judicial Offices Act 2022 (c. 7), **ss. 30**, 131(1)(2)(a)(b) (with ss. 31(1), 32)

C2 S. 61 excluded (10.3.2022 for specified purposes) by the Public Service Pensions and Judicial Offices Act 2022 (c. 7), **ss. 66**, 131(1)(2)(c) (with ss. 67(1), 68)

Commencement Information

I1 S. 61 wholly in force; s. 61 not in force at Royal Assent see s. 216; s. 61(8)(9) in force for certain purposes at 6.7.2010 by S.I. 2010/1736, **art. 2**, Sch.; s. 61 in force at 1.10.2010 in so far as not already in force by S.I. 2010/2317, **art. 2(1)(5)(b)** (with art. 15)

62   Non-discrimination alterations

(1) This section applies if the trustees or managers of an occupational pension scheme do not have power to make non-discrimination alterations to the scheme.

(2) This section also applies if the trustees or managers of an occupational pension scheme have power to make non-discrimination alterations to the scheme but the procedure for doing so—

    (a)   is liable to be unduly complex or protracted, or

    (b)   involves obtaining consents which cannot be obtained or which can be obtained only with undue delay or difficulty.

(3) The trustees or managers may by resolution make non-discrimination alterations to the scheme.

(4) Non-discrimination alterations may have effect in relation to a period before the date on which they are made.

(5) Non-discrimination alterations to an occupational pension scheme are such alterations to the scheme as may be required for the provisions of the scheme to have the effect that they have in consequence of section 61(3).

63   Communications

(1) In their application to communications the following provisions apply in relation to a disabled person who is a pension credit member of an occupational pension scheme as they apply in relation to a disabled person who is a deferred member or pensioner member of the scheme—

    (a)   section 61;
    (b)   section 120;
    (c)   section 126;
    (d)   paragraph 19 of Schedule 8 (and such other provisions of that Schedule as apply for the purposes of that paragraph).

(2) Communications include—

    (a)   the provision of information;
    (b)   the operation of a dispute resolution procedure.

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