



Equality Act 2010

2010 CHAPTER 15

PART 11

ADVANCEMENT OF EQUALITY

CHAPTER 2

POSITIVE ACTION

159 Positive action: recruitment and promotion

- (1) This section applies if a person (P) reasonably thinks that—
 - (a) persons who share a protected characteristic suffer a disadvantage connected to the characteristic, or
 - (b) participation in an activity by persons who share a protected characteristic is disproportionately low.
- (2) Part 5 (work) does not prohibit P from taking action within subsection (3) with the aim of enabling or encouraging persons who share the protected characteristic to—
 - (a) overcome or minimise that disadvantage, or
 - (b) participate in that activity.
- (3) That action is treating a person (A) more favourably in connection with recruitment or promotion than another person (B) because A has the protected characteristic but B does not.
- (4) But subsection (2) applies only if—
 - (a) A is as qualified as B to be recruited or promoted,
 - (b) P does not have a policy of treating persons who share the protected characteristic more favourably in connection with recruitment or promotion than persons who do not share it, and
 - (c) taking the action in question is a proportionate means of achieving the aim referred to in subsection (2).

Changes to legislation: Equality Act 2010, Section 159 is up to date with all changes known to be in force on or before 02 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) View outstanding changes

- (5) “Recruitment” means a process for deciding whether to—
- (a) offer employment to a person,
 - (b) make contract work available to a contract worker,
 - (c) offer a person a position as a partner in a firm or proposed firm,
 - (d) offer a person a position as a member of an LLP or proposed LLP,
 - (e) offer a person a pupillage or tenancy in barristers' chambers,
 - (f) take a person as an advocate's devil or offer a person membership of an advocate's stable,
 - (g) offer a person an appointment to a personal office,
 - (h) offer a person an appointment to a public office, recommend a person for such an appointment or approve a person's appointment to a public office, or
 - (i) offer a person a service for finding employment.
- (6) This section does not enable P to do anything that is prohibited by or under an enactment other than this Act.

Modifications etc. (not altering text)

- C1** S. 159 excluded by 2005 c. 4, s. 27(5A)(a) (as inserted (15.7.2013) by [Crime and Courts Act 2013](#) (c. 22), s. 61(3), [Sch. 13 para. 9](#); S.I. 2013/1725, art. 2(g))
- C2** S. 159 excluded (S.) (29.5.2020) by [Gender Representation on Public Boards \(Scotland\) Act 2018](#) (asp 4), [ss. 11\(1\), 13](#); S.S.I. 2020/119, reg. 2

Commencement Information

- I1** S. 159 wholly in force at 6.4.2011; s. 159 not in force at Royal Assent see s. 216; s. 159(3) in force for certain purposes at 1.10.2010 by [S.I. 2010/2317](#), [art. 2\(1\)\(11\)\(b\)](#) (with [art. 15](#)); s. 159 in force so far as not already in force at 6.4.2011 by [S.I. 2011/96](#), [art. 3](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 40A inserted by [2023 c. 51 s. 1](#)
- s. 120(9) inserted by [2023 c. 51 s. 2\(b\)](#)
- s. 124A inserted by [2023 c. 51 s. 3](#)