



# 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;

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*Status: This is the original version (as it was originally enacted).*

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- (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.