
STATUTORY INSTRUMENTS

2023 No. 1308

**The Pensions Act 2004 and the Equality Act
2010 (Amendment) (Equal Treatment by
Occupational Pension Schemes) Regulations 2023**

Amendment of Chapter 3 of Part 5 of the Equality Act 2010

- 3.—(1) Chapter 3 of Part 5 of the Equality Act 2010⁽¹⁾ is amended as follows.
- (2) After subsection (2) of section 64 (relevant types of work) insert—
- “⁽³⁾ Sections 66 to 68 and 70 apply where a person (A) is or has been in pensionable service under an occupational pension scheme (regardless of whether those sections also apply in A’s case by virtue of subsection (1)).”.
- (3) In section 66 (sex equality clause)—
- (a) at the beginning of subsection (2) insert “Where this section applies by virtue of section 64(1),”;
- (b) after subsection (4) insert—
- “⁽⁵⁾ Where this section applies by virtue of section 64(3), a sex equality clause is a provision that has the effect that if, by virtue of the application of the guaranteed minimum pension provisions, a term of A’s that relates to membership of or rights under the scheme concerned is less favourable to A than it would be if A were of the opposite sex, the term, in so far as a sex equality rule would have effect in relation to it, is modified so as not to be less favourable.
- “⁽⁶⁾ “Guaranteed minimum pension provisions” means so much of the Pension Schemes Act 1993 and of any other enactment as relates to guaranteed minimum pensions (within the meaning of that Act).”.
- (4) In section 67 (sex equality rule)—
- (a) at the beginning of subsection (2) insert “Where this section applies by virtue of section 64(1),”;
- (b) after subsection (2) insert—
- “^(2A) Where this section applies by virtue of section 64(3), a sex equality rule is a provision that has the following effect—
- (a) if, by virtue of the application of the guaranteed minimum pension provisions, a relevant term is less favourable to A than it would be if A were of the opposite sex, the term is modified so as not to be less favourable;
- (b) if, by virtue of the application of those provisions, a term confers a relevant discretion capable of being exercised in a way that would be less favourable to A than it would be if A were of the opposite sex, the term is modified so as to prevent the exercise of the discretion in that way.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

(2B) “Guaranteed minimum pension provisions” means so much of the Pension Schemes Act 1993 and of any other enactment as relates to guaranteed minimum pensions (within the meaning of that Act).”.