



# Equality Act 2006

## 2006 CHAPTER 3

### PART 1

#### THE COMMISSION FOR EQUALITY AND HUMAN RIGHTS

##### *Dissolution of Existing Commissions*

#### **38 Transfer of property: supplemental**

- (1) A direction under section 37—
  - (a) shall be in writing,
  - (b) may be given only following consultation with the former Commission to which the direction relates and, where the Secretary of State thinks it appropriate, the Commission for Equality and Human Rights, and
  - (c) may be varied or revoked by a further direction.
- (2) In so far as is appropriate as a consequence of a transfer effected by or by virtue of section 37—
  - (a) anything done by or in relation to any of the former Commissions which has effect immediately before the transfer shall continue to have effect as if done by or in relation to the Commission for Equality and Human Rights, and
  - (b) anything (including any legal proceedings) which immediately before the transfer is in the process of being done by or in relation to any of the former Commissions may be continued by or in relation to the Commission for Equality and Human Rights.
- (3) In so far as is appropriate in consequence of a transfer effected by or by virtue of section 37 a reference to any of the former Commissions in an agreement, instrument or other document shall be treated as a reference to the Commission for Equality and Human Rights.
- (4) Section 37, and a direction, scheme or order under or by virtue of that section, shall operate in relation to property, rights or liabilities—
  - (a) whether or not they would otherwise be capable of being transferred,

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*Changes to legislation: Equality Act 2006, Section 38 is up to date with all changes known to be in force on or before 09 June 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*

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- (b) without any instrument or other formality being required, and
  - (c) irrespective of any requirement for consent that would otherwise apply.
- (5) A scheme or order under or by virtue of section 37 which relates to rights or liabilities under a contract of employment—
- (a) must provide for the application of the [F1Transfer of Undertakings (Protection of Employment) Regulations 2006]<sup>F1</sup>, and
  - (b) must provide that for any purpose relating to an employee of a former commission who becomes an employee of the Commission for Equality and Human Rights by virtue of the scheme or order—
    - (i) a period of employment with the former commission shall be treated as a period of employment with the Commission for Equality and Human Rights, and
    - (ii) the transfer to that Commission shall not be treated as a break in service.

#### Textual Amendments

- F1** Words in s. 38(5) substituted (6.4.2006) by virtue of [The Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#), reg. 20, **Sch. 2 para. 1(I)** (with application according to reg. 21(1))

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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. 21(8) inserted by [2023 c. 51 s. 4\(2\)](#)
- s. 24A(1)(aa) inserted by [2023 c. 51 s. 4\(3\)](#)