



# Equality Act 2010

## 2010 CHAPTER 15

### PART 9

#### ENFORCEMENT

#### CHAPTER 4

#### EQUALITY OF TERMS

#### 135 Supplementary

- (1) This section applies for the purposes of sections 132 to 134.
- (2) A standard case is a case which is not—
  - (a) a concealment case,
  - (b) an incapacity case, or
  - (c) a concealment case and an incapacity case.
- (3) A concealment case in relation to an equality clause is a case where—
  - (a) the responsible person deliberately concealed a qualifying fact (as defined by section 130) from the worker, and
  - (b) the worker commenced the proceedings before the end of the period of 6 years beginning with the day on which the worker discovered (or could with reasonable diligence have discovered) the qualifying fact.
- (4) A concealment case in relation to an equality rule is a case where—
  - (a) the employer or the trustees or managers of the occupational pension scheme in question deliberately concealed a qualifying fact (as defined by section 130) from the member, and
  - (b) the member commenced the proceedings before the end of the period of 6 years beginning with the day on which the member discovered (or could with reasonable diligence have discovered) the qualifying fact.

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Equality Act 2010, Section 135 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)*

- (5) An incapacity case is a case where the worker or member—
- (a) had an incapacity when the breach first occurred, and
  - (b) commenced the proceedings before the end of the period of 6 years beginning with the day on which the worker or member ceased to have the incapacity.
- (6) A case involves a relevant incapacity or a relevant fraud or error if the period of 5 years referred to in section 132(5)(a) [F1 or 134(6)(a)] is, as a result of subsection (7) below, reckoned as a period of more than [F2 5 years; and—
- (a) if, as a result of subsection (7), that period is reckoned as a period of more than 5 years but no more than 20 years, the period for the purposes of section 132(5)(b) or (as the case may be) section 134(6)(b) is that extended period;
  - (b) if, as a result of subsection (7), that period is reckoned as a period of more than 20 years, the period for the purposes of section 132(5)(b) or (as the case may be) section 134(6)(b) is a period of 20 years.]
- (7) For the purposes of the reckoning referred to in subsection (6), no account is to be taken of time when the worker or member—
- (a) had an incapacity, or
  - (b) was induced by a relevant fraud or error to refrain from commencing proceedings (not being a time after the worker or member could with reasonable diligence have discovered the fraud or error).
- (8) For the purposes of subsection (7)—
- (a) a fraud is relevant in relation to an equality clause if it is a fraud on the part of the responsible person;
  - (b) an error is relevant in relation to an equality clause if it is induced by the words or conduct of the responsible person;
  - (c) a fraud is relevant in relation to an equality rule if it is a fraud on the part of the employer or the trustees or managers of the scheme;
  - (d) an error is relevant in relation to an equality rule if it is induced by the words or conduct of the employer or the trustees or managers of the scheme.
- (9) A reference in subsection (8) to the responsible person, the employer or the trustees or managers includes a reference to a person acting on behalf of the person or persons concerned.
- (10) In relation to terms of service, a reference in section 132(5) or subsection (3) or (5)(b) of this section to commencing proceedings is to be read as a reference to making a service complaint.
- (11) A reference to a pensioner member of a scheme includes a reference to a person who is entitled to the present payment of pension or other benefits derived through a member.
- (12) In relation to proceedings before a court—
- (a) a reference to a complaint is to be read as a reference to a claim, and
  - (b) a reference to a complainant is to be read as a reference to a claimant.

#### Textual Amendments

- F1** Words in s. 135(6) inserted (1.10.2010) by [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010 \(S.I. 2010/2279\)](#), arts. 1(2), 7(a)

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**F2** Words in s. 135(6) substituted (1.10.2010) by [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010 \(S.I. 2010/2279\)](#), arts. 1(2), **7(b)**

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**Commencement Information**

**I1** S. 135 wholly in force; s. 135 not in force at Royal Assent see s. 216; s. 135 in force at 1.10.2010 by S.I. 2010/2317, **art. 2(1)(9)(f)** (with art. 15, and subject to transitional provision in art. 7)

**Status:**

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