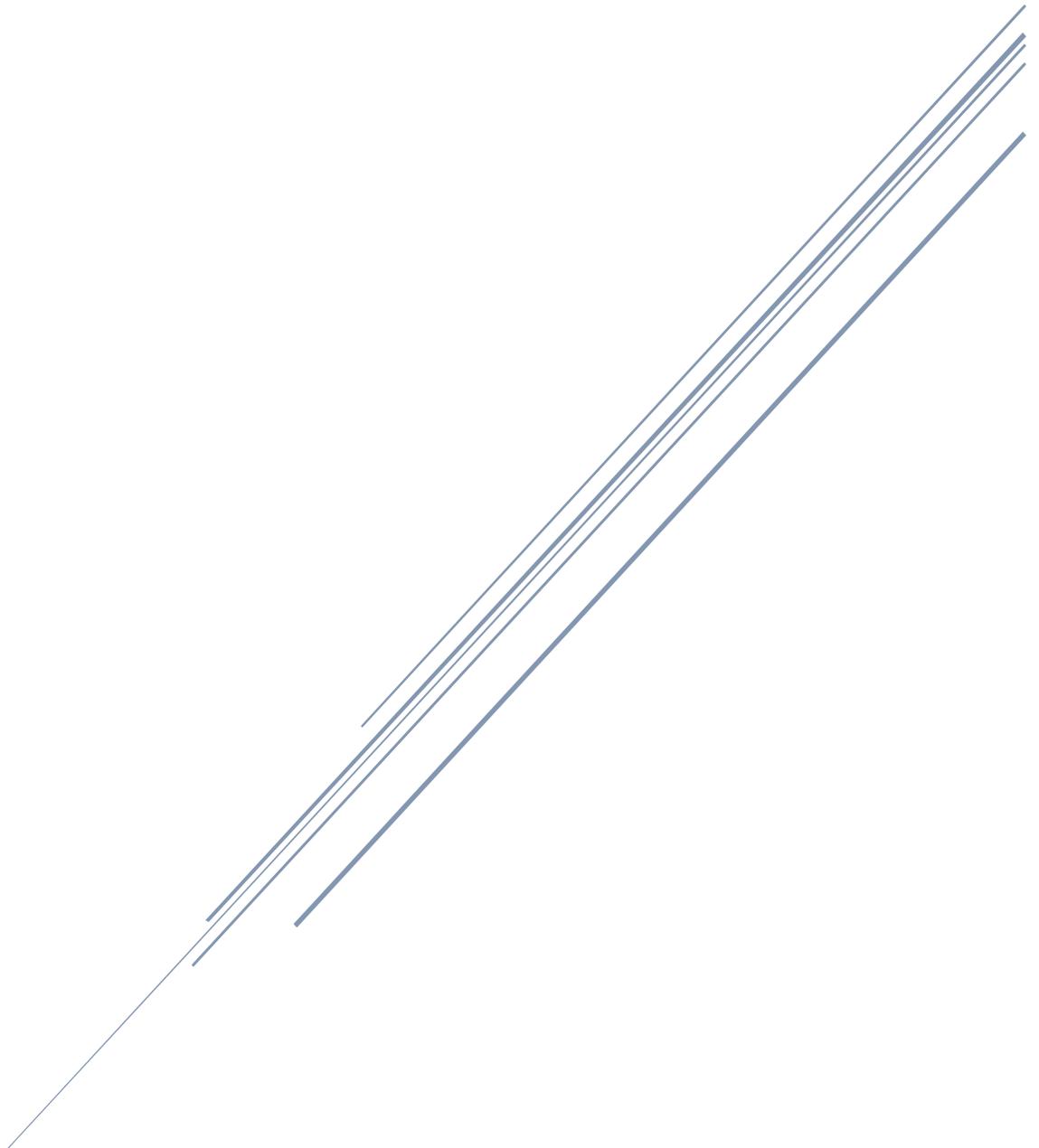


EQUALITY ACT 2010 (ABRIDGED)

SCEG Project for Review and Redraft of Guidance for
Transgender Inclusion in Domestic Sport 2020



Equality Act 2010

SOURCED 2ND JULY 2020

An Act to make provision to require Ministers of the Crown and others when making strategic decisions about the exercise of their functions to have regard to the desirability of reducing socio-economic inequalities; to reform and harmonise equality law and restate the greater part of the enactments relating to discrimination and harassment related to certain personal characteristics; to enable certain employers to be required to publish information about the differences in pay between male and female employees; to prohibit victimisation in certain circumstances; to require the exercise of certain functions to be with regard to the need to eliminate discrimination and other prohibited conduct; to enable duties to be imposed in relation to the exercise of public procurement functions; to increase equality of opportunity; to amend the law relating to rights and responsibilities in family relationships; and for connected purposes.

[8th April 2010]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Part 1: Socio-Economic Inequities

Part 2: Equality: Key Concepts

CHAPTER 1: PROTECTED CHARACTERISTICS

4. The protected characteristics

The following characteristics are protected characteristics—

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

5. Age

- 1) In relation to the protected characteristic of age—
 - a. a reference to a person who has a particular protected characteristic is a reference to a person of a particular age group;
 - b. a reference to persons who share a protected characteristic is a reference to persons of the same age group.
- 2) A reference to an age group is a reference to a group of persons defined by reference to age, whether by reference to a particular age or to a range of ages.

6. Disability

- 1) A person (P) has a disability if—
 - a. P has a physical or mental impairment, and
 - b. the impairment has a substantial and long-term adverse effect on P's ability to carry out normal day-to-day activities.
- 2) A reference to a disabled person is a reference to a person who has a disability.
- 3) In relation to the protected characteristic of disability—
 - a. a reference to a person who has a particular protected characteristic is a reference to a person who has a particular disability;
 - b. a reference to persons who share a protected characteristic is a reference to persons who have the same disability.

- 4) This Act (except Part 12 and section 190) applies in relation to a person who has had a disability as it applies in relation to a person who has the disability; accordingly (except in that Part and that section)—
 - a. a reference (however expressed) to a person who has a disability includes a reference to a person who has had the disability, and
 - b. a reference (however expressed) to a person who does not have a disability includes a reference to a person who has not had the disability.
- 5) A Minister of the Crown may issue guidance about matters to be taken into account in deciding any question for the purposes of subsection (1).
- 6) Schedule 1 (disability: supplementary provision) has effect.

7. Gender reassignment

- 3) A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex.
- 4) A reference to a transsexual person is a reference to a person who has the protected characteristic of gender reassignment.
- 5) In relation to the protected characteristic of gender reassignment—
 - a. a reference to a person who has a particular protected characteristic is a reference to a transsexual person;
 - b. a reference to persons who share a protected characteristic is a reference to transsexual persons.

8. Marriage and civil partnership

9. Race

- 1) Race includes—
 - a. colour;
 - b. nationality;
 - c. ethnic or national origins.
- 2) In relation to the protected characteristic of race—
 - a. a reference to a person who has a particular protected characteristic is a reference to a person of a particular racial group;
 - b. a reference to persons who share a protected characteristic is a reference to persons of the same racial group.
- 3) A racial group is a group of persons defined by reference to race; and a reference to a person's racial group is a reference to a racial group into which the person falls.
- 4) The fact that a racial group comprises two or more distinct racial groups does not prevent it from constituting a particular racial group.
- 5) A Minister of the Crown—
 - a. amend this section so as to provide for caste to be an aspect of race;
 - b. amend this Act so as to provide for an exception to a provision of this Act to apply, or not to apply, to caste or to apply, or not to apply, to caste in specified circumstances.
- 6) The power under section 207(4)(b), in its application to subsection (5), includes power to amend this Act.

10. Religion or belief

- 1) Religion means any religion and a reference to religion includes a reference to a lack of religion.
- 2) Belief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief.
- 3) In relation to the protected characteristic of religion or belief—
 - a. a reference to a person who has a particular protected characteristic is a reference to a person of a particular religion or belief;
 - b. a reference to persons who share a protected characteristic is a reference to persons who are of the same religion or belief.

11. Sex

In relation to the protected characteristic of sex—

- 1) a reference to a person who has a particular protected characteristic is a reference to a man or to a woman;
- 2) a reference to persons who share a protected characteristic is a reference to persons of the same sex.

12. Sexual orientation

- 1) Sexual orientation means a person's sexual orientation towards—
 - a. persons of the same sex,
 - b. persons of the opposite sex, or
 - c. persons of either sex.

- 2) In relation to the protected characteristic of sexual orientation—
 - a. a reference to a person who has a particular protected characteristic is a reference to a person who is of a particular sexual orientation;
 - b. a reference to persons who share a protected characteristic is a reference to persons who are of the same sexual orientation.

CHAPTER 2: PROHIBITED CONDUCT

Discrimination

13. Direct discrimination

- 1) A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.
- 2) If the protected characteristic is age, A does not discriminate against B if A can show A's treatment of B to be a proportionate means of achieving a legitimate aim.
- 3) If the protected characteristic is disability, and B is not a disabled person, A does not discriminate against B only because A treats or would treat disabled persons more favourably than A treats B.
- 4) If the protected characteristic is marriage and civil partnership, this section applies to a contravention of Part 5 (work) only if the treatment is because it is B who is married or a civil partner.
- 5) If the protected characteristic is race, less favourable treatment includes segregating B from others.
- 6) If the protected characteristic is sex—
 - a. less favourable treatment of a woman includes less favourable treatment of her because she is breast-feeding;
 - b. in a case where B is a man, no account is to be taken of special treatment afforded to a woman in connection with pregnancy or childbirth.
- 7) Subsection (6)(a) does not apply for the purposes of Part 5 (work).
- 8) This section is subject to sections 17(6) and 18(7).

14. Combined discrimination: dual characteristics

- 1) A person (A) discriminates against another (B) if, because of a combination of two relevant protected characteristics, A treats B less favourably than A treats or would treat a person who does not share either of those characteristics.
- 2) The relevant protected characteristics are—
 - a. age;
 - b. disability;
 - c. gender reassignment;
 - d. race
 - e. religion or belief;
 - f. sex;
 - g. sexual orientation.
- 3) For the purposes of establishing a contravention of this Act by virtue of subsection (1), B need not show that A's treatment of B is direct discrimination because of each of the characteristics in the combination (taken separately).
- 4) But B cannot establish a contravention of this Act by virtue of subsection (1) if, in reliance on another provision of this Act or any other enactment, A shows that A's treatment of B is not direct discrimination because of either or both of the characteristics in the combination.
- 5) Subsection (1) does not apply to a combination of characteristics that includes disability in circumstances where, if a claim of direct discrimination because of disability were to be brought, it would come within section 116 (special educational needs).
- 6) A Minister of the Crown may by order amend this section so as to—
 - a. make further provision about circumstances in which B can, or in which B cannot, establish a contravention of this Act by virtue of subsection (1);
 - b. specify other circumstances in which subsection (1) does not apply.
- 7) The references to direct discrimination are to a contravention of this Act by virtue of section 13.

15. Discrimination arising from disability

16. Gender reassignment discrimination: cases of absence from work

- 1) This section has effect for the purposes of the application of Part 5 (work) to the protected characteristic of gender reassignment.

- 2) A person (A) discriminates against a transsexual person (B) if, in relation to an absence of B's that is because of gender reassignment, A treats B less favourably than A would treat B if—
 - a. B's absence was because of sickness or injury, or
 - b. B's absence was for some other reason and it is not reasonable for B to be treated less favourably.
- 3) A person's absence is because of gender reassignment if it is because the person is proposing to undergo, is undergoing or has undergone the process (or part of the process) mentioned in section 7(1).

17. Pregnancy and maternity discrimination: non-work cases

18. Pregnancy and maternity discrimination: work cases

19. Indirect discrimination

- 1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.
- 2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if—
 - a. A applies, or would apply, it to persons with whom B does not share the characteristic,
 - b. it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,
 - c. it puts, or would put, B at that disadvantage, and
 - d. A cannot show it to be a proportionate means of achieving a legitimate aim.
- 3) The relevant protected characteristics are—
 - a. age;
 - b. disability;
 - c. gender reassignment
 - d. marriage and civil partnership
 - e. race
 - f. religion or belief
 - g. sex
 - h. sexual orientation

Adjustments for disabled persons

20. Duty to make adjustments

21. Failure to comply with duty

22. Regulations

Discrimination: supplementary

23. Comparison by reference to circumstances

24. Irrelevance of alleged discriminator's characteristics

25. References to particular strands of discrimination

- 1) Age discrimination is—
 - a. discrimination within section 13 because of age;
 - b. discrimination within section 19 where the relevant protected characteristic is age.
- 2) Disability discrimination is—
 - a. discrimination within section 13 because of disability;
 - b. discrimination within section 15;
 - c. discrimination within section 19 where the relevant protected characteristic is disability;
 - d. discrimination within section 21.
- 3) Gender reassignment discrimination is—
 - a. discrimination within section 13 because of gender reassignment
 - b. discrimination within section 16;
 - c. discrimination within section 19 where the relevant protected characteristic is gender reassignment.
- 4) Marriage and civil partnership discrimination is—
 - a. discrimination within section 13 because of marriage and civil partnership;
 - b. discrimination within section 19 where the relevant protected characteristic is marriage and civil partnership.
- 5) Pregnancy and maternity discrimination is discrimination within section 17 or 18.
- 6) Race discrimination is—
 - a. discrimination within section 13 because of race;
 - b. discrimination within section 19 where the relevant protected characteristic is race.

- 7) Religious or belief-related discrimination is—
 - a. discrimination within section 13 because of religion or belief;
 - b. discrimination within section 19 where the relevant protected characteristic is religion or belief.
- 8) Sex discrimination is—
 - a. discrimination within section 13 because of sex;
 - b. discrimination within section 19 where the relevant protected characteristic is sex.
- 9) Sexual orientation discrimination is—
 - a. discrimination within section 13 because of sexual orientation;
 - b. discrimination within section 19 where the relevant protected characteristic is sexual orientation.

Other prohibited conduct

26. Harassment

- 1) A person (A) harasses another (B) if—
 - a. A engages in unwanted conduct related to a relevant protected characteristic, and
 - b. the conduct has the purpose or effect of—
 - i. violating B's dignity, or
 - ii. creating an intimidating, hostile, degrading, humiliating or offensive environment for B.
- 2) A also harasses B if—
 - a. A engages in unwanted conduct of a sexual nature, and
 - b. the conduct has the purpose or effect referred to in subsection (1)(b).
- 3) A also harasses B if—
 - a. A or another person engages in unwanted conduct of a sexual nature or that is related to gender reassignment or sex,
 - b. the conduct has the purpose or effect referred to in subsection (1)(b), and
 - c. because of B's rejection of or submission to the conduct, A treats B less favourably than A would treat B if B had not rejected or submitted to the conduct.
- 4) In deciding whether conduct has the effect referred to in subsection (1)(b), each of the following must be taken into account—
 - a. the perception of B;
 - b. the other circumstances of the case;
 - c. whether it is reasonable for the conduct to have that effect.
- 5) The relevant protected characteristics are—
 - Age
 - Disability
 - Gender reassignment
 - Race
 - Religion or belief
 - Sex
 - Sexual orientation

27. Victimisation

- 1) A person (A) victimises another person (B) if A subjects B to a detriment because—
 - a. B does a protected act, or
 - b. A believes that B has done, or may do, a protected act.
- 2) Each of the following is a protected act—
 - a. bringing proceedings under this Act;
 - b. giving evidence or information in connection with proceedings under this Act;
 - c. doing any other thing for the purposes of or in connection with this Act;
 - d. making an allegation (whether or not express) that A or another person has contravened this Act
- 3) Giving false evidence or information, or making a false allegation, is not a protected act if the evidence or information is given, or the allegation is made, in bad faith.
- 4) This section applies only where the person subjected to a detriment is an individual.
- 5) The reference to contravening this Act includes a reference to committing a breach of an equality clause or rule.

Part 3: services and public functions

Preliminary

Provision of services, etc.

29. Provision of services, etc.

- 1) A person (a “service-provider”) concerned with the provision of a service to the public or a section of the public (for payment or not) must not discriminate against a person requiring the service by not providing the person with the service.
- 2) A service-provider (A) must not, in providing the service, discriminate against a person (B)—
 - a. as to the terms on which A provides the service to B;
 - b. by terminating the provision of the service to B;
 - c. by subjecting B to any other detriment.
- 3) A service-provider must not, in relation to the provision of the service, harass—
 - a. a person requiring the service, or
 - b. a person to whom the service-provider provides the service.
- 4) A service-provider must not victimise a person requiring the service by not providing the person with the service.
- 5) A service-provider (A) must not, in providing the service, victimise a person (B)—
 - a. as to the terms on which A provides the service to B;
 - b. by terminating the provision of the service to B;
- 6) A person must not, in the exercise of a public function that is not the provision of a service to the public or a section of the public, do anything that constitutes discrimination, harassment or victimisation.
- 7) A duty to make reasonable adjustments applies to—
 - a. a service-provider (and see also section 55(7));
 - b. a person who exercises a public function that is not the provision of a service to the public or a section of the public.
- 8) In the application of section 26 for the purposes of subsection (3), and subsection (6) as it relates to harassment, neither of the following is a relevant protected characteristic—
 - a. religion or belief;
 - b. sexual orientation.
- 9) In the application of this section, so far as relating to race or religion or belief, to the granting of entry clearance (within the meaning of the Immigration Act 1971), it does not matter whether an act is done within or outside the United Kingdom.
- 10) Subsection (9) does not affect the application of any other provision of this Act to conduct outside England and Wales or Scotland.

Supplementary

Part 4: premises

Preliminary

Disposal and management

33. Disposals, etc.

- 1) A person (A) who has the right to dispose of premises must not discriminate against another (B)—
 - a. as to the terms on which A offers to dispose of the premises to B;
 - b. by not disposing of the premises to B;
 - c. in A’s treatment of B with respect to things done in relation to persons seeking premises.
- 2) Where an interest in a commonhold unit cannot be disposed of unless a particular person is a party to the disposal, that person must not discriminate against a person by not being a party to the disposal.
- 3) A person who has the right to dispose of premises must not, in connection with anything done in relation to their occupation or disposal, harass—
 - a. a person who occupies them;
 - b. a person who applies for them.
- 4) A person (A) who has the right to dispose of premises must not victimise another (B)—
 - a. as to the terms on which A offers to dispose of the premises to B;
 - b. by not disposing of the premises to B;
 - c. in A’s treatment of B with respect to things done in relation to persons seeking premises.
- 5) Where an interest in a commonhold unit cannot be disposed of unless a particular person is a party to the disposal, that person must not victimise a person by not being a party to the disposal.
- 6) In the application of section 26 for the purposes of subsection (3), neither of the following is a relevant protected characteristic—
 - a. religion or belief;
 - b. sexual orientation.

34. Permission for disposal

- 1) A person whose permission is required for the disposal of premises must not discriminate against another by not giving permission for the disposal of the premises to the other.

- 2) A person whose permission is required for the disposal of premises must not, in relation to an application for permission to dispose of the premises, harass a person—
 - a. who applies for permission to dispose of the premises, or
 - b. to whom the disposal would be made if permission were given.
- 3) A person whose permission is required for the disposal of premises must not victimise another by not giving permission for the disposal of the premises to the other.
- 4) In the application of section 26 for the purposes of subsection (2), neither of the following is a relevant protected characteristic—
 - a. religion or belief;
 - b. sexual orientation.
- 5) This section does not apply to anything done in the exercise of a judicial function.

35. Management

- 1) A person (A) who manages premises must not discriminate against a person (B) who occupies the premises—
 - a. in the way in which A allows B, or by not allowing B, to make use of a benefit or facility;
 - b. by evicting B (or taking steps for the purpose of securing B's eviction);
 - c. by subjecting B to any other detriment
- 2) A person who manages premises must not, in relation to their management, harass—
 - a. a person who occupies them;
 - b. a person who applies for them.
- 3) A person (A) who manages premises must not victimise a person (B) who occupies the premises—
 - a. in the way in which A allows B, or by not allowing B, to make use of a benefit or facility;
 - b. by evicting B (or taking steps for the purpose of securing B's eviction);
 - c. by subjecting B to any other detriment.
- 4) In the application of section 26 for the purposes of subsection (2), neither of the following is a relevant protected characteristic—
 - a. religion or belief;
 - b. sexual orientation.

Reasonable adjustments

Supplementary

Part 5: work

CHAPTER 1: EMPLOYMENT, ETC.

Employees

39. Employees and applicants

- 1) An employer (A) must not discriminate against a person (B)—
 - a. in the arrangements A makes for deciding to whom to offer employment;
 - b. as to the terms on which A offers B employment;
 - c. by not offering B employment.
- 2) An employer (A) must not discriminate against an employee of A's (B)—
 - a. as to B's terms of employment;
 - b. in the way A affords B access, or by not affording B access, to opportunities for promotion, transfer or training or for receiving any other benefit, facility or service;
 - c. by dismissing B;
 - d. by subjecting B to any other detriment.
- 3) An employer (A) must not victimise a person (B)—
 - a. in the arrangements A makes for deciding to whom to offer employment;
 - b. as to the terms on which A offers B employment;
 - c. by not offering B employment.
- 4) An employer (A) must not victimise an employee of A's (B)—
 - a. as to B's terms of employment;
 - b. in the way A affords B access, or by not affording B access, to opportunities for promotion, transfer or training or for any other benefit, facility or service;
 - c. by dismissing B;
 - d. by subjecting B to any other detriment.
- 5) A duty to make reasonable adjustments applies to an employer.
- 6) Subsection (1)(b), so far as relating to sex or pregnancy and maternity, does not apply to a term that relates to pay—

- a. unless, were B to accept the offer, an equality clause or rule would have effect in relation to the term, or
 - b. if paragraph (a) does not apply, except in so far as making an offer on terms including that term amounts to a contravention of subsection (1)(b) by virtue of section 13, 14 or 18.
- 7) In subsections (2)(c) and (4)(c), the reference to dismissing B includes a reference to the termination of B's employment—
- a. by the expiry of a period (including a period expiring by reference to an event or circumstance);
 - b. by an act of B's (including giving notice) in circumstances such that B is entitled, because of A's conduct, to terminate the employment without notice.
- 8) Subsection (7)(a) does not apply if, immediately after the termination, the employment is renewed on the same terms.

40. Employees and applicants: harassment

- 1) An employer (A) must not, in relation to employment by A, harass a person (B)—
- a. who is an employee of A's;
 - b. who has applied to A for employment.

41. Contract workers

Police officers

Partners

The Bar

Office-holders

Qualifications

Employment services

Trade organisations

Local authority members

CHAPTER 2: OCCUPATIONAL PENSION SCHEMES

CHAPTER 3: EQUALITY OF TERMS

Sex equality

64. Relevant types of work

- 1) Sections 66 to 70 apply where—
- a. a person (A) is employed on work that is equal to the work that a comparator of the opposite sex (B) does;
 - b. a person (A) holding a personal or public office does work that is equal to the work that a comparator of the opposite sex (B) does.
- 2) The references in subsection (1) to the work that B does are not restricted to work done contemporaneously with the work done by A.

65. Equal work

- 1) For the purposes of this Chapter, A's work is equal to that of B if it is—
- a. like B's work,
 - b. rated as equivalent to B's work, or
 - c. of equal value to B's work.
- 2) A's work is like B's work if—
- a. A's work and B's work are the same or broadly similar, and
 - b. such differences as there are between their work are not of practical importance in relation to the terms of their work.
- 3) So on a comparison of one person's work with another's for the purposes of subsection (2), it is necessary to have regard to—
- a. the frequency with which differences between their work occur in practice, and
 - b. the nature and extent of the differences.
- 4) A's work is rated as equivalent to B's work if a job evaluation study—

- a. gives an equal value to A's job and B's job in terms of the demands made on a worker, or
 - b. would give an equal value to A's job and B's job in those terms were the evaluation not made on a sex-specific system.
- 5) A system is sex-specific if, for the purposes of one or more of the demands made on a worker, it sets values for men different from those it sets for women.
- 6) A's work is of equal value to B's work if it is—
- a. neither like B's work nor rated as equivalent to B's work, but
 - b. nevertheless equal to B's work in terms of the demands made on A by reference to factors such as effort, skill and decision-making.

66. Sex equality clause

- 1) If the terms of A's work do not (by whatever means) include a sex equality clause, they are to be treated as including one.
- 2) A sex equality clause is a provision that has the following effect—
 - a. if a term of A's is less favourable to A than a corresponding term of B's is to B, A's term is modified so as not to be less favourable;
 - b. if A does not have a term which corresponds to a term of B's that benefits B, A's terms are modified so as to include such a term.
- 3) Subsection (2)(a) applies to a term of A's relating to membership of or rights under an occupational pension scheme only in so far as a sex equality rule would have effect in relation to the term.
- 4) In the case of work within section 65(1)(b), a reference in subsection (2) above to a term includes a reference to such terms (if any) as have not been determined by the rating of the work (as well as those that have).

67. Sex equality rule

- 1) If an occupational pension scheme does not include a sex equality rule, it is to be treated as including one.
- 2) A sex equality rule is a provision that has the following effect—
 - a. if a relevant term is less favourable to A than it is to B, the term is modified so as not to be less favourable;
 - b. if a term confers a relevant discretion capable of being exercised in a way that would be less favourable to A than to B, the term is modified so as to prevent the exercise of the discretion in that way.
- 3) A term is relevant if it is—
 - a. a term on which persons become members of the scheme, or
 - b. a term on which members of the scheme are treated.
- 4) A discretion is relevant if its exercise in relation to the scheme is capable of affecting—
 - a. the way in which persons become members of the scheme, or
 - b. the way in which members of the scheme are treated.
- 5) The reference in subsection (3)(b) to a term on which members of a scheme are treated includes a reference to the term as it has effect for the benefit of dependants of members.
- 6) The reference in subsection (4)(b) to the way in which members of a scheme are treated includes a reference to the way in which they are treated as the scheme has effect for the benefit of dependants of members.
- 7) If the effect of a relevant matter on a person (A) differs according to the effect it has on a person of the same sex as A, according to whether A is married, in a civil partnership, or for some other reason due to A's family status, a comparison for the purposes of this section of the effect of that matter on persons of the opposite sex must be with a person of the opposite sex to A who is in the same position as A and in particular—
 - a. where A is married to, or the civil partner of, someone of the opposite sex, A is to be compared to a person of the opposite sex to A ("B") where B is married to or (as the case may be) the civil partner of someone of the opposite sex to B;
 - b. where A is married to, or the civil partner of, someone of the same sex, A is to be compared to B where B is married to or (as the case may be) the civil partner of someone of the same sex as B.
- 8) A relevant matter is—
 - a. a relevant term;
 - b. a term conferring a relevant discretion;
 - c. the exercise of a relevant discretion in relation to an occupational pension scheme.
- 9) This section, so far as relating to the terms on which persons become members of an occupational pension scheme, does not have effect in relation to pensionable service before 8 April 1976.
- 10) This section, so far as relating to the terms on which members of an occupational pension scheme are treated, does not have effect in relation to pensionable service before 17 May 1990.

68. Sex equality rule: consequential alteration of schemes

69. Defence of material factor

- 1) The sex equality clause in A's terms has no effect in relation to a difference between A's terms and B's terms if the responsible person shows that the difference is because of a material factor reliance on which—
 - a. does not involve treating A less favourably because of A's sex than the responsible person treats B, and
 - b. if the factor is within subsection (2), is a proportionate means of achieving a legitimate aim.
- 2) A factor is within this subsection if A shows that, as a result of the factor, A and persons of the same sex doing work equal to A's are put at a particular disadvantage when compared with persons of the opposite sex doing work equal to A's.
- 3) For the purposes of subsection (1), the long-term objective of reducing inequality between men's and women's terms of work is always to be regarded as a legitimate aim.
- 4) A sex equality rule has no effect in relation to a difference between A and B in the effect of a relevant matter if the trustees or managers of the scheme in question show that the difference is because of a material factor which is not the difference of sex.
- 5) "Relevant matter" has the meaning given in section 67.
- 6) For the purposes of this section, a factor is not material unless it is a material difference between A's case and B's.

70. Exclusion of sex discrimination provisions

- 1) The relevant sex discrimination provision has no effect in relation to a term of A's that—
 - a. is modified by, or included by virtue of, a sex equality clause or rule, or
 - b. would be so modified or included but for section 69 or Part 2 of Schedule 7.
- 2) Neither of the following is sex discrimination for the purposes of the relevant sex discrimination provision—
 - a. the inclusion in A's terms of a term that is less favourable as referred to in section 66(2)(a);
 - b. the failure to include in A's terms a corresponding term as referred to in section 66(2)(b).

71. Sex discrimination in relation to contractual pay

- 1) This section applies in relation to a term of a person's work—
 - a. that relates to pay, but
 - b. in relation to which a sex equality clause or rule has no effect.
- 2) The relevant sex discrimination provision (as defined by section 70) has no effect in relation to the term except in so far as treatment of the person amounts to a contravention of the provision by virtue of section 13 or 14.

Pregnancy and maternity equality

Disclosure of information

Supplementary

CHAPTER 4: SUPPLEMENTARY

Part 6: Education

Part 7: Associations

Part 8: Prohibited conduct: ancillary

Part 9: Enforcement

Part 10: Contracts

Part 11: Advancement of equality

Part 12: Disabled persons: transport

Part 13: Disability: miscellaneous

Part 14: General exceptions

- 191. Statutory provisions**
- 192. National security**
- 193. Charities**
- 194. Charities: supplementary**
- 195. Sport**

- 1) A person does not contravene this Act, so far as relating to sex, only by doing anything in relation to the participation of another as a competitor in a gender-affected activity.
- 2) A person does not contravene section 29, 33, 34 or 35, so far as relating to gender reassignment, only by doing anything in relation to the participation of a transsexual person as a competitor in a gender-affected activity if it is necessary to do so to secure in relation to the activity—

- a. fair competition, or
 - b. the safety of competitors.
- 3) A gender-affected activity is a sport, game or other activity of a competitive nature in circumstances in which the physical strength, stamina or physique of average persons of one sex would put them at a disadvantage compared to average persons of the other sex as competitors in events involving the activity.
 - 4) In considering whether a sport, game or other activity is gender-affected in relation to children, it is appropriate to take account of the age and stage of development of children who are likely to be competitors.
 - 5) A person who does anything to which subsection (6) applies does not contravene this Act only because of the nationality or place of birth of another or because of the length of time the other has been resident in a particular area or place.
 - 6) This subsection applies to—
 - a. selecting one or more persons to represent a country, place or area or a related association, in a sport or game or other activity of a competitive nature;
 - b. doing anything in pursuance of the rules of a competition so far as relating to eligibility to compete in a sport or game or other such activity.
 - 7) A person does not contravene this Act, so far as relating to age discrimination, only by doing anything in relation to the participation of another as a competitor in an age-banded activity if it is necessary to do so—
 - a. to secure in relation to the activity fair competition or the safety of competitors,
 - b. to comply with the rules of a national or international competition, or
 - c. to increase participation in that activity.
 - 8) For the purposes of subsection (7), an age-banded activity is a sport, game or other activity of a competitive nature in circumstances in which the physical or mental strength, agility, stamina, physique, mobility, maturity or manual dexterity of average persons of a particular age group would put them at a disadvantage compared to average persons of another age group as competitors in events involving the activity.

196. General

197. Age

Part 15: Family property

Part 16: General and miscellaneous

Civil partnerships

EU obligations

Application

Subordinate legislation

Amendments, etc.

Interpretations

212. General interpretations

- 1) In this act—
 - “armed forces” means any of the naval, military or air forces of the Crown;
 - “the Commission” means the Commission for Equality and Human Rights;
 - “detriment” does not, subject to subsection (5), include conduct which amounts to harassment;
 - “the Education Acts” has the meaning given in section 578 of the Education Act 1996;
 - “employment” and related expressions are (subject to subsection (11)) to be read with section 83;
 - “enactment” means an enactment contained in—
 - (a) an Act of Parliament,
 - (b) an Act of the Scottish Parliament,
 - (c) an Act or Measure of the National Assembly for Wales, or
 - (d) subordinate legislation;
 - “equality clause” means a sex equality clause or maternity equality clause;
 - “equality rule” means a sex equality rule or maternity equality rule;
 - “man” means a male of any age;
 - “maternity equality clause” has the meaning given in section 73;
 - “maternity equality rule” has the meaning given in section 75;
 - “non-discrimination rule” has the meaning given in section 61;

“occupational pension scheme” has the meaning given in section 1 of the Pension Schemes Act 1993;

“parent” has the same meaning as in—

(a) the Education Act 1996 (in relation to England and Wales);

(b) the Education (Scotland) Act 1980 (in relation to Scotland);

“prescribed” means prescribed by regulations;

“profession” includes a vocation or occupation;

“sex equality clause” has the meaning given in section 66;

“sex equality rule” has the meaning given in section 67;

“subordinate legislation” means—

(a) subordinate legislation within the meaning of the Interpretation Act 1978, or

(b) an instrument made under an Act of the Scottish Parliament or an Act or Measure of the National Assembly for Wales;

“substantial” means more than minor or trivial;

“trade” includes any business;

“woman” means a female of any age.

- 2) A reference (however expressed) to an act includes a reference to an omission.
- 3) A reference (however expressed) to an omission includes (unless there is express provision to the contrary) a reference to—
 - a. a deliberate omission to do something;
 - b. a refusal to do it;
 - c. a failure to do it.
- 4) A reference (however expressed) to providing or affording access to a benefit, facility or service includes a reference to facilitating access to the benefit, facility or service.
- 5) Where this Act disapplies a prohibition on harassment in relation to a specified protected characteristic, the disapplication does not prevent conduct relating to that characteristic from amounting to a detriment for the purposes of discrimination within section 13 because of that characteristic.
- 6) A reference to occupation, in relation to premises, is a reference to lawful occupation.
- 7) The following are members of the executive—
 - a. a Minister of the Crown;
 - b. a government department;
 - c. the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government;
 - d. any part of the Scottish Administration.
- 8) A reference to a breach of an equality clause or rule is a reference to a breach of a term modified by, or included by virtue of, an equality clause or rule.
- 9) A reference to a contravention of this Act does not include a reference to a breach of an equality clause or rule, unless there is express provision to the contrary.
- 10) “Member”, in relation to an occupational pension scheme, means an active member, a deferred member or a pensioner member (within the meaning, in each case, given by section 124 of the Pensions Act 1995).
- 11) “Employer”, “deferred member”, “pension credit member”, “pensionable service”, “pensioner member” and “trustees or managers” each have, in relation to an occupational pension scheme, the meaning given by section 124 of the Pensions Act 1995.
- 12) A reference to the accrual of rights under an occupational pension scheme is to be construed in accordance with that section.
- 13) Nothing in section 28, 32, 84, 90, 95 or 100 is to be regarded as an express exception.

213. References to maternity leave, etc.

214. Index of defined expressions

Final provisions