

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Work

Chapter 3: Equality of terms

Section 79: Comparators

Effect

275. This section sets out the circumstances in which employees and others are taken to be comparators for the purposes of Chapter 3. A person who claims the benefit of a sex equality clause or sex equality rule must be able to show that his or her work is equal to that of the chosen comparator. The application of Article 157 of the Treaty on the Functioning of the European Union, which has direct effect, will ensure that existing case law on the breadth of possible comparisons is carried forward, so that, for example, in relevant circumstances the concept of a comparator will include a predecessor doing the same job.
276. If two persons share the same employer and work at the same establishment, each may be a comparator for the other.
277. If two persons work at different establishments but share the same employer and common terms and conditions of employment apply, each may be a comparator for the other.
278. A person can also be a comparator for another in either of the above circumstances if one is employed by a company associated with the other's employer. Subsection (9) defines when employers are taken to be associated.
279. A person holding a personal or public office may be a comparator for another person holding a personal or public office if the same person is responsible for paying both of them.
280. A person holding the office of constable is treated for the purposes of Chapter 3 as holding a personal office for the purpose of determining who can be that person's comparator.
281. The section also defines when staff of the Houses of Parliament may be taken to be each other's comparators.

Background

282. These provisions generally reflect the effect of provisions in previous legislation.

*These notes refer to the Equality Act 2010 (c.15)
which received Royal Assent on 8 April 2010*

Example

- A woman is employed by a company at a factory. A man works for the same company at another factory. Common terms of employment apply at both establishments. The woman may treat the man as a comparator, if they are doing equal work (as defined in section 65).