Status: *Point in time view as at 01/10/1997. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Sex Discrimination Act 1975 (repealed) is up to date with all changes known to be in force on or before 16 July 2024.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)*

Sex Discrimination Act 1975

1975 CHAPTER 65

An Act to render unlawful certain kinds of sex discrimination and discrimination on the ground of marriage, and establish a Commission with the function of working towards the elimination of such discrimination and promoting equality of opportunity between men and women generally; and for related purposes. [12th November 1975]

Modifications etc. (not altering text)

C1 Power to amend the Act conferred by Employment Act 1989 (c. 38, SIF 43:1, 106:1), **s. 6(1)(2)**

C2 Act restricted (22.8.1996) by 1996 c. 17, **ss. 21**, 46 (with s. 38);
Act restricted (22.8.1996) by 1996 c. 18, **ss. 126(1)(b)**, 243

C3 Act: functions transferred in part (12.10.2007) by The Transfer of Functions (Equality) Order 2007 (S.I. 2007/2914), **art. 3(2)(b)**

PART I

DISCRIMINATION TO WHICH ACT APPLIES

1 Sex discrimination against women.

(1) A person discriminates against a woman in any circumstances relevant for the purposes of any provision of this Act if—

(a) on the grounds of her sex he treats her less favourably than he treats or would treat a man, or

(b) he applies to her a requirement or condition which he applies or would apply equally to a man but—

(i) which is such that the proportion of women who can comply with it is considerably smaller than the proportion of men who can comply with it, and

(ii) which he cannot show to be justifiable irrespective of the sex of the person to whom it is applied, and

(iii) which is to her detriment because she cannot comply with it.

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(2) If a person treats or would treat a man differently according to the man's marital status, his treatment of a woman is for the purposes of subsection (1)(a) to be compared to his treatment of a man having the like marital status.

Modifications etc. (not altering text)

C4 S. 1(1)(*b*)(ii) modified by Employment Act 1989 (c. 38, SIF 43:1), **s. 1(3)(b)**

2 Sex discrimination against men.

(1) Section 1, and the provisions of Parts II and III relating to sex discrimination against women, are to be read as applying equally to the treatment of men, and for that purpose shall have effect with such modifications as are requisite.

(2) In the application of subsection (1) no account shall be taken of special treatment afforded to women in connection with pregnancy or childbirth.

VALID FROM 01/05/1999

2A "Discrimination on the grounds of gender reassignment."

(1) A person ("A") discriminates against another person ("B") in any circumstances relevant for the purposes of—
   (a) any provision of Part II,
   (b) section 35A or 35B, or
   (c) any other provision of Part III, so far as it applies to vocational training,

   if he treats B less favourably than he treats or would treat other persons, and does so on the ground that B intends to undergo, is undergoing or has undergone gender reassignment.

(2) Subsection (3) applies to arrangements made by any person in relation to another's absence from work or from vocational training.

(3) For the purposes of subsection (1), B is treated less favourably than others under such arrangements if, in the application of the arrangements to any absence due to B undergoing gender reassignment—
   (a) he is treated less favourably than he would be if the absence was due to sickness or injury, or
   (b) he is treated less favourably than he would be if the absence was due to some other cause and, having regard to the circumstances of the case, it is reasonable for him to be treated no less favourably.

(4) In subsections (2) and (3) "arrangements" includes terms, conditions or arrangements on which employment, a pupillage or tenancy or vocational training is offered.

(5) For the purposes of subsection (1), a provision mentioned in that subsection framed with reference to discrimination against women shall be treated as applying equally to the treatment of men with such modifications as are requisite.

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3 Discrimination against married persons in employment field.

(1) A person discriminates against a married person of either sex in any circumstances relevant for the purposes of any provision of Part II if—

(a) on the ground of his or her marital status he treats that person less favourably than he treats or would treat an unmarried person of the same sex, or

(b) he applies to that person a requirement or condition which he applies or would apply equally to an unmarried person but—

(i) which is such that the proportion of married persons who can comply with it is considerably smaller than the proportion of unmarried persons of the same sex who can comply with it, and

(ii) which he cannot show to be justifiable irrespective of the marital status of the person to whom it is applied, and

(iii) which is to that person's detriment because he cannot comply with it.

(2) For the purposes of subsection (1), a provision of Part II framed with reference to discrimination against women shall be treated as applying equally to the treatment of men, and for that purpose shall have effect with such modifications as are requisite.

Modifications etc. (not altering text)

C5 S. 3(1)(*b*)(ii) modified by Employment Act 1989 (c. 38, SIF 43:1), **s. 1(3)(b)**

VALID FROM 01/10/2005

[F1 3A Discrimination on the ground of pregnancy or maternity leave

(1) In any circumstances relevant for the purposes of a provision to which this subsection applies, a person discriminates against a woman if—

(a) at a time in a protected period, and on the ground of the woman's pregnancy, the person treats her less favourably than he would treat her had she not become pregnant; or

(b) on the ground that the woman is exercising or seeking to exercise, or has exercised or sought to exercise, a statutory right to maternity leave, the person treats her less favourably than he would treat her if she were neither exercising nor seeking to exercise, and had neither exercised nor sought to exercise, such a right.

(2) In any circumstances relevant for the purposes of a provision to which this subsection applies, a person discriminates against a woman if, on the ground that section 72(1) of the Employment Rights Act 1996 (compulsory maternity leave) has to be complied with in respect of the woman, he treats her less favourably than he would treat her if that provision did not have to be complied with in respect of her.

(3) For the purposes of subsection (1)—

(a) in relation to a woman, a protected period begins each time she becomes pregnant, and the protected period associated with any particular pregnancy of hers ends in accordance with the following rules—

(i) if she is entitled to ordinary but not additional maternity leave in connection with the pregnancy, the protected period ends at the end of her period of ordinary maternity leave connected with the

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pregnancy or, if earlier, when she returns to work after the end of her pregnancy;

(ii) if she is entitled to ordinary and additional maternity leave in connection with the pregnancy, the protected period ends at the end of her period of additional maternity leave connected with the pregnancy or, if earlier, when she returns to work after the end of her pregnancy;

(iii) if she is not entitled to ordinary maternity leave in respect of the pregnancy, the protected period ends at the end of the 2 weeks beginning with the end of the pregnancy;

(b) where a person's treatment of a woman is on grounds of illness suffered by the woman as a consequence of a pregnancy of hers, that treatment is to be taken to be on the ground of the pregnancy;

(c) a "statutory right to maternity leave" means a right conferred by section 71(1) or 73(1) of the Employment Rights Act 1996 (ordinary and additional maternity leave).

(4) In subsection (3) "ordinary maternity leave" and "additional maternity leave" shall be construed in accordance with sections 71 and 73 of the Employment Rights Act 1996.

(5) Subsections (1) and (2) apply to—

(a) any provision of Part 2,

(b) sections 35A and 35B, and

(c) any other provision of Part 3, so far as it applies to vocational training.**]**

Textual Amendments

F1 S. 3A inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 4**

VALID FROM 06/04/2008

[F2[F3]3B Discrimination on the ground of pregnancy or maternity: goods, facilities, services or premises

(1) In any circumstances relevant for the purposes of a provision to which this subsection applies, a person discriminates against a woman if he treats her less favourably—

(a) on the ground of her pregnancy, or

(b) within the period of 26 weeks beginning on the day on which she gives birth, on the ground that she has given birth.

(2) A person (P) is taken to discriminate against a woman on the ground of her pregnancy if—

(a) P refuses to provide her with goods, facilities or services because P thinks that providing them would, because of her pregnancy, create a risk to her health or safety, or

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(b) P provides or offers to provide them on conditions intended to remove or reduce such a risk because P thinks that provision of them without the conditions would create such a risk.

(3) Subsection (2) does not apply if—

(a) it is reasonable for P to think as mentioned in paragraph (a) or (b), and

(b) P applies an equivalent policy.

(4) An equivalent policy is—

(a) for the purposes of subsection (2)(a), refusing to provide the goods, facilities or services to persons with other physical conditions because P thinks that to do so would, because of such physical conditions, create a risk to the health or safety of such persons;

(b) for the purposes of subsection (2)(b), imposing conditions on the provision of goods, facilities or services to such persons which are intended to remove or reduce the risk to their health or safety because P thinks that the provision without the conditions would create such a risk.

(5) Subsection (1) applies to sections 29 to 31, except in so far as they relate to an excluded matter.**]**

Textual Amendments

F2 S. 2A inserted (1.5.1999) by S.I. 1999/1102, **reg. 2(1)**

F3 S. 3B inserted (6.4.2008) by The Sex Discrimination (Amendment of Legislation) Regulations 2008 (S.I. 2008/963), reg. 2(1), **Sch. 1 para. 3(1)**

4 Discrimination by way of victimisation.

(1) A person ("the discriminator") discriminates against another person ("the person victimised") in any circumstances relevant for the purposes of any provision of this Act if he treats the person victimised less favourably than in those circumstances he treats or would treat other persons, and do so by reason that the person victimised has—

(a) brought proceedings against the discriminator or any other person under this Act or the [M1]Equal Pay Act 1970 **[**[F4]or sections 62 to 65 of the Pensions Act 1995**]**,or

(b) given evidence or information in connection with proceedings brought by any person against the discriminator or any other person under this Act or the [M2]Equal Pay Act 1970 **[**[F4]or sections 62 to 65 of the Pensions Act 1995**]**, or

(c) otherwise done anything under or by reference to this Act or the [M3]Equal Pay Act 1970 **[**[F4]or sections 62 to 65 of the Pensions Act 1995**]**in relation to the discriminator or any other person, or

(d) alleged that the discriminator or any other person has committed an act which (whether or not the allegation so states) would amount to a contravention of this Act or give rise to a claim under the [M4]Equal Pay Act 1970, **[**[F5]or under sections 62 to 65 of the Pensions Act 1995**]**

or by reason that the discriminator knows the person victimised intends to do any of those things, or suspects the person victimised has done, or intends to do, any of them.

(2) Subsection (1) does not apply to treatment of a person by reason of any allegation made by him if the allegation was false and not made in good faith.

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(3) For the purposes of subsection (1), a provision of Part II or III framed with reference to discrimination against women shall be treated as applying equally to the treatment of men and for that purpose shall have effect with such modifications as are requisite.**]**

Textual Amendments

F2 S. 2A inserted (1.5.1999) by S.I. 1999/1102, **reg. 2(1)**

F4 Words in s. 4(1)(a)-(c) inserted (1.1.1996) by 1995 c. 26, **ss. 66(2)(a)**, 180(1); S.I. 1995/3104, **art. 2(2)(b)**

F5 Words in s. 4(1)(d) added (1.1.1996) by 1995 c. 26, **ss. 66(2)(b)**, 180(1); S.I. 1995/3104, **art. 2(2)(b)**

Marginal Citations

M1 1970 c. 41.

M2 1970 c. 41.

M3 1970 c. 41.

M4 1970 c. 41.

VALID FROM 01/10/2005

[F6 4A Harassment, including sexual harassment

(1) For the purposes of this Act, a person subjects a woman to harassment if—

(a) on the ground of her sex, he engages in unwanted conduct that has the purpose or effect—

(i) of violating her dignity, or

(ii) of creating an intimidating, hostile, degrading, humiliating or offensive environment for her,

(b) he engages in any form of unwanted verbal, non-verbal or physical conduct of a sexual nature that has the purpose or effect—

(i) of violating her dignity, or

(ii) of creating an intimidating, hostile, degrading, humiliating or offensive environment for her, or

(c) on the ground of her rejection of or submission to unwanted conduct of a kind mentioned in paragraph (a) or (b), he treats her less favourably than he would treat her had she not rejected, or submitted to, the conduct.

(2) Conduct shall be regarded as having the effect mentioned in sub-paragraph (i) or (ii) of subsection (1)(a) or (b) only if, having regard to all the circumstances, including in particular the perception of the woman, it should reasonably be considered as having that effect.

(3) For the purposes of this Act, a person ("A") subjects another person ("B") to harassment if—

(a) A, on the ground that B intends to undergo, is undergoing or has undergone gender reassignment, engages in unwanted conduct that has the purpose or effect—

(i) of violating B's dignity, or

(ii) of creating an intimidating, hostile, degrading, humiliating or offensive environment for B, or

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(b) A, on the ground of B's rejection of or submission to unwanted conduct of a kind mentioned in paragraph (a), treats B less favourably than A would treat B had B not rejected, or submitted to, the conduct.

(4) Conduct shall be regarded as having the effect mentioned in sub-paragraph (i) or (ii) of subsection (3)(a) only if, having regard to all the circumstances, including in particular the perception of B, it should reasonably be considered as having that effect.

(5) Subsection (1) is to be read as applying equally to the harassment of men, and for that purpose shall have effect with such modifications as are requisite.

(6) For the purposes of subsections (1) and (3), a provision of Part 2 or 3 framed with reference to harassment of women shall be treated as applying equally to the harassment of men, and for that purpose will have effect with such modifications as are requisite.**]**

Textual Amendments

F6 S. 4A inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 5**

5 Interpretation.

(1) In this Act—

(a) references to discrimination refer to any discrimination falling within sections 1 to 4; and

(b) references to sex discrimination refer to any discrimination falling within section 1 or 2,

and related expressions shall be construed accordingly.

(2) In this Act—

"woman" includes a female of any age, and

"man" includes a male of any age.

(3) A comparison of the cases of persons of different sex or marital status under section 1(1) or 3(1) must be such that the relevant circumstances in the one case are the same, or not materially different, in the other.

PART II

DISCRIMINATION IN THE EMPLOYMENT FIELD

Modifications etc. (not altering text)

C6 Part II extended by Employment Protection Act 1975 (c. 71), **s. 122(2)**

C7 Pt. II (ss. 6–21): excluded by Employment Act 1989 (c. 38, SIF 43:1, 106:1), **ss. 4(1)(a)**, 5(1)(2)(a)(3)(4)(7); excluded by S.I. 1989/2420, **art. 3**; excluded (1.2.1994) by Measure 1993 No. 2, **s. 6**; Instrument dated 31.1.1994 made by Archbishops of Canterbury and York

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Discrimination by employers

6 Discrimination against applicants and employees.

(1) It is unlawful for a person, in relation to employment by him at an establishment in Great Britain, to discriminate against a woman—

(a) in the arrangements he makes for the purpose of determining who should be offered that employment, or

(b) in the terms on which he offers her that employment, or

(c) by refusing or deliberately omitting to offer her that employment.

(2) It is unlawful for a person, in the case of a woman employed by him at an establishment in Great Britain, to discriminate against her—

(a) in the way he affords her access to opportunities for promotion, transfer or training, or to any other benefits, facilities or services, or by refusing or deliberately omitting to afford her access to them, or

(b) by dismissing her, or subjecting her to any other detriment.

(3) . . . . . [F7]

[[F8](4) Subsections (1)(b) and (2) do not render it unlawful for a person to discriminate against a woman in relation to her membership of, or rights under, an occupational pension scheme in such a way that, were any term of the scheme to provide for discrimination in that way, then, by reason only of any provision made by or under sections 62 to 64 of the Pensions Act 1995 (equal treatment), an equal treatment rule would not operate in relation to that term.

(4A) In subsection (4), "occupational pension scheme" has the same meaning as in the Pension Schemes Act 1993 and "equal treatment rule" has the meaning given by section 62 of the Pensions Act 1995]

(a) in such of the terms on which he offers her employment as make provision in relation to the way in which he will afford her access to opportunities for promotion, transfer or training or as provide for her dismissal or demotion; or

(b) in the way he affords her access to opportunities for promotion, transfer or training or by refusing or deliberately omitting to afford her access to any such opportunities; or

(c) by dismissing her or subjecting her to any detriment which results in her dismissal or consists in or involves her demotion.

(5) Subject to section 8(3), subsection (1)(b) does not apply to any provision for the payment of money which, if the woman in question were given the employment, would be included (directly . . . [F9]or otherwise) in the contract under which she was employed.

(6) Subsection (2) does not apply to benefits consisting of the payment of money when the provision of those benefits is regulated by the woman's contract of employment.

(7) Subsection (2) does not apply to benefits, facilities or services of any description if the employer is concerned with the provision (for payment or not) of benefits, facilities or services of that description to the public, or to a section of the public comprising the woman in question, unless—

(a) that provision differs in a material respect from the provision of the benefits, facilities or services by the employer to his employees, or

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(b) the provision of the benefits, facilities or services to the woman in question is regulated by her contract of employment, or

(c) the benefits, facilities or services relate to training.

Textual Amendments

F7 S. 6(3) repealed by Sex Discrimination Act 1986 (c. 59, SIF 106:1), ss. 1(1), 9, **Sch. Pt. II**

F8 S. 6(4)(4A) substituted for s. 6(4) (1.1.1996) by 1995 c. 26, **s. 66(3)**; S.I. 1995/3104, **art. 2(2)(b)**

F9 Words repeased by Sex Discrimination Act 1986 (c. 59, SIF 106:1), s. 9, **Sch. Pt. II**

Modifications etc. (not altering text)

C8 S. 6 modified by S.I. 1989/901, art. 3, **Sch.**

C9 S. 6 modified (2.3.1998) by S.I. 1998/218, art. 3, **Sch.**

VALID FROM 01/10/2005

[F10 6A Exception relating to terms and conditions during maternity leave

(1) Subject to subsections (2) and (5), section 6(1)(b) and (2) does not make it unlawful to deprive a woman who is on ordinary maternity leave of any benefit from the terms and conditions of her employment relating to remuneration.

(2) Subsection (1) does not apply to benefit by way of maternity-related remuneration.

(3) Subject to subsections (4) and (5), section 6(1)(b) and (2) does not make it unlawful to deprive a woman who is on additional maternity leave of any benefit from the terms and conditions of her employment.

(4) Subsection (3) does not apply to—

(a) benefit by way of maternity-related remuneration,

(b) the benefit of her employer's implied obligation to her of trust and confidence, or

(c) any benefit of terms and conditions in respect of—

(i) notice of the termination by her employer of her contract of employment,

(ii) compensation in the event of redundancy,

(iii) disciplinary or grievance procedures, or

(iv) membership of a pension scheme.

(5) Neither of subsections (1) and (3) applies to—

(a) benefit by way of remuneration in respect of times when the woman is neither on ordinary maternity leave nor on additional maternity leave, including increase-related remuneration in respect of such times; or

(b) benefit by way of maternity-related remuneration that is increase-related.

(6) For the purposes of subsection (5), remuneration is increase-related so far as it falls to be calculated by reference to increases in remuneration that the woman would have received had she not been on ordinary or additional maternity leave.

(7) In this section—

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"maternity-related remuneration", in relation to a woman, means remuneration to which she is entitled as a result of being pregnant or being on ordinary or additional maternity leave;

"on additional maternity leave" means absent from work in exercise of the right conferred by section 73(1) of the Employment Rights Act 1996;

"on ordinary maternity leave" means absent from work in exercise of the right conferred by section 71(1) of that Act (ordinary maternity leave) or in consequence of the prohibition in section 72(1) of that Act (compulsory maternity leave);

"remuneration" means benefits—

(a) that consist of the payment of money to an employee by way of wages or salary, and

(b) that are not benefits whose provision is regulated by the employee's contract of employment.**]**

Textual Amendments

F10 S. 6A inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 8**

7 Exception where sex is a genuine occupational qualification.

(1) In relation to sex discrimination—

(a) section 6(1)(a) or (c) does not apply to any employment where being a man is a genuine occupational qualification for the job, and

(b) section 6(2)(a) does not apply to opportunities for promotion or transfer to, or training for, such employment.

(2) Being a man is a genuine occupational qualification for a job only where—

(a) the essential nature of the job calls for a man for reasons of physiology (excluding physical strength or stamina) or, in dramatic performances or other entertainment, for reasons of authenticity, so that the essential nature of the job would be materially different if carried out by a woman; or

(b) the job needs to be held by a man to preserve decency or privacy because—

(i) it is likely to involve physical contact with men in circumstances where they might reasonably object to its being carried out by a woman, or

(ii) the holder of the job is likely to do his work in circumstances where men might reasonably object to the presence of a woman because they are in a state of undress or are using sanitary facilities; or

[[F11](ba) the job is likely to involve the holder of the job doing his work, or living, in a private home and needs to be held by a man because objection might reasonably be taken to allowing to a woman–

(i) the degree of physical or social contact with a person living in the home, or

(ii) the knowledge of intimate details of such a person's life,

which is likely, because of the nature or circumstances of the job or of the home, to be allowed to, or available to, the holder of the job; or**]**

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(c) the nature or location of the establishment makes it impracticable for the holder of the job to live elsewhere than in premises provided by the employer, and—

(i) the only such premises which are available for persons holding that kind of job are lived in, or normally lived in, by men and are not equipped with separate sleeping accommodation for women and sanitary facilities which could be used by women in privacy from men, and

(ii) it is not reasonable to expect the employer either to equip those premises with such accommodation and facilities or to provide other premises for women; or

(d) the nature of the establishment, or of the part of it within which the work is done, requires the job to be held by a man because—

(i) it is, or is part of, a hospital, prison or other establishment for persons requiring special care, supervision or attention, and

(ii) those persons are all men (disregarding any woman whose presence is exceptional), and

(iii) it is reasonable, having regard to the essential character of the establishment or that part, that the job should not be held by a woman; or

(e) the holder of the job provides individuals with personal services promoting their welfare or education, or similar personal services, and those services can most effectively be provided by a man, or

(f) . . . . . [F12]

(g) the job needs to be held by a man because it is likely to involve the performance of duties outside the United Kingdom in a country whose laws or customs are such that the duties could not, or could not effectively, be performed by a woman, or

(h) the job is one of two to be held by a married couple.

(3) Subsection (2) applies where some only of the duties of the job fall within paragraphs (a) to (g) as well as where all of them do.

(4) Paragraph (a), (b), (c), (d), (e) . . . [F13]or (g) of subsection (2) does not apply in relation to the filling of a vacancy at a time when the employer already has male employees—

(a) who are capable of carrying out the duties falling within that paragraph, and

(b) whom it would be reasonable to employ on those duties, and

(c) whose numbers are sufficient to meet the employer's likely requirements in respect of those duties without undue inconvenience.

Textual Amendments

F11 S. 7(2)(*ba*) inserted by Sex Discrimination Act 1986 (c. 59, SIF 106:1), **s. 1(2)**

F12 S. 7(2)(*f*) repealed by Employment Act 1989 (c. 38, SIF 43:1, 106:1), ss. 3(2), 29(4), Sch. 7 Pt. II (subject to a saving in **Sch. 9 para. 1**)

F13 S. 7(4): ", (f)" repealed by Employment Act 1989 (c. 38, SIF 43:1), s. 29(4), **Sch. 7 Pt. II**

Modifications etc. (not altering text)

C10 S. 7 modified by S.I. 1989/901, art. 3, **Sch.**

C11 S. 7 modified (2.3.1998) by S.I. 1998/218, art. 3, **Sch.** (which S.I. was revoked (1.9.1999) by S.I. 1999/2256, **art. 1(2)**)

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C12 S. 7 modified (1.9.1999) by S.I. 1999/2256, art. 3, **Sch.**

C13 S. 7 modified (E.) (1.9.2003) by The Education (Modification of Enactments Relating to Employment) (England) Order 2003 (S.I. 2003/1964), art. 3, **Sch.**

VALID FROM 01/05/1999

7A "Corresponding exception relating to gender reassignment."

(1) In their application to discrimination falling within section 2A, subsections (1) and (2) of section 6 do not make unlawful an employer's treatment of another person if—

(a) in relation to the employment in question—

(i) being a man is a genuine occupational qualification for the job, or

(ii) being a woman is a genuine occupational qualification for the job, and

(b) the employer can show that the treatment is reasonable in view of the circumstances described in the relevant paragraph of section 7(2) and any other relevant circumstances.

(2) In subsection (1) the reference to the employment in question is a reference—

(a) in relation to any paragraph of section 6(1), to the employment mentioned in that paragraph;

(b) in relation to section 6(2)—

(i) in its application to opportunities for promotion or transfer to any employment or for training for any employment, to that employment;

(ii) otherwise, to the employment in which the person discriminated against is employed or from which that person is dismissed.

(3) In determining for the purposes of subsection (1) whether being a man or being a woman is a genuine occupational qualification for a job, section 7(4) applies in relation to dismissal from employment as it applies in relation to the filling of a vacancy.

VALID FROM 01/05/1999

7B "Supplementary exceptions relating to gender reassignment."

(1) In relation to discrimination falling within section 2A—

(a) section 6(1)(a) or (c) does not apply to any employment where there is a supplementary genuine occupational qualification for the job,

(b) section 6(2)(a) does not apply to a refusal or deliberate omission to afford access to opportunities for promotion or transfer to or training for such employment, and

(c) section 6(2)(b) does not apply to dismissing an employee from, or otherwise not allowing him to continue in, such employment.

(2) Subject to subsection (3), there is a supplementary genuine occupational qualification for a job only if—

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(a) the job involves the holder of the job being liable to be called upon to perform intimate physical searches pursuant to statutory powers;

(b) the job is likely to involve the holder of the job doing his work, or living, in a private home and needs to be held otherwise than by a person who is undergoing or has undergone gender reassignment, because objection might reasonably be taken to allowing to such a person—

(i) the degree of physical or social contact with a person living in the home, or

(ii) the knowledge of intimate details of such a person's life,

which is likely, because of the nature or circumstances of the job or of the home, to be allowed to, or available to, the holder of the job;

(c) the nature or location of the establishment makes it impracticable for the holder of the job to live elsewhere than in premises provided by the employer, and—

(i) the only such premises which are available for persons holding that kind of job are such that reasonable objection could be taken, for the purpose of preserving decency and privacy, to the holder of the job sharing accommodation and facilities with either sex whilst undergoing gender reassignment, and

(ii) it is not reasonable to expect the employer either to equip those premises with suitable accommodation or to make alternative arrangements; or

(d) the holder of the job provides vulnerable individuals with personal services promoting their welfare, or similar personal services, and in the reasonable view of the employer those services cannot be effectively provided by a person whilst that person is undergoing gender reassignment.

(3) Paragraphs (c) and (d) of subsection (2) apply only in relation to discrimination against a person who—

(a) intends to undergo gender reassignment, or

(b) is undergoing gender reassignment.

8 Equal Pay Act 1970.

(1) In section 1 of the [M5]Equal Pay Act 1970, the following are substituted for subsections (1) to (3)—

"(1) If the terms of a contract under which a woman is employed at an establishment in Great Britain do not include (directly or by reference to a collective agreement or otherwise) an equality clause they shall be deemed to include one.

(2) An equality clause is a provision which relates to terms (whether concerned with pay or not) of a contract under which a woman is employed (the "woman's contract"), and has the effect that—

(a) where the woman is employed on like work with a man in the same employment—

(ii) if (apart from the equality clause) any term of the woman's contract is or becomes less favourable to the woman than a term of a similar kind in the contract under which that man is

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employed, that term of the woman's contract shall be treated as so modified as not to be less favourable, and

(ii) if (apart from the equality clause) at any time the woman's contract does not include a term corresponding to a term benefiting that man included in the contract under which he is employed, the woman's contract shall be treated as including such;

(b) where the woman is employed on work rated as equivalent with that of a man in the same employment—

(i) if (apart from the equality clause) any term of the woman's contract determined by the rating of the work is or becomes less favourable to the woman than a term of a similar kind in the contract under which that man is employed, that term of the woman's contract shall be treated as so modified as not to be less favourable, and

(ii) if (apart from the equality clause) at any time the woman's contract does not include a term corresponding to a term benefiting that man included in the contract under which he is employed and determined by the rating of the work, the woman's contract shall be treated as including such a term.

(3) An equality clause shall not operate in relation to a variation between the woman's contract and the man's contract if the employer proves that the variation is genuinely due to a material difference (other than the difference in sex) between her case and his."

(2) Section 1(1) of the [M6]Equal Pay Act 1970 (as set out in subsection (1) above) does not apply in determining for the purposes of section 6(1)(b) of this Act the terms on which employment is offered.

(3) Where a person offers a woman employment on certain terms, and if she accepted the offer then, by virtue of an equality clause, any of those terms would fall to be modified, or any additional term would fall to be included, the offer shall be taken to contravene section 6(1)(b).

(4) Where a person offers a woman employment on certain terms, and subsection (3) would apply but for the fact that, on her acceptance of the offer, section 1(3) of the [M7]Equal Pay Act 1970 (as set out in subsection (1) above) would prevent the equality clause from operating, the offer shall be taken not to contravene section 6(1)(b).

(5) An act does not contravene section 6(2) if—

(a) it contravenes a term modified or included by virtue of an equality clause, or

(b) it would contravene such a term but for the fact that the equality clause is prevented from operating by section 1(3) of the [M8]Equal Pay Act 1970.

(6) The Equal Pay Act 1970 is further amended as specified in Part I of Schedule 1, and accordingly has effect as set out in Part II of Schedule 1.

Modifications etc. (not altering text)

C14 The text of ss. 8(1)(6), 18(2), 21(2), Sch. 1 Pt. I paras. 1–5, 6(1), Sch. 1 Pt. II, Sch. 3 para. 16(1)(2), Sch. 5 para. 1 and Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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Marginal Citations

M5 1970 c. 41.
M6 1970 c. 41.
M7 1970 c. 41.
M8 1970 c. 41.

9 Discrimination against contract workers.

(1) This section applies to any work for a person ("the principal") which is available for doing by individuals ("contract workers") who are employed not by the principal himself but by another person, who supplies them under a contract made with the principal.

(2) It is unlawful for the principal, in relation to work to which this section applies, to discriminate against a woman who is a contract worker—
- (a) in the terms on which he allows her to do that work, or
- (b) by not allowing her to do it or continue to do it, or
- (c) in the way he affords her access to any benefits, facilities or services or by refusing or deliberately omitting to afford her access to them, or
- (d) by subjecting her to any other detriment.

(3) The principal does not contravene subsection (2)(b) by doing any act in relation to a woman at a time when if the work were to be done by a person taken into his employment being a man would be a genuine occupational qualification for the job.

(4) Subsection (2)(c) does not apply to benefits, facilities or services of any description if the principal is concerned with the provision (for payment or not) of benefits, facilities or services of that description to the public, or to a section of the public to which the woman belongs, unless that provision differs in a material respect from the provision of the benefits, facilities or services by the principal to his contract workers.

Modifications etc. (not altering text)

C15 S. 9 modified by S.I. 1989/901, art. 3, **Sch.**
C16 S. 9 modified (2.3.1998) by S.I. 1998/218, art. 3, **Sch.** (which S.I. was revoked (1.9.1999) by S.I. 1999/2256, **art. 1(2)**)
C17 S. 9 modified (1.9.1999) by S.I. 1999/2256, art. 3, **Sch.**

10 Meaning of employment at establishment in Great Britain.

(1) For the purposes of this Part and section 1 of the [M9]Equal Pay Act 1970 ("the relevant purposes"), employment is to be regarded as being at an establishment in Great Britain unless the employee does his work wholly or mainly outside Great Britain.

(2) Subsection (1) does not apply to—
- (a) employment on board a ship registered at a port of registry in Great Britain, or
- (b) employment on aircraft or hovercraft registered in the United Kingdom and operated by a person who has his principal place of business, or is ordinarily resident, in Great Britain;

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but for the relevant purposes such employment is to be regarded as being at an establishment in Great Britain unless the employee does his work wholly outside Great Britain.

(3) In the case of employment on board a ship registered at a port of registry in Great Britain (except where the employee does his work wholly outside Great Britain, and outside any area added under subsection (5)) the ship shall for the relevant purposes be deemed to be the establishment.

(4) Where work is not done at an establishment it shall be treated for the relevant purposes as done at the establishment from which it is done or (where it is not done from any establishment) at the establishment with which it has the closest connection.

(5) In relation to employment concerned with **[**[F14]exploration of the sea bed or subsoil or the exploitation of their natural resources**][**[F14]any activity falling within section 23(2) of the Oil and Gas (Enterprise) Act 1982**]**, Her Majesty may by Order in Council provide that subsections (1) and (2) shall each have effect as if the last reference to Great Britain included any area for the time being designated under section 1(7) of the [M10]Continental Shelf Act 1964 **[**[F15]or specified under section 22(5) of the Oil and Gas (Enterprise) Act 1982**]**, except an area or part of an area in which the law of Northern Ireland applies.

(6) An Order in Council under subsection (5) may provide that, in relation to employment to which the Order applies, this Part and section 1 of the [M11]Equal Pay Act 1970 are to have effect with such modifications as are specified in the Order.

(7) An Order in Council under subsection (5) shall be of no effect unless a draft of the Order was laid before and approved by each House of Parliament.

Textual Amendments

F14 Words commencing "any activity" substituted (*prosp.*) for words commencing "exploration" by Oil and Gas (Enterprise) Act 1982 (c. 23, SIF 86), s. 38(2), **Sch. 3 para. 24** (which Sch. 3 para. 24 was repealed (15.2.1999) by 1998 c. 17, s. 51, **Sch. 5 Pt. I** (with Sch. 3 para. 5(1)); S.I. 1999/161, **art. 2(1)**)

F15 Words inserted (*prosp.*) by Oil and Gas (Enterprise) Act 1982 (c. 23, SIF 86), s. 38(2), **Sch. 3 para. 24** (which Sch. 3 para. 24 was repealed (15.2.1999) by 1998 c. 17, s. 51, **Sch. 5 Pt. I** (with Sch. 3 para. 5(1)); S.I. 1999/161, **art. 2(1)**)

Modifications etc. (not altering text)

C18 S. 10(1)(2) extended by S.I. 1987/930, **art. 2**

C19 S. 10(5) extended by Employment (Continental Shelf) Act 1978 (c. 46), **s. 1(2)**

Marginal Citations

M9 1970 c. 41.

M10 1964 c. 29.

M11 1970 c. 41.

VALID FROM 01/10/2005

***[**[F16]Discrimination against office-holders etc.*

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Textual Amendments

F16 Ss. 10A, 10B and cross-heading inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 13(1)**

10A Offices and posts to which section 10B applies

(1) Subject to subsections (2) and (3), section 10B applies to an office or post if—

(a) the office or post is one—

(i) to which persons are appointed to discharge functions personally under the direction of another person, and

(ii) in respect of which they are entitled to remuneration,

(b) the office or post is one to which appointments are made by a Minister of the Crown, a government department, the National Assembly for Wales or any part of the Scottish Administration, or

(c) the office or post is one to which appointments are made on the recommendation of, or subject to the approval of, a person referred to in paragraph (b).

(2) Section 10B does not apply to an office or post if section 6 (employment), section 9 (contract work), section 11 (partnerships), section 35A (barristers) or section 35B (advocates)—

(a) applies in relation to an appointment to the office or post, or

(b) would apply in relation to an appointment to the office or post but for the operation of any other provision of this Act.

(3) Section 10B does not apply to—

(a) any office of the House of Commons held by a member of it,

(b) a life peerage within the meaning of the Life Peerages Act 1958, or any office of the House of Lords held by a member of it,

(c) any office mentioned in Schedule 2 (Ministerial offices) to the House of Commons Disqualification Act 1975,

(d) the offices of Leader of the Opposition, Chief Opposition Whip or Assistant Opposition Whip within the meaning of the Ministerial and other Salaries Act 1975,

(e) any office of the Scottish Parliament held by a member of it,

(f) a member of the Scottish Executive within the meaning of section 44 of the Scotland Act 1998, or a junior Scottish Minister within the meaning of section 49 of that Act,

(g) any office of the National Assembly for Wales held by a member of it,

(h) in England, any office of a county council, a London borough council, a district council or a parish council held by a member of it,

(i) in Wales, any office of a county council, a county borough council or a community council held by a member of it,

(j) in relation to a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994, or a community council established under section 51 of the Local Government (Scotland) Act 1973, any office of such a council held by a member of it,

(k) any office of the Greater London Authority held by a member of it,

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(l) any office of the Common Council of the City of London held by a member of it,

(m) any office of the Council of the Isles of Scilly held by a member of it, or

(n) any office of a political party.

(4) For the purposes of subsection (1)(a), the holder of an office or post—

(a) is to be regarded as discharging her functions under the direction of another person if that other person is entitled to direct her as to when and where she discharges those functions;

(b) is not to be regarded as entitled to remuneration merely because she is entitled to payments—

(i) in respect of expenses incurred by her in carrying out the functions of the office or post, or

(ii) by way of compensation for the loss of income or benefits she would or might have received from any person had she not been carrying out the functions of the office or post.

(5) In this section and section 10B, appointment to an office or post does not include election to an office or post.

10B Office-holders

(1) It is unlawful for a relevant person, in relation to an appointment to an office or post to which this section applies, to discriminate against a woman—

(a) in the arrangements which he makes for the purpose of determining to whom the appointment should be offered,

(b) in the terms on which he offers her the appointment, or

(c) by refusing to offer her the appointment.

(2) It is unlawful, in relation to an appointment to an office or post to which this section applies and which is an office or post referred to in section 10A(1)(c), for a relevant person on whose recommendation, or subject to whose approval, appointments to the office or post are made, to discriminate against a woman—

(a) in the arrangements which he makes for the purpose of determining who should be recommended or approved in relation to the appointment, or

(b) in making or refusing to make a recommendation, or giving or refusing to give an approval, in relation to the appointment.

(3) It is unlawful for a relevant person, in relation to a woman who has been appointed to an office or post to which this section applies, to discriminate against her—

(a) in the terms of the appointment,

(b) in the opportunities which he affords her for promotion, a transfer, training or receiving any other benefit, or by refusing to afford her any such opportunity,

(c) by terminating the appointment, or

(d) by subjecting her to any other detriment in relation to the appointment.

(4) It is unlawful for a relevant person, in relation to an office or post to which this section applies, to subject to harassment a woman—

(a) who has been appointed to the office or post,

(b) who is seeking or being considered for appointment to the office or post, or

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(c) who, in relation to appointment to the office or post, is seeking or being considered for a recommendation or approval referred to in section 10A(1)(c).

(5) Subsections (1) and (3) do not apply to any act in relation to an office or post where, if holding the office or post constituted employment, that act would be lawful by virtue of section 7, 7A or 7B (exception where sex is a genuine occupational qualification etc.) or section 19 (ministers of religion etc.).

(6) Subsection (2) does not apply to any act in relation to an office or post where, if holding the office or post constituted employment, it would be lawful by virtue of section 7, 7A, 7B or 19 to refuse to offer the person such employment.

(7) Subsection (3) does not apply to benefits of any description if the relevant person is concerned with the provision (for payment or not) of benefits of that description to the public, or a section of the public to which the person appointed belongs, unless—

(a) that provision differs in a material respect from the provision of the benefits to persons appointed to offices or posts which are the same as, or not materially different from, that which the person appointed holds,

(b) the provision of the benefits to the person appointed is regulated by the terms and conditions of her appointment, or

(c) the benefits relate to training.

(8) In subsection (3)(c), the reference to the termination of the appointment includes a reference—

(a) to the termination of the appointment by the expiration of any period (including a period expiring by reference to an event or circumstance), not being a termination immediately after which the appointment is renewed on the same terms and conditions, and

(b) to the termination of the appointment by any act of the person appointed (including the giving of notice) in circumstances such that she is entitled to terminate the appointment without notice by reason of the conduct of the relevant person.

(9) In this section "relevant person", in relation to an office or post, means—

(a) in a case relating to an appointment to an office or post, the person with power to make that appointment;

(b) in a case relating to the making of a recommendation or the giving of an approval in relation to an appointment, a person or body referred to in section 10A(1)(b) with power to make that recommendation or (as the case may be) to give that approval;

(c) in a case relating to a term of an appointment, the person with power to determine that term;

(d) in a case relating to a working condition afforded in relation to an appointment—

(i) the person with power to determine that working condition, or

(ii) where there is no such person, the person with power to make the appointment;

(e) in a case relating to the termination of an appointment, the person with power to terminate the appointment;

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(f) in a case relating to the subjection of a person to any other detriment or to harassment, any person or body falling within one or more of paragraphs (a) to (e) in relation to such cases as are there mentioned.

(10) In subsection (9)(d) "working condition" includes any opportunity for promotion, a transfer, training or receiving any other benefit.

(11) In this section—

(a) references to making a recommendation include references to making a negative recommendation;

(b) references to refusal include references to deliberate omission;

(c) "benefits" includes facilities and services.**]**

Textual Amendments

F16 Ss. 10A, 10B and cross-heading inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 13(1)**

Discrimination by other bodies

11 Partnerships.

(1) It is unlawful for a firm . . . [F17], in relation to a position as partner in the firm, to discriminate against a woman—

(a) in the arrangements they make for the purpose of determining who should be offered that position, or

(b) in the terms on which they offer her that position, or

(c) by refusing or deliberately omitting to offer her that position, or

(d) in a case where the woman already holds that position—

(i) in the way they afford her access to any benefits, facilities or services, or by refusing or deliberately omitting to afford her access to them, or

(ii) by expelling her from that position, or subjecting her to any other detriment.

(2) Subsection (1) shall apply in relation to persons proposing to form themselves into a partnership as it applies in relation to a firm.

(3) Subsection (1)(a) and (c) do not apply to a position as partner where, if it were employment, being a man would be a genuine occupational qualification for the job.

(4) Subsection (1)(b) and (d) do not apply to provision made in relation to death or retirement **[**[F18]except in so far as, in their application to provision made in relation to retirement, they render it unlawful for a firm to discriminate against a woman—

(a) in such of the terms on which they offer her a position as partner as provide for her expulsion from that position; or

(b) by expelling her from a position as partner or subjecting her to any detriment which results in her expulsion from such a position.**]**

(5) In the case of a limited partnership references in subsection (1) to a partner shall be construed as references to a general partner as defined in section 3 of the [M12]Limited Partnerships Act 1907.

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Textual Amendments

F17 Words repealed by Sex Discrimination Act 1986 (c. 59, SIF 106:1), ss. 1(3), 9, **Sch. Pt. II**

F18 Words inserted by Sex Discrimination Act 1986 (c. 59, SIF 106:1), **s. 2(2)**

Marginal Citations

M12 1907 c. 24.

VALID FROM 01/10/2005

12 Trade unions etc.

(1) This section applies to an organisation of workers, an organisation of employers, or any other organisation whose members carry on a particular profession or trade for the purposes of which the organisation exists.

(2) It is unlawful for an organisation to which this section applies, in the case of a woman who is not a member of the organisation, to discriminate against her—

(a) in the terms on which it is prepared to admit her to membership, or

(b) by refusing, or deliberately omitting to accept, her application for membership.

(3) It is unlawful for an organisation to which this section applies, in the case of a woman who is a member of the organisation, to discriminate against her—

(a) in the way it affords her access to any benefits, facilities or services, or by refusing or deliberately omitting to afford her access to them, or

(b) by depriving her of membership, or varying the terms on which she is a member, or

(c) by subjecting her to any other detriment.

[[F19](3A) It is unlawful for an organisation to which this section applies, in relation to membership of that organisation, to subject to harassment a woman who—

(a) is a member of the organisation, or

(b) has applied for membership of the organisation.]

(4) [F20] . . . . . .

Textual Amendments

F19 S. 12(3A) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 15(2)**

F20 S. 12(4) omitted (1.10.2005) by virtue of The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 15(3)**

13 Qualifying bodies.

(1) It is unlawful for an authority or body which can confer an authorisation or qualification which is needed for, or facilitates, engagement in a particular profession or trade to discriminate against a woman—

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(a) in the terms on which it is prepared to confer on her that authorisation or qualification, or
(b) by refusing or deliberately omitting to grant her application for it, or
(c) by withdrawing it from her or varying the terms on which she holds it.

(2) Where an authority or body is required by law to satisfy itself as to his good character before conferring on a person an authorisation or qualification which is needed for, or facilitates, his engagement in any profession or trade then, without prejudice to any other duty to which it is subject, that requirement shall be taken to impose on the authority or body a duty to have regard to any evidence tending to show that he, or any of his employees, or agents (whether past or present), has practised unlawful discrimination in, or in connection with, the carrying on of any profession or trade.

(3) In this section—
(a) "authorisation or qualification" includes recognition, registration, enrolment, approval and certification,
(b) "confer" includes renew or extend.

(4) Subsection (1) does not apply to discrimination which is rendered unlawful by section 22 or 23.

14 Persons concerned with provision of vocational training.

(1) It is unlawful, in the case of a woman seeking or undergoing training which would help fit her for any employment, for any person who provides, or makes arrangements for the provision of, facilities for such training to discriminate against her—
(a) in the terms on which that person affords her access to any training course or other facilities concerned with such training, or
(b) by refusing or deliberately omitting to afford her such access, or
(c) by terminating her training, or
(d) by subjecting her to any detriment during the course of her training.

(2) Subsection (1) does not apply to—
(a) discrimination which is rendered unlawful by section 6(1) or (2) or section 22 or 23, or
(b) discrimination which would be rendered unlawful by any of those provisions but for the operation of any other provision of this Act.

15 Employment agencies.

(1) It is unlawful for an employment agency to discriminate against a woman—
(a) in the terms on which the agency offers to provide any of its services, or
(b) by refusing or deliberately omitting to provide any of its services, or
(c) in the way it provides any of its services.

[[F21](2) It is unlawful for a local education authority or education authority or any other person to do any act in providing services in pursuance of arrangements made, or a direction given, under section 10 of the [M13]Employment and Training Act 1973 which constitutes discrimination.**]**

(3) References in subsection (1) to the services of an employment agency include guidance on careers and any other services related to employment.

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Changes to legislation: *Sex Discrimination Act 1975 (repealed) is up to date with all changes known to be in force on or before 16 July 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)*

(4) This section does not apply if the discrimination only concerns employment which the employer could lawfully refuse to offer the woman.

(5) An employment agency or local education authority **[**[F22], education authority or other person**]** shall not be subject to any liability under this section if it proves—

(a) that it acted in reliance on a statement made to it by the employer to the effect that, by reason of the operation of subsection (4), its action would not be unlawful, and

(b) that it was reasonable for it to rely on the statement.

(6) A person who knowingly or recklessly makes a statement such as is referred to in subsection (5)(a) which in a material respect is false or misleading commits an offence, and shall be liable on summary conviction to a fine not exceeding **[**[F23]level 5 on the standard scale**]**.

Textual Amendments

F21 S. 15(2) substituted (1.4.1994 in relation to England and Scotland and 1.4.1995 for all other purposes) by 1993 c. 19, s. 49(2), **Sch. 8 para. 8(a)**; S.I. 1993/2503, art. 2(3), **Sch.3**

F22 Words in s. 15(5) substituted (1.4.1994 in relation to England and Scotland . and 1.4.1995 for all other purposes) by 1993 c. 19, s. 49(2), **Sch. 8 para. 8(b)**; S.I. 1993/2503, art. 2(3), **Sch.3**

F23 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G

Marginal Citations

M13 1973 c. 50.

16 Manpower Services Commission etc.

[[F24](1) It is unlawful for the **[**[F25]Secretary of State . . . [F26]**]**to discriminate in the provision of facilities or services under section 2 of the Employment and Training Act 1973.**]**

[[F27](1A) It is unlawful for Scottish Enterprise or Highlands and Islands Enterprise to discriminate in the provision of facilities or services under such arrangements as are mentioned in section 2(3) of the Enterprise and New Towns (Scotland) Act 1990 (arrangements analogous to arrangements in pursuance of section 2 of the said Act of 1973).**]**

(2) This section does not apply in a case where—

(a) section 14 applies, or

(b) the **[**[F28]Secretary of State**]**is acting as an employment agency.

Textual Amendments

F24 S. 16(1) substituted by Employment and Training Act 1981 (c. 57, SIF 43:1), s. 9, **Sch. 2 para. 18**

F25 Words substituted by Employment Act 1988 (c. 19, SIF 43:5), s. 33, **Sch. 3 Pt. II para. 11(2)**

F26 Words repealed by Employment Act 1989 (c. 38, SIF 43:1), s. 29(4), **Sch. 7 Pt. I**

F27 S. 16(1A) inserted (S.) (1.4.1991) by Enterprise and New Towns (Scotland) Act 1990 (c. 35, SIF 64), **s. 8**

F28 Words substituted by Employment Act 1989 (c. 38, SIF 43:1, 106:1), s. 29(3), **Sch. 6 para. 12**

Status: *Point in time view as at 01/10/1997. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Sex Discrimination Act 1975 (repealed) is up to date with all changes known to be in force on or before 16 July 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)*

Special cases

17 Police.

(1) For the purposes of this Part, the holding of the office of constable shall be treated as employment—

(a) by the chief officer of police as respects any act done by him in relation to a constable or that office;

(b) by the police authority as respects any act done by them in relation to a constable or that office.

(2) Regulations made under **[**[F29]section 50, 51 or 52 of the Police Act 1996**]** shall not treat men and women differently except—

(a) as to requirements relating to height, uniform or equipment, or allowances in lieu of uniform or equipment, or

(b) so far as special treatment is accorded to women in connection with pregnancy or childbirth, or

(c) in relation to pensions to or in respect of special constables or police cadets.

(3) Nothing in this Part renders unlawful any discrimination between male and female constables as to matters such as are mentioned in subsection (2)(a).

(4) There shall be paid out of the police fund—

(a) any compensation, costs or expenses awarded against a chief officer of police in any proceedings brought against him under this Act, and any costs or expenses incurred by him in any such proceedings so far as not recovered by him in the proceedings; and

(b) any sum required by a chief officer of police for the settlement of any claim made against him under this Act if the settlement is approved by the police authority.

(5) Any proceedings under this Act which, by virtue of subsection (1), would lie against a chief officer of police shall be brought against the chief officer of police for the time being or, in the case of a vacancy in that office, against the person for the time being performing the functions of that office; and references in subsection (4) to the chief officer of police shall be construed accordingly.

(6) Subsections (1) and (3) apply to a police cadet and appointment as a police cadet as they apply to a constable and the office of constable.

(7) In this section—

"chief officer of police"—

(a) in relation to a person appointed, or an appointment falling to be made, under a specified Act, has the same meaning as in **[**[F30]the Police Act 1996**]**,

(b) in relation to any other person or appointment means the officer who has the direction and control of the body of constables or cadets in question;

"police authority"—

(a) in relation to a person appointed, or an appointment falling to be made, under a specified Act, has the same meaning as in **[**[F30]the Police Act 1996**]**,

(b) in relation to any other person or appointment, means the authority by whom the person in question is or on appointment would be paid;

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"police cadet" means any person appointed to undergo training with a view to becoming a constable;

"police fund" in relation to a chief officer of police within paragraph (a) of the above definition of that term has the same meaning as in **[**[F30]the Police Act 1996**]**, and in any other case means money provided by the police authority;

"specified Act" means the [M14]Metropolitan Police Act 1829, the [M15]City of London Police Act 1839 or **[**[F30]the Police Act 1996**]**.

(8) In the application of this section to Scotland, in subsection (7) for any reference to **[**[F31]the Police Act 1996**]** there shall be substituted a reference to the [M16]Police (Scotland) Act 1967, and for the reference to **[**[F32]sections 50, 51 and 52**]** of the former Act in subsection (2) there shall be substituted a reference to sections 26 and 27 of the latter Act.

Textual Amendments

F29 Words in s. 17(2) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 7 Pt. II para. 27(2)**

F30 Words in s. 17(7) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 7 Pt. II para. 27(3)**

F31 Words in s. 17(8) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 7 Pt. II para. 27(4)**

F32 Words in s. 17(8) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 7 Pt. II para. 27(4)**

Marginal Citations

M14 1829 c. 44.

M15 1839 c. xciv.

M16 1967 c. 77.

18 Prison officers.

(1) Nothing in this Part renders unlawful any discrimination between male and female prison officers as to requirements relating to height.

[X1](2) In section 7(2) of the [M17]Prison Act 1952 the words "and if women only are recieved in a prison the Governor shall be a woman" are repealed.

Editorial Information

X1 The text of ss. 8(1)(6), 18(2), 21(2), Sch. 1 Pt. I paras. 1–5, 6(1), Sch. 1 Pt. II, Sch. 3 para. 16(1)(2), Sch. 5 para. 1 and Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M17 1952 c. 52.

19 Ministers of religion etc.

(1) Nothing in this Part applies to employment for purposes of an organised religion where the employment is limited to one sex so as to comply with the doctrines of the religion or avoid offending the religious susceptibilities of a significant number of its followers.

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(2) Nothing in section 13 applies to an authorisation or qualification (as defined in that section) for purposes of an organised religion where the authorisation or qualification is limited to one sex so as to comply with the doctrines of the religion or avoid offending the religious susceptibilities of a significant number of its followers.

20 Midwives.

(1) **[**[F33]Until 1st September 1983**]**Section 6(1) does not apply to employment as a midwife.

(2) **[**[F33]Until 1st September 1983**]**Section 6(2)(a) does not apply to promotion, transfer or training as a midwife.

(3) **[**[F33]Until 1st September 1983**]**Section 14 does not apply to training as a midwife.

[F34](4) . . . . . .

Textual Amendments

F33 Words inserted by S.I. 1983/1202, **art. 2**

F34 S. 20(4)(5), Sch. 5 para. 2 repealed by Nurses, Midwives and Health Visitors Act 1979 (c. 36, SIF 83:1), **Sch. 8**

[X2]21 Mineworkers.

[F35](1) . . . . . .

[F36](2) . . . . . .

Editorial Information

X2 The insertion of the new cross-heading "Relationships which have come to an end" on 19.7.2003 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

Textual Amendments

F35 S. 21(1) repealed by Employment Act 1989 (c. 38, SIF 43:1), s. 29(4), **Sch. 7 Pt. III**

F36 S. 21(2) repealed (20.11.1993) by Coal Industry Act 1992 (c. 17), s. 3(3), **Sch. Pt.II**; S.I. 1993/2514, **art.2**.

VALID FROM 19/07/2003

Relationships which have come to an end

[[F37]20A Relationships which have come to an end

(1) This section applies where—

(a) there has been a relevant relationship between a woman and another person ("the relevant person"), and

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(b) the relationship has come to an end (whether before or after the commencement of this section).

(2) In this section, a "relevant relationship" is a relationship during the course of which an act of discrimination by one party to the relationship against the other party to it is unlawful under any preceding provision of this Part.

(3) It is unlawful for the relevant person to discriminate against the woman by subjecting her to a detriment where the discrimination arises out of and is closely connected to the relevant relationship.**]**

Textual Amendments

F37 S. 20A and cross-heading inserted (19.7.2003) by The Sex Discrimination Act 1975 (Amendment) Regulations 2003 (S.I. 2003/1657), **reg. 3**

[F38 21A Public authorities

(1) It is unlawful for a public authority exercising a function to do any act which constitutes—

(a) discrimination, or

(b) harassment within the meaning of section 4A(1) and (2), (5) and (6).

(2) In subsection (1)—

(a) "public authority" includes any person who has functions of a public nature (subject to subsections (3) and (4)), and

(b) "function" means function of a public nature.

(3) The prohibition in subsection (1) shall not apply to—

(a) the House of Commons,

(b) the House of Lords,

(c) the Security Service,

(d) the Secret Intelligence Service,

(e) the Government Communications Headquarters, or

(f) a part of the armed forces of the Crown which is, in accordance with a requirement of the Secretary of State, assisting the Government Communications Headquarters.

(4) The prohibition in subsection (1) shall not apply to the functions and actions listed in the Table of Exceptions in subsection (9) (but nothing in that Table permits anything which is prohibited by virtue of any Community law relating to discrimination).

(5) The Secretary of State may by order amend the Table of Exceptions.

(6) In an action under section 66 in respect of a contravention of this section—

(a) the court shall not grant an injunction or interdict unless satisfied that it will not prejudice criminal proceedings or a criminal investigation, and

(b) the court shall grant any application to stay or sist the section 66 proceedings on the grounds of prejudice to criminal proceedings or to a criminal investigation, unless satisfied that the proceedings or investigation will not be prejudiced.

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(7) Section 74(2)(b) shall not apply in relation to a respondent's reply, or a failure to reply, to a question in connection with an alleged contravention of this section—

(a) if the respondent reasonably asserts that to have replied differently or at all might have prejudiced criminal proceedings or a criminal investigation,

(b) if the respondent reasonably asserts that to have replied differently or at all would have revealed the reason for not instituting or not continuing criminal proceedings,

(c) where the reply is of a kind specified for the purposes of this paragraph by order of the Secretary of State,

(d) where the reply is given in circumstances specified for the purposes of this paragraph by order of the Secretary of State, or

(e) where the failure occurs in circumstances specified for the purposes of this paragraph by order of the Secretary of State.

(8) In this section "criminal investigation" means—

(a) an investigation into the commission of an alleged offence, and

(b) a decision whether to institute criminal proceedings.

(9) The following is the Table of Exceptions referred to in subsection (4).

	Legislation
1	Preparing, making, or considering— (a) an Act of Parliament, (b) a Bill for an Act of Parliament, (c) an Act of the Scottish Parliament, or (d) a Bill for an Act of the Scottish Parliament.
2	Preparing, making, confirming, approving, or considering legislation made or to be made— (a) by a Minister of the Crown, (b) by Order in Council, (c) by the Scottish Ministers or any member of the Scottish Executive, (d) by the National Assembly for Wales, or (e) by or by virtue of a Measure of the General Synod of the Church of England.
3	Action which is necessary, or in so far as it is necessary, for the purpose of complying with— (a) an Act of Parliament, (b) an Act of the Scottish Parliament, or (c) legislation of a kind described in Item 2.
	The courts, &c.

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4	A judicial function (whether in connection with a court or a tribunal).
5	Anything done on behalf of or on the instructions of a person exercising a judicial function (whether in connection with a court or a tribunal).
6	A decision not to institute or continue criminal proceedings.
7	Anything done for the purpose of reaching, or in pursuance of, a decision not to institute or continue criminal proceedings.
	Separate services, &c.
8	The provision of a service for one sex only where only persons of that sex require the service.
9	The provision of separate services for each sex where a joint service would or might be less effective.
10	The provision of a service for one sex only where— (a) the service is also provided jointly for both sexes, and (b) if the service were provided only jointly it would or might be insufficiently effective.
11	The provision of a service for one sex only where— (a) if the service were provided for both sexes jointly it would or might be less effective, and (b) the extent to which the service is required by the other sex makes it not reasonably practicable to provide separate services for that sex.
12	The provision of separate services for each sex in different ways or to different extents where— (a) if the service were provided for both sexes jointly it would or might be less effective, and (b) the extent to which the service is required by one sex makes it not reasonably practicable to provide the service for that sex in the same way or to the same extent as for the other sex.

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13	Action taken for the purpose of assisting one sex to overcome— (a) a disadvantage (as compared with the other sex), or (b) the effects of discrimination.
	Miscellaneous
14	The exercise of a function of the Charity Commissioners for England and Wales or the holder of the Office of the Scottish Charity Regulator in relation to an instrument in relation to which section 43 applies.
15	Action which is unlawful by virtue of another provision of this Act.
16	Action which would be unlawful by virtue of another provision of this Act but for an express exception.**]**

Textual Amendments

F38 S. 21A inserted (6.4.2007) by Equality Act 2006 (c. 3), **ss. 83(1)**, 93 (with s. 92); S.I. 2006/1082, **art. 4(a)**

PART III

DISCRIMINATION IN OTHER FIELDS

Modifications etc. (not altering text)

C20 Pt. III (ss. 22–36) excluded by Employment Act 1989 (c. 38, SIF 43:1, 106:1), **ss. 4(1)(b)**, 5(1)(7)

C21 Pt. III (ss. 22–36) excluded by S.I. 1989/2420, **art. 3**

C22 Pt. III (ss. 22-36) applied (1.10.1998) by 1998 c. 31, s. 25, **Sch. 5 para. 6(a)** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2(1), **Sch. 1 Pt. I**
Pt. III (ss. 22-36) applied (1.9.1999) by 1998 c. 31, s. 24, **Sch. 4 para. 8(a)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

Education

22 Discrimination by bodies in charge of educational establishments.

—It is unlawful in relation to an educational establishment falling within column 1 of the following table, for a person indicated in relation to the establishment in column 2 (the "responsible body") to discriminate against a woman—

(a) in the terms on which it offers to admit her to the establishment as a pupil, or

(b) by refusing or deliberately omitting to accept an application for her admission to the establishment as a pupil, or

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(c) where she is a pupil of the establishment—

(i) in the way it affords her access to any benefits, facilities or services, or by refusing or deliberately omitting to afford her access to them, or

(ii) by excluding her from the establishment or subjecting her to any other detriment.

TABLE

Establishment	***Responsibl e body***
England and Wales	
1. Educational establishment maintained by a local education authority.	Local education authority or **[**[F39]managers or**]**governors, according to which of them has the function in question.
2. Independent school not being a special school.	Proprietor.
3. Special school not maintained by a local education authority.	Proprietor.
[[F40]3A. Grant-maintained school.**]**	**[**[F40]Governing body.**]**
[[F41]	[[F41]
3B. Institution within the further education sector (within the meaning of section 91(3) of the Further and Higher Education Act 1992).]	Governing body.]
4. University.	Governing body.
[[F42]4A.Institution other than a university, within the higher education sector (within the meaning of section 91(5) of the Further and Higher Education Act 1992).**]**	**[**[F42]Governing body.**]**
5. Establishment (not falling within paragraphs 1 **[**[F43]to 4A**]**) providing full-time or part-time education, being an establishment designated under section 24(1).	Governing body.
Scotland	
6. Educational establishment managed by an education authority.	Education authority.
7. Educational establishment in respect of which the managers are for the time being receiving grants under section **[**[F44]73(*c*)or(*d*) of the Education (Scotland) Act 1980**]**	Managers of the educational establishment.

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[[F45]7A. Self-governing school.**]**	**[**[F45]Board of management.**]**
[F46	[F46
7B. College of further education within the meaning of section 36(1) of the Further and Higher Education (Scotland) Act 1992 under the management of a board of management .]	Board of management]
[F47	[F47
7C. Designated institution within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992.]	Governing body]
8. University.	Governing body.
9. Independent school.	Proprietor.
10. Any other educational establishment (not falling within paragraphs 6, 7 and 9) providing full or part-time school education or further education.	Managers of the educational establishment.

Textual Amendments

F39 Words repealed (E.W.) by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 27**

F40 S. 22 Table para. 3A inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237, **Sch. 12 Pt. I para. 15**

F41 S. 22 Table para. 3B inserted (6.5.1992) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. II para. 76(1)(2)**; S.I. 1992/831, art. 2, **Sch. 1**.

F42 S. 22 Table para. 4A substituted (6.5.1992) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. II para. 76(1)(3)**; S.I. 1992/831, art. 2, **Sch. 1**.

F43 Words in s. 22 Table para. 5 substituted (6.5.1992) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. II para. 76(1)(4)**; S.I. 1992/831, art. 2, **Sch. 1**

F44 Words substituted by Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 4 para. 6**

F45 S. 22 Table para. 7A inserted (S.) by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 5(2)**

F46 S. 22 Table para. 7B inserted (16.5.1992) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(2), **Sch. 9 para. 4(2)(a)**; S.I. 1992/817, art. 3(2), **Sch.1**.

F47 S. 22 Table para. 7C inserted (16.5.1992) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(2), **Sch. 9 para. 4(2)(b)**; S.I. 1992/817, art. 3(2), **Sch. 1**.

Modifications etc. (not altering text)

C23 S. 22 applied (E.W.) (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt. I**

C24 S. 22 applied (E.W.) (9.5.1994) by S.I. 1994/1084, reg. 8, **Sch. 2 Pt. I**

C25 S. 22 Table paras. 1-5 modified (23.4.1999) by S.I. 1999/988, **art. 2**

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[F48 22A Meaning of pupil in section 22.

For the purposes of section 22, "pupil" includes, in England and Wales, any person who receives education at a school or institution to which that section applies.]

Textual Amendments

F48 S. 22A inserted (1.8.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. II para.77**; S.I. 1992/831, art. 2, **Sch.4**

23 Other discrimination by local education authorities. E+W

(1) It is unlawful for a local education authority, in carrying out such of its functions under [F49 the Education Acts] as do not fall under section 22, to do any act which constitutes sex discrimination.

(2) It is unlawful for an education authority, in carrying out such of its functions under [F50 the Education (Scotland) [F51 Act 1980]] as do not fall under section 22, to do any act which constitutes sex discrimination.

Textual Amendments

F49 Words in s. 23(1) substituted (1.11.1996) by 1996 c. 56, s. 582(1), **Sch. 37 Pt. I para. 31** (with s. 1(4))

F50 Words substituted by Education Act 1980 (c. 20, SIF 41:1), **s. 33(2)**

F51 Words substituted (S.) by Education (Scotland) Act 1980 (c. 44), **Sch. 4 para. 7**

23 Other discrimination by local education authorities. S

(1) It is unlawful for a local education authority, in carrying out such of its functions under [F189 the Education Acts] as do not fall under section 22, to do any act which constitutes sex discrimination.

(2) It is unlawful for an education authority, in carrying out such of its functions under [F190 the Education (Scotland) [F191 Act 1980]] as do not fall under section 22, to do any act which constitutes sex discrimination.

Extent Information

E1 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Textual Amendments

F189 Words in s. 23(1) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch.37 Pt. I para. 31** (with s. 1(4))

F190 Words substituted by Education Act 1980 (c. 20, SIF 41:1), **s. 33(2)**

F191 Words substituted (S.) by Education (Scotland) Act 1980 (c. 44), **Sch. 4 para. 7**

[F52 23A Discrimination by Further Education and Higher Education Funding Councils

It is unlawful for the Further Education Funding Council for England, the Further Education Funding Council for Wales, the Higher Education Funding Council

Status: *Point in time view as at 01/10/1997. This version of this Act contains provisions that are not valid for this point in time.*
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for England or the Higher Education Funding Council for Wales in carrying out their functions under **[**[F53]the Education Acts**]**, to do any act which constitutes sex discrimination.

Textual Amendments

F52 S. 23A inserted (6.5.1992) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. II para. 78**; S.I. 1992/831, art. 2, **Sch. 1**

F53 Words in s. 23A substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 32** (with s. 1(4))

[[F54]23B Discrimination by Scottish Further and Higher Education Funding Councils.

It is unlawful for the Scottish Further Education Funding Council or the Scottish Higher Education Funding Council in carrying out any of their functions to do any act which constitutes sex discrimination.**]**

Textual Amendments

F54 S. 23B inserted (1.6.1992 so far as relating to Scottish Higher Education Funding Council) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(2), **Sch. 9 para. 4(3)**; S.I. 1992/817, art. 3(2), **Sch. 2**

VALID FROM 03/10/2005

[[F55]23BA Discrimination by Scottish Further and Higher Education Funding Council

It is unlawful for the Scottish Further and Higher Education Funding Council in carrying out any of its functions to do any act which constitutes sex discrimination.**]**

Textual Amendments

F55 S. 23BA inserted (3.10.2005) by The Further and Higher Education (Scotland) Act 2005 (Consequential Modifications) Order 2005 (S.I. 2005/2077), **art. 4**

[[F56]23C Discrimination by Funding Agency for Schools or Schools Funding Council for Wales.

It is unlawful for the Funding Agency for Schools or the Schools Funding Council for Wales in carrying out their functions imposed by or under the Education Acts to do any act which constitutes sex discrimination.**]**

Textual Amendments

F56 S. 23C substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 33** (with s. 1(4))

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[F57 23D Discrimination by Teacher Training Agency.

It is unlawful for the Teacher Training Agency in carrying out their functions under Part I of the Education Act 1994 to do any act which constitutes sex discrimination.]

Textual Amendments

F57 S. 23D inserted (21.9.1994) by 1994 c. 30, s. 24, **Sch. 2 para. 5(3)**; S.I. 1994/2204, **art. 2**

24 Designated establishments.

(1) The Secretary of State may by order designate for the purposes of paragraph 5 of the table in section 22 such establishments of the description mentioned in that paragraph as he thinks fit.

(2) An establishment shall not be designated under subsection (1) unless—

(a) F58

(b) it is an establishment in respect of which grants are payable out of money provided by Parliament, or

(c) it is assisted by a local education authority [F59 for the purposes] of [F60 the Education Act 1996], or

(d) it provides full-time education for persons who have attained the upper limit of compulsory school age [F61 (construed in accordance with section 8 of the Education Act 1996)] but not the age of nineteen.

(3) A designation under subsection (1) shall remain in force until revoked notwithstanding that the establishment ceases to be within subsection (2).

Textual Amendments

F58 S. 24(2)(*a*) repealed by Education Reform Act 1988 (c.40, SIF 41:1), ss. 231(7), 235(6), 237, Sch. 12 Pt. III para. 73(a), **Sch. 13 Pt. II**

F59 Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237, **Sch. 12 Pt. III para. 73(b)**

F60 Words in s. 24(2)(c) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 34** (with s. 1(4))

F61 Words in s. 24(2)(d) inserted (1.9.1997) by 1996 c. 56, s. 582(1)(4), **Sch. 37 Pt. II para. 137** (with s. 1(4), Sch. 40 para. 1, which Sch. 40 was repealed (1.10.1998) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 189(g), **Sch. 31**); S.I. 1997/1623, **art. 2(2)**

25 General duty in public sector of education.

(1) Without prejudice to its obligation to comply with any other provision of this Act, a body to which this subsection applies shall be under a general duty to secure that facilities for education provided by it, and any ancillary benefits or services, are provided without sex discrimination.

(2) The following provisions of [F62 the Education Act 1996], namely—

(a) [F63 section 496] (power of Secretary of State to require duties under that Act to be exercised reasonably), and

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(b) **[**[F64]section 497**]** (powers of Secretary of State where local education authorities etc. are in default),

shall apply to the performance by a body to which subsection (1) applies of the duties imposed by sections 22 **[**[F65]23, 23A, 23C and 23D**]** and shall also apply to the performance of the general duty imposed by subsection (1), as they apply to the performance by a local education authority of a duty imposed by that Act.

(3) Section **[**[F66]70 of the Education (Scotland) Act 1980**]** (power of the Secretary of State to require duties in that Act to be exercised) shall apply to the performance by a body to which subsection (1) applies of the duties imposed by sections 22 and 23 and shall also apply to the performance of the general duty imposed by subsection (1), as the **[**[F66]said section 70**]** applies to the performance by an education authority of a duty imposed by that Act.

(4) The sanctions in subsections (2) and (3) shall be the only sanctions for breach of the general duty in subsection (1), but without prejudice to the enforcement of sections 22 **[**[F67]23, 23A, 23C and 23D**]** under section 66 or otherwise (where the breach is also a contravention of **[**[F68]any**]** of those sections).

(5) The Secretary of State shall have the power to cause a local inquiry to be held into any matter arising from subsection (3) under section **[**[F69]67 of the Education (Scotland) Act 1980.**]**

(6) Subsection (1) applies to—

(a) local education authorities in England and Wales;

(b) education authorities in Scotland;

(c) any other body which is a responsible body in relation to—

(i) an establishment falling within paragraph 1, 3 **[**[F70]3A**]**[[F71]3B**]**[[F72], **[**[F73]7, 7A, 7B or 7C**]]** of the table in section 22;

(ii) an establishment designated under section 24(1) as falling within paragraph . . . [F74](c) of section 24(2);

(iii) an establishment designated under section 24(1) as falling within paragraph (b) of section 24(2) where the grants in question are payable under **[**[F75]section 485 of the Education Act 1996**]**[[F76](d) the Further Education Funding Council for England and the Further Education Funding Council for Wales.**]**

[[F77](e) the Funding Agency for Schools and the Schools Funding Council for Wales.**]**

[[F78](f) the Teacher Training Agency.**]**

Textual Amendments

F62 Words in s. 25(2) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 35(2)(a)**

F63 Words in s. 25(2)(a) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 35(2)(b)**

F64 Words in s. 25(2)(b) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 35(2)(c)**

F65 Words in s. 25(2) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 35(2)(d)**

F66 Words substituted by Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 4 para. 8**(*a*)

F67 Words in s. 25(4) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 35(3)(a)**

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F68 Word in s. 25(4) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 35(3)(b)**
F69 Words substituted by Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 4 para. 8**(*b*)
F70 "3A"inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237, **Sch. 12 Pt. I para. 16**
F71 Words in s. 25(6)(c)(i) (which were inserted by Education Reform Act 1988 (c. 40), ss. 231(7), 235(6), 237, **Sch. 12 Pt. III para. 74(a)**) substituted (6.5.1992) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 para. 79(1)(a)**, S.I. 1992/831, art. 2, Sch. 1
F72 Words in s. 25(6)(c)(i) substituted (S.) by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39), s. 82(1), **Sch. 10 para. 5(3)**.
F73 Words in s. 25(6)(c)(i) substituted (16.5.1992) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(2), **Sch. 9 para. 4(4)**; S.I. 1992/817, art. 3(2), **Sch. 1**.
F74 "(a) or" repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237, Sch. 12 Pt. III para. 74(b), **Sch. 13 Pt. II**
F75 Words in s. 25(6)(c)(iii) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 35(4)(a)**
F76 S. 25(6)(d) added (6.5.1992) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Part II para. 79(1)(b)**; S.I. 1992/831, art. 2, **Sch. 1**
F77 S. 25(6)(e) added (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 35(4)(b)**
F78 S. 25(6)(f) inserted (21.9.1994) by 1994 c. 30, s. 24, **Sch. 2 para. 5(4)(b)**; S.I. 1994/2204, **art. 2**

Modifications etc. (not altering text)
C26 S. 25 applied (E.W.)(1.4.1994) by S.I. 1994/653, reg. 42, **Sch. Pt. I**
S. 25 applied (E.W.)(9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt. I**
S. 25: transfer of functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**
C27 S. 25(2) modified (6.5.1992) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 para. 79(2)**; S.I. 1992/831, art. 2, **Sch. 1**

VALID FROM 28/07/2000

[F79 25A General duty: post-16 education and training etc.

(1) The Learning and Skills Council for England and the National Council for Education and Training for Wales shall be under a general duty to secure that the facilities falling within subsection (2) and any ancillary benefits or services are provided without sex discrimination.

(2) Facilities falling within this subsection are facilities for—
(a) education,
(b) training, and
(c) organised leisure-time occupation connected with such education or training,
the provision of which is secured by the Learning and Skills Council for England or the National Council for Education and Training for Wales.

(3) The provisions of sections 25 and 47 of the Learning and Skills Act 2000 shall be the only sanction for breach of the general duty in subsection (1), but without prejudice to the enforcement of section 23A under section 66 or otherwise (where the breach is also a contravention of that section).**]**

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Textual Amendments

F79 S. 25A inserted (28.7.2000 so far as consequential upon ss. 130, 131, Sch. 8 and 1.4.2001 in relation to England and Wales otherwise) by 2000 c. 21, ss. 149, 154, **Sch. 9 para. 6**; S.I. 2001/654, art. 2(2), **Sch. Pt. II** (with savings and transitional provisions in art. 3); S.I. 2001/1274, art. 2(1), **Sch. Pt. I** (with savings and transitional provisions in art. 3)

26 Exception for single-sex establishments.

(1) Sections 22(a) and (b) and 25 do not apply to the admission of pupils to any establishment (a "single-sex establishment") which admits pupils of one sex only, or which would be taken to admit pupils of one sex only if there were disregarded pupils of the opposite sex—

(a) whose admission is exceptional, or

(b) whose numbers are comparatively small and whose admission is confined to particular courses of instruction or teaching classes.

(2) Where a school which is not a single-sex establishment has some pupils as boarders and others as non-boarders, and admits as boarders pupils of one sex only (or would be taken to admit as boarders pupils of one sex only if there were disregarded boarders of the opposite sex whose numbers are comparatively small), sections 22(a) and (b) and 25 do not apply to the admission of boarders and sections 22(c)(i) and 25 do not apply to boarding facilities.

(3) Where an establishment is a a single-sex establishment by reason of its inclusion in subsection (1)(b), the fact that pupils of one sex are confined to particular courses of instruction or teaching classes shall not be taken to contravene section 22(c)(i) or the duty in section 25.

[[F80](4) In this section, as it applies to an establishment in England and Wales, "pupil" includes any person who receives education at that establishment.**]**

Textual Amendments

F80 S. 26(4) added (1.8.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. II para. 80**; S.I. 1992/831, art. 2, **Sch. 4**

27 Exception for single-sex establishments turning co-educational.

(1) Where at any time—

(a) the responsible body for single-sex establishment falling within column 1 of the table in section 22 determines to alter its admissions arrangements so that the establishment will cease to be a single-sex establishment, or

(b) section 26(2) applies to the admission of boarders to a school falling within column 1 of that table but the responsible body determines to alter its admissions arrangements so that section 26(2) will cease so to apply,

the responsible body may apply in accordance with Schedule 2 for an order (a "transitional exemption order") authorising discriminatory admissions during the transitional period specified in the order.

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(2) Where during the transitional period specified in a transitional exemption order applying to an establishment the responsible body refuses or deliberately omits to accept an application for the admission of a person to the establishment as a pupil the refusal or omission shall not be taken to contravene any provision of this Act.

(3) Subsection (2) does not apply if the refusal or omission contravenes any condition of the transitional exemption order.

(4) Except as mentioned in subsection (2), a transitional exemption order shall not afford any exemption from liability under this Act.

(5) Where, during the period between the making of an application for a transitional exemption order in relation to an establishment and the determination of the application, the responsible body refuses or deliberately omits to accept an application for the admission of a person to the establishment as a pupil the refusal or omission shall not be taken to contravene any provision of this Act.

[[F81](6) In this section, as it applies to an establishment in England and Wales, "pupil" includes any person who receives education at that establishment.**]**

Textual Amendments

F81 S. 27(6) added (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. II para. 81**; S.I. 1992/831, art. 2, **Sch. 3**.

28 Exception for physical training.

Sections 22, 23 and 25 do not apply to any **[**[F82]course in physical education which is a further education course or, in England and Wales, a higher education course within the meaning of the Education Reform Act 1988.**]**

Textual Amendments

F82 Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237, **Sch. 12 Pt. III para. 75**

Goods, facilities, services and premises[F83]

Textual Amendments

F83 Ss. 35A, 35B inserted by virtue of Courts and Legal Services Act 1990 (c. 41, SIF 37), ss. 64(1), 65(1), **Sch. 19 para. 1**

29 Discrimination in provision of goods, facilities or services.

(1) It is unlawful for any person concerned with the provision (for payment or not) of goods, facilities or services to the public or a section of the public to discriminate against a woman who seeks to obtain or use those goods, facilities or services—

(a) by refusing or deliberately omitting to provide her with any of them, or

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(b) by refusing or deliberately omitting to provide her with goods, facilities or services of the like quality, in the like manner and on the like terms as are normal in his case in relation to male members of the public or (where she belongs to a section of the public) to male members of that section.

(2) The following are examples of the facilities and services mentioned in subsection (1)—

(a) access to and use of any place which members of the public or a section of the public are permitted to enter;
(b) accommodation in a hotel, boarding house or other similar establishment;
(c) facilities by way of banking or insurance or for grants, loans, credit or finance;
(d) facilities for education;
(e) facilities for entertainment, recreation or refreshment;
(f) facilities for transport or travel;
(g) the services of any profession or trade, or any local or other public authority.

(3) For the avoidance of doubt it is hereby declared that where a particular skill is commonly exercised in a different way for men and for women it does not contravene subsection (1) for a person who does not normally exercise it for women to insist on exercising it for a woman only in accordance with his normal practice or, if he reasonably considers it impracticable to do that in her case, to refuse or deliberately omit to exercise it.

30 Discrimination in disposal or management of premises.

(1) It is unlawful for a person, in relation to premises in Great Britain of which he has power to dispose, to discriminate against a woman—

(a) in the terms on which he offers her those premises, or
(b) by refusing her application for those premises, or
(c) in his treatment of her in relation to any list of persons in need of premises of that description.

(2) It is unlawful for a person, in relation to premises managed by him, to discriminate against a woman occupying the premises—

(a) in the way he affords her access to any benefits or facilities, or by refusing or deliberately omitting to afford her access to them, or
(b) by evicting her, or subjecting her to any other detriment.

(3) Subsection (1) does not apply to a person who owns an estate or interest in the premises and wholly occupies them unless he uses the services of an estate agent for the purposes of the disposal of the premises, or publishes or causes to be published an advertisement in connection with the disposal.

31 Discrimination: consent for assignment or sub-letting.

(1) Where the licence or consent of the landlord or of any other person is required for the disposal to any person of premises in Great Britain comprised in a tenancy, it is unlawful for the landlord or other person to discriminate against a woman by withholding the licence or consent for disposal of the premises to her.

(2) Subsection (1) does not apply if—

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(a) the person withholding a licence or consent, or a near relative of his ("the relevant occupier") resides, and intends to continue to reside, on the premises, and

(b) there is on the premises, in addition to the accommodation occupied by the relevant occupier, accommodation (not being storage accommodation or means of access) shared by the relevant occupier with other persons residing on the premises who are not members of his household, and

(c) the premises are small premises as defined in section 32(2).

(3) In this section "tenancy" means a tenancy created by a lease or sub-lease, by an agreement for a lease or sub-lease or by a tenancy agreement or in pursuance of any enactment; and "disposal", in relation to premises comprised in a tenancy, includes assignment or assignation of the tenancy and sub-letting or parting with possession of the premises or any part of the premises.

(4) This section applies to tenancies created before the passing of this Act, as well as to others.

32 Exception for small dwellings.

(1) Sections 29(1) and 30 do not apply to the provision by a person of accommodation in any premises, or the disposal of premises by him, if—

(a) that person or a near relative of his ("the relevant occupier") resides, and intends to continue to reside, on the premises, and

(b) there is on the premises, in addition to the accommodation occupied by the relevant occupier, accommodation (not being storage accommodation or means of access) shared by the relevant occupier with other persons residing on the premises who are not members of his household, and

(c) the premises are small premises.

(2) Premises shall be treated for the purposes of subsection (1) as small premises if—

(a) in the case of premises comprising residential accommodation for one or more households (under separate letting or similar agreements) in addition to the accommodation occupied by the relevant occupier, there is not normally residential accommodation for more than two such households and only the relevant occupier and any member of his household reside in the accommodation occupied by him;

(b) in the case of premises not falling within paragraph (a), there is not normally residential accommodation on the premises for more than six persons in addition to the relevant occupier and any members of his household.

33 Exception for political parties.

(1) This section applies to a political party if—

(a) it has as its main object, or one of its main objects, the promotion of parliamentary candidatures for the Parliament of the United Kingdom, or

(b) it is an affiliate of, or has as an affiliate, or has similar formal links with, a political party within paragraph (a).

(2) Nothing in section 29(1) shall be construed as affecting any special provision for persons of one sex only in the constitution, organisation or administration of the political party.

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(3) Nothing in section 29(1) shall render unlawful an act done in order to give effect to such a special provision.

34 Exception for voluntary bodies.

(1) This section applies to a body—
- (a) the activities of which are carried on otherwise than for profit, and
- (b) which was not set up by any enactment.

(2) Sections 29(1) and 30 shall not be construed as rendering unlawful—
- (a) the restriction of membership of any such body to persons of one sex (disregarding any minor exceptions), or
- (b) the provision of benefits, facilities or services to members of any such body where the membership is so restricted,

even though membership of the body is open to the public, or to a section of the public.

(3) Nothing in section 29 or 30 shall—
- (a) be construed as affecting a provision to which this subsection applies, or
- (b) render unlawful an act which is done in order to give effect to such a provision.

(4) Subsection (3) applies to a provision for conferring benefits on persons of one sex only (disregarding any benefits to persons of the opposite sex which are exceptional or are relatively insignificant), being a provision which constitutes the main object of a body within subsection (1).

35 Further exceptions from ss. 29(1) and 30.

(1) A person who provides at any place facilities or services restricted to men does not for that reason contravene section 29(1) if—
- (a) the place is, or is part of, a hospital, **[**[F84]resettlement unit provided under Schedule 5 to the Supplementary Benefits Act 1976**]**or other establishment for persons requiring special care, supervision or attention, or
- (b) the place is (permanently or for the time being) occupied or used for the purposes of an organised religion, and the facilities or services are restricted to men so as to comply with the doctrines of that religion or avoid offending the religious susceptibilities of a significant number of its followers, or
- (c) the facilities or services are provided for, or are likely to be used by, two or more persons at the same time, and
  - (i) the facilities or services are such, or those persons are such, that male users are likely to suffer serious embarrassment at the presence of a woman, or
  - (ii) the facilities or services are such that a user is likely to be in a state of undress and a male user might reasonably object to the presence of a female user.

(2) A person who provides facilities or services restricted to men does not for that reason contravene section 29(1) if the services or facilities are such that physical contact between the user and any other person is likely, and that other person might reasonably object if the user were a woman.

(3) Sections 29(1) and 30 do not apply—

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(a) to discrimination which is rendered unlawful by any provision in column 1 of the table below, or
(b) to discrimination which would be so unlawful but for any provision in column 2 of that table, or
(c) to discrimination which contravenes a term modified or included by virtue of an equality clause.

TABLE

Provision creating illegality	***Exception***
Part II	Sections 6(3), 7(1)(b), 15(4), 19 and 20.
	Schedule 4 paragraphs 1 and 2.
Section 22 or 23	Sections 26, 27 and 28.
	Schedule 4 paragraph 4.

Textual Amendments
F84 Words substituted by Social Security Act 1980 (c. 30, SIF 113:1), **Sch. 4 para. 11**

VALID FROM 06/04/2008

[F85 35ZA Excluded matters

Each of the following is an excluded matter for the purposes of sections 29 to 31–
(a) education (including vocational training);
(b) the content of media and advertisements;
(c) the provision of goods, facilities or services (not normally provided on a commercial basis) at a place (permanently or for the time being) occupied or used for the purposes of an organised religion.**]**

Textual Amendments
F85 S. 35ZA inserted (6.4.2008) by The Sex Discrimination (Amendment of Legislation) Regulations 2008 (S.I. 2008/963), reg. 2(1), **Sch. 1 para. 9(1)**

Barristers

35A Discrimination by, or in relation to, barristers.

(1) It is unlawful for a barrister or barrister's clerk, in relation to any offer of a pupillage or tenancy, to discriminate against a woman—
(a) in the arrangements which are made for the purpose of determining to whom it should be offered;
(b) in respect of any terms on which it is offered; or
(c) by refusing, or deliberately omitting, to offer it to her.

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(2) It is unlawful for a barrister or barrister's clerk, in relation to a woman who is a pupil or tenant in the chambers in question, to discriminate against her—
  (a) in respect of any terms applicable to her as a pupil or tenant;
  (b) in the opportunities for training, or gaining experience, which are afforded or denied to her;
  (c) in the benefits, facilities or services which are afforded or denied to her; or
  (d) by terminating her pupillage or by subjecting her to any pressure to leave the chambers or other detriment.

(3) It is unlawful for any person, in relation to the giving, withholding or acceptance of instructions to a barrister, to discriminate against a woman.

(4) In this section— "barrister's clerk"includes any person carrying out any of the functions of a barrister's clerk; and "pupil", "pupillage", "tenancy" and "tenant" have the meanings commonly associated with their use in the context of a set of barristers' chambers.

(5) Section 3 applies for the purposes of this section as it applies for the purposes of any provision of Part II.

(6) This section does not apply to Scotland.

Advocates

35B Discrimination by, or in relation to, advocates.

(1) It is unlawful for an advocate, in relation to taking any person as his pupil, to discriminate against a woman—
  (a) in the arrangements which he makes for the purpose of determining whom he will take as his pupil;
  (b) in respect of any terms on which he offers to take her as his pupil; or
  (c) by refusing, or deliberately omitting, to take her as his pupil.

(2) It is unlawful for an advocate, in relation to a woman who is a pupil, to discriminate against her—
  (a) in respect of any terms applicable to her as a pupil;
  (b) in the opportunities for training, or gaining experience, which are afforded or denied to her;
  (c) in the benefits, facilities or services which are afforded or denied to her; or
  (d) by terminating the relationship or by subjecting her to any pressure to terminate the relationship or other detriment.

(3) It is unlawful for any person, in relation to the giving, withholding or acceptance of instructions to an advocate, to discriminate against a woman.

(4) In this section— "advocate" means a member of the Faculty of Advocates practising as such; and "pupil"has the meaning commonly associated with its use in the context of a person training to be an advocate.

(5) Section 3 applies for the purposes of this section as it applies for the purposes of any provision of Part II.

(6) This section does not apply to England and Wales.

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VALID FROM 19/07/2003

[F86 Relationships which have come to an end]

Textual Amendments

F86 S. 35C and cross-heading inserted (19.7.2003) by The Sex Discrimination Act 1975 (Amendment) Regulations 2003 (S.I. 2003/1657), **reg. 4**

[F87 35C Relationships which have come to an end

(1) This section applies where—

(a) there has been a relevant relationship between a woman and another person ("the relevant person"), and

(b) the relationship has come to an end (whether before or after the commencement of this section).

(2) In this section, a "relevant relationship" is a relationship during the course of which an act of discrimination by one party to the relationship against the other party to it is unlawful under—

(a) section 35A or 35B, or

(b) any other provision of this Part, so far as the provision applies to vocational training.

(3) It is unlawful for the relevant person to discriminate against the woman by subjecting her to a detriment where the discrimination arises out of and is closely connected to the relevant relationship.]

Textual Amendments

F87 S. 35C and cross-heading inserted (19.7.2003) by The Sex Discrimination Act 1975 (Amendment) Regulations 2003 (S.I. 2003/1657), **reg. 4**

Extent

36 Extent of Part III.

(1) Section 29(1)—

(a) does not apply to goods, facilities or services outside Great Britain except as provided in subsections (2) and (3), and

(b) does not apply to facilities by way of banking or insurance or for grants, loans, credit or finance, where the facilities are for a purpose to be carried out, or in connection with risks wholly or mainly arising, outside Great Britain.

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(2) Section 29(1) applies to the provision of facilities for travel outside Great Britain where the refusal or omission occurs in Great Britain or on a ship, aircraft or hovercraft within subsection (3).

(3) Section 29(1) applies on and in relation to—
- (a) any ship registered at a port of registry in Great Britain, and
- (b) any aircraft or hovercraft registered in the United Kingdom and operated by a person who has his principal place of business, or is ordinarily resident, in Great Britain,
- (c) any ship, aircraft or hovercraft belonging to or possessed by Her Majesty in right of the Government of the United Kingdom,

even if the ship, aircraft or hovercraft is outside Great Britain.

(4) This section shall not render unlawful an act done in or over a country outside the United Kingdom, or in or over that country's territorial waters, for the purpose of complying with the laws of that country.

(5) Sections 22, 23 and 25 do not apply to benefits, facilities or services outside Great Britain except—
- (a) travel on a ship registered at a port of registry in Great Britain, and
- (b) benefits, facilities or services provided on a ship so registered.

PART IV

OTHER UNLAWFUL ACTS

Modifications etc. (not altering text)

C28 Part IV extended by Employment Protection Act 1975 (c. 71), **s. 122(2)**

C29 Pt. IV (ss. 37–42) excluded by Employment Act 1989 (c. 38, SIF 43:1, 106:1), **ss. 4(1)(c)**, 5(1)(2)(b)(3)(4)(7)

C30 Pt. IV (ss. 37–42) excluded by S.I. 1989/2420, **art. 3**

37 Discriminatory practices.

(1) In this section "discriminatory practice" means the application of a requirement or condition which results in an act of discrimination which is unlawful by virtue of any provision of Part II or III taken with section 1(1)(b) or 3(1)(b) or which would be likely to result in such an act of discrimination if the persons to whom it is applied were not all of one sex.

(2) A person acts in contravention of this section if and so long as—
- (a) he applies a discriminatory practice, or
- (b) he operates practices or other arrangements which in any circumstances would call for the application by him of a discriminatory practice.

(3) Proceedings in respect of a contravention of this section shall be brought only by the Commission in accordance with sections 67 to 71.

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38 Discriminatory advertisements.

(1) It is unlawful to publish or cause to be published an advertisement which indicates, or might reasonably be understood as indicating, an intention by a person to do any act which is or might be unlawful by virtue of Part II or III.

(2) Subsection (1) does not apply to an advertisement if the intended act would not in fact be unlawful.

(3) For the purposes of subsection (1), use of a job description with a sexual connotation (such as "waiter", "salesgirl", "postman" or "stewardess") shall be taken to indicate an intention to discriminate, unless the advertisement contains an indication to the contrary.

(4) The publisher of an advertisement made unlawful by subsection (1) shall not be subject to any liability under that subsection in respect of the publication of the advertisement if he proves—

(a) that the advertisement was published in reliance on a statement made to him by the person who caused it to be published to the effect that, by reason of the operation of subsection (2), the publication would not be unlawful, and

(b) that it was reasonable for him to rely on the statement.

(5) A person who knowingly or recklessly makes a statement such as is referred to in subsection (4) which in a material respect is false or misleading commits an offence, and shall be liable on summary conviction to a fine not exceeding **[**[F88]level 5 on the standard scale**]**.

Textual Amendments

F88 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G

39 Instructions to discriminate.

It is unlawful for a person—

(a) who has authority over another person, or

(b) in accordance with whose wishes that other person is accustomed to act,

to instruct him to do any act which is unlawful by virtue of Part II or III, or procure or attempt to procure the doing by him of any such act.

40 Pressure to discriminate.

(1) It is unlawful to induce, or attempt to induce, a person to do any act which contravenes Part II or III by—

(a) providing or offering to provide him with any benefit, or

(b) subjecting or threatening to subject him to any detriment.

(2) An offer or threat is not prevented from falling within subsection (1) because it is not made directly to the person in question, if it is made in such a way that he is likely to hear of it.

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41 Liability of employers and principals.

(1) Anything done by a person in the course of his employment shall be treated for the purposes of this Act as done by his employer as well as by him, whether or not it was done with the employer's knowledge or approval.

(2) Anything done by a person as agent for another person with the authority (whether express or implied, and whether precedent or subsequent) of that other person shall be treated for the purposes of this Act as done by that other person as well as by him.

(3) In proceedings brought under this Act against any person in respect of an act alleged to have been done by an employee of his it shall be a defence for that person to prove that he took such steps as were reasonably practicable to prevent the employee from doing that act, or from doing in the course of his employment acts of that description.

Modifications etc. (not altering text)

C31 S. 41 modified (W.) (12.5.2006) by The Education (Modification of Enactments Relating to Employment) (Wales) Order 2006 (S.I. 2006/1073), art. 3, **Sch.**

C32 S. 41 modified by S.I. 1989/901, art. 3, **Sch.**

C33 S. 41 modified (2.3.1998) by S.I. 1998/218, art. 3, **Sch.** (which S.I. was revoked (1.9.1999) by S.I. 1999/2256, art. 3, **Sch.**)

C34 S. 41 modified (1.9.1999) by S.I. 1999/2256, art. 3, **Sch.**

C35 S. 41 modified (E.) (1.9.2003) by The Education (Modification of Enactments Relating to Employment) (England) Order 2003 (S.I. 2003/1964), art. 3, **Sch**

42 Aiding unlawful acts.

(1) A person who knowingly aids another person to do an act made unlawful by this Act shall be treated for the purposes of this Act as himself doing an unlawful act of the like description.

(2) For the purposes of subsection (1) an employee or agent for whose act the employer or principal is liable under section 41 (or would be so liable but for section 41(3)) shall be deemed to aid the doing of the act by the employer or principal.

(3) A person does not under this section knowingly aid another to do an unlawful act if—

(a) he acts in reliance on a statement made to him by that other person that, by reason of any provision of this Act, the act which he aids would not be unlawful, and

(b) it is reasonable for him to rely on the statement.

(4) A person who knowingly or recklessly makes a statement such as is referred to in subsection (3)(a) which in a material respect is false or misleading commits an offence, and shall be liable on summary conviction to a fine not exceeding **[**[F89]level 5 on the standard scale**]**.

Textual Amendments

F89 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G

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PART V

GENERAL EXCEPTIONS FROM PARTS II TO IV[F90]

Textual Amendments

F90 S. 52A inserted by Employment Act 1989 (c. 38, SIF 43:1, 106:1), **s. 3(4)**

VALID FROM 26/02/2002

[[F91]42A Selection of candidates

(1) Nothing in Parts 2 to 4 shall—
- (a) be construed as affecting arrangements to which this section applies, or
- (b) render unlawful anything done in accordance with such arrangements.

(2) This section applies to arrangements made by a registered political party which—
- (a) regulate the selection of the party's candidates in a relevant election, and
- (b) are adopted for the purpose of reducing inequality in the numbers of men and women elected, as candidates of the party, to be members of the body concerned.

(3) The following elections are relevant elections for the purposes of this section—
- (a) parliamentary elections;
- (b) elections to the European Parliament;
- (c) elections to the Scottish Parliament;
- (d) elections to the National Assembly for Wales;
- (e) local government elections within the meaning of section 191, 203 or 204 of the Representation of the People Act 1983 (c. 2) (excluding any election of the Mayor of London).

(4) In this section "registered political party" means a party registered in the Great Britain register under Part 2 of the Political Parties, Elections and Referendums Act 2000 (c. 41).**]**

Textual Amendments

F91 S. 42A inserted (26.2.2002) by Sex Discrimination (Election Candidates) Act 2002 (c. 2), **s. 1** (the Act expiring at the end of 2015 unless an order is made under s. 3(1))

43 Charities.

(1) Nothing in Parts II to IV shall—
- (a) be construed as affecting a provision to which this subsection applies, or
- (b) render unlawful an act which is done in order to give effect to such a provision.

(2) Subsection (1) applies to a provision for conferring benefits on persons of one sex only (disregarding any benefits to persons of the opposite sex which are exceptional

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or are relatively insignificant), being a provision which is contained in a charitable instrument.

[[F92](3) In this section "charitable instrument" means an enactment or other instrument passed or made for charitable purposes, or an enactment or other instrument so far as it relates to charitable purposes, and in Scotland includes the governing instrument of an endowment or of an educational endowment as those expressions are defined in section 135(1) of the [M18]Education (Scotland) Act 1962.

In the application of this section to England and Wales, "charitable purposes" means purposes which are exclusively charitable according to the law of England and Wales.**]**

Textual Amendments

F92 S. 43(3) substituted for s. 43(3)(4) by S.I. 1977/528, **art. 2**

Marginal Citations

M18 1962 c. 47.

44 Sport etc.

Nothing in Parts II to IV shall, in relation to any sport, game or other activity of a competitive nature where the physical strength, stamina or physique of the average woman puts her at a disadvantage to the average man, render unlawful any act related to the participation of a person as a competitor in events involving that activity which are confined to competitors of one sex.

45 Insurance etc.

Nothing in Parts II to IV shall render unlawful the treatment of a person in relation to an annuity, life assurance policy, accident insurance policy, or similar matter involving the assessment of risk, where the treatment—

(a) was effected by reference to actuarial or other data from a source on which it was reasonable to rely, and

(b) was reasonable having regard to the data and any other relevant factors.

46 Communal accommodation.

(1) In this section "communal accommodation" means residential accommodation which includes dormitories or other shared sleeping accommodation which for reasons of privacy or decency should be used by men only, or by women only (but which may include some shared sleeping accommodation for men, and some for women, or some ordinary sleeping accommodation).

(2) In this section "communal accommodation" also includes residential accommodation all or part of which should be used by men only, or by women only, because of the nature of the sanitary facilities serving the accommodation.

(3) Nothing in Part II or III shall render unlawful sex discrimination in the admission of persons to communal accommodation if the accommodation is managed in a way which, given the exigencies of the situation, comes as near as may be to fair and equitable treatment of men and women.

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(4) In applying subsection (3) account shall be taken of—
  (a) whether and how far it is reasonable to expect that the accommodation should be altered or extended, or that further alternative accommodation should be provided; and
  (b) the frequency of the demand or need for use of the accommodation by men as compared with women.

(5) Nothing in Part II or III shall render unlawful sex discrimination against a woman, or against a man, as respects the provision of any benefit, facility or service if—
  (a) the benefit, facility or service cannot properly and effectively be provided except for those using communal accommodation, and
  (b) in the relevant circumstances the woman or, as the case may be, the man could lawfully be refused the use of the accommodation by virtue of subsection (3).

(6) Neither subsection (3) nor subsection (5) is a defence to an act of sex discrimination under Part II unless such arrangements as are reasonably practicable are made to compensate for the detriment caused by the discrimination; but in considering under subsection (5)(b) whether the use of communal accommodation could lawfully be refused (in a case based on Part II), it shall be assumed that the requirements of this subsection have been complied with as respects subsection (3).

(7) Section 25 shall not apply to sex discrimination within subsection (3) or (5).

(8) This section is without prejudice to the generality of section 35(1)(c).

47 Discriminatory training by certain bodies.

(1) Nothing in Parts II to IV shall render unlawful any act done in relation to particular work by **[**[F93]any person**]**in, or in connection with—
  (a) affording women only, or men only, access to facilities for training which would help to fit them for that work, or
  (b) encouraging women only, or men only, to take advantage of opportunities for doing that work,

  where **[**[F93]it reasonably appears to that person**]**that at any time within the 12 months immediately preceding the doing of the act there were no persons of the sex in question doing that work in Great Britain, or the number of persons of that sex doing the work in Great Britain was comparatively small.

(2) Where in relation to particular work **[**[F94]it reasonably appears to any person**]**that although the condition for the operation of subsection (1) is not met for the whole of Great Britain it is met for an area within Great Britain, nothing in Parts II to IV shall render unlawful any act done by **[**[F94]that person**]**in, or in connection with—
  (a) affording persons who are of the sex in question, and who appear likely to take up that work in that area, access to facilities for training which would help to fit them for that work, or
  (b) encouraging persons of that sex to take advantage of opportunities in the area for doing that work.

(3) Nothing in Parts II to IV shall render unlawful any act done by **[**[F93]any person**]**in, or in connection with, affording persons access to facilities for training which would help to fit them for employment, where **[**[F93]it reasonably appears to that person**]**that those persons are in special need of training by reason of the period for which they have

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been discharging domestic or family responsibilities to the exclusion of regular full time employment.

The discrimination in relation to which this subsection applies may result from confining the training to persons who have been discharging domestic or family responsibilities, or from the way persons are selected for training, or both.

[[F95](4) The preceding provisions of this section shall not apply in relation to any discrimination which is rendered unlawful by section 6.**]**

Textual Amendments

F93 Words substituted by Sex Discrimination Act 1986 (c. 59, SIF 106:1), **s. 4(2)**(*a*)(*b*)

F94 Words substituted by Sex Discrimination Act 1986 (c. 59, SIF 106:1), **s. 4(3)**(*a*)(*b*)

F95 S. 47(4) substituted by Sex Discrimination Act 1986 (c. 59, SIF 106:1), **s. 4(4)**

48 Other discriminatory training etc.

(1) Nothing in Parts II to IV shall render unlawful any act done by an employer in relation to particular work in his employment, being an act done in, or in connection with,—

(a) affording his female employees only, or his male employees only, access to facilities for training which would help to fit them for that work, or

(b) encouraging women only, or men only, to take advantage of opportunities for doing that work,

where at any time within the twelve months immediately preceding the doing of the act there were no persons of the sex in question among those doing that work or the number of persons of that sex doing the work was comparatively small.

(2) Nothing in section 12 shall render unlawful any act done by an organisation to which that section applies in, or in connection with,—

(a) affording female members of the organisation only, or male members of the organisation only, access to facilities for training which would help to fit them for holding a post of any kind in the organisation, or

(b) encouraging female members only, or male members only, to take advantage of opportunities for holding such posts in the organisation,

where at any time within the twelve months immediately preceding the doing of the act there were no persons of the sex in question among persons holding such posts in the organisation or the number of persons of that sex holding such posts was comparatively small.

(3) Nothing in Parts II to IV shall render unlawful any act done by an organisation to which section 12 applies in, or in connection with, encouraging women only, or men only, to become members of the organisation where at any time within the twelve months immediately preceding the doing of the act there were no persons of the sex in question among those members or the number of persons of that sex among the members was comparatively small.

49 Trade unions etc.: elective bodies.

(1) If an organisation to which section 12 applies comprises a body the membership of which is wholly or mainly elected, nothing in section 12 shall render unlawful

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provision which ensures that a minimum number of persons of one sex are members of the body—

(a) by reserving seats on the body for persons of that sex, or

(b) by making extra seats on the body available (by election or co-option or otherwise) for persons of that sex on occasions when the number of persons of that sex in the other seats is below the minimum,

where in the opinion of the organisation the provision is in the circumstances needed to secure a reasonable lower limit to the number of members of that sex serving on the body; and nothing in Parts II to IV shall render unlawful any act done in order to give effect to such a provision.

(2) This section shall not be taken as making lawful—

(a) discrimination in the arrangements for determining the persons entitled to vote in an election of members of the body, or otherwise to choose the persons to serve on the body, or

(b) discrimination in any arrangements concerning membership of the organisation itself.

50 Indirect access to benefits etc.

(1) References in this Act to the affording by any person of access to benefits, facilities or services are not limited to benefits, facilities or services provided by that person himself, but include any means by which it is in that person's power to facilitate access to benefits, facilities or services provided by any other person (the "actual provider").

(2) Where by any provision of this Act the affording by any person of access to benefits, facilities or services in a discriminatory way is in certain circumstances prevented from being unlawful, the effect of the provision shall extend also to the liability under this Act of any actual provider.

51 Acts done for purposes of protection of women.

(1) Nothing in the following provisions, namely—

(a) Part II,

(b) Part III so far as it applies to vocational training, or

(c) Part IV so far as it has effect in relation to the provisions mentioned in paragraphs (a) and (b),

shall render unlawful any act done by a person in relation to a woman if—

(i) it was necessary for that person to do it in order to comply with a requirement of an existing statutory provision concerning the protection of women, or

(ii) it was necessary for that person to do it in order to comply with a requirement of a relevant statutory provision (within the meaning of Part I of the [M19] Health and Safety at Work etc. Act 1974) and it was done by that person for the purpose of the protection of the woman in question (or of any class of women that included that woman).

(2) In subsection (1)—

(a) the reference in paragraph (i) of that subsection to an existing statutory provision concerning the protection of women is a reference to any such provision having effect for the purpose of protecting women as regards—

(i) pregnancy or maternity, or

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(ii) other circumstances giving rise to risks specifically affecting women,

whether the provision relates only to such protection or to the protection of any other class of persons as well; and

(b) the reference in paragraph (ii) of that subsection to the protection of a particular woman or class of women is a reference to the protection of that woman or those women as regards any circumstances falling within paragraph (a)(i) or (ii) above.

(3) In this section "existing statutory provision" means (subject to subsection (4)) any provision of—

(a) an Act passed before this Act, or

(b) an instrument approved or made by or under such an Act (including one approved or made after the passing of this Act).

(4) Where an Act passed after this Act re-enacts (with or without modification) a provision of an Act passed before this Act, that provision as re-enacted shall be treated for the purposes of subsection (3) as if it continued to be contained in an Act passed before this Act.

Marginal Citations

M19 1974 c.37 (**43:3**).

51A Acts done under statutory authority to be exempt from certain provisions of Part III.

(1) Nothing in—

(a) the relevant provisions of Part III, or

(b) Part IV so far as it has effect in relation to those provisions,

shall render unlawful any act done by a person if it was necessary for that person to do it in order to comply with a requirement of an existing statutory provision within the meaning of section 51.

(2) In subsection (1) "the relevant provisions of Part III" means the provisions of that Part except so far as they apply to vocational training.

[F96 52 Acts safeguarding national security.

(1) Nothing in Parts II to IV shall render unlawful an act done for the purpose of safeguarding national security.

(2) A certificate purporting to be signed by or on behalf of a Minister of the Crown and certifying that an act specified in the certificate was done for the purpose of safeguarding national security shall be conclusive evidence that it was done for that purpose.

(3) A document purporting to be a certificate such as is mentioned in subsection (2) shall be received in evidence and, unless the contrary is proved, shall be deemed to be such a certificate.]

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Textual Amendments

F96 Ss. 51, 51A substituted for s. 51 by Employment Act 1989 (c. 38, SIF 43:1, 106:1), **ss. 3(3)**, 4 (subject to a (*temp.*) saving in Sch. 9 para. 1)

Modifications etc. (not altering text)

C36 By S.I. 1988/249, **art. 2** it is provided that subsections (2) and (3) of section 52 of the Sex Discrimination Act 1975 shall cease to have effect in relation to the determination of the question whether any act is rendered unlawful by Part II of that Act, by Part III of that Act, so far as it applies to vocational training, or by Part IV of that Act taken with Part II or with Part III so far as it so applies

52A Construction of references to vocational training.

In the following provisions, namely—

(a) sections 51 and 51A, and

(b) the provisions of any Order in Council modifying the effect of section 52,

"vocational training" includes advanced vocational training and retraining; and any reference to vocational training in those provisions shall be construed as including a reference to vocational guidance.

PART VI

EQUAL OPPORTUNITIES COMMISSION

53 Establishment and duties of Commission.

(1) There shall be a body of Commissioners named the Equal Opportunities Commission, consisting of at least eight but not more than fifteen individuals each appointed by the Secretary of State on a full-time or part-time basis, which shall have the following duties—

(a) to work towards the elimination of discrimination,

(b) to promote equality of opportunity between men and women generally, and

(c) to keep under review the working of this Act and the [M20]Equal Pay Act 1970 and, when they are so required by the Secretary of State or otherwise think it necessary, draw up and submit to the Secretary of State proposals for amending them.

(2) The Secretary of State shall appoint—

(a) one of the Commissioners to be chairman of the Commission, and

(b) either one or two of the Commissioners (as the Secretary of State thinks fit) to be deputy chairman or deputy chairmen of the Commission.

(3) The Secretary of State may by order amend subsection (1) so far as it regulates the number of Commissioners.

(4) Schedule 3 shall have effect with respect to the Commission.

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Marginal Citations
M20 1970 c. 41.

54 Research and education.

(1) The Commission may undertake or assist (financially or otherwise) the undertaking by other persons of any research, and any educational activities, which appear to the Commission necessary or expedient for the purposes of section 53(1).

(2) The Commission may make charges for educational or other facilities or services made available by them.

55 Review of discriminatory provisions in health and safety legislation.

(1) Without prejudice to the generality of section 53(1), the Commission, in pursuance of the duties imposed by paragraphs (a) and (b) of that subsection—
   (a) shall keep under review the relevant statutory provisions in so far as they require men and women to be treated differently, and
   (b) if so required by the Secretary of State, make to him a report on any matter specified by him which is connected with those duties and concerns the relevant statutory provisions.

   Any such report shall be made within the time specified by the Secretary of State, and the Secretary of State shall cause the report to be published.

(2) Whenever the Commission think it necessary, they shall draw up and submit to the Secretary of State proposals for amending the relevant statutory provisions.

(3) The Commission shall carry out their duties in relation to the relevant statutory provisions in consultation with the Health and Safety Commission.

(4) In this section "the relevant statutory provisions" has the meaning given by section 53 of the [M21]Health and Safety at Work etc. Act 1974.

Marginal Citations
M21 1974 c. 37.

56

(1) As soon as practicable after the end of each calendar year the Commission shall make to the Secretary of State a report on their activities during the year (an "annual report").

(2) Each annual report shall include a general survey of developments, during the period to which it relates, in respect of matters falling within the scope of the Commission's duties.

(3) The Secretary of State shall lay a copy of every annual report before each House of Parliament, and shall cause the report to be published.

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Codes of practice

56A Codes of practice.

(1) The Commission may issue codes of practice containing such practical guidance as the Commission think fit for either or both of the following purposes, namely—
  (a) the elimination of discrimination in the field of employment;
  (b) the promotion of equality of opportunity in that field between men and women.

(2) When the Commission propose to issue a code of practice, they shall prepare and publish a draft of that code, shall consider any representations made to them about the draft and may modify the draft accordingly.

(3) In the course of preparing any draft code of practice for eventual publication under subsection (2) the Commission shall consult with—
  (a) such organisations or associations of organisations representative of employers or of workers; and
  (b) such other organisations, or bodies,

as appear to the Commission to be appropriate.

(4) If the Commission determine to proceed with the draft, they shall transmit the draft to the Secretary of State who shall—
  (a) if he approves of it, lay it before both Houses of Parliament; and
  (b) if he does not approve of it, publish details of his reasons for withholding approval.

(5) If, within the period of forty days beginning with the day on which a copy of a draft code of practice is laid before each House of Parliament, or, if such copies are laid on different days, with the later of the two days, either House so resolves, no further proceedings shall be taken thereon, but without prejudice to the laying before Parliament of a new draft.

(6) In reckoning the period of forty days referred to in subsection (5), no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(7) If no such resolution is passed as is referred to in subsection (5), the Commission shall issue the code in the form of the draft and the code shall come into effect on such day as the Secretary of State may by order appoint.

(8) Without prejudice to section 81(4), an order under subsection (7) may contain such transitional provisions or savings as appear to the Secretary of State to be necessary or expedient in connection with the code of practice thereby brought into operation.

(9) The Commission may from time to time revise the whole or any part of a code of practice issued under this section and issue that revised code, and subsections (2) to (8) shall apply (with appropriate modifications) to such a revised code as they apply to the first issue of a code.

(10) A failure on the part of any person to observe any provision of a code of practice shall not of itself render him liable to any proceedings; but in any proceedings under this Act **[**[F97]or the [M22]Equal Pay Act 1970**]**before an industrial tribunal any code of practice issued under this section shall be admissible in evidence, and if any provision of such

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a code appears to the tribunal to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.

(11) Without prejudice to subsection (1), a code of practice issued under this section may include such practical guidance as the Commission think fit as to what steps it is reasonably practicable for employers to take for the purpose of preventing their employees from doing in the course of their employment acts made unlawful by this Act.

Textual Amendments

F97 Words in s. 56A(10) inserted (30.8.1993) by 1993 c. 19, s. 49(1), **Sch. 7 para.15**; S.I. 1993/1908, art. 2(1), **Sch.1**

Marginal Citations

M22 1970 c. 41.

Investigations

57 Power to conduct formal investigations.

(1) Without prejudice to their general power to do anything requisite for the performance of their duties under section 53(1), the Commission may if they think fit, and shall if required by the Secretary of State, conduct a formal investigation for any purpose connected with the carrying out of those duties.

(2) The Commission may, with the approval of the Secretary of State, appoint, on a full-time or part-time basis, one or more individuals as additional Commissioners for the purposes of a formal investigation.

(3) The Commission may nominate one or more Commissioners, with or without one or more additional Commissioners, to conduct a formal investigation on their behalf, and may delegate any of their functions in relation to the investigation to the persons so nominated.

58 Terms of reference.

(1) The Commission shall not embark on a formal investigation unless the requirements of this section have been complied with.

(2) Terms of reference for the investigation shall be drawn up by the Commission or, if the Commission were required by the Secretary of State to conduct the investigation, by the Secretary of State after consulting the Commission.

(3) It shall be the duty of the Commission to give general notice of the holding of the investigation unless the terms of reference confine it to activities of persons named in them, but in such a case the Commission shall in the prescribed manner give those persons notice of the holding of the investigation.

[F98(3A) Where the terms of reference of the investigation confine it to activities of persons named in them and the Commission in the course of it propose to investigate any act made unlawful by this Act which they believe that a person so named may have done, the Commission shall—

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(a) inform that person of their belief and of their proposal to investigate the act in question; and

(b) offer him an opportunity of making oral or written representations with regard to it (or both oral and written representations if he thinks fit);

and a person so named who avails himself of an opportunity under this subsection of making oral representations may be represented—

(i) by counsel or a solicitor; or

(ii) by some other person of his choice, not being a person to whom the Commission object on the ground that he is unsuitable.**]**

(4) The Commission or, if the Commission were required by the Secretary of State to conduct the investigation, the Secretary of State after consulting the Commission may from time to time revise the terms of reference; and subsections (1) **[**[F99](3) and (3A)**]**shall apply to the revised investigation and terms of reference as they applied to the original.

Textual Amendments

F98 S. 58(3A) inserted by Race Relations Act 1976 (c. 74), **Sch. 4 para. 2(1)**

F99 Words substituted by Race Relations Act 1976 (c. 74), **Sch. 4 para. 2(2)**

59 Power to obtain information.

(1) For the purposes of a formal investigation the Commission, by a notice in the prescribed form served on him in the prescribed manner,—

(a) may require any person to furnish such written information as may be described in the notice, and may specify the time at which, and the manner and form in which, the information is to be furnished;

(b) may require any person to attend at such time and place as is specified in the notice and give oral information about, and produce all documents in his possession or control relating to, any matter specified in the notice.

(2) Except as provided by section 69, a notice shall be served under subsection (1) only where—

(a) service of the notice was authorised by an order made by or on behalf of the Secretary of State, or

(b) the terms of reference of the investigation state that the Commission believe that a person named in them may have done or may be doing acts of all or any of the following descriptions—

(i) unlawful discriminatory acts,

(ii) contraventions of section 37,

(iii) contraventions of sections 38, 39 or 40, and

(iv) acts in breach of a term modified or included by virtue of an equality clause,

and confine the investigation to those acts.

(3) A notice under subsection (1) shall not require a person—

(a) to give information, or produce any documents, which he could not be compelled to give in evidence, or produce, in civil proceedings before the High Court or the Court of Session, or

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(b) to attend at any place unless the necessary expenses of his journey to and from that place are paid or tendered to him.

(4) If a person fails to comply with a notice served on him under subsection (1) or the Commission has reasonable cause to believe that he intends not to comply with it, the Commission may apply to a county court for an order requiring him to comply with it or with such directions for the like purpose as may be contained in the order; and **[**[F100]section 55 (penalty for neglecting or refusing to give evidence) of the County Courts Act 1984**]**shall apply to failure without reasonable excuse to comply with any such order as it applies in the cases there provided.

(5) In the application of subsection (4) to Scotland—

(a) for the reference to a county court there shall be substituted a reference to a sheriff court, and

(b) for the words after "order; and" to the end of the subsection there shall be substituted the words "paragraph 73 of the First Schedule to the [M23]Sheriff Courts (Scotland) Act 1907 (power of sheriff to grant second diligence for compelling the attendances of witnesses or havers) shall apply to any such order as it applies in proceedings in the sheriff court".

(6) A person commits an offence if he—

(a) wilfully alters, suppresses, conceals or destroys a document which he has been required by a notice or order under this section to produce, or

(b) in complying with such a notice or order, knowingly or recklessly makes any statement which is false in a material particular,

and shall be liable on summary conviction to a fine not exceeding **[**[F101]level 5 on the standard scale**]**.

(7) Proceedings for an offence under subsection (6) may (without prejudice to any jurisdiction exercisable apart from this subsection) be instituted—

(a) against any person at any place at which he has an office or other place of business;

(b) against an individual at any place where he resides, or at which he is for the time being.

Textual Amendments

F100 Words substituted by County Courts Act 1984 (c. 28, SIF 34), **Sch. 2 para. 54**

F101 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G

Marginal Citations

M23 1907 c. 51.

60 Recommendations and reports on formal investigations.

(1) If in the light of any of their findings in a formal investigation it appears to the Commission necessary or expedient, whether during the course of the investigation or after its conclusion,—

(a) to make to any persons, with a view to promoting equality of opportunity between men and women who are affected by any of their activities,

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recommendations for changes in their policies or procedures, or as to any other matters, or

(b) to make to the Secretary of State any recommendations, whether for changes in the law or otherwise,

the Commission shall make those recommendations accordingly.

(2) The Commission shall prepare a report of their findings in any formal investigation conducted by them.

(3) If the formal investigation is one required by the Secretary of State—

(a) the Commission shall deliver the report to the Secretary of State, and

(b) the Secretary of State shall cause the report to be published,

and unless required by the Secretary of State the Commission shall not publish the report.

(4) If the formal investigation is not one required by the Secretary of State, the Commission shall either publish the report, or make it available for inspection in accordance with subsection (5).

(5) Where under subsection (4) a report is to be made available for inspection, any person shall be entitled, on payment of such fee (if any) as may be determined by the Commission—

(a) to inspect the report during ordinary office hours and take copies of all or any part of the report, or

(b) to obtain from the Commission a copy, certified by the Commission to be correct, of the report.

(6) The Commission may if they think fit determine that the right conferred by subsection (5)(a) shall be exercisable in relation to a copy of the report instead of, or in addition to, the original.

(7) The Commission shall give general notice of the place or places where, and the times when, reports may be inspected under subsection (5).

61 Restriction on disclosure of information.

(1) No information given to the Commission by any person ("the informant") in connection with a formal investigation shall be disclosed by the Commission, or by any person who is or has been a Commissioner, additional Commissioner or employee of the Commission, except—

(a) on the order of any court, or

(b) with the informant's consent, or

(c) in the form of a summary or other general statement published by the Commission which does not identify the informant or any other person to whom the information relates, or

(d) in a report of the investigation published by the Commission or made available for inspection under section 60(5), or

(e) to the Commissioners, additional Commissioners or employees of the Commission, or, so far as may be necessary for the proper performance of the functions of the Commission, to other persons, or

(f) for the purpose of any civil proceedings under this Act to which the Commission are a party, or any criminal proceedings.

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(2) Any person who discloses information in contravention of subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding **[**[F102]level 5 on the standard scale**]**.

(3) In preparing any report for publication or for inspection the Commission shall exclude, so far as is consistent with their duties and the object of the report, any matter which relates to the private affairs of any individual or business interests of any person where the publication of that matter might, in the opinion of the Commission, prejudicially affect that individual or person.

Textual Amendments

F102 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G

Modifications etc. (not altering text)

C37 S. 61 applied (with modifications) (1.10.2007) by The Equality Act 2006 (Dissolution of Commissions and Consequential and Transitional Provisions) Order 2007 (S.I. 2007/2602), **art. 4(2)**

C38 S. 61(1): disclosure powers extended (14.12.2001) by 2001 c. 24, ss. 17, 127(2)(a), **Sch. 4 para. 13**

PART VII

ENFORCEMENT

General

[[F103]62 Restriction of proceedings for breach of Act.

(1) Except as provided by this Act no proceedings, whether civil or criminal, shall lie against any person in respect of an act by reason that the act is unlawful by virtue of a provision of this Act.

(2) Subsection (1) does not preclude the making of an order of certiorari, mandamus or prohibition.

(3) In Scotland, subsection (1) does not preclude the exercise of the jurisdiction of the Court of Session to entertain an application for reduction or suspension of any order or determination, or otherwise to consider the validity of any order or determination, or to require reasons for any order or determination to be stated.**]**

Textual Amendments

F103 S. 62 substituted by Race Relations Act 1976 (c. 74), **Sch. 4 para. 3**

Modifications etc. (not altering text)

C39 S. 62 restricted by Estate Agents Act 1979 (c. 38), **ss. 5(3)**, 36(2)

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Enforcement in employment field

63 Jurisdiction of industrial tribunals.

(1) A complaint by any person ("the complainant") that another person ("the respondent") —

(a) has committed an act of discrimination against the complainant which is unlawful by virtue of Part II, or

(b) is by virtue of section 41 or 42 to be treated as having committed such an act of discrimination against the complainant,

may be presented to an industrial tribunal.

(2) Subsection (1) does not apply to a complaint under section 13(1) of an act in respect of which an appeal, or proceedings in the nature of an appeal, may be brought under any enactment.

VALID FROM 12/10/2001

63A Burden of proof: employment tribunals

(1) This section applies to any complaint presented under section 63 to an employment tribunal.

(2) Where, on the hearing of the complaint, the complainant proves facts from which the tribunal could, apart from this section, conclude in the absence of an adequate explanation that the respondent—

(a) has committed an act of discrimination against the complainant which is unlawful by virtue of Part 2, or

(b) is by virtue of section 41 or 42 to be treated as having committed such an act of discrimination against the complainant,

the tribunal shall uphold the complaint unless the respondent proves that he did not commit, or, as the case may be, is not to be treated as having committed, that act.

[F104F105 64]. . . . . .

Textual Amendments

F104 S. 63A inserted (12.10.2001) by S.I. 2001/2660, **reg. 5**

F105 S. 64 repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, **Sch. 3 Pt. I** (with s. 38)

65 Remedies on complaint under section 63.

(1) Where an industrial tribunal finds that a complaint presented to it under section 63 is well-founded the tribunal shall make such of the following as it considers just and equitable—

(a) makes such order under subsection (1)(a) and such recommendation under subsection (1)(c) (if any) as it would have made if it had no power to make an order under subsection (1)(b); and

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(b) (where it makes an order under subsection (1)(a) or a recommendation under subsection (1)(c) or both) considers that it is just and equitable to make an order under subsection (1)(b) as well.

(a) an order declaring the rights of the complainant and the respondent in relation to the act to which the complaint relates;

(b) an order requiring the respondent to pay to the complainant compensation of an amount corresponding to any damages he could have been ordered by a county court or by a sheriff court to pay to the complainant if the complaint had fallen to be dealt with under section 66;

(c) a recommendation that the respondent take within a specified period action appearing to the tribunal to be practicable for the purpose of obviating or reducing the adverse effect on the complainant of any act of discrimination to which the complaint relates.

[[F106](1A) In applying section 66 for the purposes of subsection (1)(b), no account shall be taken of subsection (3) of that section.

(1B) As respects an unlawful act of discrimination falling within section 1(1)(b) or section 3(1)(b), if the respondent proves that the requirement or condition in question was not applied with the intention of treating the complainant unfavourably on the ground of his sex or marital status as the case may be, an order may be made under subsection (1)(b) only if the industrial tribunal—

(a) makes such order under subsection (1)(a) and such recommendation under subsection (1)(c) (if any) as it would have made if it had no power to make an order under subsection (1)(b); and

(b) (where it makes an order under subsection (1)(a) or a recommendation under subsection (1)(c) or both) considers that it is just and equitable to make an order under subsection (1)(b) as well.**]**

[F107](2) . . . . . .

(3) If without reasonable justification the respondent to a complaint fails to comply with a recommendation made by an industrial tribunal under subsection (1)(c), then, if they think it just and equitable to do so—

(a) the tribunal may [F108]. . .increase the amount of compensation required to be paid to the complainant in respect of the complaint by an order made under subsection (1)(b), or

(b) if an order under subsection (1)(b) **[**[F109]was not made**]**, the tribunal may make such an order.

Textual Amendments

F106 S. 65(1A)(1B) inserted (25.3.1996) by S.I. 1996/438, **reg. 2(2)**

F107 S. 65(2) repealed (22.11.1993) by S.I. 1993/2798, **reg. 2**

F108 Words inserted by Race Relations Act 1976 c. 74, **Sch. 4**, para. 4 and repealed (22.11.1993) by S.I. 1993/2798, reg. 1(3), **Sch. para. 1**

F109 Words in s. 65(3)(b) substituted (25.3.1996) by S.I. 1996/438, **reg. 2(3)**

Modifications etc. (not altering text)

C40 S. 65 amended by Employment Protection (Consolidation) Act 1978 (c. 44), **s. 76**

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Enforcement of Part III

66 Claims under Part III.

(1) A claim by any person ("the claimant") that another person ("the respondent")—

(a) has committed an act of discrimination against the claimant which is unlawful by virtue of Part III, or

(b) is by virtue of section 41 or 42 to be treated as having committed such an act of discrimination against the claimant,

may be made the subject of civil proceedings in like manner as any other claim in tort or (in Scotland) in reparation for breach of statutory duty.

(2) Proceedings under subsection (1)—

(a) shall be brought in England and Wales only in a county court, and

(b) shall be brought in Scotland only in a sheriff court,

but all such remedies shall be obtainable in such proceedings as, apart from this subsection **[**[F110]and section 62(1)**]**, would be obtainable in the High Court or the Court of Session, as the case may be.

(3) As respects an unlawful act of discrimination falling within section 1(1)(b) [F111]. . . no award of damages shall be made if the respondent proves that the requirement or condition in question was not applied with the intention of treating the claimant unfavourably on the ground of his sex [F112]. . ..

(4) For the avoidance of doubt it is hereby declared that damages in respect of an unlawful act of discrimination may include compensation for injury to feelings whether or not they include compensation under any other head.

(5) Civil proceedings in respect of a claim by any person that he has been discriminated against in contravention of section 22 or 23 by a body to which section 25(1) applies shall not be instituted unless the claimant has given notice of the claim to the Secretary of State and either the Secretary of State has by notice informed the claimant that the Secretary of State does not require further time to consider the matter, or the period of two months has elapsed since the claimant gave notice to the Secretary of State; but nothing in this subsection applies to a counterclaim.

[[F113](5A) In Scotland, when any proceedings are brought under this section, in addition to the service on the defender of a copy of the summons or initial writ initiating the action a copy thereof shall be sent as soon as practicable to the Commission in a manner to be prescribed by Act of Sederunt.**]**

(6) For the purposes of proceedings under subsection (1)—

(a) **[**[F114]section 63(1) (assessors) of the County Courts Act 1984**]**shall apply with the omission of the words "on the application of any party", and

(b) the remuneration of assessors appointed under the said section **[**[F115]63(1)**]**shall be at such rate as may be determined by the Lord Chancellor with the approval of the Minister for the Civil Service.

(7) For the purpose of proceedings before the sheriff, provision may be made by act of sederunt for the appointment of assessors by him, and the remuneration of any assessors so appointed shall be at such rate as the Lord President of the Court of Session with the approval of **[**[F116]the Treasury**]**may determine.

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(8) A county court or sheriff court shall have jurisdiction to entertain proceedings under subsection (1) with respect to an act done on a ship, aircraft or hovercraft outside its district, including such an act done outside Great Britain.

Textual Amendments

F110 Words inserted by Race Relations Act 1976 (c. 74), **Sch. 4 para. 5(1)**
F111 Words in s. 66(3) omitted (25.3.1996) by virtue of S.I. 1996/438, **reg. 2(4)**
F112 Words in s. 66(3) omitted (25.3.1996) by virtue of S.I. 1996/438, **reg. 2(4)**
F113 S. 66(5A) inserted by Race Relations Act 1976 (c. 74), **Sch. 4 para. 5(2)**
F114 Words substituted by County Courts Act 1984 (c. 28, SIF 34), **Sch. 2 para. 55**(*a*)
F115 "63(1)" substituted by County Courts Act 1984 (c. 28, SIF 34), **Sch. 2 para. 55**(*b*)
F116 Words substituted by S.I. 1981/1670, **arts. 2(2)**, 3(5)

Modifications etc. (not altering text)

C41 S. 66(5): transfer of functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

VALID FROM 12/10/2001

[F117 66A Burden of proof: county and sheriff courts

(1) This section applies to any claim brought under section 66(1) in a county court in England and Wales or a sheriff court in Scotland.

(2) Where, on the hearing of the claim, the claimant proves facts from which the court could, apart from this section, conclude in the absence of an adequate explanation that the respondent—

(a) has committed an act of discrimination against the claimant which is unlawful by virtue of—

(i) section 35A or 35B, or

(ii) any other provision of Part 3 so far as it applies to vocational training, or

(b) is by virtue of section 41 or 42 to be treated as having committed such an act of discrimination against the claimant,

the court shall uphold the claim unless the respondent proves that he did not commit, or, as the case may be, is not to be treated as having committed, that act.**]**

Textual Amendments

F117 S. 66A inserted (12.10.2001) by S.I. 2001/2660,reg. 6

Status: *Point in time view as at 01/10/1997. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Sex Discrimination Act 1975 (repealed) is up to date with all changes known to be in force on or before 16 July 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)*

VALID FROM 18/04/2006

[F118 66B National security

(1) Rules of court may make provision for enabling a county court or sheriff court in which a claim is brought under section 66(1), where the court considers it expedient in the interests of national security—
- (a) to exclude from all or part of the proceedings—
  - (i) the claimant;
  - (ii) the claimant's representatives;
  - (iii) any assessors;
- (b) to permit a claimant or representative who has been excluded to make a statement to the court before the commencement of the proceedings, or the part of the proceedings, from which he is excluded;
- (c) to take steps to keep secret all or part of the reasons for the court's decision in the proceedings.

(2) The Attorney General or, in Scotland, the Advocate General for Scotland, may appoint a person to represent the interests of a claimant in, or in any part of, proceedings from which the claimant or his representatives are excluded by virtue of subsection (1).

(3) A person may be appointed under subsection (2) only—
- (a) in relation to proceedings in England and Wales, if he has a general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990 (c. 41)), or
- (b) in relation to proceedings in Scotland, if he is—
  - (i) an advocate, or
  - (ii) qualified to practice as a solicitor in Scotland.

(4) A person appointed under subsection (2) shall not be responsible to the person whose interests he is appointed to represent.**]**

Textual Amendments

F118 S. 66B inserted (18.4.2006) by Equality Act 2006 (c. 3), **ss. 87**, 93 (with s. 92); S.I. 2006/1082, **art. 2(j)**

Non-discrimination notices

67 Issue of non-discrimination notice.

(1) This section applies to—
- (a) an unlawful discriminatory act, and
- (b) a contravention of section 37, and
- (c) a contravention of section 38, 39 or 40, and
- (d) an act in breach of a term modified or included by virtue of an equality clause,

and so applies whether or not proceedings have been brought in respect of the act.

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(2) If in the course of a formal investigation the Commission become satisfied that a person is committing, or has committed, any such acts, the Commission may in the prescribed manner serve on him a notice in the prescribed form ("a non-discrimination notice") requiring him—
  (a) not to commit any such acts, and
  (b) where compliance with paragraph (a) involves changes in any of his practices or other arrangements—
    (i) to inform the Commission that he has effected those changes and what those changes are, and
    (ii) to take such steps as may be reasonably required by the notice for the purpose of affording that information to other persons concerned.

(3) A non-discrimination notice may also require the person on whom it is served to furnish the Commission with such other information as may be reasonably required by the notice in order to verify that the notice has been complied with.

(4) The notice may specify the time at which, and the manner and form in which, any information is to be furnished to the Commission, but the time at which any information is to be furnished in compliance with the notice shall not be later than five years after the notice has become final.

(5) The Commission shall not serve a non-discrimination notice in respect of any person unless they have first—
  (a) given him notice that they are minded to issue a non-discrimination notice in his case, specifying the grounds on which they contemplate doing so, and
  (b) offered him an opportunity of making oral or written representations in the matter (or both oral and written representations if he thinks fit) within a period of not less than 28 days specified in the notice, and
  (c) taken account of any representations so made by him.

(6) Subsection (2) does not apply to any acts in respect of which the Secretary of State could exercise the powers conferred on him by section 25(2) and (3); but if the Commission become aware of any such acts they shall give notice of them to the Secretary of State.

(7) Section 59(4) shall apply to requirements under subsection (2)(b), (3) and (4) contained in a non-discrimination notice which has become final as it applies to requirements in a notice served under section 59(1).

Modifications etc. (not altering text)
C42 S. 67(6): transfer of functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

68 Appeal against non-discrimination notice.

(1) Not later than six weeks after a non-discrimination notice is served on any person he may appeal against any requirement of the notice—
  (a) to an industrial tribunal, so far as the requirement relates to acts which are within the jurisdiction of the tribunal;

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(b) to a county court or to a sheriff court so far as the requirement relates to acts which are within the jurisdiction of the court and are not within the jurisdiction of an industrial tribunal.

(2) Where the court or tribunal considers a requirement in respect of which an appeal is brought under subsection (1) to be unreasonable because it is based on an incorrect finding of fact or for any other reason, the court or tribunal shall quash the requirement.

(3) On quashing a requirement under subsection (2) the court or tribunal may direct that the non-discrimination notice shall be treated as if, in place of the requirement quashed, it had contained a requirement in terms specified in the direction.

(4) Subsection (1) does not apply to a requirement treated as included in a non-discrimination notice by virtue of a direction under subsection (3).

69 Investigation as to compliance with non-discrimination notice.

(1) If—

(a) the terms of reference of a formal investigation state that its purpose is to determine whether any requirements of a non-discrimination notice are being or have been carried out, but section 59(2)(b) does not apply, and

(b) section 58(3) is complied with in relation to the investigation on a date ("the commencement date") not later than the expiration of the period of five years beginning when the non-discrimination notice became final,

the Commission may within the period referred to in subsection (2) serve notices under section 59(1) for the purposes of the investigation without needing to obtain the consent of the Secretary of State.

(2) The said period begins on the commencement date and ends on the later of the following dates—

(a) the date on which the period of five years mentioned in subsection (1)(b) expires;

(b) the date two years after the commencement date.

70 Register of non-discrimination notices.

(1) The Commission shall establish and maintain a register ("the register") of non-discrimination notices which have become final.

(2) Any person shall be entitled, on payment of such fee (if any) as may be determined by the Commission,—

(a) to inspect the register during ordinary office hours and take copies of any entry, or

(b) to obtain from the Commission a copy, certified by the Commission to be correct, of any entry in the register.

(3) The Commission may, if they think fit, determine that the right conferred by subsection (2)(a) shall be exercisable in relation to a copy of the register instead of, or in addition to, the original.

(4) The Commission shall give general notice of the place or places where, and the times when, the register or a copy of it may be inspected.

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Other enforcement by Commission

71 Persistent discrimination.

(1) If, during the period of five years beginning on the date on which either of the following became final in the case of any person, namely,—

(a) a non-discrimination notice served on him,

(b) a finding by a court or tribunal under section 63 or 66, or section 2 of the [M24]Equal Pay Act 1970, that he has done an unlawful discriminatory act or an act in breach of a term modified or included by virtue of an equality clause,

it appears to the Commission that unless restrained he is likely to do one or more acts falling within paragraph (b), or contravening section 37, the Commission may apply to a county court for an injunction, or to the sheriff court for an order, restraining him from doing so; and the court, if satisfied that the application is well-founded, may grant the injunction or order in the terms applied for or in more limited terms.

(2) In proceedings under this section the Commission shall not allege that the person to whom the proceedings relate has done an act which is within the jurisdiction of an industrial tribunal unless a finding by an industrial tribunal that he did that act has become final.

Marginal Citations

M24 1970 c. 41.

72 Enforcement of ss. 38 to 40.

(1) Proceedings in respect of a contravention of section 38, 39 or 40 shall be brought only by the Commission in accordance with the following provisions of this section.

(2) The proceedings shall be—

(a) an application for a decision whether the alleged contravention occurred, or

(b) an application under subsection (4) below,

or both.

(3) An application under subsection (2)(a) shall be made—

(a) in a case based on any provision of Part II, to an industrial tribunal, and

(b) in any other case to a county court or sheriff court.

(4) If it appears to the Commission—

(a) that a person has done an act which by virtue of section 38, 39 or 40 was unlawful, and

(b) that unless restrained he is likely to do further acts which by virtue of that section are unlawful,

the Commission may apply to a county court for an injunction, or to a sheriff court for an order, restraining him from doing such acts; and the court, if satisfied that the application is well-founded, may grant the injunction or . . . [F119]order in the terms applied for or more limited terms.

(5) In proceedings under subsection (4) the Commission shall not allege that the person to whom the proceedings relate has done an act which is unlawful under this Act and

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within the jurisdiction of an industrial tribunal unless a finding by an industrial tribunal that he did that act has become final.

Textual Amendments

F119 Words repealed by Race Relations Act 1976 (c. 74), **Sch. 5**

73 Preliminary action in employment cases.

(1) With a view to making an application under section 71(1) or 72(4) in relation to a person the Commission may present to an industrial tribunal a complaint that he has done an act within the jurisdiction of an industrial tribunal, and if the tribunal considers that the complaint is well-founded they shall make a finding to that effect and, if they think it just and equitable to do so in the case of an act contravening any provision of Part II may also (as if the complaint had been presented by the person discriminated against) make an order such as is referred to in section 65(1)(a), or a recommendation such as is referred to in section 65(1)(c), or both.

(2) Subsection (1) is without prejudice to the jurisdiction conferred by section 72(2).

(3) Any finding of an industrial tribunal under—

(a) this Act, or

(b) the [M25]Equal Pay Act 1970,

in respect of any act shall, if it has become final, be treated as conclusive—

(i) by the county court or sheriff court on an application under section 71(1) or 72(4) or in proceedings on an equality clause,

(ii) by an industrial tribunal on a complaint made by the person affected by the act under section 63 or in relation to an equality clause.

(4) In sections 71 and 72 and this section, the acts "within the jurisdiction of an industrial tribunal" are those in respect of which such jurisdiction is conferred by sections 63 and 72 and by section 2 of the [M26]Equal Pay Act 1970.

Marginal Citations

M25 1970 c. 41.

M26 1970 c. 41.

Help for persons suffering discrimination

74 Help for aggrieved persons in obtaining information etc.

(1) With a view to helping a person ("the person aggrieved") who considers he may have been discriminated against in contravention of this Act to decide whether to institute proceedings and, if he does so, to formulate and present his case in the most effective manner, the Secretary of State shall by order prescribe—

(a) forms by which the person aggrieved may question the respondent on his reasons for doing any relevant act, or on any other matter which is or may be relevant;

(b) forms by which the respondent may if he so wishes reply to any questions.

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(2) Where the person aggrieved questions the respondent (whether in accordance with an order under subsection (1) or not)—
  (a) the question, and any reply by the respondent (whether in accordance with such an order or not) shall, subject to the following provisions of this section, be admissible as evidence in the proceedings;
  (b) if it appears to the court or tribunal that the respondent deliberately, and without reasonable excuse, omitted to reply within a reasonable period or that his reply is evasive or equivocal, the court or tribunal may draw any inference from that fact that it considers it just and equitable to draw, including an inference that he committed an unlawful act.

(3) The Secretary of State may by order—
  (a) prescribe the period within which questions must be duly served in order to be admissible under subsection (2)(a), and
  (b) prescribe the manner in which a question, and any reply by the respondent, may be duly served.

(4) Rules may enable the court entertaining a claim under section 66 to determine, before the date fixed for the hearing of the claim, whether a question or reply is admissible under this section or not.

(5) This section is without prejudice to any other enactment or rule of law regulating interlocutory and preliminary matters in proceedings before a county court, sheriff court or industrial tribunal, and has effect subject to any enactment or rule of law regulating the admissibility of evidence in such proceedings.

(6) In this section "respondent" includes a prospective respondent and "rules"—
  (a) in relation to county court proceedings, means county court rules;
  (b) in relation to sheriff court proceedings, means sheriff court rules.

75 Assistance by Commission.

(1) Where, in relation to proceedings or prospective proceedings either under this Act or in respect of an equality clause, an individual who is an actual or prospective complainant or claimant applies to the Commission for assistance under this section, the Commission shall consider the application and may grant it if they think fit to do so on the ground that—
  (a) the case raises a question of principle, or
  (b) it is unreasonable, having regard to the complexity of the case or the applicant's position in relation to the respondent or another person involved or any other matter, to expect the applicant to deal with the case unaided,

  or by reason of any other special consideration.

(2) Assistance by the Commission under this section may include—
  (a) giving advice;
  (b) procuring or attempting to procure the settlement of any matter in dispute;
  (c) arranging for the giving of advice or assistance by a solicitor or counsel;
  (d) arranging for representation by any person including all such assistance as is usually given by a solicitor or counsel in the steps preliminary or incidental to any proceedings, or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings,

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[[F120](e) any other form of assistance which the Commission may consider appropriate**]**,

but paragraph (d) shall not affect the law and practice regulating the descriptions of persons who may appear in, conduct, defend and address the court in, any proceedings.

(3) In so far as expenses are incurred by the Commission in providing the applicant with assistance under this section the recovery of those expenses (as taxed or assessed in such manner as may be prescribed by rules or regulations) shall constitute a first charge for the benefit of the Commission—

(a) on any costs or expenses which (whether by virtue of a judgment or order of a court or tribunal or an agreement or otherwise) are payable to the applicant by any other person in respect of the matter in connection with which the assistance is given, and

(b) so far as relates to any costs or expenses, on his rights under any compromise or settlement arrived at in connection with that matter to avoid or bring to an end any proceedings.

(4) The charge conferred by subsection (3) is subject to any charge under the **[**[F121]Legal Aid Act 1988**]**, or any charge or obligation for payment in priority to other debts under **[**[F122]the Legal Aid (Scotland) Act 1986**]**, and is subject to any provision in **[**[F123]either of those Acts for payment of any sum to the Legal Aid Board or into the Scottish Legal Aid Fund**]**.

(5) In this section "respondent" includes a prospective respondent and "rules or regulations"—

(a) in relation to county court proceedings, means county court rules;

(b) in relation to sheriff court proceedings, means sheriff court rules;

(c) in relation to industrial tribunal proceedings, means **[**[F124]industrial tribunal procedure regulations under Part I of the Industrial Tribunals Act 1996**]**.

Textual Amendments

F120 S. 75(2)(e) inserted by Race Relations Act 1976 (c. 74), **Sch. 4 para. 7**

F121 Words substituted by Legal Aid Act 1988 (c. 34, SIF 77:1), s. 45, **Sch. 5 para. 6(a)**

F122 Words "the Legal Aid (Scotland) Act 1986" substituted (S.) by Legal Aid (Scotland) Act 1986 (c. 47, SIF 77:2), s. 45, **Sch. 3 para. 5**

F123 Words substituted by Legal Aid Act 1988 (c. 34, SIF 77:1), s. 45, **Sch. 5 para. 6(b)**

F124 Words in s. 75(5)(c) substituted (22.8.1996) by 1996 c. 17, ss. 43, 46, **Sch. 1 para. 3** (with s. 38)

Modifications etc. (not altering text)

C43 S. 75(2)(c)(d) amended (1.1.1992) by S.I. 1991/2684, arts. 2, 4, **Sch. 1**

Period within which proceedings to be brought

76 Period within which proceedings to be brought.

(1) An industrial tribunal shall not consider a complaint under section 63 unless it is presented to the tribunal before the end of **[**[F125]—

(a) the period of three months beginning when the act complained of was done; or

(b) in a case to which section 85(9A) applies, the period of six months so beginning.**]**

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(2) A county court or a sheriff court shall not consider a claim under section 66 unless proceedings in respect of the claim are instituted before the end of

[[F126](a) the period of six months beginning when the act complained of was done; or

(b) in a case to which section 66(5) applies, the period of eight months so beginning.**]**

[[F127](3) An industrial tribunal, county court or sheriff court shall not consider an application under section 72(2)(a) unless it is made before the end of the period of six months beginning when the act to which it relates was done; and a county court or sheriff court shall not consider an application under section 72(4) unless it is made before the end of the period of five years so beginning.**]**

(4) An industrial tribunal shall not consider a complaint under section 73(1) unless it is presented to the tribunal before the end of the period of six months beginning when the act complained of was done.

(5) A court or tribunal may nevertheless consider any such complaint, claim or application which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.

(6) For the purposes of this section—

(a) where the inclusion of any term in a contract renders the making of the contract an unlawful act that act shall be treated as extending throughout the duration of the contract, and

(b) any act extending over a period shall be treated as done at the end of that period, and

(c) a deliberate omission shall be treated as done when the person in question decided upon it,

and in the absence of evidence establishing the contrary a person shall be taken for the purposes of this section to decide upon an omission when he does an act inconsistent with doing the omitted act or, if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.

Textual Amendments

F125 Words and s. 76(1)(a)(b) substituted for words in s. 76(1) (1.10.1997) by 1996 c. 46, **s. 21(6)**; S.I. 1997/2164, **art. 2**

F126 Words substituted by Race Relations Act 1976 (c. 74), **Sch. 4 para. 8(a)**

F127 S. 76(3) substituted by Race Relations Act 1976 (c. 74), **Sch. 4 para. 8(b)**

Status: *Point in time view as at 01/10/1997. This version of this Act contains provisions that are not valid for this point in time.*
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PART VIII

SUPPLEMENTAL

VALID FROM 18/04/2006

[F128 76A Public authorities: general statutory duty

(1) A public authority shall in carrying out its functions have due regard to the need—
- (a) to eliminate unlawful discrimination and harassment, and
- (b) to promote equality of opportunity between men and women.

(2) In subsection (1)—
- (a) "public authority" includes any person who has functions of a public nature (subject to subsections (3) and (4)),
- (b) "functions" means functions of a public nature, and
- (c) the reference to unlawful discrimination shall be treated as including a reference to contravention of terms of contracts having effect in accordance with an equality clause within the meaning of section 1 of the Equal Pay Act 1970 (c. 41).

(3) The duty in subsection (1) shall not apply to—
- (a) the House of Commons,
- (b) the House of Lords,
- (c) the Scottish Parliament,
- (d) the General Synod of the Church of England,
- (e) the Security Service,
- (f) the Secret Intelligence Service,
- (g) the Government Communications Headquarters,
- (h) a part of the armed forces of the Crown which is, in accordance with a requirement of the Secretary of State, assisting the Government Communications Headquarters, or
- (i) a person specified for the purpose of this paragraph by order of the Secretary of State (and a person may be specified generally or only in respect of specified functions).

(4) The duty in subsection (1) shall not apply to the exercise of—
- (a) a function in connection with proceedings in the House of Commons or the House of Lords,
- (b) a function in connection with proceedings in the Scottish Parliament (other than a function of the Scottish Parliamentary Corporate Body),
- (c) a judicial function (whether in connection with a court or a tribunal),
- (d) a function exercised on behalf of or on the instructions of a person exercising a judicial function (whether in connection with a court or a tribunal), or
- (e) a function specified for the purpose of this paragraph by order of the Secretary of State.

(5) Subsection (1)(b) is without prejudice to the effect of any exception to or limitation of the law about sex discrimination.

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(6) A failure in respect of performance of the duty under subsection (1) does not confer a cause of action at private law.**]**

Textual Amendments

F128 S. 76A inserted (18.4.2006 for certain purposes and 6.4.2007 in so far as not already in force) by Equality Act 2006 (c. 3), **ss. 84(1)**, 93 (with s. 92); S.I. 2006/1082, **arts. 2(h)**, **4(b)**

VALID FROM 18/04/2006

[F129 76B Specific duties

(1) The Secretary of State may by order impose on a person to whom the duty in section 76A(1) applies, or in so far as that duty applies to a person, a duty which the Secretary of State thinks will ensure better performance of the duty under section 76A(1).

(2) Before making an order under subsection (1) the Secretary of State shall consult the Commission.

(3) The Secretary of State—

(a) must consult the National Assembly for Wales before making an order under subsection (1) in respect of a person exercising functions in relation to Wales, and

(b) may not, without the consent of the National Assembly for Wales, make an order under subsection (1) in respect of a person all of whose functions are public functions in relation to Wales.

(4) A failure in respect of performance of a duty imposed under subsection (1) does not confer a cause of action at private law.**]**

Textual Amendments

F129 S. 76B inserted (18.4.2006 for certain purposes and 6.4.2007 in so far as not already in force) by Equality Act 2006 (c. 3), **ss. 85(1)**, 93 (with s. 92); S.I. 2007/1082, **arts. 2**, **4**

VALID FROM 18/04/2006

[F130 76C Specific duties: Scotland

(1) Section 76B(1) shall not apply in relation to a person who is a relevant Scottish authority or a cross-border authority.

(2) The Secretary of State may by order impose on a cross-border authority to whom the duty under section 76A(1) applies, or in so far as that duty applies to the cross-border authority, a duty which the Secretary of State thinks will ensure better performance of the duty under section 76A(1), to the extent that the cross-border authority's functions are not Scottish functions.

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(3) The Scottish Ministers may by order impose on a relevant Scottish authority to whom the duty under section 76A(1) applies, or in so far as that duty applies to the relevant Scottish authority, a duty which the Scottish Ministers think will ensure better performance of the duty under section 76A(1).

(4) The Scottish Ministers may by order impose on a cross-border authority to whom the duty under section 76A(1) applies, or in so far as that duty applies to the cross-border authority, a duty which the Scottish Ministers think will ensure better performance of the duty under section 76A(1), to the extent that the cross-border authority's functions are Scottish functions.

(5) Before making an order under any of subsections (2) to (4) the person making the order shall consult the Commission.

(6) Before making an order under subsection (2) the Secretary of State shall consult the Scottish Ministers.

(7) Before making an order under subsection (4) the Scottish Ministers shall consult the Secretary of State.

(8) A failure in respect of performance of a duty imposed under this section does not confer a cause of action at private law.

(9) In this section—

"relevant Scottish authority" means—

(a) a member of the Scottish Executive or a junior Scottish Minister,

(b) the Registrar General of Births, Deaths and Marriages for Scotland, the Keeper of the Registers of Scotland or the Keeper of the Records of Scotland,

(c) an office of a description specified in an Order in Council under section 126(8)(b) of the Scotland Act 1998 (c. 46) (other non-ministerial offices in the Scottish Administration), or

(d) a public body, public office or holder of a public office—

(i) which is not a cross-border authority or the Scottish Parliamentary Corporate Body,

(ii) whose functions are exercisable only in or as regards Scotland, and

(iii) some at least of whose functions do not relate to reserved matters (within the meaning of the Scotland Act 1998),

"cross-border authority" means a cross-border public authority within the meaning given by section 88(5) of the Scotland Act 1998, and

"Scottish functions" means functions which are exercisable in or as regards Scotland and which do not relate to reserved matters (within the meaning of the Scotland Act 1998).**]**

Textual Amendments

F130 S. 76C inserted (18.4.2006 for certain purposes and 6.4.2007 in so far as not already in force) by Equality Act 2006 (c. 3), **ss. 85(1)**, 93 (with s. 92); S.I. 2007/1082, **arts. 2**, **4**

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VALID FROM 06/04/2007

[F131 76D Specific duties: enforcement

(1) This section applies where the Commission thinks that a person has failed to comply with a duty imposed under section 76B or 76C.

(2) The Commission may give the person a notice requiring him—
  (a) to comply with the duty, and
  (b) to give the Commission, within the period of 28 days beginning with the date on which he receives the notice, written information of steps taken for the purpose of complying with the duty.

(3) A notice under this section may require a person to give the Commission information required by the Commission for the purposes of assessing compliance with the duty; in which case the notice shall specify—
  (a) the period within which the information is to be given (which shall begin with the date on which the notice is received and shall not exceed three months), and
  (b) the manner and form in which the information is to be given.

(4) A person who receives a notice under this section shall comply with it.

(5) But a notice under this section shall not oblige a person to give information that he could not be compelled to give in proceedings before the High Court or the Court of Session.

(6) If the Commission thinks that a person, to whom a notice under this section has been given, has failed to comply with a requirement of the notice, the Commission may apply to a county court (in England and Wales) or to the sheriff (in Scotland) for an order requiring the person to comply.**]**

Textual Amendments

F131 S. 76D inserted (6.4.2007) by Equality Act 2006 (c. 3), **ss. 85(1)**, 93 (with s. 92); S.I. 2006/1082, **art. 4(b)**

VALID FROM 16/02/2006

[F132 76E Codes of practice

(1) The Commission may issue a code of practice about the performance of—
  (a) the duty under section 76A(1), or
  (b) a duty imposed under section 76B or 76C.

(2) Section 56A(2) to (11) shall apply to a code under this section as to a code under that section (for which purpose the reference in section 56A(10) to specified proceedings before an employment tribunal shall be treated as a reference to criminal or civil proceedings before any court or tribunal).

Status: *Point in time view as at 01/10/1997. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Sex Discrimination Act 1975 (repealed) is up to date with all changes known to be in force on or before 16 July 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)*

(3) The Secretary of State shall consult the Scottish Ministers and the National Assembly for Wales before—
- (a) approving a draft under section 56A(4)(a) as applied by subsection (2) above, or
- (b) making an order under section 56A(7) as applied by subsection (2) above.**]**

Subordinate Legislation Made

P1 S. 76E(1) power partly exercised: 6.4.2007 appointed for the "Gender Equality Duty Code of Practice (England and Wales)" by {S.I. 2007/741}, art. 2

Textual Amendments

F132 S. 76E inserted (16.2.2006) by Equality Act 2006 (c. 3), **s. 86** (with s. 92)

77 Validity and revision of contracts.

(1) A term of a contract is void where—
- (a) its inclusion renders the making of the contract unlawful by virtue of this Act, or
- (b) it is included in furtherance of an act rendered unlawful by this Act, or
- (c) it provides for the doing of an act which would be rendered unlawful by this Act.

(2) Subsection (1) does not apply to a term the inclusion of which constitutes, or is in furtherance of, or provides for, unlawful discrimination against a party to the contract, but the term shall be unenforceable against that party.

(3) A term in a contract which purports to exclude or limit any provision of this Act or the [M27]Equal Pay Act 1970 is unenforceable by any person in whose favour the term would operate apart from this subsection.

(4) Subsection (3) does not apply—
- (a) to a contract settling a complaint to which section 63(1) of this Act or section 2 of the [M28]Equal Pay Act 1970 applies where the contract is made with the assistance of a conciliation officer;
- **[**[F133](aa) to a contract settling a complaint to which section 63(1) of this Act or section 2 of the [M29]Equal Pay Act 1970 applies if the conditions regulating compromise contracts under this Act are satisfied in relation to the contract;**]**
- (b) to a contract settling a claim to which section 66 applies.

[[F134](4A) The conditions regulating compromise contracts under this Act are that—
- (a) the contract must be in writing;
- (b) the contract must relate to the particular complaint;
- (c) the complainant must have received independent legal advice from a qualified lawyer as to the terms and effect of the proposed contract and in particular its effect on his ability to pursue his complaint before an industrial tribunal;
- (d) there must be in force, when the adviser gives the advice, a policy of insurance covering the risk of a claim by the complainant in respect of loss arising in consequence of the advice;
- (e) the contract must identify the adviser; and

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(f) the contract must state that the conditions regulating compromise contracts under this Act are satisfied.

(4B) In subsection (4A)—

"independent", in relation to legal advice to the complainant, means that it is given by a lawyer who is not acting for the other party or for a person who is connected with that other party; and

"qualified lawyer" means—

(a) as respects proceedings in England and Wales—

(i) a barrister, whether in practice as such or employed to give legal advice, or

(ii) a solicitor of the Supreme Court who holds a practising certificate;

(b) as respects proceedings in Scotland—

(i) an advocate, whether in practice as such or employed to give legal advice, or

(ii) a solicitor who holds a practising certificate.

(4C) For the purposes of subsection (4B) any two persons are to be treated as "connected" if one is a company of which the other (directly or indirectly) has control, or if both are companies of which a third person (directly or indirectly) has control.**]**

(5) On the application of any person interested in a contract to which subsection (2) applies, a county court or sheriff court may make such order as it thinks just for removing or modifying any term made unenforceable by that subsection; but such an order shall not be made unless all persons affected have been given notice of the application (except where under rules of court notice may be dispensed with) and have been afforded an opportunity to make representations to the court.

(6) An order under subsection (5) may include provision as respects any period before the making of the order.

Textual Amendments

F133 S. 77(4)(aa) inserted (30.8.1993) by 1993 c. 19, s. 39(2), **Sch. 6 para. 1(a)**; S.I. 1993/1908, art. 2(1), **Sch. 1**

F134 S. 77(4A)-(4C) inserted (30.8.1993) by 1993 c. 19, s. 39(2), **Sch. 6 para. 1(b)**; S.I. 1993/1908, art. 2(1), **Sch.1**

Modifications etc. (not altering text)

C44 S. 77 extended (*retrosp.*) by Sex Discrimination Act 1986 (c. 59, SIF 106:1), **s. 6(1)**

C45 S. 77 excluded by Sex Discrimination Act 1986 (c. 59, SIF 106:1), **s. 6(4)**

Marginal Citations

M27 1970 c. 41.

M28 1970 c. 41.

M29 1970 c. 41.

78 Educational charities in England and Wales.

(1) This section applies to any trust deed or other instrument—

Status: *Point in time view as at 01/10/1997. This version of this Act contains provisions that are not valid for this point in time.*
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(a) which concerns property applicable for or in connection with the provision of education in any establishment in paragraphs 1 to 5 of the Table in section 22, and

(b) which in any way restricts the benefits available under the instrument to persons of one sex.

(2) If on the application of the trustees, or of the responsible body (as defined in section 22), the Secretary of State is satisfied that the removal or modification of the restriction would conduce to the advancement of education without sex discrimination, he may by order make such modifications of the instrument as appear to him expedient for removing or modifying the restrictions, and for any supplemental or incidental purposes.

(3) If the trust was created by gift or bequest, no order shall be made until 25 years after the date on which the gift or bequest took effect, unless the donor or his personal representatives, or the personal representatives of the testator, have consented in writing to the making of the application for the order.

(4) The Secretary of State shall require the applicant to publish notice—

(a) containing particulars of the proposed order, and

(b) stating that representations may be made to the Secretary of State within a period specified in the notice.

(5) The period specified in the notice shall not be less than one month from the date of the notice.

(6) The applicants shall publish the notice in such manner as may be specified by the Secretary of State, and the cost of any publication of the notice may be defrayed out of the property of the trust.

(7) Before making the order the Secretary of State shall take into account any representations duly made in accordance with the notice.

(8) This section does not apply in Scotland.

Modifications etc. (not altering text)

C46 S. 78: transfer of functions (1.7.1999) by 1999/672, art. 2, Sch. 1

79 Educational endowments etc. to which Part VI of the Education (Scotland) Act 1962 applies.

(1) This section applies to any educational endowment to which **[**[F135]Part VI of the Education (Scotland) Act 1980**]**applies and which in any way restricts the benefit of the endowment to persons of one sex, and any reference to an educational endowment in this section includes a reference to—

(a) a scheme made or approved for that endowment under that **[**[F135]Part of the Education (Scotland) Act 1980;**]**

(b) any endowment which is, by virtue of **[**[F136]section 108(1)**]**of that Act, dealt with as if it were an educational endowment; and

(c) a university endowment, the Carnegie Trust, a theological endowment and a new endowment.

Status: *Point in time view as at 01/10/1997. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Sex Discrimination Act 1975 (repealed) is up to date with all changes known to be in force on or before 16 July 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)*

(2) If, on the application of the governing body of an educational endowment, the Secretary of State is satisfied that the removal or modification of the provision which restricts the benefit of the endowment to persons of one sex would conduce to the advancement of education without sex discrimination, he may, by order, make such modifications to the endowment as appear to him expedient for removing or modifying the restriction and for any supplemental or incidental purposes.

(3) Where the Secretary of State proposes to make an order under this section, he shall publish a notice, in such manner as he thinks sufficient for giving information to persons whom he considers may be interested in the endowment—

(a) containing particulars of the proposed order; and

(b) stating that representations may be made with respect thereto within such period as may be specified in the notice, not being less than one month from the date of publication of the notice,

and the cost of publication of any such notice shall be paid out of the funds of the endowment to which the notice relates.

(4) Before making any order under this section, the Secretary of State shall consider any representations duly made in accordance with the said notice and he may cause a local inquiry to be held into such representations under **[**[F136]section 67 of the Education (Scotland) Act 1980**]**.

(5) Without prejudice to section 81(5) of this Act, any order made under this section may be varied or revoked in a scheme made or approved under **[**[F135]Part VI of the Education (Scotland) Act 1980**]**.

(6) . . . . . [F137]

(7) This section shall be construed as one with **[**[F135]Part VI of the Education (Scotland) Act 1980**]**.

Textual Amendments

F135 In section 79 by Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 4 para. 9**(*a*) for any reference to Part VI of the Education (Scotland) Act 1962 there is substituted a reference to Part VI of the Education (Scotland) Act 1980

F136 By Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 4 para. 9**(*b*) for the references to sections 121(1) and 68 of the Education (Scotland) Act 1962 there are substituted respectively references to sections 108(1) and 67 of the Education (Scotland) Act 1980

F137 S. 79(6) repealed by Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 5**

Modifications etc. (not altering text)

C47 In section 79 by Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 4 para. 9**(*a*) for any reference to Part VI of the Education (Scotland) Act 1962 there is substituted a reference to Part VI of the Education (Scotland) Act 1980

C48 S. 79(1)(*b*)(4): by Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 4 para. 9**(*b*) for the references to sections 121(1) and 68 of the Education (Scotland) Act 1962 there are substituted respectively references to sections 108(1) and 67 of the Education (Scotland) Act 1980

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80 Power to amend certain provisions of Act.

(1) The Secretary of State may by an order the draft of which has been approved by each House of Parliament—

(a) amend any of the following provisions, namely, sections 6(3), 7, 19, 20(1), (2) and (3), 31(2), 32, 34, 35 and 43 to 48 (including any such provision as amended by a previous order under this subsection);

(b) amend or repeal any of the following provisions, namely, sections 11(4), 12(4), 33 and 49 (including any such provision as amended by a previous order under this subsection);

(c) amend Part II, III or IV so as to render lawful an act which, apart from the amendment, would be unlawful by reason of section 6(1) or (2), 29(1), 30 or 31;

(d) . . . . . [F138]

(2) The Secretary of State shall not lay before Parliament the draft of an order under subsection (1) unless he has consulted the Commission about the contents of the draft.

(3) An order under subsection (1)(c) may make such amendments to the list of provisions given in subsection (1)(a) as in the opinion of the Secretary of State are expedient having regard to the contents of the order.

Textual Amendments

F138 S. 80(1)(*d*) repealed by Sex Discrimination Act 1986 (c. 59, SIF 106:1), s. 9, **Sch. Pt. II**

81 Orders.

(1) Any power of the Secretary of State to make orders under the provisions of this Act (except sections . . . [F139]27, . . . [F140]and 59(2)) shall be exercisable by statutory instrument.

(2) An order made by the Secretary of State under the preceding provisions of this Act (except sections . . . [F139]27, . . . [F140], 59(2) and 80(1)) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Subsections (1) and (2) do not apply to an order under section 78 or 79, but—

(a) an order under section 78 which modifies an enactment, and

(b) any order under section 79 other than one which relates to an endowment to which section **[**[F141]115 of the Education (Scotland) Act 1980**]**(small endowments) applies,

shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(4) An order under this Act may make different provision in relation to different cases or classes of case, may exclude certain cases or classes of case, and may contain transitional provisions and savings.

(5) Any power conferred by this Act to make orders includes power (exercisable in the like manner and subject to the like conditions) to vary or revoke any order so made.

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Textual Amendments

F139 "14(2)(d)," repealed by Employment Act 1989 (c. 38, SIF 43:1), s. 29(4), **Sch. 7 Pt. II**

F140 "47(4)(b)" repealed by Sex Discrimination Act 1986 (c. 59, SIF 106:1), s. 9, **Sch. Pt. I**

F141 Words substituted by Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 4 para. 10**

82 General interpretation provisions.

(1) In this Act, unless the context otherwise requires—

"access" shall be construed in accordance with section 50;

"act" includes a deliberate omission;

"advertisement" includes every form of advertisement, whether to the public or not, and whether in a newspaper or other publication, by television or radio, by display of notices, signs, labels, showcards or goods, by distribution of samples, circulars, catalogues, price lists or other material, by exhibition of pictures, models or films, or in any other way, and references to the publishing of advertisements shall be construed accordingly;

"associated employer" shall be construed in accordance with subsection (2);

[[F142]"board of management", in relation to a self-governing school, has the same meaning as in the Education (Scotland) Act 1980;**]**

[[F143]"Board of management" in relation to a college of further education within the meaning of Part I of the Further and Higher Education (Scotland) Act 1992, has the same meaning as in that Part;**]**

"the Commission" means the Equal Opportunities Commission;

"Commissioner" means a member of the Commission;

. . . . . [F144]

"designate" shall be construed in accordance with subsection (3);

"discrimination" and related terms shall be construed in accordance with section 5(1);

"dispose", in relation to premises, includes granting a right to occupy the premises, and any reference to acquiring premises shall be construed accordingly;

"education" includes any form of training or instruction;

[[F145]"the Education Acts" has the meaning given by section 578 of the Education Act 1996;**]**

"education authority" and "educational establishment" in relation to Scotland have the same meaning as they have respectively in **[**[F146]section 135(1) of the Education (Scotland) Act 1980**]**;

"employment" means employment under a contract of service or of apprenticeship or a contract personally to execute any work or labour, and related expressions shall be construed accordingly;

"employment agency" means a person who, for profit or not, provides services for the purpose of finding employment for workers or supplying employers with workers;

"equality clause" has the meaning given in section 1(2) of the [M30]Equal Pay Act 1970 (as set out in section 8(1) of this Act);

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"estate agent" means a person who, by way of profession or trade, provides services for the purpose of finding premises for persons seeking to acquire them or assisting in the disposal of premises;

"final" shall be construed in accordance with subsection (4);

"firm" has the meaning given by section 4 of the [M31]Partnership Act 1890;

"formal investigation" means an investigation under section 57;

"further education" has the meaning given by **[**[F147]section 2 of the Education Act 1996**]** and in Scotland has the meaning given by **[**[F148]section 135(1) of the Education (Scotland) Act 1980**]**;

"general notice", in relation to any person, means a notice published by him at a time and in a manner appearing to him suitable for securing that the notice is seen within a reasonable time by persons likely to be affected by it;

"genuine occupational qualification" shall be construed in accordance with section 7(2);

"Great Britain" includes such of the territorial waters of the United Kingdom as are adjacent to Great Britain;

"independent school" has the meaning given by **[**[F149]section 463 of the Education Act 1996**]** and in Scotland has the meaning given by **[**[F150]section 135(1) of the Education (Scotland) Act 1980**]**;

. . . . . [F151]

"man" includes a male of any age;

"managers" has the same meaning for Scotland as in **[**[F152]section 135(1) of the Education (Scotland) Act 1980**]**;

"near relative" shall be construed in accordance with subsection (5);

"non-discrimination notice" means a notice under section 67;

"notice" means a notice in writing;

"prescribed" means prescribed by regulations made by the Secretary of State by statutory instrument;

"profession" includes any vocation or occupation;

"proprietor", in relation to any school, has the meaning given by **[**[F153]section 579 of the Education Act 1996**]** and in Scotland has the meaning given by **[**[F152]section 135(1) of the Education (Scotland) Act 1980**]**;

"pupil" in Scotland includes a student of any age;

"retirement" includes retirement (whether voluntary or not) on grounds of age, length of service, or incapacity;

"school" has the meaning given by **[**[F154]section 4 of the Education Act 1996**]**, and in Scotland has the meaning given by **[**[F152]section 135(1) of the Education (Scotland) Act 1980**]**;

"school education" has the meaning given by **[**[F152]section 135(1) of the Education (Scotland) Act 1980**]**;

[[F155]"self-governing school" has the same meaning as in the Education (Scotland) Act 1980;**]**

"trade" includes any business;

"training" includes any form of education or instruction;

"university" includes a university college and the college, school or hall of a university;

[F156] . . .

"woman" includes a female of any age.

Status: *Point in time view as at 01/10/1997. This version of this Act contains provisions that are not valid for this point in time.*
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[[F157](1A) References in this Act to the dismissal of a person from employment or to the expulsion of a person from a position as partner include references—

(a) to the termination of that person's employment or partnership by the expiration of any period (including a period expiring by reference to an event or circumstance), not being a termination immediately after which the employment or partnership is renewed on the same terms; and

(b) to the termination of that person's employment or partnership by any act of his (including the giving of notice) in circumstances such that he is entitled to terminate it without notice by reason of the conduct of the employer or, as the case may be the conduct of the other partners.**]**

(2) For the purposes of this Act two employers are to be treated as associated if one is a company of which the other (directly or indirectly) has control or if both are companies of which a third person (directly or indirectly) has control.

(3) Any power conferred by this Act to designate establishments or persons may be exercised either by naming them or by identifying them by reference to a class or other description.

(4) For the purposes of this Act a non-discrimination notice or a finding by a court or tribunal becomes final when an appeal against the notice or finding is dismissed, withdrawn or abandoned or when the time for appealing expires without an appeal having been brought; and for this purpose an appeal against a non-discrimination notice shall be taken to be dismissed if, notwithstanding that a requirement of the notice is quashed on appeal, a direction is given in respect of it under section 68(3).

(5) For the purposes of this Act a person is a near relative of another if that person is the wife or husband, a parent or child, a grandparent or grandchild, or a brother or sister of the other (whether of full blood or half-blood or by affinity), and "child" includes an illegitimate child and the wife or husband of an illegitimate child.

(6) Except so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended by or under any other enactment, including this Act.

(7) In this Act, except where otherwise indicated—

(a) a reference to a numbered Part, section of Schedule is a reference to the Part of or section of, or the Schedule to, this Act so numbered, and

(b) a reference in a section to a numbered subsection is a reference to the subsection of that section so numbered, and

(c) a reference in a section, subsection or Schedule to a numbered paragraph is a reference to the paragraph of that section, subsection or Schedule so numbered, and

(d) a reference to any provision of an Act (including this Act) includes a Schedule incorporated in the Act by that provision.

Textual Amendments

F142 Definition of "board of management" inserted (S.) by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 5(4)(a)**

F143 Definition in s. 82(1) inserted (16.5.1992) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(2), **Sch. 9 para. 4(5)**; S.I. 1992/817, art. 3(2), **Sch. 1**.

F144 Definition repealed by Employment Protection Act 1975 (c. 71), **Sch. 18**

F145 S. 82(1): definition of
"the Education Acts"
inserted (1.11.1996) by 1996 c. 56, s. 582(1), **Sch. 37 Pt. I para. 36(a)**

F146 In s. 82(1) in the definitions of "education authority" and "educational establishment" by Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 4 para. 11** for the respective references to subsections (16) and (17) of section 145 of the Education (Scotland) Act 1962 there are substituted references to section 135(1) of the Education (Scotland) Act 1980

F147 S. 82(1): words in definition of
"further education"
substituted (1.11.1996) by 1996 c. 56, s. 582(1), **Sch. 37 Pt. I para. 36(b)**

F148 In s. 82(1), in the definition of "further education" for the reference to subsection (21) of section 145 of the Education (Scotland) Act 1962 there is substituted a reference to section 135(1) of the Education (Scotland) Act 1980 by Education (Scotland) Act 1980 (c. 44, SIF 41:2), s. 136(2), **Sch. 4 para. 11**

F149 S. 82(1): words in definition of
"independent school"
substituted (1.11.1996) by 1996 c. 56, s. 582(1), **Sch. 37 Pt. I para. 36(c)**

F150 In s. 82(1) in the definition of "independent school" for the reference to subsection (23) of section 145 of the Education (Scotland) Act 1962 there is substituted a reference to section 135(1) of the Education (Scotland) Act 1980 by Education (Scotland) Act 1980 (c. 44, SIF 41:2), s. 136(2), **Sch. 4 para. 11**

F151 Definition of "industrial tribunal" repealed by Industrial Training Act 1982 (c. 10, SIF 43:1), **Sch. 4**

F152 In s. 82(1), in the definitions of "managers", "proprietor", "school" and "school education" by Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 4 para. 11** for the respective references to subsections (26), (37), (42) and (43A) of section 145 of the Education (Scotland) Act 1962 there are substituted references to section 135(1) of the Education (Scotland) Act 1980

F153 S. 82(1): words in definition of
"proprietor"
substituted (1.11.1996) by 1996 c. 56, s. 582(1), **Sch. 37 Pt. I para. 36(d)**

F154 S. 82(1): words in definition of
"school"
substituted (1.11.1996) by 1996 c. 56, s. 582(1), **Sch. 37 Pt. I para. 36(e)**

F155 Definition of "self-governing school" inserted (S.) by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 5(4)(b)**

F156 S. 82(1): definition of "upper limit of compulsory school age" repealed (1.9.1997) by 1996 c. 56, s. 582(2)(3), **Sch. 38 Pt. II** (with Sch. 39); S.I. 1997/1623, **art. 2(2)**

F157 S. 82(1A) inserted by Sex Discrimination Act 1986 (c. 59, SIF 106:1), **s. 2(3)**

Modifications etc. (not altering text)

C49 S. 82(1) modified by Estate Agents Act 1979 (c. 38, SIF 124:4), s. 3(1), **Sch. 1 para. 4(1)**

C50 In s. 82(1) in the definitions of "education authority" and "educational establishment" by Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 4 para. 11** for the respective references to subsections (16) and (17) of section 145 of the Education (Scotland) Act 1962 there are substituted references to section 135(1) of the Education (Scotland) Act 1980

C51 In s. 82(1), in the definition of "further education" for the reference to subsection (21) of section 145 of the Education (Scotland) Act 1962 there is substituted a reference to section 135(1) of the Education (Scotland) Act 1980 by Education (Scotland) Act 1980 (c. 44, SIF 41:2), s. 136(2), **Sch. 4 para. 11**

C52 In s. 82(1) in the definition of "independent school" for the reference to subsection (23) of section 145 of the Education (Scotland) Act 1962 there is substituted a reference to section 135(1) of the Education (Scotland) Act 1980 by Education (Scotland) Act 1980 (c. 44, SIF 41:2), s. 136(2), **Sch. 4 para. 11**

C53 In s. 82(1), in the definitions of "managers", "proprietor", "school" and "school education" by Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 4 para. 11** for the respective references to subsections (26), (37), (42) and (43A) of section 145 of the Education (Scotland) Act 1962 there are substituted references to section 135(1) of the Education (Scotland) Act 1980

C54 S. 82(1A) modified by S.I. 1989/901, art. 3, **Sch.**

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S. 82(1A) modified (2.3.1998) by S.I. 1998/218, art. 3, **Sch.**

C55 S. 82(1A) modified (2.3.1998) by S.I. 1998/218, art. 3, **Sch.**

C56 S. 82(4) modified by Estate Agents Act 1979 (c. 38, SIF 124:4), s. 3(1), **Sch. 1 para. 4(1)**

Marginal Citations

M30 1970 c. 41.

M31 1890 c. 39.

83 Transitional and commencement provisions, amendments and repeals.

(1) The provisions of Schedule 4 shall have effect for making transitional provision for the purposes of this Act.

(2) Parts II to VII shall come into operation on such day as the Secretary of State may by order appoint, and different days may be so appointed for different provisions and for different purposes.

(3) Subject to subsection (4)—

(a) the enactments specified in Schedule 5 shall have effect subject to the amendments specified in that Schedule (being minor amendments or amendments consequential on the preceding provisions of this Act), and

(b) the enactments specified in Schedule 6 are hereby repealed to the extent shown in column 3 of that Schedule.

(4) The Secretary of State shall by order provide for the coming into operation of the amendments contained in Schedule 5 and the repeals contained in Schedule 6, and those amendments and repeals shall have effect only as provided by an order so made.

(5) An order under this section may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into operation, including such adaptations of those provisions, or of any provisions of this Act then in operation, as appear to the Secretary of State necessary or expedient in consequence of the partial operation of this Act.

Subordinate Legislation Made

P2 Powers of appointment conferred by s. 83(2)(4) fully exercised

84 Financial provisions.

There shall be defrayed out of money provided by Parliament—

(a) sums required by the Secretary of State for making payments under paragraph 5 or 14 of Schedule 3, and for defraying any other expenditure falling to be made by him under or by virtue of this Act;

(b) payments falling to be made under section 66(6)(b) or (7) in respect of the remuneration of assessors; and

(c) any increase attributable to the provisions of this Act in the sums payable out of money provided by Parliament under any other Act.

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85 Application to Crown.

(1) This Act applies—

(a) to an act done by or for purposes of a Minister of the Crown or government department, or

(b) to an act done on behalf of the Crown by a statutory body, or a person holding a statutory office,

as it applies to an act done by a private person.

(2) Parts II and IV apply to—

(a) service for purposes of a Minister of the Crown or government department, other than service of a person holding a statutory office, or

(b) service on behalf of the Crown for purposes of a person holding a statutory office or purposes of a statutory body, **[**[F158]or

(c) service in the armed forces,**]**

as they apply to employment by a private person, and shall so apply as if references to a contract of employment included references to the terms of service.

(3) Subsections (1) and (2) have effect subject to section 17.

[[F159](4) Nothing in this Act shall render unlawful an act done for the purpose of ensuring the combat effectiveness of the **[**[F160]armed forces.**]]**

(5) Nothing in this Act shall render unlawful discrimination in admission to the Army Cadet Force, Air Training Corps, Sea Cadet Corps or Combined Cadet Force, or any other cadet training corps for the time being administered by the Ministry of Defence.

[F161](6) . . . . . .

(7) Subsection (2) of section 10 shall have effect in relation to any ship, aircraft or hovercraft belonging to or possessed by Her Majesty in right of the Government of the United Kingdom as it has effect in relation to a ship, aircraft or hovercraft mentioned in paragraph (a) or (b) of that subsection, and section 10(5) shall apply accordingly.

(8) The provisions of Parts II to IV of the [M32]Crown Proceedings Act 1947 shall apply to proceedings against the Crown under this Act as they apply to proceedings in England and Wales which by virtue of section 23 of that Act are treated for the purposes of Part II of that Act as civil proceedings by or against the Crown, except that in their application to proceedings under this Act section 20 of that Act (removal of proceedings from county court to High Court) shall not apply.

(9) The provisions of Part V of the [M33]Crown Proceedings Act 1947 shall apply to proceedings against the Crown under this Act as they apply to proceedings in Scotland which by virtue of the said Part are treated as civil proceedings by or against the Crown, except that in their application to proceedings under this Act the proviso to section 44 of that Act (removal of proceedings from the sheriff court to the Court of Session) shall not apply.

[[F162](9A) This subsection applies to any complaint by a person ("the complainant") that another person—

(a) has committed an act of discrimination against the complainant which is unlawful by virtue of section 6; or

(b) is by virtue of section 41 or 42 to be treated as having committed such an act of discrimination against the complainant,

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if at the time when the act complained of was done the complainant was serving in the armed forces and the discrimination in question relates to his service in those forces.

(9B) No complaint to which subsection (9A) applies shall be presented to an industrial tribunal under section 63 unless—

(a) the complainant has made a complaint to an officer under the service redress procedures applicable to him and has submitted that complaint to the Defence Council under those procedures; and

(b) the Defence Council have made a determination with respect to the complaint.

(9C) Regulations may make provision enabling a complaint to which subsection (9A) applies to be presented to an industrial tribunal under section 63 in such circumstances as may be specified by the regulations, notwithstanding that subsection (9B) would otherwise preclude the presentation of the complaint to an industrial tribunal.

(9D) Where a complaint is presented to an industrial tribunal under section 63 by virtue of regulations under subsection (9C), the service redress procedures may continue after the complaint is so presented.

(9E) Regulations under subsection (9C) shall be made by the Secretary of State by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.**]**

[[F163](10) In this section—

"armed forces" means any of the naval, military or air forces of the Crown;

"service for purposes of a Minister of the Crown or government department" does not include service in any office for the time being mentioned in Schedule 2 (Ministerial offices) to the [M34]House of Commons Disqualification Act 1975;

"the service redress procedures" means the procedures, excluding those which relate to the making of a report on a complaint to Her Majesty, referred to in section 180 of the [M35]Army Act 1955, section 180 of the [M36]Air Force Act 1955 and section 130 of the [M37]Naval Discipline Act 1957; and

"statutory body" means a body set up by or in pursuance of an enactment and "statutory office" means an office so set up.**]**

Textual Amendments

F158 S. 85(2)(c) and words in s. 85(2)(b) inserted (1.10.1997) by 1996 c. 46, **s. 21(2)**; S.I. 1997/2164, **art. 2**

F159 S. 85(4) substituted (1.2.1995) by S.I. 1994/3276, **reg. 2(a)**

F160 Words in s. 85(4) substituted (1.10.1997) by 1996 c. 46, **s. 21(3)**; S.I. 1997/2164, **art. 2**

F161 S. 85(6) repealed (1.2.1995) by S.I. 1994/3276, **reg. 2(b)**

F162 S. 85(9A)-(9E) inserted (1.10.1997) by 1996 c. 46, **s. 21(4)**; S.I. 1997/2164, **art. 2**

F163 S. 85(10) substituted (1.10.1997) by 1996 c. 46, **s. 21(5)**; S.I. 1997/2164, **art. 2**

Marginal Citations

M32 1947 c. 44.

M33 1947 c. 44.

M34 1975 c. 24.

M35 1955 c. 18.

M36 1955 c. 19.

M37 1957 c. 53.

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[F164 85A Application to House of Commons staff.

(1) Parts II and IV apply to an act done by an employer of a relevant member of the House of Commons staff, and to service as such a member, as they apply to an act done by and to service for the purposes of a Minister of the Crown or government department, and accordingly apply as if references to a contract of employment included references to the terms of service of such a member.

(2) In this section "relevant member of the House of Commons staff" has the same meaning as in **[**F165 section 195 of the Employment Rights Act 1996**]**; and **[**F166 subsections (6) to (12)**]** of that section (person to be treated as employer of House of Commons staff) apply, with any necessary modifications, for the purposes of Parts II and IV as they apply by virtue of this section.

Textual Amendments

F164 S. 85A inserted (16.10.1992) by Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52), ss. 300(2), 302, **Sch. 2 para. 6**

F165 Words in s. 85A(2) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 6(2)(a)**

F166 Words in s. 85A(2) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 6(2)(b)**

[F167 85B Application to House of Lords staff.

(1) Parts II and IV apply in relation to employment as a relevant member of the House of Lords staff as they apply in relation to other employment.

(2) In this section "relevant member of the House of Lords staff" has the same meaning as in **[**F168 section 194 of the Employment Rights Act 1996**]**; and **[**F169 subsection (7)**]** of that section applies for the purposes of this section.

Textual Amendments

F167 S. 85B inserted (30.11.1993) by 1993 c. 19, s. 49(1), **Sch. 7 para. 9**; S.I. 1993/2503, art. 2(2), **Sch. 2**

F168 Words in s. 85B(2) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 6(3)(a)**

F169 Words in s. 85B(2) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 6(3)(b)**

86 Government appointments outside section 6.

(1) This section applies to any appointment by a Minister of the Crown or government department to an office or post where section 6 does not apply in relation to the appointment.

(2) In making the appointment, and in making the arrangements for determining who should be offered the office or post, the Minister of the Crown or government department shall not do an act which would be unlawful under section 6 if the Crown were the employer for the purposes of this Act.

87 Short title and extent.

(1) This act may be cited as the Sex Discrimination Act 1975.

(2) This Act (except paragraph 16 of Schedule 3) does not extend to Northern Ireland.

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SCHEDULES

SCHEDULE 1

Section 8.

EQUAL PAY ACT 1970

PART I

AMENDMENTS OF ACT

1 (1) In section 1(6), paragraph (b) is repealed and the following is inserted after paragraph (c): "and men shall be treated as in the same employment with a woman if they are men employed by her employer or any associated employer at the same establishment or at establishments in Great Britain which include that one and at which common terms and conditions of employment are observed either generally or for employees of the relevant classes".

(2) Section 1(7) is repealed.

(3) The following is substituted for section 1(8)—

"(8) This section shall apply to—

(a) service for purposes of a Minister of the Crown or government department, other than service of a person holding a statutory office, or

(b) service on behalf of the Crown for purposes of a person holding a statutory office or purposes of a statutory body,

as it applies to employment by a private person, and shall so apply as if references to a contract of employment included references to the terms of service.

(9) Subsection (8) does not apply in relation to service in—

(a) the naval, military or air forces of the Crown, or

(b) any women's service administered by the Defence Council.

(10) In this section "statutory body" means a body set up by or in pursuance of an enactment, and "statutory office" means an office so set up; and service "for purposes of" a Minister of the Crown or government department does not include service in any office in Schedule 2 (Ministerial offices) to the House of Commons Disqualification Act 1975 as for the time being in force."

(4) The following subsections are inserted at the end of section 1—

"(11) For the purposes of this Act it is immaterial whether the law which (apart from this subsection) is the proper law of a contract is the law of any part of the United Kingdom or not.

(12) In this Act "Great Britain" includes such of the territorial waters of the United Kingdom as are adjacent to Great Britain.

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(13) Provisions of this section and section 2 below framed with reference to women and their treatment relative to men are to be read as applying equally in a converse case to men and their treatment relative to women."

Modifications etc. (not altering text)

C57 The text of ss. 8(1)(6), 18(2), 21(2), Sch. 1 Pt. I paras. 1–5, 6(1), Sch. 1 Pt. II, Sch. 3 para. 16(1)(2), Sch. 5 para. 1 and Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

2 (1) The following is substituted for section 2(1)—

"(1) Any claim in respect of the contravention of a term modified or included by virtue of an equality clause, including a claim for arrears of remuneration or damages in respect of the contravention, may be presented by way of a complaint to an industrial tribunal."

(2) After section 2(1) there is inserted—

"(1A) Where a dispute arises in relation to the effect of an equality clause the employer may apply to an industrial tribunal for an order declaring the rights of the employer and the employee in relation to the matter in question."

(3) In section 2(2)—

(a) for "failing to comply with their equal pay clauses" there is substituted "contravening a term modified or included by virtue of their equality clauses", and

(b) after "the question may be referred by him" there is inserted "as respects all or any of them", and

(c) after "claim by the women" there is inserted "or woman".

(4) Section 2(6) is repealed.

(5) In section 2(7), the words "and there shall be paid" onwards are repealed.

Modifications etc. (not altering text)

C58 The text of ss. 8(1)(6), 18(2), 21(2), Sch. 1 Pt. I paras. 1–5, 6(1), Sch. 1 Pt. II, Sch. 3 para. 16(1)(2), Sch. 5 para. 1 and Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

3 In section 6 the following is substituted for subsection (1)—

"(1) Neither an equality clause nor the provisions of section 3(4) above shall operate in relation to terms—

(a) affected by compliance with the laws regulating the employment of women, or

(b) affording special treatment to women in connection with pregnancy or childbirth.

(1A) An equality clause and those provisions—

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(a) shall operate in relation to terms relating to membership of an occupational pension scheme (within the meaning of the Social Security Pensions Act 1975) so far as those terms relate to any matter in respect of which the scheme has to conform with the equal access requirements of Part IV of that Act ; but

(b) subject to this, shall not operate in relation to terms related to death or retirement, or to any provision made in connection with death or retirement."

Modifications etc. (not altering text)

C59 The text of ss. 8(1)(6), 18(2), 21(2), Sch. 1 Pt. I paras. 1–5, 6(1), Sch. 1 Pt. II, Sch. 3 para. 16(1)(2), Sch. 5 para. 1 and Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

4 Section 8 is repealed.

Modifications etc. (not altering text)

C60 The text of ss. 8(1)(6), 18(2), 21(2), Sch. 1 Pt. I paras. 1–5, 6(1), Sch. 1 Pt. II, Sch. 3 para. 16(1)(2), Sch. 5 para. 1 and Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

5 in section 9(1), the words "Except as provided by subsection (2) below", and sections 9(2) to (5) and 10(4) are repealed.

Modifications etc. (not altering text)

C61 The text of ss. 8(1)(6), 18(2), 21(2), Sch. 1 Pt. I paras. 1–5, 6(1), Sch. 1 Pt. II, Sch. 3 para. 16(1)(2), Sch. 5 para. 1 and Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

6 (1) For references to an equal pay clause in each place where they occur there are substituted references to an equality clause.

(2) For the words "the Industrial Court", in each place where they occur, there are substituted the words "the Industrial Arbitration Board" ; in sections 4 . . . [F170]for the words "Court" and "Court's" in each place where they occur there are substituted respectively "Board" and "Board's", and in section 5 for the word "Board" in each place where it occurs there is substituted "Agricultural Wages Board" and for the word "Court" in each place where it occurs there is substituted "Industrial Arbitration Board".

Textual Amendments

F170 Words repealed by Sex Discrimination Act 1986 (c. 59, SIF 106:1), s. 9, **Sch. Pt. II**

Modifications etc. (not altering text)

C62 The text of ss. 8(1)(6), 18(2), 21(2), Sch. 1 Pt. I paras. 1–5, 6(1), Sch. 1 Pt. II, Sch. 3 para. 16(1)(2), Sch. 5 para. 1 and Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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C63 The text of Sch. 1 Pt. I para. 6(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

PART II

ACT AS AMENDED

Modifications etc. (not altering text)

C64 The text of ss. 8(1)(6), 18(2), 21(2), Sch. 1 Pt. I paras. 1–5, 6(1), Sch. 1 Pt. II, Sch. 3 para. 16(1)(2), Sch. 5 para. 1 and Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

1970 CHAPTER 41

1 (1) If the terms of a contract under which a woman is employed at an establishment in Great Britain do not include (directly or by reference to a collective agreement or otherwise) an equality clause they shall be deemed to include one.

(2) An equality clause is a provision which relates to terms (whether concerned with pay or not) of a contract under which a woman is employed (the "woman's contract"), and has the effect that—

(a) where the woman is employed on like work with a man in the same employment—

(i) if (apart from the equality clause) any term of the woman's contract is or becomes less favourable to the woman than a term of a similar kind in the contract under which that man is employed, that term of the woman's contract shall be treated as so modified as not to be less favourable, and

(ii) if (apart from the equality clause) at any time the woman's contract does not include a term corresponding to a term benefiting that man included in the contract under which he is employed, the woman's contract. shall be treated as including such a term ;

(b) where the woman is employed on work rated as equivalent with that of a man in the same employment—

(i) if (apart from the equality clause) any term of the woman's contract determined by the rating of the work is or becomes less favourable to the woman than a term of a similar kind in the contract under which that man is employed, that term of the woman's contract shall be treated as so modified as not to be less favourable, and

(ii) if (apart from the equality clause) at any time the woman's contract does not include a term corresponding to a term benefiting that man included in the contract under which he is employed and determined by the rating of the work, the woman's contract shall be treated as including such a term.

(3) An equality clause shall not operate in relation to a variation between the woman's contract and the man's contract if the employer proves that the variation is genuinely

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due to a material ditterence (other than the difference of sex) between her case and his.

(4) A woman is to be regarded as employed on like work with men if, but only if, her work and theirs is of the same or a broadly similar nature, and the dificrences (if any) between the things she does and the things they do are not of practical importance in relation to terms and conditions of employment ; and accordingly in comparing her work with theirs regard shall be had to the frequency or otherwise with which any such differences occur in practice as well as to the nature and extent of the differences.

(5) A woman is to be regarded as employed on work rated as equivalent with that of any men if, but only if, her job and their job have been given an equal value, in terms of the demand made on a worker under various headings (for instance effort, skill, decision), on a study undertaken with a view to evaluating in those terms the jobs to be done by all or any of the employees in an undertaking or group of undertakings, or would have been given an equal value but for the evaluation being made on a system setting different values for men and wornen on the same demand under any heading.

(6) Subject to the following subsections, for purposes of this section—

(a) "employed" means employed under a contract of service or of apprenticeship or a contract personally to execute any work or labour, and related expressions shall be construed accordingly;

. . . . . .

(c) two employers are to be treated as associated if one is a company of which the other (directly or indirectly) has control or if both are companies of which a third person (directly or indirectly) has control,

and men shall be treated as in the same employment with a woman if they are men employed by her employer or any associated employer at the same establishment or at establishments in Great Britain which include that one and at which common terms and conditions of employment are observed either generally or for employees of the relevant classes.

. . . . . .

(8) This section shall apply to—

(a) service for purposes of a Minister of the Crown or government department, other than service of a person holding a statutory office, or

(b) service on behalf of the Crown for purposes of a person holding a statutory office or purposes of a statutory body,

as it applies to employment by a private person, and shall so apply as if references to a contract of employment included references to the terms of service.

(9) Subsection (8) does not apply in relation to service in—

(a) the naval, military or air forces of the Crown, or

(b) any women's service administered by the Defence Council.

(10) In this section "statutory body" means a body set up by or in pursuance of an enactment, and "statutory office" means an office so set up ; and service "for purposes of" a Minister of the Crown or govermnent department does not include service in any office in Schedule 2 (Ministerial offices) to the [M38]House of Commons Disqualification Act 1975 as for the time being in force.

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(11) For the purposes of this Act it is immaterial whether the law which (apart from this subsection) is the proper law of a contract is the law of any part of the United Kingdom or not.

(12) In this Act "Great Britain" includes such of the territorial waters of the United Kingdom as are adjacent to Great Britain.

(13) Provisions of this section and section 2 below framed with reference to women and their treatment relative to men are to be read as applying equally in a converse case to men and their treatment relative to women.

Marginal Citations
M38 1975 c. 25

Disputes as to, and enforcement of, requirement of equal treatment.

2 (1) Any claim in respect of the contravention of a term modified or included by virtue of an equality clause, including a claim for arrears of remuneration or damages in respect of the contravention, may be presented by way of a complaint to an industrial tribunal.

(1A) Where a dispute arises in relation to the effect of an equality clause the employer may apply to an industrial tribunal for an order declaring the rights of the employer and the employee in relation to the matter in question.

(2) Where it appears to the Secretary of State that there may be a question whether the employer of any women is or has been contravening a term modified or included by virtue of their equality clauses, but that it is not reasonable to expect them to take steps to have the question determined, the question may be referred by him as respects all or any of them to an industrial tribunal and shall be dealt with as if the reference were of a claim by the women or woman against the employer.

(3) Where it appears to the court in which any proceedings are pending that a claim or counterclaim in respect of the operation of an equality clause could more conveniently be disposed of separately by an industrial tribunal, the court may direct that the claim or counterclaim shall be struck out ; and (without prejudice to the foregoing) where in proceedings before any court a question arises as to the operation of an equality clause, the court may on the application of any party to the proceedings or otherwise refer that question, or direct it to be referred by a party to the proceedings, to an industrial tribunal for determination by the tribunal, and may stay or sist the proceedings in the meantime.

(4) No claim in respect of the operation of an equality clause relating to a woman's employment shall be referred to an industrial tribunal otherwise than by virtue of subsection (3) above, if she has not been employed in the employment within the six months preceding the date of the reference.

(5) A woman shall not be entitled, in proceedings brought in respect of a failure to comply with an equality clause (including proceedings before an industrial tribunal), to be awarded any payment by way of arrears of remuneration or damages in respect of a time earlier than two years before the date on which the proceedings were instituted.

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. . . . . .

(7) In this section "industrial tribunal" means a tribunal established under section 12 of the [M39]Industrial Training Act 1964 . . .

Marginal Citations

M39 1964 c. 16.

Collective agreements and pay structures.

3 (1) Where a collective agreement made before or after the commencement of this Act contains any provision applying specifically to men only or to women only, the agreement may be referred, by any party to it or by the Secretary of State, to the Industrial Arbitration Board constituted under Part I of the [M40]Industrial Courts Act 1919 to declare what amendments need to be made in the agreement, in accordance with subsection (4) below, so as to remove that discrimination between men and women.

(2) Where on a reference under subsection (1) above the Industrial Arbitration Board have declared the amendments needing to be made in a collective agreement in accordance with that subsection, then—

(a) in so far as the terms and conditions of a person's employment are dependent on that agreement, they shall be ascertained by reference to the agreement as so amended, and any contract regulating those terms and conditions shall have effect accordingly ; and

(b) if the Industrial Arbitration Board make or have made, under section 8 of the [M41]Terms and Conditions of Employment Act 1959 or any other enactment, an award or determination requiring an employer to observe the collective agreement, the award or determination shall have effect by reference to the agreement as so amended.

(3) On a reference under subsection (1) above theIndustrial Arbitration Board may direct that all or any of the amendments needing to be made in the collective apreement shall be treated as not becoming effective until a date after their decision, or as having been effective from a date before their decision but not before the reference to them, and may specify different dates for different purposes; and subsection (2) above and any such contract, award or determination as is there mentioned shall have or be deemed to have had effect accordingly.

(4) Subject to section 6 below, the amendments to be made in a collective agreement under this section shall be such as are needed—

(a) to extend to both men and women any provision applying specifically to men only or to women only ; and

(b) to eliminate any resulting duplication in the provisions of the agreement in such a way as not to make the terms and conditions agreed for men, or those agreed for women, less favourable in any respect than they would have been without the amendments ;

but the amendments shall not extend the operation of the collective agreement to men or to women not previously fallng within it, and where accordingly a provision applying specifically to men only or to women only continues to be required for a

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category of men or of women (there being no provision in the agreement for women or, as the case may be, for men of that category), then the provision shall be limited to men or women of that category but there shall be made to it such amendments, if any, as are needed to secure that the terms and conditions of the men or women of that category are not in any respect less favourable than those of all persons of the other sex to whom the agreement applies.

(5) For purposes of this section "collective agreement" means any agreement as to terms and conditions of employment, being an agreement between—

(a) parties who are or represent employers or organisations of employers or associations of such organisations ; and

(b) parties who are or represent organisations of employees or associations of such organisations;

but includes also any award modifying or supplementing such an agreement.

(6) Subsections (1) to (4) above (except subsection (2)(b) and subsection (3) in so far as it relates to subsection (2)(b)) shall have effect in relation to an employer's pay structure as they have effect in relation to a collective agreement, with the adaptation that a reference to the Industrial Arbitration Board may be made by the employer or by the Secretary of State; and for this purpose "pay structure" means any arrangements adopted by an employer (with or without any associated employer) which fix common terms and conditions of employment for his employee or any class of his employees, and of which the provisions are generally known or open to be known by the employees concerned.

(7) In this section the expression "employment" and related expressions, and the reference to an associated employer, shall be construed in the same way as in section 1 above, and section 1(8) shall have effect in relation to this section as well as in relation to that section.

Marginal Citations

M40 1919 c. 69.

M41 1959 c. 26.

Wages regulation orders.

4 (1) Where a wages regulation order made before or after the commencement of this Act contains any provision applying specifically to men only or to women only, the order may be referred by the Secretary of State to the Industrial Arbitration Board to declare what amendments need to be made in the order, in accordance with the like rules as apply under section 3(4) above to the amendment under that section of a collective agreement, so as to remove that discrimination between men and women; and when the Board have declared the amendments needing to be so made, the Secretary of State may by order made by statutory instrument coming into operation not later than five months after the date of the Board's decision direct that (subject to any further wages regulation order) the order referred to the Board shall have effect subject to those amendments.

(2) A wages regulation order shall be referred to the Industrial Arbitration Board under this section if the Secretary of State is requested so to refer it either—

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(a) by a member or members of the wages council concerned with the order who was or who were appointed as representing employers ; or

(b) by a member or members of that wages council who was or who were appointed as representing workers ;

or if in any case it appears to the Secretary of State that the order may be amendable under this section.

(3) Where by virtue of section 12(1) of the [M42]Wages Councils Act 1959 a contract between a worker and an employer is to have effect with modifications specified in section 12(1) then (without prejudice to the general saving in section 11(7) of that Act for rights conferred by or under other Acts) the contract as so modified shall have effect subject to any further term implied by virtue of section 1 above.

(4) In this section "wages regulation order" means an order made or having effect as if made under section 11 of the Wages Councils Act 1959.

Marginal Citations

M42 1959 c. 69.

Agricultural wages orders.

5 (1) Where an agricultural wages order made before or after the commencement of this Act contains any provision applying specifically to men only or to women only, the order may be referred by the Secretary of State to the Industrial Arbitration Board to declare what amendments need to be made in the order, in accordance with the like rules as apply under section 3(4) above to the amendment under that section of a collective agreement, so as to remove that discrimination between men and women ; and when the Industrial Arbitration Board have declared the amendments needing to be so made, it shall be the duty of the Agricultural Wages Board, by a further agricultural wages order coming into operation not later than five months after the date of the Industrial Arbitration Board's decision, either to make those ammendments in the order referred to the Industrial Arbitration Board or otherwise to replace or amend that order so as to remove the discrimination.

(2) Where the Agricultural Wages Board certify that the effect of an agricultural wages order is only to make such amendments of a previous order as have under this section been declared by the Industrial Arbitration Board to be needed, or to make such amendments as aforesaid with minor modifications or modifications of limited application, or is only to revoke and reproduce with such amendments a previous order, then the Agricultural Wages Board may instead of complying with paragraphs 1 and 2 of Schedule 4, or in the case of Scotland paragraphs 1 and 2 of Schedule 3, to the Agricultural Wages Act give notice of the proposed order in such manner as appears to the Agricultural Wages Board expedient in the circumstances, and may make the order at any time after the expiration of seven days from the giving of the notice.

(3) An agricultural wages order shall be referred to the Industrial Arbitration Board under this section if the Secretary of State is requested so to refer it either—

(a) by a body for the time being entitled to nominate for membership of the Agricultural Wages Board persons representing employers (or, if provision

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is made for any of the persons representing employers to be elected instead of nominated, then by a member or members representing employers) ; or

(b) by a body for the time being entitled to nominate for membership of the Agricultural Wages Board persons representing workers (or, if provision is made for any of the persons representing workers to be elected instead of nominated, then by a member or members representing workers) ;

or if in any case it appears to the Secretary of State that the order may be amendable under this section.

(4) In this section "the Agricultural Wages Board" means the Agricultural Wages Board for England and Wales or the Scottish Agricultural Wages Board, "the Agricultural Wages Act" means the [M43]Agricultural Wages Act 1948 or the Agricultural Wages (Scotland) Act 1949 and "agricultural wages order" means an order of the [M44]Agricultural Wages Board under the Agricultural Wages Act.

Marginal Citations

M43 1948 c. 47

M44 1949 c. 30.

Exclusion from ss. 1 to 5 of pensions etc.

6 (1) Neither an equality clause nor the provisions of section 3(4) above shall operate in relation to terms—

(a) affected by compliance with the laws regulating the employment of women, or

(b) affording special treatment to women in connection with pregnancy or childbirth.

(1A) An equality clause and those provisions—

(a) shall operate in relation to terms relating to membership of an occupational pension scheme (within the meaning of the Social Security Pensions Act 1975) so far as those terms relate to any matter in respect of which the scheme has to conform with the equal access requirements of Part IV of that Act; but

(b) subject to this, shall not operate in relation to terms related to death or retirement, or to any provision made in connection with death or retirement.

(2) Any reference in this section to retirement includes retirement, whether voluntary or not, on grounds of age, length of service or incapacity.

Service pay.

7 (1) The Secretary of State or Defence Council shall not make, or recommend to Her Majesty the making of, any instrument relating to the terms and conditions of service of members of the naval, military or air forces of the Crown or of any women's service administered by the Defence Council, if the instrument has the effect of making a distinction, as regards pay, allowances or leave between men and women who are members of those forces or of any such service, not being a distinction fairly attributable to differences between the obligations undertaken by men and those undtaken by women as such members as aforesaid.

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(2) The Secretary of State or Defence Council may refer to the Industrial Arbitration Board for their advice any question whether a provision made or proposed to be made by any such instrument as is referred to in subsection (1) above ought to be regarded for purposes of this section as making a distinction not permitted by that subsection.

. . . . . .

Commencement.

9 (1) The foregoing provisions of this Act shall come into force on the 29th December 1975 and references in this Act to its commencement shall be construed as referring to the coming into force of those provisions on that date.

. . . . . .

Preliminary references to Industrial Arbitration Board.

10 (1) A collective agreement, pay structure or order which after the commencement of this A*ct could under section 3, 4 or 5 of this Act be referred to the Industrial Arbitration Board to declare what amendments need to be made as mentioned in that section may at any time not earlier than one year before that commencement be referred to the Board under this section for their advice as to the amendments needing to be so made.

(2) A reference under this section may be made by any person authorised by section 3, 4 or 5, as the case may be, to make a corresponding reference under that section, but the Secretary of State shall not under this section refer an order to the Industrial Arbitration Board unless requested so to do as mentioned in section 4(2) or 5(3), as the case may be, nor be required to refer an order if so requested.

(3) A collective agreement, pay structure or order referred to the Industrial Arbitration Board under this section may after the commencement of this Act be again referred to the Board under section 3, 4 or 5 ; but at that commencement any reference under this section (if still pending) shall lapse.

. . . . . .

Short title, interpretation and extent.

11 (1) This Act may be cited as the Equal Pay Act 1970.

(2) In this Act the expressions “man” and “woman” shall be read as applying to persons of whatever age.

(3) This Act shall not extend to Northern Ireland.

SCHEDULE 2

Section 27.

Transitional Exemption Orders for Educational Admissions

Modifications etc. (not altering text)

C65 Sch. 2: transfer of functions (1.7.1999) by 1999/672, art. 2, Sch. 1

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Public sector (England and Wales)

1 Where **[**[F171]under section 35, 41 or 259 of the Education Act 1996 a responsible body submits to the Secretary of State**]**, proposals for an alteration in its admissions arrangements such as is mentioned in section 27(1) of this Act the submission of those proposals shall be treated as an application for the making by the Secretary of State of a transitional exemption order, and if he thinks fit the Secretary of State may make the order accordingly.

Textual Amendments

F171 Words in Sch. 2 para. 1 substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 37(a)**

Modifications etc. (not altering text)

C66 Sch. 2 para. 1 excluded (1.11.1996) by 1996 c. 56, **ss. 552(1)**, 583(2)

C67 Sch. 2 para. 1 continued for certain functions (1.4.1999) by S.I. 1999/704, **reg. 20(1)**

2 . . . . . [F172]

Textual Amendments

F172 Sch. 2 para. 2 repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), **Sch.7**

3 Regulations under **[**[F173]section 485 of the Education Act 1996**]** may provide for the submission to the Secretary of State of an application for the making by him of a transitional exemption order in relation to an establishment—

(a) which is designated under section 24(1), and

(b) in respect of which grants are payable under **[**[F174]the said section 485**]**

and for the making by him of the order.

Textual Amendments

F173 Words in Sch. 2 para. 3 substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 37(b)(i)**

F174 Words in Sch. 2 para. 3(b) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 37(b)(ii)**

[[F175]4 Regulations under section 218 of the Education Reform Act 1988 may provide for the submission to the Secretary of State of an application for the making by him of a transitional exemption order in relation to any school or institution to which that section, or any part of that section, applies and which does not fall within paragraph 3 above, and for the making by him of the order.**]**

Textual Amendments

F175 Sch. 2 para. 4 substituted (1.4.1993) by virtue of Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. II para.83**; S.I. 1992/831, art. 2, **Sch. 3**.

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VALID FROM 01/04/2003

[F176 4A Where, under section 113A of the Learning and Skills Act 2000, the Learning and Skills Council for England submit proposals to the Secretary of State for an alteration in the admission arrangements of a school such as is mentioned in section 27(1) of this Act, the submission of the proposals shall be treated as an application for the making by the Secretary of State of a transitional exemption order, and if he thinks fit the Secretary of State may make the order accordingly.]

Textual Amendments

F176 Sch. 2 para. 4A inserted (1.4.2003 for E. and 1.8.2007 for W.) by Education Act 2002 (c. 32), ss. 215(1), 216(4), **Sch. 21 para. 3(b)** (with ss. 210(8), 214(4)); S.I. 2003/124, **art. 4**; S.I. 2007/3611, **art. 4(1)**, Sch. Pt. 1 (with Sch. Pt. 3 para. 1)

Private sector (England and Wales)

5 (1) In the case of an establishment in England and Wales not falling within paragraphs 1 to 4 the responsible body may submit to the Equal Opportunities Commission set up under Part VI an application for the making by the Commission of a transitional exemption order in relation to the establishment, and if they think fit the Commission may make the order accordingly.

(2) An application under this paragraph shall specify the transitional period proposed by the responsible body to be provided for in the order, the stages by which within that period the body proposes to move to the position where section 22(b) is complied with, and any other matters relevant to the terms and operation of the order applied for.

(3) The Commission shall not make an order on an application under this paragraph unless they are satisfied that the terms of the application are reasonable having regard to the nature of the premises at which the establishment is carried on, the accommodation, equipment and facilities available, and the financial resources of the responsible body.

Public and private sectors (Scotland)

6 Any application for a transitional exemption order made by the responsible body in relation to an establishment falling within paragraph 6 [F177 7, 7A, 7B or 7C], of the Table in section 22 shall be made to the Secretary of State, and in relation to an establishment falling within paragraphs 8, 9 and 10 of that Table shall be made to the Equal Opportunities Commission.

Textual Amendments

F177 Words in Sch. 2 para. 6 substituted (16.5.1992) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(2), **Sch. 9 para. 4(6)**; S.I. 1992/817, art. 3(2), **Sch. 1**

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7 An application under paragraph 6 shall specify the transitional period proposed by the responsible body to be provided for in the order, the stages by which within that period the body proposes to move to the position where section 22(b) is complied with, and any other matters relevant to the terms and operation of the order applied for.

8 The Secretary of State on any application under paragraph 6 may make a transitional exemption order on such terms and conditions as he may think fit.

9 The Commission on any application under paragraph 6 may if they think fit make a transitional exemption order, but shall not make such an order unless they are satisfied that the terms of the application are reasonable having regard to the nature of the premises at which the establishment is carried on, the accommodation, equipment and facilities available, and the financial resources of the responsible body.

SCHEDULE 3

Section 53.

EQUAL OPPORTUNITIES COMMISSION

Incorporation and status

1 On the appointment by the Secretary of State of the first Commissioners, the Commission shall come into existence as a body corporate with perpetual succession and a common seal.

2 (1) The Commission is not an emanation of the Crown, and shall not act or be treated as the servant or agent of the Crown.

(2) Accordingly—

(a) neither the Commission nor a Commissioner or member of its staff as such is entitled to any status, immunity, privilege or exemption enjoyed by the Crown;

(b) the Commissioners and members of the staff of the Commission as such are not civil servants; and

(c) the Commission's property is not the property of, or held on behalf of, the Crown.

Tenure of office of Commissioners

3 (1) A Commissioner shall hold and vacate his office in accordance with the terms of his appointment.

(2) A person shall not be appointed a Commissioner for more than five years.

(3) With the consent of the Commissioner concerned, the Secretary of State may alter the terms of an appointment so as to make a full-time Commissioner into a part-time Commissioner or vice versa, or for any other purpose.

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(4) A Commissioner may resign by notice to the Secretary of State.

(5) The Secretary of State may terminate the appointment of a Commissioner if satisfied that—

(a) without the consent of the Commission, he failed to attend the meetings of the Commission during a continuous period of six months beginning not earlier than nine months before the termination; or

(b) he is an undischarged bankrupt, or has made an arrangement with his creditors, or is insolvent within the meaning of paragraph 9(2) of Schedule 3 to the [M45]Conveyancing and Feudal Reform (Scotland) Act 1970; or

(c) he is by reason of physical or mental illness, or for any other reason, incapable of carrying out his duties.

(6) Past service as a Commissioner is no bar to re-appointment.

Marginal Citations

M45 1970 c. 35.

Tenure of office of chairman and deputy chairmen

4 (1) The chairman and each deputy chairman shall hold and vacate his office in accordance with the terms of his appointment, and may resign by notice to the Secretary of State.

(2) The office of the chairman or a deputy chairman is vacated if he ceases to be a Commissioner.

(3) Past service as chairman or deputy chairman is no bar to re-appointment.

Remuneration of Commissioners

5 The Secretary of State may pay, or make such payments towards the provision of, such remuneration, pensions, allowances or gratuities to or in respect of the Commissioners or any of them as, with the consent of **[**[F178]the Treasury**]**, he may determine.

Textual Amendments

F178 Words substituted by S.I. 1981/1670, **arts. 2(2)**, 3(5)

6 Where a person ceases to be a Commissioner otherwise than on the expiry of his term of office, and it appears to the Secretary of State that there are special circumstances which make it right for that person to receive compensation, the Secretary of State may with the consent of **[**[F179]the Treasury**]**direct the Commission to make to that person a payment of such amount as, with the consent of that Minister, the Secretary of State may determine.

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Textual Amendments
F179 Words substituted by S.I. 1981/1670, **arts. 2(2)**, 3(5)

Additional Commissioners

7 (1) Paragraphs 2(2), 3(1) and (6), and 6 shall apply to additional Commissioners appointed under section 57(2) as they apply to Commissioners.

(2) The Commission may pay, or make such payments towards the provision of, such remuneration, pensions, allowances or gratuities to or in respect of an additional Commissioner as the Secretary of State, with the consent of **[**[F180]the Treasury**]**, may determine.

(3) With the approval of the Secretary of State and the consent of the additional Commissioners concerned, the Commissioner may alter the terms of an appointment of an additional Commissioner so as to make a full-time additional Commissioner into a part-time additional Commissioner or vice-versa, or for any other purpose.

(4) An additional Commissioner may resign by notice to the Commission.

(5) The Secretary of State, or the Commission acting with the approval of the Secretary of State, may terminate the appointment of an additional Commissioner if satisfied that—

(a) without reasonable excuse he failed to carry out the duties for which he was appointed during a continuous period of three months beginning not earlier than six months before the termination; or

(b) he is a person such as is mentioned in paragraph 3(5)(b); or

(c) he is by reason of physical or mental illness, or for any other reason, incapable of carrying out his duties.

(6) The appointment of an additional Commissioner shall terminate at the conclusion of the investigation for which he was appointed, if not sooner.

Textual Amendments
F180 Words substituted by S.I. 1981/1670, **arts. 2(2)**, 3(5)

Staff

8 The Commission may, after consultation with the Secretary of State, appoint such officers and servants as they think fit, subject to the approval of **[**[F181]the Treasury**]**as to numbers and as to remuneration and other terms and conditions of service.

Textual Amendments
F181 Words substituted by S.I. 1981/1670, **arts. 2(2)**, 3(5)

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9 (1) Employment with the Commission shall be included among the kinds of employment to which a superannuation scheme under section 1 of the [M46]Superannuation Act 1972 can apply, and accordingly in Schedule 1 to that Act (in which those kinds of employment are listed) the words "Equal Opportunities Commission" shall be inserted at the appropriate place in alphabetical order.

(2) Where a person who is employed by the Commission and is by reference to that employment a participant in a scheme under section 1 of the [M47]Superannuation Act 1972 becomes a Commissioner or an additional Commissioner, **[**[F182]the Treasury**]**may determine that his service as a Commissioner or additional Commissioner shall be treated for the purposes of the scheme as service as an employee of the Commission; and his rights under the scheme shall not be affected by paragraphs 5 or 7(2).

Textual Amendments

F182 Words substituted by S.I. 1981/1670, **arts. 2(2)**, 3(5)

Marginal Citations

M46 1972 c. 11.

M47 1972 c. 11.

10 The [M48]Employers' Liability (Compulsory Insurance) Act 1969 shall not require insurance to be effected by the Commission.

Marginal Citations

M48 1969 c. 57.

Proceedings and business

11 (1) Subject to the provisions of this Act, the Commission may make arrangements for the regulation of their proceedings and business, and may vary or revoke those arrangements.

(2) The arrangements may, with the approval of the Secretary of State, provide for the discharge under the general direction of the Commission of any of the Commission's functions by a committee of the Commission, or by two or more Commissioners.

(3) Anything done by or in relation to a committee, or Commissioners, in the discharge of the Commission's functions shall have the same effect as if done by or in relation to the Commission.

12 The validity of any proceedings of the Commission shall not be affected by any vacancy among the members of the Commission or by any defect in the appointment of any Commissioner or additional Commissioner.

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13 The quorum for meetings of the Commission shall in the first instance be determined by a meeting of the Commission attended by not less than five Commissioners.

Finance[F183]

Textual Amendments

F183 Para. 15 substituted by Race Relations Act 1976 (c. 74), **Sch. 4 para. 9**

14 The Secretary of State shall pay to the Commission expenses incurred or to be incurred by it under paragraphs 6, 7 and 8, and, with the consent of the Minister for the Civil Service and the Treasury, shall pay to the Commission such sums as the Secretary of State thinks fit for enabling the Commission to meet other expenses.

Modifications etc. (not altering text)

C68 Sch. 3 para. 14: functions which were exercisable jointly by the Minister for the Civil Service and the Treasury now exercisable by the Treasury: S.I. 1981/1670, **art. 2(4)**

15 (1) The accounting year of the Commission shall be the twelve months ending on 31st March.

(2) It shall be the duty of the Commission—

(a) to keep proper accounts and proper records in relation to the accounts;

(b) to prepare in respect of each accounting year a statement of accounts in such form as the Secretary of State may direct with the approval of the Treasury; and

(c) to send copies of the statement to the Secretary of State and the Comptroller and Auditor General before the end of the month of November next following the accounting year to which the statement relates.

(3) The Comptroller and Auditor General shall examine, certify and report on each statement received by him in pursuance of this Schedule and shall lay copies of each statement and of his report before each House of Parliament.

Disqualification Acts

16 (1) In Part II of Schedule 1 to the [M49]House of Commons Disqualification Act 1975 and Part II of Schedule 1 to the [M50]Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified under those Acts) there shall (at the appropriate place in alphabetical order) be inserted the following entry:— " The Equal Opportunities Commission "

(2) In Part III of Schedule 1 to each of those Acts of 1975 (other disqualifying offices) there shall (at the appropriate place in alphabetical order) be inserted the following entry:— " Additional Commissioner of the Equal Opportunities Commission "

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Changes to legislation: *Sex Discrimination Act 1975 (repealed) is up to date with all changes known to be in force on or before 16 July 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)*

Modifications etc. (not altering text)

C69 The text of ss. 8(1)(6), 18(2), 21(2), Sch. 1 Pt. I paras. 1–5, 6(1), Sch. 1 Pt. II, Sch. 3 para. 16(1)(2), Sch. 5 para. 1 and Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M49 1975 c. 24.

M50 1975 c. 25.

SCHEDULE 4

Section 83.

TRANSITIONAL PROVISIONS

1 Section 12 does not apply, as respects any organisation,—

(a) to contributions or other payments falling to be made to the organisation by its members or by persons seeking membership, or

(b) to financial benefits accruing to members of the organisation by reason of their membership,

where the payment falls to be made, or the benefit accrues, before 1st January 1978 under rules of the organisation made before the passing of this Act.

2 Until 1st January 1978, section 12(2) does not apply to any organisation of members of the teaching profession where at the passing of this Act—

(a) the organisation is an incorporated company with articles of association, and

(b) the articles of association restrict membership to persons of one sex (disregarding any minor exceptions), and

(c) there exists another organisation within paragraphs (a) and (b) which is for persons of the opposite sex and has objects, as set out in the memorandum of association, which are substantially the same as those of the first mentioned organisation, subject only to differences consequential on the difference of sex.

3 (1) Until a date specified by order made by the Secretary of State, the courses of training to be undergone by men as a condition of **[**[F184]registration as midwives under the [M51]Nurses, Midwives and Health Visitors Act 1979**]**must be courses approved in writing by or on behalf of the Secretary of State for the purposes of this paragraph.

(2) . . . . . [F185]

(3) . . . . . [F185]

(4) An order under this paragraph shall be laid in draft before each House of Parliament, and section 6(1) of the [M52]Statutory Instruments Act 1946 (Parliamentary control by negative resolution of draft instruments) shall apply accordingly.

Textual Amendments

F184 Words substituted by Nurses, Midwives and Health Visitors Act 1979 (c. 36), s. 24(2), **Sch. 7 para. 26**

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F185 Sch. 4 para. 3(2)(3) repealed by Nurses, Midwives and Health Visitors Act 1979 (c. 36), s. 24(2), **Sch. 8**

Marginal Citations
M51 1979 c. 36.
M52 1946 c. 36.

4 (1) If the responsible body for any educational establishment which (apart from this sub-paragraph) would be required to comply with the provisions of section 22(b), and of section 25 so far as they apply to acts to which section 22(b) relates, from the commencement of those provisions, is of the opinion that it would be impracticable for it to do so, it may before that commencement apply for an order authorising discriminatory admissions during the transitional period specified in the order.

(2) Section 27(2) to (5) and Schedule 2 shall apply for the purposes of sub-paragraph (1) as they apply in relation to transitional exemption orders.

5 (1) Section 6 of the [M53]Equal Pay Act 1970 (as amended by paragraph 3 of Schedule 1 to this Act) shall apply as if the references to death or retirement in subsection (1A)(b) of the said section 6 included references to sums payable on marriage in pursuance of a contract of employment made before the passing of this Act, or the commutation, at any time, of the right to such sums.

(2) In relation to service within section 1(8) of the said Act of 1970 (service of the Crown) for the reference in this paragraph to a contract of employment made before the passing of this Act there shall be substituted a reference to terms of service entered into before the passing of this Act.

Marginal Citations
M53 1970 c. 41.

SCHEDULE 5

Section 83.

MINOR AND CONSEQUENTIAL AMENDMENTS

Factories Act 1961 (c. 34)

1 In section 15(2) (unfenced machinery : operations carried out by specified male persons) the word “male” shall be omitted.

Modifications etc. (not altering text)
C70 The text of ss. 8(1)(6), 18(2), 21(2), Sch. 1 Pt. I paras. 1–5, 6(1), Sch. 1 Pt. II, Sch. 3 para. 16(1)(2), Sch. 5 para. 1 and Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

2 . . . . . **F186**

Status: *Point in time view as at 01/10/1997. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F186 S. 20(4)(5), Sch. 5 para. 2 repealed by Nurses, Midwives and Health Visitors Act 1979 (c. 36, SIF 83:1), **Sch. 8**

3 . . . . . **F187**

Textual Amendments

F187 Sch. 5 para. 3 repealed by Sex Discrimination Act 1986 (c. 59, SIF 106:1), s. 9, **Sch. Pt. III**

4 . . . . . **F188**

Textual Amendments

F188 Sch. 5 para. 4 repealed by Employment Protection Act 1975 (c. 71), **Sch. 18**

SCHEDULE 6

Section 83.

FURTHER REPEALS

Modifications etc. (not altering text)

C71 The text of ss. 8(1)(6), 18(2), 21(2), Sch. 1 Pt. I paras. 1–5, 6(1), Sch. 1 Pt. II, Sch. 3 para. 16(1)(2), Sch. 5 para. 1 and Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Session and Chapter	Short Title	Extent of Repeal
7 & 8 Geo. 6. c. 31.	Education Act 1944.	Section 24(3).
14 & 15 Geo. 6. c. 53.	Midwives Act 1951.	In section 11(1), the words " or a male person ".
10 & 11 Eliz. 2. c. 47.	Education (Scotland) Act 1962.	Section 82(2).

Status:
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Changes to legislation:
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