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[F1F2F3]

Textual Amendments

F1 S. 2A inserted (1.5.1999) by S.I. 1999/1102, **reg. 2(1)**

F2 S. 3A inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 4**

F3 S. 4A inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 5**

[F4 1 Direct and indirect discrimination against women

(1) In any circumstances relevant for the purposes of any provision of this Act, other than a provision to which subsection (2) applies, a person discriminates against a woman if—

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(a) on the ground 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.

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

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

[[F5](b) he applies to her a provision, criterion or practice which he applies or would apply equally to a man, but—

(i) which puts or would put women at a particular disadvantage when compared with men,

(ii) which puts her at that disadvantage, and

(iii) which he cannot show to be a proportionate means of achieving a legitimate aim.**]**

(3) Subsection (2) applies to—

(a) any provision of Part 2,

(b) sections 35A and 35B [F6], and

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

(4) [F7]. . . . . .**]**

Textual Amendments

F4 S. 1 substituted (12.10.2001) by S.I. 2001/2660, **reg. 3**

F5 S. 1(2)(b) substituted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 3(1)**

F6 Sections 35A and 35B were inserted by the Courts and Legal Services Act 1990 (c. 41), **sections 64** and 65.

F7 S. 1(4) repealed (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 251(3), 261(4), 263, **Sch. 30**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

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.

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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.

[F1 3 [F8 Discrimination against married persons and civil partners in employment field]

(1) In any circumstances relevant for the purposes of any provision of Part 2, a person discriminates against a person ("A") who fulfils the condition in subsection (2) if—
  (a) on the ground of the fulfilment of the condition, he treats A less favourably than he treats or would treat a person who does not fulfil the condition, or
  (b) he applies to A a provision, criterion or practice which he applies or would apply equally to a person who does not fulfil the condition, but—
    (i) which puts or would put persons fulfilling the condition at a particular disadvantage when compared with persons not fulfilling the condition, and
    (ii) which puts A at that disadvantage, and
    (iii) which he cannot show to be a proportionate means of achieving a legitimate aim.

(2) The condition is that the person is—
  (a) married, or
  (b) a civil partner.

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

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Textual Amendments

F8 S. 3 substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), **ss. 251(2)**, 263; S.I. 2005/3175, **art. 2(1)**, Sch. 1

[F2 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 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,

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(b) sections 35A and 35B, and
(c) any other provision of Part 3, so far as it applies to vocational training.**]**

VALID FROM 06/04/2008

[F9 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
(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

F9 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

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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 **[**[F10]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 **[**[F10]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 **[**[F10]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, **[**[F11]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.

(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

F10 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)**

F11 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.

[[F3]**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

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(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

(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.**]**

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 **[**[F12]section 1, 2 or 3A**]**,

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.

[[F13](3) Each of the following comparisons, that is—

(a) a comparison of the cases of persons of different sex under section 1(1) or (2),

(b) a comparison of the cases of persons required for the purposes of section 2A, and

(c) a comparison of the cases of persons who do and who do not fulfil the condition in section 3(2),

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must be such that the relevant circumstances in the one case are the same, or not materially different, in the other.**]**

Textual Amendments

F12 Words in s. 5(1)(b) substituted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 6**

F13 S. 5(3) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), **ss. 251(3)**, 263; S.I. 2005/3175, **art. 2(1)**, Sch. 1

PART II

[F14EMPLOYMENT FIELD]

Textual Amendments

F14 Pt. 2 Heading: words substituted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 7(1)**

Modifications etc. (not altering text)

C4 Part II extended by Employment Protection Act 1975 (c. 71), **s. 122(2)**

C5 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

Discrimination by employers

6 F15. . . 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.

[F16(2A) It is unlawful for an employer, in relation to employment by him at an establishment in Great Britain, to subject to harassment—

(a) a woman whom he employs, or

(b) a woman who has applied to him for employment.**]**

(3) F17

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[[F18](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 . . . [F19]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

(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.

[[F20](8) In its application to any discrimination falling within section 2A, this section shall have effect with the omission of subsections (4) to (6).**]**

Textual Amendments

F15 S. 6 heading: words omitted (1.10.2005) by virtue of The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 7(3)**

F16 S. 6(2A) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 7(4)**

F17 S. 6(3) repealed by Sex Discrimination Act 1986 (c. 59, SIF 106:1), ss. 1(1), 9, **Sch. Pt. II**

F18 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)**

F19 Words repealed by Sex Discrimination Act 1986 (c. 59, SIF 106:1), s. 9, **Sch. Pt. II**

F20 S. 6(8) inserted (1.5.1999) by S.I. 1999/1102, **reg. 3(1)**

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Modifications etc. (not altering text)

C6 S. 6 modified (W.) (12.5.2006) by The Education (Modification of Enactments Relating to Employment) (Wales) Order 2006 (S.I. 2006/1073), art. 3, **Sch.**

C7 S. 6 modified by S.I. 1989/901, art. 3, **Sch.**

C8 S. 6 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)**)

C9 S. 6 modified (1.9.1999) by S.I. 1999/2256, art. 3, **Sch.**

C10 S. 6 modified (E.) (1.9.2003) by The Education (Modification of Enactments Relating to Employment) (England) Order 2003 (S.I. 2003/1964), art. 3, **Sch.**

[F21 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—

"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

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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

F21 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

[[F22](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**]**

(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

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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 11 May 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)*

(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

[F23](f) . . . . . .

(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

[[F24](i) by a married couple,

(ii) by a couple who are civil partners of each other, or

(iii) by a married couple or a couple who are civil partners of each other**]**.

(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) [F25]. . . 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

F22 S. 7(2)(*ba*) inserted by Sex Discrimination Act 1986 (c. 59, SIF 106:1), **s. 1(2)**

F23 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**)

F24 S. 7(2)(h): (i)-(iii) and preceding word substituted (5.12.2005) for words by Civil Partnership Act 2004 (c. 33), **ss. 251(3)**, 263; S.I. 2005/3175, **art. 2(1)**, Sch. 1

F25 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)

C11 S. 7 modified by S.I. 1989/901, art. 3, **Sch.**

C12 S. 7 modified (W.) (12.5.2006) by The Education (Modification of Enactments Relating to Employment) (Wales) Order 2006 (S.I. 2006/1073), art. 3, **Sch.**

C13 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)**)

C14 S. 7 modified (1.9.1999) by S.I. 1999/2256, art. 3, **Sch.**

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C15 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.**

[F26 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.

F27 (4) **[** Subsection (1) does not apply in relation to discrimination against a person whose gender has become the acquired gender under the Gender Recognition Act 2004.**]**

Textual Amendments

F26 Ss. 7A, 7B inserted (1.5.1999) by S.I. 1999/1102, **reg. 4(1)**

F27 S. 7A(4) inserted (4.4.2005) by Gender Recognition Act 2004 (c. 7), ss. 14, 26, **Sch. 6 para. 2**; S.I. 2005/54, **art. 2**

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.

[[F28](3) Subsection (2) does not apply in relation to discrimination against a person whose gender has become the acquired gender under the Gender Recognition Act 2004.**]**

[[F29](4) Paragraph (a) of subsection (2) does not apply in relation to the filling of a vacancy at a time when the employer already has employees falling within subsection (5)—

(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.

(5) An employee falls within this subsection if the employee does not intend to undergo and is not undergoing gender reassignment and either—

(a) the employee has not undergone gender reassignment; or

(b) the employee's gender has become the acquired gender under the Gender Recognition Act 2004 [F30].**]**

Textual Amendments

F26 Ss. 7A, 7B inserted (1.5.1999) by S.I. 1999/1102, **reg. 4(1)**

F28 S. 7B(3) substituted (4.4.2005) by Gender Recognition Act 2004 (c. 7), ss. 14, 26, **Sch. 6 para. 3**; S.I. 2005/54, **art. 2**

F29 S. 7B(4)(5) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 9**

F30 2004 c. 7.

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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 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).

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(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.

[[F31](7) In its application to any discrimination falling within section 2A, this section shall have effect with the omission of subsections (3), (4) and (5)(b).**]**

Textual Amendments

F26 Ss. 7A, 7B inserted (1.5.1999) by S.I. 1999/1102, **reg. 4(1)**

F31 S. 8(7) inserted (1.5.1999) by S.I. 1999/1102, **reg. 3(2)**

Modifications etc. (not altering text)

C16 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

M5 1970 c. 41.

M6 1970 c. 41.

M7 1970 c. 41.

M8 1970 c. 41.

9 [F32]. . . contract workers.

(1) This section applies to any work **[**[F33]at an establishment in Great Britain,**]** 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.

[[F34](2A) It is unlawful for a principal, in relation to contract work at an establishment in Great Britain, to subject a contract worker to harassment.**]**

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(3) **[**[F35]Subject to subsection (3A),**]**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.

[[F36](3A) Subsection (3) does not apply in relation to discrimination falling within section 2A.

(3B) In relation to discrimination falling within section 2A, the principal does not contravene subsection (2)(a), (b), (c) or (d) by doing any act in relation to a woman if—

(a) he does it at a time when, if the work were to be done by a person taken into his employment—

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

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

(b) he can show that the act is reasonable in view of the circumstances relevant for the purposes of paragraph (a) and any other relevant circumstances.

(3C) In relation to discrimination falling within section 2A, 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, there would be a supplementary genuine occupational qualification for the job.**]**

[[F37](3D) Subsections (3B) and (3C) do not apply in relation to discrimination against a person whose gender has become the acquired gender under the Gender Recognition Act 2004.**]**

(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.

Textual Amendments

F32 S. 9: words in heading omitted (1.10.2005) by virtue of The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 10(2)**

F33 Words in s. 9(1) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 10(3)**

F34 S. 9(2A) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 10(4)**

F35 Words in s. 9(3) inserted (1.5.1999) by S.I. 1999/1102, **reg. 4(2)**

F36 S. 9(3A)(3B)(3C) inserted (1.5.1999) by S.I. 1999/1102, **reg. 4(3)**

F37 S. 9(3D) inserted (4.4.2005) by Gender Recognition Act 2004 (c. 7), ss. 14, 26, **Sch. 6 para. 4**; S.I. 2005/54, **art. 2**

Modifications etc. (not altering text)

C17 S. 9 modified (W.) (12.5.2006) by The Education (Modification of Enactments Relating to Employment) (Wales) Order 2006 (S.I. 2006/1073), art. 3, **Sch.**

C18 S. 9 modified by S.I. 1989/901, art. 3, **Sch.**

C19 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. 1999/2556, **art. 1(2)**

C20 S. 9 modified (1.9.1999) by S.I. 1999/2256, art. 3, **Sch.**

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C21 S. 9 modified (E.) (1.9.2003) by The Education (Modification of Enactments Relating to Employment) (England) Order 2003 (S.I. 2003/1964), art. 3, **Sch.**

10 Meaning of employment at establishment in Great Britain.

[[F38](1) For the purposes of this Part and section 1 of the Equal Pay Act 1970 ("the relevant purposes"), employment is to be regarded as being at an establishment in Great Britain if—

(a) the employee does his work wholly or partly in Great Britain, or

(b) the employee does his work wholly outside Great Britain and subsection (1A) applies.

(1A) This subsection applies if—

(a) the employer has a place of business at an establishment in Great Britain,

(b) the work is for the purposes of the business carried on at that establishment, and

(c) the employee is ordinarily resident in Great Britain—

(i) at the time when he applies for or is offered the employment, or

(ii) at any time during the course of the employment.**]**

[[F39](2) The reference to "employment" in subsection (1) includes—

(a) employment on board a ship **[**[F40], only if the ship is**]** registered at a port of registry in Great Britain, and

(b) employment on aircraft or hovercraft **[**[F41], only if the aircraft or hovercraft is**]** registered in the United Kingdom and operated by a person who has his principal place of business, or is ordinarily resident, in 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 **[**[F42]and subsection (1A) does not apply**]**) 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 exploration of the sea bed or subsoil or the exploitation of their natural resources, Her Majesty may by Order in Council **[**[F43] provide that subsections (1) and (3) shall have effect as if—

(a) the reference to Great Britain in each of paragraphs (a) and (b) of subsection (1), and

(b) each of the references to Great Britain in subsections (1A) to (3),

included**]** any area for the time being designated under section 1(7) of the [M9]Continental Shelf Act 1964, 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 [M10]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.

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[[F44](8) Subsections (1) to (4) or, where an Order in Council under subsection (5) is in force, those subsections as modified by the Order, apply for the purposes of determining whether contract work, within the meaning given by section 9, is at an establishment in Great Britain, but so apply with the following modifications—

(a) a reference to employment is to be read as a reference to work to which section 9 applies, and

(b) "employee" and "employer" shall be read (respectively) as "contract worker" and "principal", with "contract worker" and "principal" having the meaning given by section 9.**]**

Textual Amendments

F38 S. 10: (1)(1A) substituted (1.10.2005) for (1) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 11(2)**

F39 S. 10(2) substituted (16.12.1999) by S.I. 1999/3163, **reg. 2**

F40 Words in s. 10(2)(a) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 11(3)**

F41 Words in s. 10(2)(b) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 11(4)**

F42 Words in s. 10(3) substituted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 11(5)**

F43 Words in s. 10(5) substituted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 11(6)**

F44 S. 10(8) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 11(7)**

Modifications etc. (not altering text)

C22 S. 10(1) extended by S.I. 1987/930, **art. 2**

C23 S. 10(5) extended by Employment (Continental Shelf) Act 1978 (c. 46), **s. 1(2)**

Marginal Citations

M9 1964 c. 29.

M10 1970 c. 41.

[[F45]*Discrimination against office-holders etc.*

Textual Amendments

F45 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,

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(b) the office or post is one to which appointments are made by a Minister of the Crown, a government department, the **[**[F46]Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government**]** 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,

[F47](ga) **[** a member of the Welsh Assembly Government,**]**

(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,

(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;

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(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.

Textual Amendments

F45 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)**

F46 Words in s. 10A(1)(b) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 3(2)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32))

F47 S. 10A(3)(ga) inserted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 4(a)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32))

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.

Status: *Point in time view as at 01/10/2007. 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 11 May 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) 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
  (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;

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

(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

F45 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 [F48]. . ., 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.

[[F49](2A) It is unlawful for a firm, in relation to a position as partner in the firm, to subject to harassment a woman who holds or has applied for that position.**]**

(3) **[**[F50]Subject to subsection (3A),**]**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.

[[F51](3A) Subsection (3) does not apply in relation to discrimination falling within section 2A.

(3B) In relation to discrimination falling within section 2A, subsection (1) does not make unlawful a firm's treatment of a person in relation to a position as partner where—

(a) if it were employment—

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

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

(b) the firm can show that the treatment is reasonable in view of the circumstances relevant for the purposes of paragraph (a) and any other relevant circumstances.

(3C) In relation to discrimination falling within section 2A, subsection (1)(a), (c) and, so far as it relates to expulsion, (d)(ii) do not apply to a position as partner where, if it were employment, there would be a supplementary genuine occupational qualification for the job.**]**

[[F52](3D) Subsections (3B) and (3C) do not apply in relation to discrimination against a person whose gender has become the acquired gender under the Gender Recognition Act 2004.**]**

(4) [F53]. . . . . .

(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 [M11]Limited Partnerships Act 1907.

[[F54](6) This section applies to a limited liability partnership as it applies to a firm; and, in its application to a limited liability partnership, references to a partner in a firm are references to a member of the limited liability partnership.**]**

Textual Amendments

F48 Words repealed by Sex Discrimination Act 1986 (c. 59, SIF 106:1), ss. 1(3), 9, **Sch. Pt. II**

F49 S. 11(2A) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 14(2)**

F50 Words in s. 11(3) inserted (1.5.1999) by S.I. 1999/1102, **reg. 4(4)**

F51 S. 11(3A)(3B)(3C) inserted (1.5.1999) by S.I. 1999/1102, **reg. 4(5)**

F52 S. 11(3D) inserted (4.4.2005) by Gender Recognition Act 2004 (c. 7), ss. 14, 26, **Sch. 6 para. 5**; S.I. 2005/54, **art. 2**

F53 S. 11(4) omitted (1.10.2005) by virtue of The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 14(3)**

F54 S. 11(6) inserted (6.4.2001) by S.I. 2001/1090, reg. 9, **Sch. 5 para. 6**

Marginal Citations

M11 1907 c. 24.

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

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(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.

[[F55](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) [F56] . . . . . .

Textual Amendments

F55 S. 12(3A) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 15(2)**

F56 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—

(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.

[[F57](1A) It is unlawful for a body to which this section applies, in relation to an authorisation or qualification of a kind mentioned in subsection (1), to subject to harassment a woman who holds or applies for such an authorisation or qualification.**]**

(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.

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

[[F58](5) Subsection (1A) does not apply to harassment which is rendered unlawful by section 22 or 23.**]**

Textual Amendments

F57 S. 13(1A) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 16(2)**

F58 S. 13(5) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 16(3)**

[[F59]14 Persons concerned with provision of vocational training.

[[F60](1) It is unlawful, in the case of a woman seeking or receiving vocational training, for any person who provides, or makes arrangements for the provision of, facilities for vocational training to discriminate against her—

(a) in the arrangements that person makes for the purpose of selecting people to receive vocational training,

(b) in the terms on which that person affords her access to any vocational training or facilities concerned with vocational training,

(c) by refusing or deliberately omitting to afford her such access,

(d) by terminating her vocational training, or

(e) by subjecting her to any detriment during the course of her vocational training.

(1A) It is unlawful for a provider of vocational training, in relation to such training, to subject to harassment a woman—

(a) to whom he is providing such training, or

(b) who has asked him to provide such training.

(1B) In this section "vocational training", in relation to a woman, includes (if it would not otherwise do so) any training which would help fit her for any employment.**]**

(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.

Textual Amendments

F59 S. 14 substituted by Employment Act 1989 (c. 38, SIF 43:1, 106:1), **s. 7(1)**

F60 S. 14(1)(1A)(1B) substituted (1.10.2005) for (1) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 17(1)**

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

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(b) by refusing or deliberately omitting to provide any of its services, or

(c) in the way it provides any of its services.

[F61](1A) **[** It is unlawful for an employment agency, in relation to the provision of its services, to subject to harassment a woman—

(a) to whom it provides such services, or

(b) who has requested the provision of such services.**]**

[F62](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 [M12]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.

(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 **[**[F63], 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 **[**[F64]level 5 on the standard scale**].]**

Textual Amendments

F59 S. 14 substituted by Employment Act 1989 (c. 38, SIF 43:1, 106:1), **s. 7(1)**

F61 S. 15(1A) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 18(2)**

F62 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**

F63 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**

F64 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

M12 1973 c. 50.

16 Manpower Services Commission etc.

[[F65](1) It is unlawful for the **[**[F66]Secretary of State . . . [F67]**]**to discriminate **[**[F68], or subject a woman to harassment**]** in the provision of facilities or services under section 2 of the Employment and Training Act 1973.**]**

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[[F69](1A) It is unlawful for Scottish Enterprise or Highlands and Islands Enterprise to discriminate **[**[F70], or subject a woman to harassment**]** 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 **[**[F71]Secretary of State**]**is acting as an employment agency.

Textual Amendments

F65 S. 16(1) substituted by Employment and Training Act 1981 (c. 57, SIF 43:1), s. 9, **Sch. 2 para. 18**

F66 Words substituted by Employment Act 1988 (c. 19, SIF 43:5), s. 33, **Sch. 3 Pt. II para. 11(2)**

F67 Words repealed by Employment Act 1989 (c. 38, SIF 43:1), s. 29(4), **Sch. 7 Pt. I**

F68 Words in s. 16(1) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 19(2)**

F69 S. 16(1A) inserted (S.) (1.4.1991) by Enterprise and New Towns (Scotland) Act 1990 (c. 35, SIF 64), **s. 8**

F70 Words in s. 16(1A) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 19(3)**

F71 Words substituted by Employment Act 1989 (c. 38, SIF 43:1, 106:1), s. 29(3), **Sch. 6 para. 12**

Special case

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 **[**[F72]it**]** in relation to a constable or that office.

[[F73](1A) For the purposes of section 41—

(a) the holding of the office of constable shall be treated as employment by the chief officer of police (and as not being employment by any other person); and

(b) anything done by a person holding such an office in the performance, or purported performance, of his functions shall be treated as done in the course of that employment.**]**

(2) Regulations made under **[**[F74]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.

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(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, **[**[F75]by virtue of subsection (1) or (1A)**]**, 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.

[[F76](5A) A police authority may, in such cases and to such extent as appear to it to be appropriate, pay out of the police fund—

(a) any compensation, costs or expenses awarded in proceedings under this Act against a person under the direction and control of the chief officer of police;

(b) any costs or expenses incurred and not recovered by such a person in such proceedings; and

(c) any sum required in connection with the settlement of a claim that has or might have given rise to such proceedings.**]**

(6) Subsections (1) **[**[F77], (1A)**]** 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) **[**[F78]Subject to subsection (9),**]** 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 **[**[F79]the Police Act 1996**]**,

(aa) [F80]. . . . . .

(b) in relation to any other person or appointment means the officer **[**[F81]or other person**]** 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 **[**[F79]the Police Act 1996**]**,

(aa) [F82]. . . . . .

(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;

"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 **[**[F79]the Police Act 1996**]**. . . , and in any other case means money provided by the police authority;

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"specified Act" means the [M13]Metropolitan Police Act 1829, the [M14]City of London Police Act 1839 or **[**[F79]the Police Act 1996**]**.

(8) In the application of this section to Scotland, in subsection (7) for any reference to **[**[F83]the Police Act 1996**]** there shall be substituted a reference to the [M15]Police (Scotland) Act 1967, and for the reference to **[**[F84]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.

[[F85](9) In relation to a constable of a force who is not under the direction and control of the chief officer of police for that force, references in this section to the chief officer of police are references to the chief officer for the force under whose direction and control he is, and references in this section to the police authority are references to the relevant police authority for that force.**]**

Textual Amendments

F72 Word in s. 17(1)(b) substituted (19.7.2003) by The Sex Discrimination Act 1975 (Amendment) Regulations 2003 (S.I. 2003/1657), **reg. 2(2)**

F73 S. 17(1A) inserted (19.7.2003) by The Sex Discrimination Act 1975 (Amendment) Regulations 2003 (S.I. 2003/1657), **reg. 2(3)**

F74 Words in s. 17(2) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 7 Pt. II para. 27(2)**

F75 Words in s. 17(5) substituted (6.4.2007) by Equality Act 2006 (c. 3), **ss. 83(2)**, 93 (with s. 92); S.I. 2006/1082, **art. 4(a)**

F76 S. 17(5A) inserted (19.7.2003) by The Sex Discrimination Act 1975 (Amendment) Regulations 2003 (S.I. 2003/1657), **reg. 2(4)**

F77 Word in s. 17(6) inserted (19.7.2003) by The Sex Discrimination Act 1975 (Amendment) Regulations 2003 (S.I. 2003/1657), **reg. 2(5)**

F78 Words in s. 17(7) inserted (19.7.2003) by The Sex Discrimination Act 1975 (Amendment) Regulations 2003 (S.I. 2003/1657), **reg. 2(6)**

F79 Words in s. 17(7) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 7 Pt. II para. 27(3)**

F80 S. 17(7): para. (aa) in definition of "chief officer of police" repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 59, 174, 178, Sch. 4 para. 28, **Sch. 17**; S.I. 2006/378, **art. 4**, Sch. para. 13(l)

F81 S: 17(7): words in para. (b) of definition of "chief officer of police" inserted (19.7.2003) by The Sex Discrimination Act 1975 (Amendment) Regulations 2003 (S.I. 2003/1657), **reg. 2(7)**

F82 S. 17(7): para. (aa) in definition of "chief officer of police" repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 59, 174, 178, Sch. 4 para. 28, **Sch. 17**; S.I. 2006/378, **art. 4**, Sch. para. 13(l)

F83 Words in s. 17(8) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 7 Pt. II para. 27(4)**

F84 Words in s. 17(8) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 7 Pt. II para. 27(4)**

F85 S. 17(9) inserted (19.7.2003) by The Sex Discrimination Act 1975 (Amendment) Regulations 2003 (S.I. 2003/1657), **reg. 2(9)**

Marginal Citations

M13 1829 c. 44.

M14 1839 c. xciv.

M15 1967 c. 77.

Status: *Point in time view as at 01/10/2007. 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 11 May 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)*

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 [M16]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

M16 1952 c. 52.

[[F86]19 Ministers of religion etc.

(1) Nothing in this Part shall make it unlawful to apply a requirement in relation to employment where—
- (a) the employment is for purposes of an organised religion,
- (b) the requirement is one to which subsection (3) applies, and
- (c) the requirement is applied—
  - (i) so as to comply with the doctrines of the religion, or
  - (ii) because of the nature of the employment and the context in which it is carried out, so as to avoid conflicting with the strongly-held religious convictions of a significant number of the religion's followers.

(2) Nothing in section 13 shall make it unlawful to apply a requirement in relation to an authorisation or qualification (as defined in that section) where—
- (a) the authorisation or qualification is for purposes of an organised religion,
- (b) the requirement is one to which subsection (3) applies, and
- (c) the requirement is applied—
  - (i) so as to comply with the doctrines of the religion, or
  - (ii) by the authority or body concerned, or by the person by whom the authority or body acts in a particular case, so as to avoid conflicting with the strongly-held religious convictions of a significant number of the religion's followers.

(3) This subsection applies to—
- (a) a requirement to be of a particular sex,
- (b) a requirement not to be undergoing or to have undergone gender reassignment,
- (c) a requirement relating to not being married or to not being a civil partner,
- (d) a requirement, applied in relation to a person who is married, or is a civil partner, that relates—
  - (i) to the person, or the person's spouse or civil partner, not having a living former spouse or a living former civil partner, or

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(ii) to how the person, or the person's spouse or civil partner, has at any time ceased to be married or ceased to be a civil partner.**]**

Textual Amendments

F86 S. 19 substituted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 20(1)**

20 Midwives.

(1) **[**[F87]Until 1st September 1983**]**Section 6(1) does not apply to employment as a midwife.

(2) **[**[F87]Until 1st September 1983**]**Section 6(2)(a) does not apply to promotion, transfer or training as a midwife.

(3) **[**[F87]Until 1st September 1983**]**Section 14 does not apply to training as a midwife.

[F88](4) . . . . . .

Textual Amendments

F87 Words inserted by S.I. 1983/1202, **art. 2**

F88 S. 20(4)(5), Sch. 5 para. 2 repealed by Nurses, Midwives and Health Visitors Act 1979 (c. 36, SIF 83:1), **Sch. 8**

[*[F89]Relationships which have come to an end*

Textual Amendments

F89 S. 20A and cross-heading inserted (19.7.2003) by The Sex Discrimination Act 1975 (Amendment) Regulations 2003 (S.I. 2003/1657), **reg. 3**

[[F90]**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

(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.

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[It is unlawful for the relevant person to subject a woman to harassment where that [F91](4) treatment arises out of or is closely connected to the relevant relationship.**]]**

Textual Amendments

F90 S. 20A and cross-heading inserted (19.7.2003) by The Sex Discrimination Act 1975 (Amendment) Regulations 2003 (S.I. 2003/1657), **reg. 3**

F91 S. 20A(4) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 21**

[X2]21 Mineworkers.

[F92](1) . . . . . .

[F93](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

F92 S. 21(1) repealed by Employment Act 1989 (c. 38, SIF 43:1), s. 29(4), **Sch. 7 Pt. III**

F93 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**.

[[F94]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.

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(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.

(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, F95 . . . (d) a Bill for an Act of the Scottish Parliament. (e) **[**F96a Measure of the National Assembly for Wales, (f) a proposed Measure of the National Assembly for Wales, (g) an Act of the National Assembly for Wales, or (h) a Bill for an Act of the National Assembly for Wales.**]**

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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 **[**[F97]Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government**]**, 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, [F98]. . . (ba) **[**[F99]a Measure or Act of the National Assembly for Wales, or**]** (c) legislation of a kind described in Item 2.
	The courts, &c.
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

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	(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.
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 **[**[F100]Charity Commission**]** 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

F94 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)**

F95 S. 21A(9): word item 1(c) omitted by virtue of The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 4(a)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the

day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32))

F96 S. 21A(9): item 1(e)-(h) inserted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 4(b)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32))

F97 S. 21A(9): words in item 2(d) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 4(c)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32))

F98 S. 21A(9): word in item 3(b) by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 4(d)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32))

F99 S. 21A(9): item 3(ba) inserted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 4(e)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32))

F100 S. 21A(9): words in para. 14 of Table of Exceptions substituted (27.2.2007) by Charities Act 2006 (c. 50), ss. 75, 79, **Sch. 8 para. 57**; S.I. 2007/309, **art. 2**, Sch. (subject to arts. 4-13)

PART III

DISCRIMINATION IN OTHER FIELDS

Modifications etc. (not altering text)

C24 Pt. III (ss. 22–36) excluded by Employment Act 1989 (c. 38, SIF 43:1, 106:1), **ss. 4(1)(b)**, 5(1)(7)

C25 Pt. III (ss. 22–36) excluded by S.I. 1989/2420, **art. 3**

C26 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 [F101]. . . Bodies in charge of educational establishments.

[[F102](1)**]** —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

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

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(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 **[**[F103]managers or**][**[F104]governing body**]**, 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.
F105	**F105**
3A.. . .	. . .
[**F106**	[**F106**
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.
[[F107]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).**]**	**[**[F107]Governing body.**]**
5. Establishment (not falling within paragraphs 1 **[**[F108]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 **[**[F109]73(*c*)or(*d*) of the Education (Scotland) Act 1980**]**	Managers of the educational establishment.

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[[F110]7A. Self-governing school.**]**	**[**[F110]Board of management.**]**
[F111	[F111
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]
[F112	[F112
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.

[[F113](2) It is unlawful for the governing body of an institution of further or higher education to discriminate against a woman in the arrangements it makes for the purpose of selecting people for admission to the institution.

(3) It is unlawful for the governing body of an institution of further or higher education to subject a woman to harassment if that woman is a student at the institution or has applied for admission to the institution.

(4) In subsections (2) and (3) "institution of further or higher education" means—

(a) in England and Wales, an establishment falling within column 1 of paragraph 3B, 4 or 4A of the table in subsection (1);

(b) in Scotland—

(i) a college of further education within the meaning given by section 36(1) of the Further and Higher Education (Scotland) Act 1992 under the management of a board of management within the meaning of Part I of that Act,

(ii) a college of further education managed by an education authority in the exercise of its functions in providing courses of further education within the meaning of section 1(5)(b)(ii) of the Education (Scotland) Act 1980,

(iii) any other educational establishment (not being a school) which provides further education within the meaning of section 1 of the Further and Higher Education (Scotland) Act 1992,

(iv) an institution within the higher education sector (within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992), or

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(v) a central institution (within the meaning of section 135 of the Education (Scotland) Act 1980).**]**

Textual Amendments

F101 S. 22: words in heading omitted (1.10.2005) by virtue of The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 22(1)**

F102 S. 22 renumbered (1.10.2005) as s. 22(1) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 21(2)**

F103 Words repealed (E.W.) by Education Act 1980 (c. 20, SIF 41:1), s. 1(3), **Sch. 1 para. 27**

F104 S. 22: words in Table para. 1 substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 5** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

F105 S. 22: Table para. 3A repealed (1.9.1999) by 1998 c. 31, s. 140(3), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

F106 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**.

F107 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**.

F108 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**

F109 Words substituted by Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 4 para. 6**

F110 S. 22 Table para. 7A repealed (S.) (31.12.2004) by 2000 asp 6, ss. 60(2), 61(2), Sch. 3; S.S.I. 2004/528, **art. 2(b)**

F111 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**.

F112 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**.

F113 S. 22(2)-(4) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 21(3)**

Modifications etc. (not altering text)

C27 S. 22 applied (E.W.) (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt. I**

C28 S. 22 applied (E.W.) (9.5.1994) by S.I. 1994/1084, reg. 8, **Sch. 2 Pt. I**

C29 S. 22 Table paras. 1-5 modified (23.4.1999) by S.I. 1999/988, **art. 2**

[[F114]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

F114 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 **[**[F115]the Education Acts**]**as do not fall under section 22, to do any act which constitutes sex discrimination.

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(2) It is unlawful for an education authority, in carrying out such of its functions under **[**[F116]the Education (Scotland) **[**[F117]Act 1980**]]**as do not fall under section 22, to do any act which constitutes sex discrimination.

Textual Amendments

F115 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))

F116 Words substituted by Education Act 1980 (c. 20, SIF 41:1), **s. 33(2)**

F117 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 **[**[F369]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 **[**[F370]the Education (Scotland) **[**[F371]Act 1980**]]**as do not fall under section 22, to do any act which constitutes sex discrimination.

Extent Information

E2 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Textual Amendments

F369 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))

F370 Words substituted by Education Act 1980 (c. 20, SIF 41:1), **s. 33(2)**

F371 Words substituted (S.) by Education (Scotland) Act 1980 (c. 44), **Sch. 4 para. 7**

[[F118]23A Discrimination by Further Education and Higher Education Funding Councils

It is unlawful for the **[**[F119]the Learning and Skills Council for England, [F120]. . . ,**]]** the Higher Education Funding Council for England or the Higher Education Funding Council for Wales in carrying out their functions under **[**[F121]the Education Acts **[**[F122]and the Learning and Skills Act 2000**]]**, **[**[F123]and for the **[**[F124]Welsh Ministers in carrying out their functions**]** under Part 2 of the Learning and Skills Act 2000”**]** to do any act which constitutes sex discrimination.

Textual Amendments

F118 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**

F119 Words in s. 23A substituted (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. 5(a)**; S.I. 2001/654, art. 2(2), **Sch. Pt. II** (with art. 3); S.I. 2001/1274, art. 2(1), **Sch. Pt. I** (subject to art. 3)

F120 Words in s. 23A omitted (1.4.2006) by virtue of The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 9(1), **Sch. 1 para. 4** (with transitional provisions in art. 7)

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F121 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))

F122 Words in s. 23A inserted (28.7.2000 so far as consequential upon ss. 130, 131, Sch. 8 and 1.4.2001 in relation to England and Wales and otherwise*prosp.*) by 2000 c. 21, ss. 149, 154, **Sch. 9 para. 5(b)**; 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** (subject to savings and transitional provisions in art. 3)

F123 Words in s. 23A inserted (1.4.2006) by virtue of The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 9(1), **Sch. 1 para. 4** (with transitional provisions in art. 7)

F124 Words in s. 23A substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 5** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32))

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

F125 . . . . . .

Textual Amendments

F125 S. 23B repealed (S.) (3.10.2005) by Further and Higher Education (Scotland) Act 2005 (asp 6), ss. 32, 36, **Sch. 3 para. 3**; S.S.I. 2005/419, **art. 2**

[F126 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

F126 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**

F127 23C . . . . . .

Textual Amendments

F127 S. 23C repealed (1.9.1999) by 1998 c. 31, s. 140(3), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

[F128 23D Discrimination by [F129 Training and Development Agency for Schools].

It is unlawful for the [F129 Training and Development Agency for Schools] in carrying out their functions under [F130 any enactment] to do any act which constitutes sex discrimination.]

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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 11 May 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)*

Textual Amendments

F128 S. 23D inserted (21.9.1994) by 1994 c. 30, s. 24, **Sch. 2 para. 5(3)**; S.I. 1994/2204, **art. 2**

F129 S. 23D: words "in the section and in the heading" substituted (1.9.2005) by Education Act 2005 (c. 18), ss. 98, 125(3), **Sch. 14 para. 5**

F130 Words in s. 23D substituted (1.9.2005) by Education Act 2005 (c. 18), s. 98, **Sch. 14 para. 5**

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) . . . . . [F131]

(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 **[**[F132]for the purposes**]**of **[**[F133]the Education Act 1996**]**, or

(d) it provides full-time education for persons who have attained the upper limit of compulsory school age **[**[F134](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

F131 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**

F132 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)**

F133 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))

F134 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. E+W

(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 **[**[F135]the Education Act 1996**]**, namely—

(a) **[**[F136]section 496**]** (power of Secretary of State to require duties under that Act to be exercised reasonably), and

(b) **[**[F137]section 497**]** (powers of Secretary of State where local education authorities etc. are in default),

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shall apply to the performance by a body to which subsection (1) applies of the duties imposed by sections 22 **[**[F138]23, 23A, [F139]. . . 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 **[**[F140]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 **[**[F140]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 **[**[F141]23, 23A, [F139]. . . and 23D**]** under section 66 or otherwise (where the breach is also a contravention of **[**[F142]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 **[**[F143]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 [F144]. . . **[**[F145]3B**]****[**[F146], **[**[F147]7, 7A, 7B or 7C**]]** of the table in section 22;

(ii) an establishment designated under section 24(1) as falling within paragraph . . . [F148](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 **[**[F149]section 485 of the Education Act 1996**]**

[F150](d) . . . . . .

[F151](e) . . . . . .

[[F152](f) the Training and Development Agency for Schools.**]**

Extent Information

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

Textual Amendments

F135 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)**

F136 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)**

F137 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)**

F138 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)**

F139 Word in s. 25(2)(4) repealed (1.9.1999) by 1998 c. 31, s. 140(3), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

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F140 Words substituted by Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 4 para. 8**(*a*)
F141 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)**
F142 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)**
F143 Words substituted by Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 4 para. 8**(*b*)
F144 Word in s. 25(6)(c)(i) repealed (1.9.1999) by 1998 c. 31, s. 140(3), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
F145 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
F146 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)**.
F147 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**.
F148 "(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**
F149 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)**
F150 S. 25(6)(d) repealed (28.7.2000 so far as consequential upon ss. 130, 131, Sch. 8 and 1.4.2001 in relation to England and Wales) by 2000 c. 21, ss. 153, 154, **Sch. 11**; 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)
F151 S. 25(6)(e) repealed (1.9.1999) by 1998 c. 31, s. 140(3), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
F152 Words in s. 25 substituted (1.9.2005) by Education Act 2005 (c. 18), ss. 98, 125(3)(a), **Sch. 14 para. 6**

Modifications etc. (not altering text)
C30 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**
C31 S. 25: transfer of functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**
C32 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**

25 General duty in public sector of education. S

(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 **[**[F372]the Education Act 1996**]**, namely—
(a) **[**[F373]section 496**]** (power of Secretary of State to require duties under that Act to be exercised reasonably), and
(b) **[**[F374]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 **[**[F375]23, 23A, [F376]. . . 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 **[**[F377]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

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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 **[**[F377]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 **[**[F378]23, 23A, [F376]. . . and 23D**]** under section 66 or otherwise (where the breach is also a contravention of **[**[F379]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 **[**[F380]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 [F381]. . . **[**[F382]3B**][**[F383], **[**[F384]or 7**]** 7B or 7C**]** of the table in section 22;

(ii) an establishment designated under section 24(1) as falling within paragraph . . . [F385](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 **[**[F386]section 485 of the Education Act 1996**][**[F387](d) the Further Education Funding Council for England and the Further Education Funding Council for Wales.**]**

[F388](e) . . . . . .

[[F152](f) the Training and Development Agency for Schools.**]**

Extent Information

E3 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Textual Amendments

F152 Words in s. 25 substituted (1.9.2005) by Education Act 2005 (c. 18), ss. 98, 125(3)(a), **Sch. 14 para. 6**

F372 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)**

F373 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)**

F374 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)**

F375 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)**

F376 Word in s. 25(2)(4) repealed (1.9.1999) by 1998 c. 31, s. 140(3), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

F377 Words substituted by Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 4 para. 8**(*a*)

F378 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)**

F379 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)**

F380 Words substituted by Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 4 para. 8**(*b*)

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F381 Word in s. 25(6)(c)(i) repealed (1.9.1999) by 1998 c. 31, s. 140(3), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

F382 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

F383 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)**.

F384 Words in s. 25(6)(c)(i) substituted (31.12.2004) by 2000 asp 6, ss. 60(2), 61(3), Sch. 2 para. 2(2); S.S.I. 2004/528, **art. 2**

F385 "(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**

F386 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)**

F387 S. 25(6)(d) repealed (28.7.2000 so far as consequential upon ss. 130, 131, Sch. 8 and otherwise*prosp.*) by 2000 c. 21, ss. 153, 154, **Sch. 1**

F388 S. 25(6)(e) repealed (1.9.1999) by 1998 c. 31, s. 140(3), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

Modifications etc. (not altering text)

C78 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**

C79 S. 25: transfer of functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

C80 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**

[[F153]25A General duty: post-16 education and training etc.

(1) The Learning and Skills Council for England **[**[F154]and the **[**[F155]Welsh Ministers**]]** 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 **[**[F156]or the **[**[F157]Welsh Ministers by virtue of their functions**]** under Part 2 of the Learning and Skills Act 2000**]**.

[[F158](3) The provisions of section 25 of the Learning and Skills Act 2000 shall be the only sanction for breach of the general duty in subsection (1) by the Learning and Skills Council for England."

(4) There shall be no sanction for breach of the general duty in subsection (1) by the **[**[F159]Welsh Ministers**]**.

(5) Subsections (3) and (4) are 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

F153 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)

F154 Words in s. 25A(1) substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 9(1), **Sch. 1 para. 5(a)** (with transitional provisions in art. 7)

F155 Words in s. 25A(1) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 6(2)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32))

F156 Words in s. 25A(2) substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 9(1), **Sch. 1 para. 5(b)** (with transitional provisions in art. 7)

F157 Words in s. 25A(2) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 6(3)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32))

F158 S. 25A(3)-(5) substituted (1.4.2006) for s. 25A(3) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 9(1), **Sch. 1 para. 5(c)** (with transitional provisions in art. 7)

F159 Words in s. 25A(4) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 6(4)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32))

26 Exception for single-sex establishments.

(1) **[**[F160]Section 22(1)(a) and (b)**][**[F161], 25 and 25A**]** 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), **[**[F162]sections 22(1)(a) and (b)**][**[F161], 25 and 25A**]** do not apply to the admission of boarders and **[**[F163]sections 22(1)(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 **[**[F164]or 25A**]**.

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[[F165](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

F160 Words in s. 26(1) substituted (1.10.2005) by virtue of The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 22(4)(a)**

F161 Words in s. 26(1)(2) substituted (28.7.2000 so far as consequential upon ss. 130, 131, Sch. 8 and 1.4.2001 in relation to England and Wales and otherwise*prosp.*) by 2000 c. 21, ss. 149, 154, **Sch. 9 para. 7(1)(2)**; 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)

F162 Words in s. 26(2) substituted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 22(4)(b)**

F163 Words in s. 26(2) substituted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 22(4)(b)**

F164 Words in s. 26(3) inserted (28.7.2000 so far as consequential upon ss. 130, 131, Sch. 8 and 1.4.2001 in relation to England and Wales and otherwise*prosp.*) by 2000 c. 21, ss. 149, 154, **Sch. 9 para. 7(1)(3)**; 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)

F165 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 **[**[F166]section 22(1)**]** 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.

[[F167](1A) Without prejudice to subsection (1), a transitional exemption order may be made—

(a) in accordance with regulations made by virtue of section 21(5) of the Education and Inspections Act 2006 (which relates to the alteration of maintained schools in England), or

(b) in accordance with paragraph 21 or 22 of Schedule 6 or paragraph 16 or 17 of Schedule 7 to the School Standards and Framework Act 1998 (which relate to the alteration of maintained schools and the rationalisation of school places in Wales).**]**

(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.

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(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.

[[F168](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

F166 Words in s. 27(1) substituted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 22(5)**

F167 S. 27(1A) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), ss. 30, 188, **Sch. 3 para. 3**; S.I. 2007/935, **art. 7(o)**

F168 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**.

Modifications etc. (not altering text)

C33 S. 27(1) applied (1.9.1999) by 1998 c. 31, s. 34, **Sch. 7 Pt. VI para. 16(6)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

28 Exception for physical training.

[F169] . . . . . .

Textual Amendments

F169 S. 28 repealed (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 23(1)(a)**

Goods, facilities, services and premises[F170]

Textual Amendments

F170 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

(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

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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.

[[F171](4) In its application in relation to vocational training to discrimination falling within section 2A, subsection (1)(b) shall have effect as if references to male members of the public, or of a section of the public, were references to members of the public, or of a section of the public, who do not intend to undergo, are not undergoing and have not undergone gender reassignment.**]**

Textual Amendments
F171 S. 29(4) inserted (1.5.1999) by S.I. 1999/1102, **reg. 6**

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.

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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—
- (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—

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(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.

(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, **[**[F172]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

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(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—

(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	**[**[F173]Sections 26 and 27**]** Schedule 4 paragraph 4.

Textual Amendments

F172 Words substituted by Social Security Act 1980 (c. 30, SIF 113:1), **Sch. 4 para. 11**

F173 Words in s. 35 substituted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 23(1)(b)**

VALID FROM 06/04/2008

[[F174]**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

F174 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)**

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Barristers

35A [F175]. . . 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.

(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.

[[F176](2A) It is unlawful for a barrister or barrister's clerk, in relation to a pupillage or tenancy, to subject to harassment a person who is, or who has applied to be, a pupil or tenant in the set of chambers concerned.**]**

(3) It is unlawful for any person, in relation to the giving, withholding or acceptance of instructions to a barrister, **[**[F177] to—
  (a) discriminate against a woman by subjecting her to a detriment, or
  (b) subject a woman to harassment.**]**

.

(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 **[**[F178], but "tenant" shall also include any barrister permitted to work in a set of chambers who is not a tenant (and "tenancy" shall be construed accordingly).**]** .

(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.

Textual Amendments

F175 S. 35A: words in heading omitted (1.10.2005) by virtue of The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 24(2)**

F176 S. 35A(2A) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 24(3)**

F177 Words in s. 35A(3) substituted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 24(4)**

F178 Words in s. 35A(4) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 24(5)**

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Advocates

35B [F179]**. . . 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.

[[F180](2A) It is unlawful for an advocate, in relation to taking any person as that advocate's pupil, to subject to harassment a person who is, or who has applied to be taken as, his pupil.**]**

(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 **[**[F181]by subjecting her to a detriment or to subject her to harassment**]** .

(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.

Textual Amendments

F179 S. 35B: words in heading omitted (1.10.2005) by virtue of The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 25(2)**

F180 S. 35B(2A) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 25(3)**

F181 Words in s. 35B(3) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 25(4)**

[[F182]*Relationships which have come to an end****]***

Textual Amendments

F182 S. 35C and cross-heading inserted (19.7.2003) by The Sex Discrimination Act 1975 (Amendment) Regulations 2003 (S.I. 2003/1657), **reg. 4**

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[F183 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.

F184 **[** (4) It is unlawful for the relevant person to subject a woman to harassment where that treatment arises out of or is closely connected to the relevant relationship.**]]**

Textual Amendments

F183 S. 35C and cross-heading inserted (19.7.2003) by The Sex Discrimination Act 1975 (Amendment) Regulations 2003 (S.I. 2003/1657), **reg. 4**

F184 S. 35C(4) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 26**

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.

(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,

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(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)

C34 Part IV extended by Employment Protection Act 1975 (c. 71), **s. 122(2)**

C35 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)

C36 Pt. IV (ss. 37–42) excluded by S.I. 1989/2420, **art. 3**

37 Discriminatory practices.

[[F185](1) In this section "discriminatory practice" means—

(a) the application of a provision, criterion or practice which results in an act of discrimination which is unlawful by virtue of any provision of Part 2 or 3 taken with section 1(2)(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, or

(b) the application of a requirement or condition which results in an act of discrimination which is unlawful by virtue of any provision of Part 3 taken with section 1(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 **[**[F186]sections 20 to 24 of the Equality Act 2006**]** .

Textual Amendments

F185 S. 37(1) substituted (12.10.2001) by S.I. 2001/2660, **reg. 8(2)**

F186 Words in s. 37(3) substituted (1.10.2007) by virtue of Equality Act 2006 (c. 3), ss. 40, 93, **Sch. 3 para. 7** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

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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 **[**[F187]level 5 on the standard scale**]**.

[[F188](6) Proceedings in respect of a contravention of subsection (1) may be brought only—

(a) by the Commission, and

(b) in accordance with section 25 of the Equality Act 2006.**]**

Textual Amendments

F187 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

F188 S. 38(6) added (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 93, **Sch. 3 para. 8** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

39 Instructions to discriminate.

[[F189](1)**]** 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.

[[F190](2) Proceedings in respect of a contravention of subsection (1) may be brought only—

(a) by the Commission, and

(b) in accordance with section 25 of the Equality Act 2006.**]**

Status: *Point in time view as at 01/10/2007. 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 11 May 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)*

Textual Amendments

F189 S. 39: re-numbered (1.10.2007) as subsection (1) by virtue of Equality Act 2006 (c. 3), ss. 40, 93, **Sch. 3 para. 9** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

F190 S. 39(2) added (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 93, **Sch. 3 para. 9** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

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.

[[F191](3) Proceedings in respect of a contravention of subsection (1) may be brought only—

(a) by the Commission, and

(b) in accordance with section 25 of the Equality Act 2006.**]**

Textual Amendments

F191 S. 40(3) added (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 93, **Sch. 3 para. 10** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

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)

C37 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.**

C38 S. 41 modified by S.I. 1989/901, art. 3, **Sch.**

C39 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.**)

C40 S. 41 modified (1.9.1999) by S.I. 1999/2256, art. 3, **Sch.**

Status: *Point in time view as at 01/10/2007. 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 11 May 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)*

C41 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 **[**[F192]level 5 on the standard scale**]**.

Textual Amendments

F192 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

PART V

GENERAL EXCEPTIONS FROM PARTS II TO IV

[[F193]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;

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(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

F193 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 or are relatively insignificant), being a provision which is contained in a charitable instrument.

[[F194](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 [M17]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

F194 S. 43(3) substituted for s. 43(3)(4) by S.I. 1977/528, **art. 2**

Marginal Citations

M17 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.

Status: *Point in time view as at 01/10/2007. 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 11 May 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)*

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.

(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).

Status: *Point in time view as at 01/10/2007. 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 11 May 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)*

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 **[**[F195]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 **[**[F195]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 **[**[F196]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 **[**[F196]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 **[**[F195]any person**]**in, or in connection with, affording persons access to facilities for training which would help to fit them for employment, where **[**[F195]it reasonably appears to that person**]**that those persons are in special need of training by reason of the period for which they have 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.

[[F197](4) The preceding provisions of this section shall not apply in relation to any discrimination which is rendered unlawful by section 6.**]**

Textual Amendments

F195 Words substituted by Sex Discrimination Act 1986 (c. 59, SIF 106:1), **s. 4(2)**(*a*)(*b*)

F196 Words substituted by Sex Discrimination Act 1986 (c. 59, SIF 106:1), **s. 4(3)**(*a*)(*b*)

F197 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,

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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 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").

Status: *Point in time view as at 01/10/2007. 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 11 May 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) 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 [M18] 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
  - (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
M18 1974 c.37 (**43:3**).

Status: *Point in time view as at 01/10/2007. 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 11 May 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)*

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.

[F198 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.

Textual Amendments

F198 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)

C42 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

[F199 52A Construction of references to vocational training.

In the following provisions, namely—

(a) F200 . . . . . .

(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.**]]**

Textual Amendments

F198 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)

Status: *Point in time view as at 01/10/2007. This version of this Act contains provisions that are not valid for this point in time.*
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F199 S. 52A inserted by Employment Act 1989 (c. 38, SIF 43:1, 106:1), **s. 3(4)**

F200 S. 52A(a) repealed (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 17(2)**

PART VI

F201 . . . . . .

Textual Amendments

F201 Pt. VI repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 11, **Sch. 4**; S.I. 2007/2603, **art. 2** (subject to art. 3) and which words in s. 55(3) substituted (1.4.2008) by The Legislative Reform (Health and Safety Executive) Order 2008 (S.I. 2008/960), art. 22, **Sch. 3** (with art. 21)

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 [M20]Health and Safety at Work etc. Act 1974.

Marginal Citations

M20 1974 c. 37.

Status: *Point in time view as at 01/10/2007. 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 11 May 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)*

PART VII

ENFORCEMENT

General

[F206 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

F206 S. 62 substituted by Race Relations Act 1976 (c. 74), **Sch. 4 para. 3**

Modifications etc. (not altering text)

C45 S. 62 restricted by Estate Agents Act 1979 (c. 38), **ss. 5(3)**, 36(2)

Enforcement in employment field

63 Jurisdiction of [F207 employment tribunals].

(1) A complaint by any person ("the complainant") that another person ("the respondent") —

(a) has committed an act of discrimination [F208 or harassment] against the complainant which is unlawful by virtue of Part II [F209 or section 35A or 35B] , or

(b) is by virtue of section 41 or 42 to be treated as having committed such an act of discrimination [F208 or harassment] against the complainant,

may be presented to an [F210 employment 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.

Textual Amendments

F207 Words in s. 63 heading substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(b)**; S.I. 1998/1658, art. 2, **Sch. 1** (with art. 3)

F208 Words in s. 63(1) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 28(2)**

Status: *Point in time view as at 01/10/2007. This version of this Act contains provisions that are not valid for this point in time.*
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F209 Words in s. 63(1)(a) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 28(3)** (with reg. 2(1))

F210 Words in s. 63(1) substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)**; S.I. 1998/1658, art. 2, **Sch. 1** (with art. 3)

[F211 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 **[**F212or harassment**]** against the complainant which is unlawful by virtue of Part 2 **[**F213or section 35A or 35B**]** , or

(b) is by virtue of section 41 or 42 to be treated as having committed such an act of discrimination **[**F212or harassment**]** 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.

Textual Amendments

F211 S. 63A inserted (12.10.2001) by S.I. 2001/2660, **reg. 5**

F212 Words in s. 63A(2) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 29(2)**

F213 Words in s. 63A(2)(a) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 29(3)**

F214 64 . . . . . .

Textual Amendments

F211 S. 63A inserted (12.10.2001) by S.I. 2001/2660, **reg. 5**

F214 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 **[**F215employment 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

(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.**]**

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(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.

[[F216](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 **[**[F217]section 1(2)(b)**]** or section 3(1)(b), if the respondent proves that the **[**[F218]provision, criterion or practice**]** in question was not applied with the intention of treating the complainant unfavourably on the ground of his sex **[**[F219]or (as the case may be) fulfilment of the condition in section 3(2)**]**, an order may be made under subsection (1)(b) only if the **[**[F215]employment 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.**]**

[F220](2) . . . . . .

(3) If without reasonable justification the respondent to a complaint fails to comply with a recommendation made by an **[**[F215]employment tribunal**]** under subsection (1)(c), then, if they think it just and equitable to do so—

(a) the tribunal may [F221]. . .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) **[**[F222]was not made**]**, the tribunal may make such an order.

Textual Amendments

F211 S. 63A inserted (12.10.2001) by S.I. 2001/2660, **reg. 5**

F215 Words in s. 65(1)(1B)(3)(b) substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)**; S.I. 1998/1658, art. 2, **Sch. 1** (with art. 3)

F216 S. 65(1A)(1B) inserted (25.3.1996) by S.I. 1996/438, **reg. 2(2)**

F217 Words in s. 65(1B) substituted (12.10.2001) by S.I. 2001/2660, **reg. 8(3)(a)**

F218 Words in s. 65(1B) substituted (12.10.2001) by S.I. 2001/2660, **reg. 8(3)(b)**

F219 Words in s. 65(1B) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), **ss. 251(5)**, 263; S.I. 2005/3175, **art. 2**, Sch. 1

F220 S. 65(2) repealed (22.11.1993) by S.I. 1993/2798, **reg. 2**

F221 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**

F222 Words in s. 65(3)(b) substituted (25.3.1996) by S.I. 1996/438, **reg. 2(3)**

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Modifications etc. (not altering text)
C46 S. 65 amended by Employment Protection (Consolidation) Act 1978 (c. 44), **s. 76**

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 **[**[F223]or harassment**]** against the claimant which is unlawful by virtue of Part III, **[**[F224]other than section 35A or 35B,**]** or

(b) is by virtue of section 41 or 42 to be treated as having committed such an act of discrimination **[**[F223]or harassment**]** 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 **[**[F225]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) [F226]. . . 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 [F227]. . ..

[[F228](3A) Subsection (3) does not affect the award of damages in respect of an unlawful act of discrimination falling within section 1(2)(b).**]**

(4) For the avoidance of doubt it is hereby declared that damages in respect of an unlawful act of discrimination **[**[F229]or harassment**]** 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 **[**[F230], or subjected to harassment,**]** 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.

[[F231](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) **[**[F232]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

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(b) the remuneration of assessors appointed under the said section **[**[F233]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 **[**[F234]the Treasury**]**may determine.

(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

F223 Words in s. 66(1) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 30(2)**

F224 Words in s. 66(1)(a) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 30(3)** (with reg. 2(1))

F225 Words inserted by Race Relations Act 1976 (c. 74), **Sch. 4 para. 5(1)**

F226 Words in s. 66(3) omitted (25.3.1996) by virtue of S.I. 1996/438, **reg. 2(4)**

F227 Words in s. 66(3) omitted (25.3.1996) by virtue of S.I. 1996/438, **reg. 2(4)**

F228 S. 66(3A) inserted (12.10.2001) by S.I. 2001/2660, **reg. 7**

F229 Words in s. 66(4) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 30(4)**

F230 Words in s. 66(5) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 30(5)**

F231 S. 66(5A) inserted by Race Relations Act 1976 (c. 74), **Sch. 4 para. 5(2)**

F232 Words substituted by County Courts Act 1984 (c. 28, SIF 34), **Sch. 2 para. 55**(*a*)

F233 "63(1)" substituted by County Courts Act 1984 (c. 28, SIF 34), **Sch. 2 para. 55**(*b*)

F234 Words substituted by S.I. 1981/1670, **arts. 2(2)**, 3(5)

Modifications etc. (not altering text)

C47 S. 66(5): transfer of functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

[[F235]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—

[[F236](a) has committed an act of discrimination or harassment against the claimant which is unlawful by virtue of any 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 **[**[F237]or harassment**]** 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.**]**

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Textual Amendments

F235 S. 66A inserted (12.10.2001) by S.I. 2001/2660,reg. 6

F236 S. 66A(2)(a) substituted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 31(2)**

F237 Words in s. 66A(2)(b) substituted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 31(3)**

[[F238]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

F238 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.

F239 . . . . . .

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Textual Amendments

F239 Ss. 67-73 repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 12, **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

68 Appeal against non-discrimination notice.

F240 . . . . . .

Textual Amendments

F240 Ss. 67-73 repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 12, **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

69 Investigation as to compliance with non-discrimination notice.

F241 . . . . . .

Textual Amendments

F241 Ss. 67-73 repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 12, **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

70 Register of non-discrimination notices.

F242 . . . . . .

Textual Amendments

F242 Ss. 67-73 repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 12, **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

Other enforcement by Commission

71 Persistent discrimination.

F243 . . . . . .

Textual Amendments

F243 Ss. 67-73 repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 12, **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

72 Enforcement of ss. 38 to 40.

F244 . . . . . .

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Textual Amendments

F244 Ss. 67-73 repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 12, **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

73 Preliminary action in employment cases.

F245 . . . . . .

Textual Amendments

F245 Ss. 67-73 repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 12, **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

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 **[**[F246]or subjected to harassment**]** 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.

(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 **[**[F247]the period applicable under subsection (2A)**]** 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.

[[F248](2A) The period applicable for the purposes of subsection (2)(b) is—

(a) eight weeks beginning with the day when the question was served on the respondent, if the question relates to discrimination under—

(i) any provision of Part 2,

(ii) section 35A or 35B, or

(iii) any other provision of Part 3, so far as it applies to vocational training;

(b) a reasonable period, as regards any other question.**]**

(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

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(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 **[**[F249]employment 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.

Textual Amendments

F246 Words in s. 74(1) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 32(2)**

F247 Words in s. 74(2)(b) substituted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 32(3)**

F248 S. 74(2A) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 32(4)**

F249 Words in s. 74(5) substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)**; S.I. 1998/1658, art. 2, **Sch. 1** (with art. 3)

75 Assistance by Commission.

[F250] . . . . . .

Textual Amendments

F250 S. 75 repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 13, **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

Period within which proceedings to be brought

76 Period within which proceedings to be brought.

(1) An **[**[F251]employment tribunal**]** shall not consider a complaint under section 63 unless it is presented to the tribunal before the end of **[**[F252]—

(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.**]**

(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

[[F253](a) the period of six months beginning when the act complained of was done; or

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(b) in a case to which section 66(5) applies, the period of eight months so beginning.**]**

[[F254](2A) Where in England and Wales—

(a) proceedings or prospective proceedings under section 66 relate to the act or omission of a qualifying institution, and

(b) the dispute concerned is referred as a complaint under the student complaints scheme before the end of the period of six months mentioned in subsection (2)(a),

the period allowed by subsection (2)(a) shall be extended by **[**[F255]three months.**]**

(2B) In subsection (2A)—

"qualifying institution" has the meaning given by section 11 of the Higher Education Act 2004;

"the student complaints scheme" means a scheme for the review of qualifying complaints, as defined by section 12 of that Act, that is provided by the designated operator, as defined by section 13(5)(b) of that Act.**]**

[[F256](2C) The period allowed by subsection (2)(a) or (b) shall be extended by three months in the case of a dispute which is referred for conciliation in pursuance of arrangements under section 27 of the Equality Act 2006 (unless the period is extended under subsection (2A)).**]**

[[F257](3) [F258]. . . . . .

(4) [F258]. . . . . .

(5) A court or tribunal may nevertheless consider any such **[**[F259]complaint or claim**]** 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

F251 Words in s. 76(1)(3)(4) substituted (1.8.1998) by 1998 c. 8, **s. 1**; S.I. 1998/1658, art. 2, **Sch. 1** (with art. 3)

F252 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**

F253 Words substituted by Race Relations Act 1976 (c. 74), **Sch. 4 para. 8(a)**

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F254 S. 76(2A)(2B) inserted (1.11.2004) by Higher Education Act 2004 (c. 8), **ss. 19(1)**, 52; S.I. 2004/2781, **art. 3**

F255 Words in s. 76(2A) substituted (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 93, **Sch. 3 para. 14(2)** (with s. 92); S.I. 2007/2603, **art. 2**

F256 S. 76(2C) inserted (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 93, **Sch. 3 para. 14(3)** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

F257 S. 76(3) substituted by Race Relations Act 1976 (c. 74), **Sch. 4 para. 8(b)**

F258 S. 76(3)(4) repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 14(4), **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

F259 Words in s. 76(5) substituted (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 93, **Sch. 3 para. 14(5)** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

PART VIII

SUPPLEMENTAL

[F260 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,

F261 (ca) [the National Assembly for Wales,]

(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—

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(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),

[F262] **[** (ba) a function in connection with proceedings in the National Assembly for Wales (other than a function of the National Assembly for Wales Commission),**]**

(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.

(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

F260 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)**

F261 S. 76A(3)(ca) inserted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 7(2)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32))

F262 S. 76A(4)(ba) inserted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 7(3)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32))

[[F263]**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 **[**[F264]Welsh Ministers**]** 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 **[**[F265]Welsh Ministers**]**, make an order under subsection (1) in respect of a person all of whose functions are public functions in relation to Wales.

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(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

F263 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**

F264 Words in s. 76B(3)(a) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 8(a)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32))

F265 Words in s. 76B(3)(b) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 8(b)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32))

[[F266]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.

(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—

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(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

F266 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**

[F267 76D Specific duties: enforcement

F268 . . . . . .**]**

Textual Amendments

F267 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)**

F268 S. 76D repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 15, **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

[F269 76E Codes of practice

F270 . . . . . .**]**

Textual Amendments

F269 S. 76E inserted (16.2.2006) by Equality Act 2006 (c. 3), **s. 86** (with s. 92)

F270 S. 76E repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 16, **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

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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 [M21]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 [M22]Equal Pay Act 1970 applies where the contract is made with the assistance of a conciliation officer;

[[F271](aa) to a contract settling a complaint to which section 63(1) of this Act or section 2 of the [M23]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.

[[F272F273](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 **[**[F274]advice from a relevant independent adviser**]]** as to the terms and effect of the proposed contract and in particular its effect on his ability to pursue his complaint before an **[**[F275]employment tribunal**]**;

(d) there must be in force, when the adviser gives the advice, a **[**[F276]contract of insurance, or an indemnity provided for members of a profession or professional body,**]** 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

(f) the contract must state that the conditions regulating compromise contracts under this Act are satisfied.

[[F272](4B) A person is a relevant independent adviser for the purposes of subsection (4A)(c)—

(a) if he is a qualified lawyer,

(b) if he is an officer, official, employee or member of an independent trade union who has been certified in writing by the trade union as competent to give advice and as authorised to do so on behalf of the trade union,

(c) if he works at an advice centre (whether as an employee or a volunteer) and has been certified in writing by the centre as competent to give advice and as authorised to do so on behalf of the centre, or

(d) if he is a person of a description specified in an order made by the Secretary of State.

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(4BA) But a person is not a relevant independent adviser for the purposes of subsection (4A)(c) in relation to the complainant—

(a) if he is, is employed by or is acting in the matter for the other party or a person who is connected with the other party,

(b) in the case of a person within subsection (4B)(b) or (c), if the trade union or advice centre is the other party or a person who is connected with the other party,

(c) in the case of a person within subsection (4B)(c), if the complainant makes a payment for the advice received from him, or

(d) in the case of a person of a description specified in an order under subsection (4B)(d), if any condition specified in the order in relation to the giving of advice by persons of that description is not satisfied.

(4BB) In subsection (4B)(a) "qualified lawyer" means—

(a) as respects England and Wales, a barrister (whether in practice as such or employed to give legal advice), a solicitor who holds a practising certificate, or a person other than a barrister or solicitor who is an authorised advocate or authorised litigator (within the meaning of the [M24]Courts and Legal Services Act 1990), and

(b) as respects Scotland, an advocate (whether in practice as such or employed to give legal advice), or a solicitor who holds a practising certificate.

(4BC) In subsection (4B)(b) "independent trade union" has the same meaning as in the [M25]Trade Union and Labour Relations (Consolidation) Act 1992.

(4C) For the purposes of subsection (4BA) any two persons are to be treated as connected—

(a) if one is a company of which the other (directly or indirectly) has control, or

(b) if both are companies of which a third person (directly or indirectly) has control.**]**

[[F277](4D) An agreement under which the parties agree to submit a dispute to arbitration—

(a) shall be regarded for the purposes of subsection (4)(a) and (aa) as being a contract settling a complaint if—

(i) the dispute is covered by a scheme having effect by virtue of an order under section 212A of the [M26]Trade Union and Labour Relations (Consolidation) Act 1992, and

(ii) the agreement is to submit it to arbitration in accordance with the scheme, but

(b) shall be regarded for those purposes as neither being nor including such a contract in any other case.**]**

(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.

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Textual Amendments

F271 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**

F272 S. 77(4B)(4BA)(4BB)(4BC)(4C) substituted for s. 77(4B)(4C) (1.8.1998) by 1998 c. 8, s. 15, **Sch. 1 para. 2**; S.I. 1998/1685, art. 2, **Sch. 1** (with art. 3)

F273 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**

F274 Words in s. 77(4A)(c) substituted (1.8.1998) by 1998 c. 8, **s. 9(1)(2)(a)**; S.I. 1998/1658, art. 2, **Sch. 1** (with art. 3)

F275 Words in s. 77(4A)(c) substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)**; S.I. 1998/1658, art. 2, **Sch. 1** (with art. 3)

F276 Words in s. 77(4A)(d) substituted (1.8.1998) by 1998 c. 8, **s. 10(1)(2)(a)**; S.I. 1998/1658, art. 2, **Sch. 1** (with art. 3)

F277 S. 77(4D) inserted (1.8.1998) by 1998 c. 8, **s. 8(1)**; S.I. 1998/1658, art. 2, **Sch. 1** (with art. 3)

Modifications etc. (not altering text)

C48 S. 77 extended (*retrosp.*) by Sex Discrimination Act 1986 (c. 59, SIF 106:1), **s. 6(1)**

C49 S. 77 excluded by Sex Discrimination Act 1986 (c. 59, SIF 106:1), **s. 6(4)**

Marginal Citations

M21 1970 c. 41.

M22 1970 c. 41.

M23 1970 c. 41.

M24 1990 c. 41.

M25 1992 c. 52.

M26 1992 c. 52.

78 Educational charities in England and Wales.

(1) This section applies to any trust deed or other instrument—

(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

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(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)
C50 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 **[**[F278]**[**[F279]section 104**]** 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 **[**[F280]Part VI**]****[**[F278] of the Education (Scotland) Act 1980;**]**

[[F281](aa) in the case of an endowment the governing body of which is entered in the Scottish Charity Register, a scheme approved for that endowment under section 39 or 40 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10)**]**

(b) any endowment which is, by virtue of **[**[F282]section 108(1)**]**of **[**[F283]the Education (Scotland) Act 1980**]** , dealt with as if it were an educational endowment **[**[F284](or which would, but for the disapplication of that section by section 122(4) of that Act, be so dealt with)**]** ; and

(c) a university endowment, the Carnegie Trust, a theological endowment and a new endowment.

(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,

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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 **[**[F282]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 **[**[F278]Part VI of the Education (Scotland) Act 1980**][**[F285]or, in the case of an endowment the governing body of which is entered in the Scottish Charity Register, a scheme approved for that endowment under section 39 or 40 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10)**]** .

(6) . . . . . [F286]

(7) This section shall be construed as one with **[**[F278]Part VI of the Education (Scotland) Act 1980**]**.

Textual Amendments

F278 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

F279 Words in s. 79(1) substituted (S.) (1.4.2006) by Charities and Trustee Investment (Scotland) Act 2005 (asp 10), ss. 104, 107(2), **Sch. 4 para. 3(1)(a)**; S.S.I. 2006/189, **art. 2**, Sch. (with art. 3(1)(2))

F280 Words in s. 79(1)(a) substituted (S.) (1.4.2006) by Charities and Trustee Investment (Scotland) Act 2005 (asp 10), ss. 104, 107(2), **Sch. 4 para. 3(1)(b)**; S.S.I. 2006/189, **art. 2**, Sch. (with art. 3(1)(2))

F281 S. 79(1)(aa) inserted (S.) (1.4.2006) by Charities and Trustee Investment (Scotland) Act 2005 (asp 10), ss. 104, 107(2), **Sch. 4 para. 3(1)(c)**; S.S.I. 2006/189, **art. 2**, Sch. (with art. 3(1)(2))

F282 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

F283 Words in s. 79(1)(b) substituted (S.) (1.4.2006) by Charities and Trustee Investment (Scotland) Act 2005 (asp 10), ss. 104, 107(2), **Sch. 4 para. 3(1)(d)**; S.S.I. 2006/189, **art. 2**, Sch. (with art. 3(1)(2))

F284 Words in s. 79(1)(b) inserted (S.) (1.4.2006) by Charities and Trustee Investment (Scotland) Act 2005 (asp 10), ss. 104, 107(2), **Sch. 4 para. 3(1)(d)(ii)**; S.S.I. 2006/189, **art. 2**, Sch. (with art. 3(1)(2))

F285 Words in s. 79(5) inserted (S.) (1.4.2006) by Charities and Trustee Investment (Scotland) Act 2005 (asp 10), ss. 104, 107(2), **Sch. 4 para. 3(2)**; S.S.I. 2006/189, **art. 2**, Sch. (with art. 3(1)(2))

F286 S. 79(6) repealed by Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 5**

Modifications etc. (not altering text)

C51 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

C52 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) . . . . . [F287]

(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

F287 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 . . . [F288]27, . . . [F289][F290]. . .) shall be exercisable by statutory instrument.

(2) An order made by the Secretary of State under the preceding provisions of this Act (except sections **[**[F291]21A,**]** . . . [F288]27, . . . [F289], [F292]. . . and 80(1)) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[[F293](2A) An order under section 21A(5) may not be made unless—

(a) the Secretary of State has consulted the Commission, and

(b) a draft has been laid before and approved by resolution of each House of Parliament.**]**

[[F294](2B) An order under section 76A(3)(i) or (4)(e) may not be made unless the Secretary of State has consulted the Commission.**]**

[[F295](2C) An order under section 76C(3) or (4) is subject to annulment in pursuance of a resolution of the Scottish 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 **[**[F296]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.

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(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.

Textual Amendments

F288 "14(2)(d)," repealed by Employment Act 1989 (c. 38, SIF 43:1), s. 29(4), **Sch. 7 Pt. II**

F289 "47(4)(b)" repealed by Sex Discrimination Act 1986 (c. 59, SIF 106:1), s. 9, **Sch. Pt. I**

F290 Words in s. 81(1) repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 17(a), **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

F291 Words in s. 81(2) inserted (6.4.2007) by Equality Act 2006 (c. 3), **ss. 83(3)(a)**, 93 (with s. 92); S.I. 2006/1082, **art. 4(a)**

F292 Words in s. 81(2) repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 17(b), **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

F293 S. 81(2A) inserted (6.4.2007) by Equality Act 2006 (c. 3), **ss. 83(3)(b)**, 93 (with s. 92); S.I. 2006/1082, **art. 4(a)**

F294 S. 81(2B) inserted (6.4.2007) by Equality Act 2006 (c. 3), **ss. 84(2)**, 93 (with s. 92); S.I. 2006/1082, **art. 4(b)**

F295 S. 81(2C) inserted (6.4.2007) by Equality Act 2006 (c. 3), **ss. 85(2)**, 93 (with s. 92); S.I. 2006/1082, **art. 4(b)**

F296 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);

[[F297]"board of management", in relation to a self-governing school, has the same meaning as in the Education (Scotland) Act 1980;**]**

[[F298]"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 **[**[F299]Commission for Equality and Human Rights**]**;

"Commissioner" means a member of the Commission;

. . . . . [F300]

"designate" shall be construed in accordance with subsection (3);

[[F301]references in Parts 2 and 3 to subjecting a person to a detriment do not include subjecting a person to harassment;**]**

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"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;

[[F302]"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 **[**[F303]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;

[[F304]"enactment" includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;**]**

"equality clause" has the meaning given in section 1(2) of the [M27]Equal Pay Act 1970 (as set out in section 8(1) of this Act);

"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 [M28]Partnership Act 1890;

[F305] . . . . . .

"further education" has the meaning given by **[**[F306]section 2 of the Education Act 1996**]** and in Scotland has the meaning given by **[**[F307]section 135(1) of the Education (Scotland) Act 1980**]**;

[[F308]"gender reassignment" means a process which is undertaken under medical supervision for the purpose of reassigning a person's sex by changing physiological or other characteristics of sex, and includes any part of such a process;**]**

"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); **[**[F309], except in the expression "supplementary genuine occupational qualification", which shall be construed in accordance with section 7B(2);**]**

"Great Britain" includes such of the territorial waters of the United Kingdom as are adjacent to Great Britain;

[[F310]references to subjecting a person to harassment, and to acts of harassment, shall be construed in accordance with section 4A;**]**

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"independent school" has the meaning given by **[**[F311]section 463 of the Education Act 1996**]** and in Scotland has the meaning given by **[**[F312]section 135(1) of the Education (Scotland) Act 1980**]**;

. . . . . [F313]

"man" includes a male of any age;

"managers" has the same meaning for Scotland as in **[**[F314]section 135(1) of the Education (Scotland) Act 1980**]**;

"near relative" shall be construed in accordance with subsection (5);

[F305] . . . . . .

"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 **[**[F315]section 579 of the Education Act 1996**]** and in Scotland has the meaning given by **[**[F314]section 135(1) of the Education (Scotland) Act 1980**]**;

[[F316]"provision, criterion or practice" includes "requirement or condition;".**]**

"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 **[**[F317]section 4 of the Education Act 1996**]**, and in Scotland has the meaning given by **[**[F314]section 135(1) of the Education (Scotland) Act 1980**]**;

"school education" has the meaning given by **[**[F314]section 135(1) of the Education (Scotland) Act 1980**]**;

[[F318]"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;

[[F319]"vocational training"—

(a) means all types, and all levels, of—

(i) vocational training, advanced vocational training and retraining, and

(ii) vocational guidance, and

(b) includes practical work experience undertaken for a limited period for the purposes of a person's vocational training (as defined by paragraph (a));**]**

[F320] . . .

"woman" includes a female of any age.

[[F321](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

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(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 [F322]. . . a finding by a court or tribunal becomes final when an appeal against the [F323]. . . finding is dismissed, withdrawn or abandoned or when the time for appealing expires without an appeal having been brought. [F324]. . .

(5) For the purposes of this Act a person is a near relative of another if that person is the wife or husband **[**[F325]or civil partner**]** , 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 **[**[F325]or civil partner**]** 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

F297 S. 82(1): definition of "board of management" repealed (S.) (31.12.2004) by 2000 asp 6, ss. 60(2), 61(3), Sch. 3; S.S.I. 2004/528, **art. 2(b)**

F298 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**.

F299 S. 82(1): words in definition of "the Commission" substituted (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 93, **Sch. 3 para. 18(a)(i)** (with s. 92); S.I. 2007/2603, **art. 2(d)** (subject to art. 3)

F300 Definition repealed by Employment Protection Act 1975 (c. 71), **Sch. 18**

F301 S. 82(1): words after definition of "designate" inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 33(2)**

F302 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)**

F303 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

F304 S. 82(1): definition of
"enactment"
inserted (27.7.2000) by S.I. 2000/ 2040, art. 2, Sch. Pt. I para. 8

F305 S. 82(4): definitions repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 18(b)(ii), **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2(d)** (subject to art. 3)

F306 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)**

F307 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**

F308 S. 82(1): definition of "gender reassingnment" inserted (1.5.1999) by S.I. 1999/1102, **reg. 2(3)**

F309 S. 82(1): words in definition of "genuine occupational qualification" inserted (1.5.1999) by S.I. 1999/1102, **reg. 4(6)**

F310 S. 82(1): words after definition of "Great Britain" inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 33(3)**

F311 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)**

F312 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**

F313 Definition of "industrial tribunal" repealed by Industrial Training Act 1982 (c. 10, SIF 43:1), **Sch. 4**

F314 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

F315 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)**

F316 S. 82(1): definition of
"provision, criterion or practice"
inserted (12.10.2001) by S.I. 2001/2660, **reg. 8(4)**

F317 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)**

F318 S. 82(1): definition of "self-governing school" repealed (S.) (31.12.2004) by 2000 asp 6, ss. 60(2), 61(3), Sch. 3; S.S.I. 2004/528, **art. 2(a)**

F319 S. 82(1): definition of "vocational training" inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 33(4)**

F320 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)**

F321 S. 82(1A) inserted by Sex Discrimination Act 1986 (c. 59, SIF 106:1), **s. 2(3)**

F322 Words in s. 82(4) repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 18(b)(i), **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2(d)** (subject to art. 3)

F323 Words in s. 82(4) repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 18(b)(ii), **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2(d)** (subject to art. 3)

F324 Words in s. 82(4) repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 18(b)(iii), **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2(d)** (subject to art. 3)

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F325 Words in s. 82(5) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261, 263, **Sch. 27 para. 54**; S.I. 2005/3175, **art. 2(2)**

Modifications etc. (not altering text)

C53 S. 82(1) modified by Estate Agents Act 1979 (c. 38, SIF 124:4), s. 3(1), **Sch. 1 para. 4(1)**

C54 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

C55 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**

C56 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**

C57 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

C58 S. 82(1A) modified by S.I. 1989/901, art. 3, **Sch.**
S. 82(1A) modified (2.3.1998) by S.I. 1998/218, art. 3, **Sch.**

C59 S. 82(1A) 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)**)
S. 82(1A) modified (1.9.1999) by S.I. 1999/2256, **art. 1(2)**

C60 S. 82(1A) modified (E.) (1.9.2003) by The Education (Modification of Enactments Relating to Employment) (England) Order 2003 (S.I. 2003/1964), art. 3, **Sch**

C61 S. 82(1A) modified (W.) (12.5.2006) by The Education (Modification of Enactments Relating to Employment) (Wales) Order 2006 (S.I. 2006/1073), art. 3, **Sch.**

C62 S. 82(4) modified by Estate Agents Act 1979 (c. 38, SIF 124:4), s. 3(1), **Sch. 1 para. 4(1)**

Marginal Citations

M27 1970 c. 41.

M28 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.

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(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

P1 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.

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, **[**[F326]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.

[[F327](3A) Section 21A binds the Crown.**]**

[[F328](3B) Section 76A binds the Crown.**]**

[[F329](4) Nothing in this Act shall render unlawful an act done for the purpose of ensuring the combat effectiveness of the **[**[F330]armed forces.**]]**

(5) [F331] . . . . . .

[F332](6) . . . . . .

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(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 [M29]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 [F333]. . . .

(9) The provisions of Part V of the [M30]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.

[[F334](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,

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 **[**[F335]employment 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 **[**[F335]employment 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 **[**[F335]employment tribunal**]**.

(9D) Where a complaint is presented to an **[**[F335]employment 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.**]**

[[F336](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 [M31]House of Commons Disqualification Act 1975;

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"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 [M32]Army Act 1955, section 180 of the [M33]Air Force Act 1955 and section 130 of the [M34]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

F326 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**

F327 S. 85(3A) inserted (6.4.2007) by Equality Act 2006 (c. 3), **ss. 83(4)**, 93 (with s. 92); S.I. 2007/1082, **art. 4(a)**

F328 S. 85(3B) inserted (6.4.2007) by Equality Act 2006 (c. 3), **ss. 84(3)**, 93 (with s. 92); S.I. 2007/1082, **art. 4(b)**

F329 S. 85(4) substituted (1.2.1995) by S.I. 1994/3276, **reg. 2(a)**

F330 Words in s. 85(4) substituted (1.10.1997) by 1996 c. 46, **s. 21(3)**; S.I. 1997/2164, **art. 2**

F331 S. 85(5) omitted (1.10.2005) by virtue of The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 34**

F332 S. 85(6) repealed (1.2.1995) by S.I. 1994/3276, **reg. 2(b)**

F333 Words in s. 85(8) repealed by The Civil Procedure (Modification of Crown Proceedings Act 1947) Order 2005 (S.I. 2005/2712), art. 3, **Sch. 2 para. 1**

F334 S. 85(9A)-(9E) inserted (1.10.1997) by 1996 c. 46, **s. 21(4)**; S.I. 1997/2164, **art. 2**

F335 Words in s. 85(9B)(9C)(9D) substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)**; S.I. 1998/1658, art. 2, **Sch. 1** (with art. 3)

F336 S. 85(10) substituted (1.10.1997) by 1996 c. 46, **s. 21(5)**; S.I. 1997/2164, **art. 2**

Marginal Citations

M29 1947 c. 44.

M30 1947 c. 44.

M31 1975 c. 24.

M32 1955 c. 18.

M33 1955 c. 19.

M34 1957 c. 53.

[[F337]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 **[**[F338]section 195 of the Employment Rights Act 1996**]]**; and **[**[F339]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.

Status: *Point in time view as at 01/10/2007. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F337 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**

F338 Words in s. 85A(2) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 6(2)(a)**

F339 Words in s. 85A(2) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 6(2)(b)**

[F340 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 **[**F341 section 194 of the Employment Rights Act 1996**]**; and **[**F342 subsection (7)**]** of that section applies for the purposes of this section.

Textual Amendments

F340 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**

F341 Words in s. 85B(2) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 6(3)(a)**

F342 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.

F343 . . . . . .

Textual Amendments

F343 S. 86 repealed (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 13(2)**

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)

C63 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 **[**[F344]employment 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 **[**[F344]employment 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.

Textual Amendments

F344 Words in Sch. 1 Pt. I para. 2(1)(2) substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)**; S.I. 1998/1658, art. 2, **Sch. 1** (with art. 3)

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.

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

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(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."

Modifications etc. (not altering text)

C65 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)

C66 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)

C67 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 . . . [F345]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

F345 Words repealed by Sex Discrimination Act 1986 (c. 59, SIF 106:1), s. 9, **Sch. Pt. II**

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Modifications etc. (not altering text)

C68 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.

C69 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)

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.

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

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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 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.

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(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 [M35]House of Commons Disqualification Act 1975 as for the time being in force.

(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
M35 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 **[**[F346]employment tribunal**]**.

(1A) Where a dispute arises in relation to the effect of an equality clause the employer may apply to an **[**[F346]employment 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 **[**[F346]employment 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 **[**[F346]employment 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 **[**[F346]employment 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 **[**[F346]employment 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.

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(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 **[**[F346]employment 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.

. . . . . .

(7) In this section "**[**[F346]employment tribunal**]**" means a tribunal established under section 12 of the [M36]Industrial Training Act 1964 . . .

Textual Amendments

F346 Words in Sch. 1 Pt. II para. 2(1)-(7) substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)**; S.I. 1998/1658, art. 2, **Sch. 1** (with art. 3)

Marginal Citations

M36 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 [M37]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 [M38]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—

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(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 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

M37 1919 c. 69.

M38 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

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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—

(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 [M39]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

M39 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

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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 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 [M40]Agricultural Wages Act 1948 or the Agricultural Wages (Scotland) Act 1949 and "agricultural wages order" means an order of the [M41]Agricultural Wages Board under the Agricultural Wages Act.

Marginal Citations

M40 1948 c. 47

M41 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.

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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.

(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.

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SCHEDULE 2

Section 27.

TRANSITIONAL EXEMPTION ORDERS FOR EDUCATIONAL ADMISSIONS

Modifications etc. (not altering text)
C71 Sch. 2: transfer of functions (1.7.1999) by 1999/672, art. 2, Sch. 1

Public sector (England and Wales)

1 Where **[**[F347]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
F347 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)
C72 Sch. 2 para. 1 excluded (1.11.1996) by 1996 c. 56, **ss. 552(1)**, 583(2)
C73 Sch. 2 para. 1 continued for certain functions (1.4.1999) by S.I. 1999/704, **reg. 20(1)**

2 . . . . . [F348]

Textual Amendments
F348 Sch. 2 para. 2 repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), **Sch.7**

3 Regulations under **[**[F349]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 **[**[F350]the said section 485**]**

and for the making by him of the order.

Textual Amendments
F349 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)**
F350 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)**

4 [F351] . . . . . .

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Textual Amendments

F351 Sch. 2 para. 4 repealed (6.11.2006 for E. and 2.1.2008 for W.) by Education Act 2002 (c. 32), ss. 215(2), 216(4), **Sch. 22** Pt. 3 (with ss. 210(8), 214(4)); S.I. 2006/2895, **art. 2**; S.I. 2007/3611, **art. 4(1)**, Sch. Pt. 1 (with Sch. Pt. 3 para. 1)

[[F352]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

F352 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 **[**[F353]the Commission**]** 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.

Textual Amendments

F353 Words in Sch. 2 para. 5(1) substituted (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 93, **Sch. 3 para. 19(a)** (with s. 92); S.I. 2007/2603, **art. 2(4)** (subject to art. 3)

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 **[**[F354]**[**[F355]or 7**]** 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 **[**[F356]the Commission**]**.

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Textual Amendments

F354 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)**

F355 Sch. 2 para. 6: By 2000 asp 6, ss. 60(1), 61(3), **Sch. 2 para. 2(3)** it is provided (31.12.2004) that, for the words
"7 or 7A" there shall be substituted the words "or 7"

F356 Words in Sch. 2 para. 6 substituted (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 93, **Sch. 3 para. 19(b)** (with s. 92); S.I. 2007/2603, **art. 2(4)** (subject to art. 3)

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.

F357F357SCHEDULE 3

. . . . . .

Textual Amendments

F357 Sch. 3 repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 20, **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2(d)** (subject to art. 3)

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—

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(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 **[**[F364]registration as midwives under the [M48]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) . . . . . [F365]

(3) . . . . . [F365]

(4) An order under this paragraph shall be laid in draft before each House of Parliament, and section 6(1) of the [M49]Statutory Instruments Act 1946 (Parliamentary control by negative resolution of draft instruments) shall apply accordingly.

Textual Amendments

F364 Words substituted by Nurses, Midwives and Health Visitors Act 1979 (c. 36), s. 24(2), **Sch. 7 para. 26**

F365 Sch. 4 para. 3(2)(3) repealed by Nurses, Midwives and Health Visitors Act 1979 (c. 36), s. 24(2), **Sch. 8**

Marginal Citations

M48 1979 c. 36.

M49 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 [M50]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.

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Marginal Citations

M50 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)

C76 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 . . . . . **F366**

Textual Amendments

F366 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 . . . . . **F367**

Textual Amendments

F367 Sch. 5 para. 3 repealed by Sex Discrimination Act 1986 (c. 59, SIF 106:1), s. 9, **Sch. Pt. III**

4 . . . . . **F368**

Textual Amendments

F368 Sch. 5 para. 4 repealed by Employment Protection Act 1975 (c. 71), **Sch. 18**

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SCHEDULE 6

Section 83.

FURTHER REPEALS

Modifications etc. (not altering text)

C77 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).

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