



Sex Discrimination Act 1975

1975 CHAPTER 65

PART II

DISCRIMINATION IN THE EMPLOYMENT FIELD

Discrimination by employers

6 Discrimination against applicants and employees

- (1) It is unlawful for a person, in relation to employment by him at an establishment in Great Britain, to discriminate against a woman—
 - (a) in the arrangements he makes for the purpose of determining who should be offered that employment, or
 - (b) in the terms on which he offers her that employment, or
 - (c) by refusing or deliberately omitting to offer her that employment.
- (2) It is unlawful for a person, in the case of a woman employed by him at an establishment in Great Britain, to discriminate against her—
 - (a) in the way he affords her access to opportunities for promotion, transfer or training, or to any other benefits, facilities or services, or by refusing or deliberately omitting to afford her access to them, or
 - (b) by dismissing her, or subjecting her to any other detriment.
- (3) Except in relation to discrimination falling within section 4, subsections (1) and (2) do not apply to employment—
 - (a) for the purposes of a private household, or
 - (b) where the number of persons employed by the employer, added to the number employed by any associated employers of his, does not exceed five (disregarding any persons employed for the purposes of a private household).
- (4) Subsections (1)(b) and (2) do not apply to provision in relation to death or retirement.
- (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

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be included (directly or by reference to a collective agreement 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.

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
 - (c) the nature or location of the establishment makes it impracticable for the holder of the job to live elsewhere than in premises provided by the employer, and—
 - (i) the only such premises which are available for persons holding that kind of job are lived in, or normally lived in, by men and are not equipped with separate sleeping accommodation for women and sanitary facilities which could be used by women in privacy from men, and
 - (ii) it is not reasonable to expect the employer either to equip those premises with such accommodation and facilities or to provide other premises for women; or
 - (d) the nature of the establishment, or of the part of it within which the work is done, requires the job to be held by a man because—
 - (i) it is, or is part of, a hospital, prison or other establishment for persons requiring special care, supervision or attention, and

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- (ii) those persons are all men (disregarding any woman whose presence is exceptional), and
 - (iii) it is reasonable, having regard to the essential character of the establishment or that part, that the job should not be held by a woman;
or
 - (e) the holder of the job provides individuals with personal services promoting their welfare or education, or similar personal services, and those services can most effectively be provided by a man, or
 - (f) the job needs to be held by a man because of restrictions imposed by the laws regulating the employment of women, or
 - (g) the job needs to be held by a man because it is likely to involve the performance of duties outside the United Kingdom in a country whose laws or customs are such that the duties could not, or could not effectively, be performed by a woman, or
 - (h) the job is one of two to be held by a married couple.
- (3) Subsection (2) applies where some only of the duties of the job fall within paragraphs (a) to (g) as well as where all of them do.
- (4) Paragraph (a), (b), (c), (d), (e), (f) 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.

8 Equal Pay Act 1970

- (1) In section 1 of the 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—
 - (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;

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- (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 of sex) between her case and his.”
- (2) Section 1(1) of the Equal Pay Act 1970 (as set out in subsection (1) above) does not apply in determining for the purposes of section 6(1)(b) of this Act the terms on which employment is offered.
- (3) Where a person offers a woman employment on certain terms, and if she accepted the offer then, by virtue of an equality clause, any of those terms would fall to be modified, or any additional term would fall to be included, the offer shall be taken to contravene section 6(1)(b).
- (4) Where a person offers a woman employment on certain terms, and subsection (3) would apply but for the fact that, on her acceptance of the offer, section 1(3) of the 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 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.

9 Discrimination against contract workers

- (1) This section applies to any work for a person (" the principal ") which is available for doing by individuals (" contract workers ") who are employed not by the principal himself but by another person, who supplies them under a contract made with the principal.
- (2) It is unlawful for the principal, in relation to work to which this section applies, to discriminate against a woman who is a contract worker—
 - (a) in the terms on which he allows her to do that work, or
 - (b) by not allowing her to do it or continue to do it, or
 - (c) in the way he affords her access to any benefits, facilities or services or by refusing or deliberately omitting to afford her access to them, or

- (d) by subjecting her to any other detriment.
- (3) The principal does not contravene subsection (2)(b) by doing any act in relation to a woman at a time when if the work were to be done by a person taken into his employment being a man would be a genuine occupational qualification for the job.
- (4) Subsection (2)(c) does not apply to benefits, facilities or services of any description if the principal is concerned with the provision (for payment or not) of benefits, facilities or services of that description to the public, or to a section of the public to which the woman belongs, unless that provision differs in a material respect from the provision of the benefits, facilities or services by the principal to his contract workers.

10 Meaning of employment at establishment in Great Britain

- (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 unless the employee does his work wholly or mainly outside Great Britain.
- (2) Subsection (1) does not apply to—
 - (a) employment on board a ship registered at a port of registry in Great Britain, or
 - (b) employment on aircraft or hovercraft registered in the United Kingdom and operated by a person who has his principal place of business, or is ordinarily resident, in Great Britain;but for the relevant purposes such employment is to be regarded as being at an establishment in Great Britain unless the employee does his work wholly outside Great Britain.
- (3) In the case of employment on board a ship registered at a port of registry in Great Britain (except where the employee does his work wholly outside Great Britain, and outside any area added under subsection (5)) the ship shall for the relevant purposes be deemed to be the establishment.
- (4) Where work is not done at an establishment it shall be treated for the relevant purposes as done at the establishment from which it is done or (where it is not done from any establishment) at the establishment with which it has the closest connection.
- (5) In relation to employment concerned with exploration of the sea bed or subsoil or the exploitation of their natural resources, Her Majesty may by Order in Council provide that subsections (1) and (2) shall each have effect as if the last reference to Great Britain included any area for the time being designated under section 1(7) of the 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 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.