



# Sex Discrimination Act 1975

## 1975 CHAPTER 65

### PART III

#### DISCRIMINATION IN OTHER FIELDS

##### *Education*

#### **22 Discrimination by bodies in charge of educational establishments**

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

- (a) in the terms on which it offers to admit her to the establishment as a pupil, or
- (b) by refusing or deliberately omitting to accept an application for her admission to the establishment as a pupil, or
- (c) where she is a pupil of the establishment—
  - (i) in the way it affords her access to any benefits, facilities or services, or by refusing or deliberately omitting to afford her access to them, or
  - (ii) by excluding her from the establishment or subjecting her to any other detriment.

TABLE

<i>Establishment</i>	<i>Responsible body</i>
ENGLAND AND WALES	
1. Educational establishment maintained by a local education authority.	Local education authority or managers or governors, according to which of them has the function in question.
2. Independent school not being a special school.	Proprietor.

*Status: This is the original version (as it was originally enacted).*

<i>Establishment</i>	<i>Responsible body</i>
3. Special school not maintained by a local education authority.	Proprietor.
4. University.	Governing body.
5. Establishment (not falling within paragraphs 1 to 4) 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 75(c) or (d) of the Education (Scotland) Act 1962.	Managers of the educational establishment.
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.

### **23 Other discrimination by local education authorities**

- (1) It is unlawful for a local education authority, in carrying out such of its functions under the Education Acts 1944 to 1975 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 the Education (Scotland) Acts 1939 to 1974 as do not fall under section 22, to do any act which constitutes sex discrimination.

### **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) it is recognised by the Secretary of State as a polytechnic, or
  - (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 in accordance with a scheme approved under section 42 of the Education Act 1944, or

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

## **25 General duty in public sector of education**

- (1) Without prejudice to its obligation to comply with any other provision of this Act, a body to which this subsection applies shall be under a general duty to secure that facilities for education provided by it, and any ancillary benefits or services, are provided without sex discrimination.
- (2) The following provisions of the Education Act 1944, namely—
  - (a) section 68 (power of Secretary of State to require duties under that Act to be exercised reasonably), and
  - (b) section 99 (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 and 23 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 71 of the Education (Scotland) Act 1962 (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 said section 71 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 and 23 under section 66 or otherwise (where the breach is also a contravention of either 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 68 of the Education (Scotland) Act 1962.
- (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 or 7 of the table in section 22 ;
    - (ii) an establishment designated under section 24(1) as falling within paragraph (a) or (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 section 100 of the Education Act 1944.

## **26 Exception for single-sex establishments**

- (1) Sections 22(a) and (b) and 25 do not apply to the admission of pupils to any establishment (a "single-sex establishment") which admits pupils of one sex only, or which would be taken to admit pupils of one sex only if there were disregarded pupils of the opposite sex—
  - (a) whose admission is exceptional, or
  - (b) whose numbers are comparatively small and whose admission is confined to particular courses of instruction or teaching classes.
- (2) Where a school which is not a single-sex establishment has some pupils as boarders and others as non-boarders, and admits as boarders pupils of one sex only (or would be taken to admit as boarders pupils of one sex only if there were disregarded boarders of the opposite sex whose numbers are comparatively small), sections 22(a) and (b) and 25 do not apply to the admission of boarders and sections 22(c)(i) and 25 do not apply to boarding facilities.
- (3) Where an establishment is a 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.

## **27 Exception for single-sex establishments turning coeducational**

- (1) Where at any time—
  - (a) the responsible body for a single-sex establishment falling within column 1 of the table in section 22 determines to alter its admissions arrangements so that the establishment will cease to be a single-sex establishment, or
  - (b) section 26(2) applies to the admission of boarders to a school falling within column 1 of that table but the responsible body determines to alter its admissions arrangements so that section 26(2) will cease so to apply,the responsible body may apply in accordance with Schedule 2 for an order (a "transitional exemption order) authorising discriminatory admissions during the transitional period specified in the order.
- (2) Where during the transitional period specified in a transitional exemption order applying to an establishment the responsible body refuses or deliberately omits to accept an application for the admission of a person to the establishment as a pupil the refusal or omission shall not be taken to contravene any provision of this Act.
- (3) Subsection (2) does not apply if the refusal or omission contravenes any condition of the transitional exemption order.
- (4) Except as mentioned in subsection (2), a transitional exemption order shall not afford any exemption from liability under this Act.
- (5) Where, during the period between the making of an application for a transitional exemption order in relation to an establishment and the determination of the application, the responsible body refuses or deliberately omits to accept an application for the admission of a person to the establishment as a pupil the refusal or omission shall not be taken to contravene any provision of this Act.

## **28 Exception for physical training**

Sections 22, 23 and 25 do not apply to any further education course being—

- (a) a course in physical training, or
- (b) a course designed for teachers of physical training.