



Sex Discrimination Act 1975 (repealed)

1975 CHAPTER 65

PART V

GENERAL EXCEPTIONS FROM PARTS II TO IV^{F1}

Textual Amendments

F1 S. 52A inserted by [Employment Act 1989 \(c. 38, SIF 43:1, 106:1\)](#), s. 3(4)

VALID FROM 26/02/2002

[^{F2}42A Selection of candidates

- (1) Nothing in Parts 2 to 4 shall—
 - (a) be construed as affecting arrangements to which this section applies, or
 - (b) render unlawful anything done in accordance with such arrangements.
- (2) This section applies to arrangements made by a registered political party which—
 - (a) regulate the selection of the party's candidates in a relevant election, and
 - (b) are adopted for the purpose of reducing inequality in the numbers of men and women elected, as candidates of the party, to be members of the body concerned.
- (3) The following elections are relevant elections for the purposes of this section—
 - (a) parliamentary elections;
 - (b) elections to the European Parliament;
 - (c) elections to the Scottish Parliament;
 - (d) elections to the National Assembly for Wales;
 - (e) local government elections within the meaning of section 191, 203 or 204 of the Representation of the People Act 1983 (c. 2) (excluding any election of the Mayor of London).

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(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

F2 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.
- [^{F3}(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 ^{M1}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

F3 S. 43(3) substituted for s. 43(3)(4) by [S.I. 1977/528](#), art. 2

Marginal Citations

M1 1962 c. 47.

44 Sport etc.

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

45 Insurance etc.

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

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- (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).

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 [^{F4}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

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- (b) encouraging women only, or men only, to take advantage of opportunities for doing that work,
- where [^{F4}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 [^{F5}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 [^{F5}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 [^{F4}any person]in, or in connection with, affording persons access to facilities for training which would help to fit them for employment, where [^{F4}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.

- [^{F6}(4) The preceding provisions of this section shall not apply in relation to any discrimination which is rendered unlawful by section 6.]

Textual Amendments

- F4** Words substituted by [Sex Discrimination Act 1986 \(c. 59, SIF 106:1\), s. 4\(2\)\(a\)\(b\)](#)
- F5** Words substituted by [Sex Discrimination Act 1986 \(c. 59, SIF 106:1\), s. 4\(3\)\(a\)\(b\)](#)
- F6** [S. 47\(4\)](#) substituted by [Sex Discrimination Act 1986 \(c. 59, SIF 106:1\), s. 4\(4\)](#)

48 Other discriminatory training etc.

- (1) Nothing in Parts II to IV shall render unlawful any act done by an employer in relation to particular work in his employment, being an act done in, or in connection with,—
- (a) affording his female employees only, or his male employees only, access to facilities for training which would help to fit them for that work, or
- (b) encouraging women only, or men only, to take advantage of opportunities for doing that work,
- where at any time within the twelve months immediately preceding the doing of the act there were no persons of the sex in question among those doing that work or the number of persons of that sex doing the work was comparatively small.
- (2) Nothing in section 12 shall render unlawful any act done by an organisation to which that section applies in, or in connection with,—

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- (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").
- (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.

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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 ^{M2} 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

M2 1974 c.37 (43:3).

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

(1) Nothing in—

- (a) the relevant provisions of Part III, or
- (b) Part IV so far as it has effect in relation to those provisions,

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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.

[^{F7}**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

- F7** 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)

- C1** By [S.I. 1988/249](#), [art. 2](#) it is provided that subsections (2) and (3) of section 52 of the Sex Discrimination Act 1975 shall cease to have effect in relation to the determination of the question whether any act is rendered unlawful by Part II of that Act, by Part III of that Act, so far as it applies to vocational training, or by Part IV of that Act taken with Part II or with Part III so far as it so applies

52A Construction of references to vocational training.

In the following provisions, namely—

- (a) sections 51 and 51A, and
(b) the provisions of any Order in Council modifying the effect of section 52,

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

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