



# Sex Discrimination Act 1975 (repealed)

## 1975 CHAPTER 65

### PART VIII

#### SUPPLEMENTAL

VALID FROM 18/04/2006

#### **[<sup>F1</sup>76A Public authorities: general statutory duty**

- (1) A public authority shall in carrying out its functions have due regard to the need—
  - (a) to eliminate unlawful discrimination and harassment, and
  - (b) to promote equality of opportunity between men and women.
- (2) In subsection (1)—
  - (a) “public authority” includes any person who has functions of a public nature (subject to subsections (3) and (4)),
  - (b) “functions” means functions of a public nature, and
  - (c) the reference to unlawful discrimination shall be treated as including a reference to contravention of terms of contracts having effect in accordance with an equality clause within the meaning of section 1 of the Equal Pay Act 1970 (c. 41).
- (3) The duty in subsection (1) shall not apply to—
  - (a) the House of Commons,
  - (b) the House of Lords,
  - (c) the Scottish Parliament,
  - (d) the General Synod of the Church of England,
  - (e) the Security Service,
  - (f) the Secret Intelligence Service,
  - (g) the Government Communications Headquarters,

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- (h) a part of the armed forces of the Crown which is, in accordance with a requirement of the Secretary of State, assisting the Government Communications Headquarters, or
  - (i) a person specified for the purpose of this paragraph by order of the Secretary of State (and a person may be specified generally or only in respect of specified functions).
- (4) The duty in subsection (1) shall not apply to the exercise of—
- (a) a function in connection with proceedings in the House of Commons or the House of Lords,
  - (b) a function in connection with proceedings in the Scottish Parliament (other than a function of the Scottish Parliamentary Corporate Body),
  - (c) a judicial function (whether in connection with a court or a tribunal),
  - (d) a function exercised on behalf of or on the instructions of a person exercising a judicial function (whether in connection with a court or a tribunal), or
  - (e) a function specified for the purpose of this paragraph by order of the Secretary of State.
- (5) Subsection (1)(b) is without prejudice to the effect of any exception to or limitation of the law about sex discrimination.
- (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

- F1** S. 76A inserted (18.4.2006 for certain purposes and 6.4.2007 in so far as not already in force) by Equality Act 2006 (c. 3), ss. 84(1), 93 (with s. 92); S.I. 2006/1082, arts. 2(h), 4(b)

VALID FROM 18/04/2006

#### **[<sup>F2</sup>76B Specific duties**

- (1) The Secretary of State may by order impose on a person to whom the duty in section 76A(1) applies, or in so far as that duty applies to a person, a duty which the Secretary of State thinks will ensure better performance of the duty under section 76A(1).
- (2) Before making an order under subsection (1) the Secretary of State shall consult the Commission.
- (3) The Secretary of State—
  - (a) must consult the National Assembly for Wales before making an order under subsection (1) in respect of a person exercising functions in relation to Wales, and
  - (b) may not, without the consent of the National Assembly for Wales, make an order under subsection (1) in respect of a person all of whose functions are public functions in relation to Wales.

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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

- F2** S. 76B inserted (18.4.2006 for certain purposes and 6.4.2007 in so far as not already in force) by Equality Act 2006 (c. 3), ss. 85(1), 93 (with s. 92); S.I. 2007/1082, arts. 2, 4

VALID FROM 18/04/2006

### [<sup>F3</sup>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—
    - (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,

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- (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

- F3** 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

VALID FROM 06/04/2007

#### [<sup>F4</sup>76D Specific duties: enforcement

- (1) This section applies where the Commission thinks that a person has failed to comply with a duty imposed under section 76B or 76C.
- (2) The Commission may give the person a notice requiring him—
  - (a) to comply with the duty, and
  - (b) to give the Commission, within the period of 28 days beginning with the date on which he receives the notice, written information of steps taken for the purpose of complying with the duty.
- (3) A notice under this section may require a person to give the Commission information required by the Commission for the purposes of assessing compliance with the duty; in which case the notice shall specify—
  - (a) the period within which the information is to be given (which shall begin with the date on which the notice is received and shall not exceed three months), and
  - (b) the manner and form in which the information is to be given.
- (4) A person who receives a notice under this section shall comply with it.
- (5) But a notice under this section shall not oblige a person to give information that he could not be compelled to give in proceedings before the High Court or the Court of Session.
- (6) If the Commission thinks that a person, to whom a notice under this section has been given, has failed to comply with a requirement of the notice, the Commission may

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apply to a county court (in England and Wales) or to the sheriff (in Scotland) for an order requiring the person to comply.]

#### Textual Amendments

**F4** S. 76D inserted (6.4.2007) by Equality Act 2006 (c. 3), ss. 85(1), 93 (with s. 92); S.I. 2006/1082, art. 4(b)

VALID FROM 16/02/2006

#### [<sup>F5</sup>76E Codes of practice

- (1) The Commission may issue a code of practice about the performance of—
  - (a) the duty under section 76A(1), or
  - (b) a duty imposed under section 76B or 76C.
- (2) Section 56A(2) to (11) shall apply to a code under this section as to a code under that section (for which purpose the reference in section 56A(10) to specified proceedings before an employment tribunal shall be treated as a reference to criminal or civil proceedings before any court or tribunal).
- (3) The Secretary of State shall consult the Scottish Ministers and the National Assembly for Wales before—
  - (a) approving a draft under section 56A(4)(a) as applied by subsection (2) above, or
  - (b) making an order under section 56A(7) as applied by subsection (2) above.]

#### Subordinate Legislation Made

**P1** S. 76E(1) power partly exercised: 6.4.2007 appointed for the "Gender Equality Duty Code of Practice (England and Wales)" by {S.I. 2007/741}, art. 2

#### Textual Amendments

**F5** S. 76E inserted (16.2.2006) by Equality Act 2006 (c. 3), s. 86 (with s. 92)

### 77 Validity and revision of contracts.

- (1) A term of a contract is void where—
  - (a) its inclusion renders the making of the contract unlawful by virtue of this Act, or
  - (b) it is included in furtherance of an act rendered unlawful by this Act, or
  - (c) it provides for the doing of an act which would be rendered unlawful by this Act.
- (2) Subsection (1) does not apply to a term the inclusion of which constitutes, or is in furtherance of, or provides for, unlawful discrimination against a party to the contract, but the term shall be unenforceable against that party.

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- (3) A term in a contract which purports to exclude or limit any provision of this Act or the <sup>M1</sup>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 <sup>M2</sup>Equal Pay Act 1970 applies where the contract is made with the assistance of a conciliation officer;
  - <sup>F6</sup>(aa) to a contract settling a complaint to which section 63(1) of this Act or section 2 of the <sup>M3</sup>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.
- <sup>F7F8</sup>(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 [<sup>F9</sup>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 [<sup>F10</sup>employment tribunal];
  - (d) there must be in force, when the adviser gives the advice, a [<sup>F11</sup>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.
- <sup>F7</sup>(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.
- (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.

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- (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 <sup>M4</sup>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 <sup>M5</sup>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.]
- [<sup>F12</sup>(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 <sup>M6</sup>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.

#### Textual Amendments

- F6** 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**
- F7** 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)
- F8** 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**
- F9** 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)
- F10** 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)
- F11** 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)

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**F12** 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)**

**C1** S. 77 extended (*retrosp.*) by Sex Discrimination Act 1986 (c. 59, SIF 106:1), s. 6(1)

**C2** S. 77 excluded by Sex Discrimination Act 1986 (c. 59, SIF 106:1), s. 6(4)

**Marginal Citations**

**M1** 1970 c. 41.

**M2** 1970 c. 41.

**M3** 1970 c. 41.

**M4** 1990 c. 41.

**M5** 1992 c. 52.

**M6** 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
  - (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.



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**Modifications etc. (not altering text)**

C3 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 [<sup>F13</sup>Part VI of the Education (Scotland) Act 1980]applies and which in any way restricts the benefit of the endowment to persons of one sex, and any reference to an educational endowment in this section includes a reference to—
  - (a) a scheme made or approved for that endowment under that [<sup>F13</sup>Part of the Education (Scotland) Act 1980];
  - (b) any endowment which is, by virtue of [<sup>F14</sup>section 108(1)]of that Act, dealt with as if it were an educational endowment; and
  - (c) a university endowment, the Carnegie Trust, a theological endowment and a new endowment.
- (2) If, on the application of the governing body of an educational endowment, the Secretary of State is satisfied that the removal or modification of the provision which restricts the benefit of the endowment to persons of one sex would conduce to the advancement of education without sex discrimination, he may, by order, make such modifications to the endowment as appear to him expedient for removing or modifying the restriction and for any supplemental or incidental purposes.
- (3) Where the Secretary of State proposes to make an order under this section, he shall publish a notice, in such manner as he thinks sufficient for giving information to persons whom he considers may be interested in the endowment—
  - (a) containing particulars of the proposed order; and
  - (b) stating that representations may be made with respect thereto within such period as may be specified in the notice, not being less than one month from the date of publication of the notice,
 and the cost of publication of any such notice shall be paid out of the funds of the endowment to which the notice relates.
- (4) Before making any order under this section, the Secretary of State shall consider any representations duly made in accordance with the said notice and he may cause a local inquiry to be held into such representations under [<sup>F14</sup>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 [<sup>F13</sup>Part VI of the Education (Scotland) Act 1980].
- (6) . . . . .<sup>F15</sup>
- (7) This section shall be construed as one with [<sup>F13</sup>Part VI of the Education (Scotland) Act 1980].

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### Textual Amendments

- F13** 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
- F14** 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
- F15** [S. 79\(6\)](#) repealed by [Education \(Scotland\) Act 1980 \(c. 44, SIF 41:2\)](#), [Sch. 5](#)

### Modifications etc. (not altering text)

- C4** 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
- C5** [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

## 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—
- 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);
  - 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);
  - 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;
  - ..... <sup>F16</sup>
- (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

- F16** [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 . . . <sup>F17</sup>27, . . . <sup>F18</sup>and 59(2)) shall be exercisable by statutory instrument.

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- (2) An order made by the Secretary of State under the preceding provisions of this Act (except sections . . . <sup>F17</sup>27, . . . <sup>F18</sup>, 59(2) and 80(1)) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Subsections (1) and (2) do not apply to an order under section 78 or 79, but—
  - (a) an order under section 78 which modifies an enactment, and
  - (b) any order under section 79 other than one which relates to an endowment to which section [<sup>F19</sup>115 of the Education (Scotland) Act 1980](small endowments) applies,shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) An order under this Act may make different provision in relation to different cases or classes of case, may exclude certain cases or classes of case, and may contain transitional provisions and savings.
- (5) Any power conferred by this Act to make orders includes power (exercisable in the like manner and subject to the like conditions) to vary or revoke any order so made.

#### Textual Amendments

- F17** “14(2)(d),” repealed by [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 29(4), [Sch. 7 Pt. II](#)
- F18** “47(4)(b)” repealed by [Sex Discrimination Act 1986 \(c. 59, SIF 106:1\)](#), s. 9, [Sch. Pt. I](#)
- F19** 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);
  - [<sup>F20</sup>“board of management”, in relation to a self-governing school, has the same meaning as in the Education (Scotland) Act 1980;]
  - [<sup>F21</sup>“Board of management” in relation to a college of further education within the meaning of Part I of the Further and Higher Education (Scotland) Act 1992, has the same meaning as in that Part;]
  - “the Commission” means the Equal Opportunities Commission;
  - “Commissioner” means a member of the Commission;
  - .....<sup>F22</sup>
  - “designate” shall be construed in accordance with subsection (3);
  - “discrimination” and related terms shall be construed in accordance with section 5(1);

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**Changes to legislation:** There are currently no known outstanding effects for the Sex Discrimination Act 1975 (repealed), Part VIII. (See end of Document for details)

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“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;

[<sup>F23</sup>“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 [<sup>F24</sup>section 135(1) of the Education (Scotland) Act 1980];

“employment” means employment under a contract of service or of apprenticeship or a contract personally to execute any work or labour, and related expressions shall be construed accordingly;

“employment agency” means a person who, for profit or not, provides services for the purpose of finding employment for workers or supplying employers with workers;

“equality clause” has the meaning given in section 1(2) of the <sup>M7</sup>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 <sup>M8</sup>Partnership Act 1890;

“formal investigation” means an investigation under section 57;

“further education” has the meaning given by [<sup>F25</sup>section 2 of the Education Act 1996] and in Scotland has the meaning given by [<sup>F26</sup>section 135(1) of the Education (Scotland) Act 1980];

“general notice”, in relation to any person, means a notice published by him at a time and in a manner appearing to him suitable for securing that the notice is seen within a reasonable time by persons likely to be affected by it;

“genuine occupational qualification” shall be construed in accordance with section 7(2);

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

“independent school” has the meaning given by [<sup>F27</sup>section 463 of the Education Act 1996] and in Scotland has the meaning given by [<sup>F28</sup>section 135(1) of the Education (Scotland) Act 1980];

<sup>F29</sup>

“man” includes a male of any age;

“managers” has the same meaning for Scotland as in [<sup>F30</sup>section 135(1) of the Education (Scotland) Act 1980];

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

“non-discrimination notice” means a notice under section 67;

“notice” means a notice in writing;

“prescribed” means prescribed by regulations made by the Secretary of State by statutory instrument;

“profession” includes any vocation or occupation;

“proprietor”, in relation to any school, has the meaning given by [<sup>F31</sup>section 579 of the Education Act 1996] and in Scotland has the meaning given by [<sup>F30</sup>section 135(1) of the Education (Scotland) Act 1980];

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“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 [<sup>F32</sup>section 4 of the Education Act 1996], and in Scotland has the meaning given by [<sup>F30</sup>section 135(1) of the Education (Scotland) Act 1980];

“school education” has the meaning given by [<sup>F30</sup>section 135(1) of the Education (Scotland) Act 1980];

[<sup>F33</sup>“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;

<sup>F34</sup>  
...

“woman” includes a female of any age.

[<sup>F35</sup>(1A) References in this Act to the dismissal of a person from employment or to the expulsion of a person from a position as partner include references—

- (a) to the termination of that person’s employment or partnership by the expiration of any period (including a period expiring by reference to an event or circumstance), not being a termination immediately after which the employment or partnership is renewed on the same terms; and
  - (b) to the termination of that person’s employment or partnership by any act of his (including the giving of notice) in circumstances such that he is entitled to terminate it without notice by reason of the conduct of the employer or, as the case may be the conduct of the other partners.]
- (2) For the purposes of this Act two employers are to be treated as associated if one is a company of which the other (directly or indirectly) has control or if both are companies of which a third person (directly or indirectly) has control.
  - (3) Any power conferred by this Act to designate establishments or persons may be exercised either by naming them or by identifying them by reference to a class or other description.
  - (4) For the purposes of this Act a non-discrimination notice or a finding by a court or tribunal becomes final when an appeal against the notice or finding is dismissed, withdrawn or abandoned or when the time for appealing expires without an appeal having been brought; and for this purpose an appeal against a non-discrimination notice shall be taken to be dismissed if, notwithstanding that a requirement of the notice is quashed on appeal, a direction is given in respect of it under section 68(3).
  - (5) For the purposes of this Act a person is a near relative of another if that person is the wife or husband, a parent or child, a grandparent or grandchild, or a brother or sister of the other (whether of full blood or half-blood or by affinity), and “child” includes an illegitimate child and the wife or husband of an illegitimate child.
  - (6) Except so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended by or under any other enactment, including this Act.
  - (7) In this Act, except where otherwise indicated—

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- (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

- F20** Definition of “board of management” inserted (S.) by *Self-Governing Schools etc. (Scotland) Act 1989* (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 5(4)(a)**
- F21** 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**.
- F22** Definition repealed by *Employment Protection Act 1975* (c. 71), **Sch. 18**
- F23** 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)**
- F24** 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*
- F25** 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)**
- F26** 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**
- F27** 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)**
- F28** 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**
- F29** Definition of “industrial tribunal” repealed by *Industrial Training Act 1982* (c. 10, SIF 43:1), **Sch. 4**
- F30** 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*
- F31** 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)**
- F32** 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)**
- F33** Definition of “self-governing school” inserted (S.) by *Self-Governing Schools etc. (Scotland) Act 1989* (c. 39, SIF 41:2), s. 82(1), **Sch. 10 para. 5(4)(b)**
- F34** 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)
- F35** S. 82(1A) inserted by *Sex Discrimination Act 1986* (c. 59, SIF 106:1), s. 2(3)

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#### Modifications etc. (not altering text)

- C6** S. 82(1) modified by Estate Agents Act 1979 (c. 38, SIF 124:4), s. 3(1), **Sch. 1 para. 4(1)**
- C7** 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
- C8** 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**
- C9** 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**
- C10** 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
- C11** 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.**
- C12** S. 82(1A) modified (2.3.1998) by S.I. 1998/218, art. 3, **Sch.**
- C13** S. 82(4) modified by Estate Agents Act 1979 (c. 38, SIF 124:4), s. 3(1), **Sch. 1 para. 4(1)**

#### Marginal Citations

- M7** 1970 c. 41.  
**M8** 1890 c. 39.

### 83 Transitional and commencement provisions, amendments and repeals.

- (1) The provisions of Schedule 4 shall have effect for making transitional provision for the purposes of this Act.
- (2) Parts II to VII shall come into operation on such day as the Secretary of State may by order appoint, and different days may be so appointed for different provisions and for different purposes.
- (3) Subject to subsection (4)—
  - (a) the enactments specified in Schedule 5 shall have effect subject to the amendments specified in that Schedule (being minor amendments or amendments consequential on the preceding provisions of this Act), and
  - (b) the enactments specified in Schedule 6 are hereby repealed to the extent shown in column 3 of that Schedule.
- (4) The Secretary of State shall by order provide for the coming into operation of the amendments contained in Schedule 5 and the repeals contained in Schedule 6, and those amendments and repeals shall have effect only as provided by an order so made.
- (5) An order under this section may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into operation, including such adaptations of those provisions, or of any provisions of this Act then in operation, as appear to the Secretary of State necessary or expedient in consequence of the partial operation of this Act.

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### Subordinate Legislation Made

P2 Powers of appointment conferred by s. 83(2)(4) fully exercised

## 84 Financial provisions.

There shall be defrayed out of money provided by Parliament—

- (a) sums required by the Secretary of State for making payments under paragraph 5 or 14 of Schedule 3, and for defraying any other expenditure falling to be made by him under or by virtue of this Act;
- (b) payments falling to be made under section 66(6)(b) or (7) in respect of the remuneration of assessors; and
- (c) any increase attributable to the provisions of this Act in the sums payable out of money provided by Parliament under any other Act.

## 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, [<sup>F36</sup>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.

[<sup>F37</sup>(4) Nothing in this Act shall render unlawful an act done for the purpose of ensuring the combat effectiveness of the [<sup>F38</sup>armed forces.]]

(5) Nothing in this Act shall render unlawful discrimination in admission to the Army Cadet Force, Air Training Corps, Sea Cadet Corps or Combined Cadet Force, or any other cadet training corps for the time being administered by the Ministry of Defence.

<sup>F39</sup>(6) .....

(7) Subsection (2) of section 10 shall have effect in relation to any ship, aircraft or hovercraft belonging to or possessed by Her Majesty in right of the Government of the United Kingdom as it has effect in relation to a ship, aircraft or hovercraft mentioned in paragraph (a) or (b) of that subsection, and section 10(5) shall apply accordingly.

(8) The provisions of Parts II to IV of the <sup>M9</sup>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



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of Part II of that Act as civil proceedings by or against the Crown, except that in their application to proceedings under this Act section 20 of that Act (removal of proceedings from county court to High Court) shall not apply.

- (9) The provisions of Part V of the <sup>M10</sup>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.

[<sup>F40</sup>(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 [<sup>F41</sup>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 [<sup>F41</sup>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 [<sup>F41</sup>employment tribunal].

(9D) Where a complaint is presented to an [<sup>F41</sup>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.]

[<sup>F42</sup>(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 <sup>M11</sup>House of Commons Disqualification Act 1975;

“the service redress procedures” means the procedures, excluding those which relate to the making of a report on a complaint to Her Majesty, referred to in section 180 of the <sup>M12</sup>Army Act 1955, section 180 of the <sup>M13</sup>Air Force Act 1955 and section 130 of the <sup>M14</sup>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.]

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#### Textual Amendments

- F36** 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
- F37** S. 85(4) substituted (1.2.1995) by S.I. 1994/3276, reg. 2(a)
- F38** Words in s. 85(4) substituted (1.10.1997) by 1996 c. 46, s. 21(3); S.I. 1997/2164, art. 2
- F39** S. 85(6) repealed (1.2.1995) by S.I. 1994/3276, reg. 2(b)
- F40** S. 85(9A)-(9E) inserted (1.10.1997) by 1996 c. 46, s. 21(4); S.I. 1997/2164, art. 2
- F41** 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)
- F42** S. 85(10) substituted (1.10.1997) by 1996 c. 46, s. 21(5); S.I. 1997/2164, art. 2

#### Marginal Citations

- M9** 1947 c. 44.
- M10** 1947 c. 44.
- M11** 1975 c. 24.
- M12** 1955 c. 18.
- M13** 1955 c. 19.
- M14** 1957 c. 53.

### [<sup>F43</sup>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 [<sup>F44</sup>section 195 of the Employment Rights Act 1996]; and [<sup>F45</sup>subsections (6) to (12)] of that section (person to be treated as employer of House of Commons staff) apply, with any necessary modifications, for the purposes of Parts II and IV as they apply by virtue of this section.

#### Textual Amendments

- F43** 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
- F44** Words in s. 85A(2) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, Sch. 1 para. 6(2)(a)
- F45** Words in s. 85A(2) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, Sch. 1 para. 6(2)(b)

### [<sup>F46</sup>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 [<sup>F47</sup>section 194 of the Employment Rights Act 1996]; and [<sup>F48</sup>subsection (7)] of that section applies for the purposes of this section.

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**Textual Amendments**

**F46** 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**

**F47** Words in s. 85B(2) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 6(3)(a)**

**F48** Words in s. 85B(2) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 6(3)(b)**

**86 Government appointments outside section 6.**

- (1) This section applies to any appointment by a Minister of the Crown or government department to an office or post where section 6 does not apply in relation to the appointment.
- (2) In making the appointment, and in making the arrangements for determining who should be offered the office or post, the Minister of the Crown or government department shall not do an act which would be unlawful under section 6 if the Crown were the employer for the purposes of this Act.

**87 Short title and extent.**

- (1) This act may be cited as the Sex Discrimination Act 1975.
- (2) This Act (except paragraph 16 of Schedule 3) does not extend to Northern Ireland.

**Status:**

Point in time view as at 01/08/1998. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the Sex Discrimination Act 1975 (repealed), Part VIII.