

## SCHEDULE 5

### Validity of contracts, collective agreements and rules of undertakings

## Part 2

### Collective agreements and rules of undertakings

- 4.—(1) This Part of this Schedule applies to—
- (a) any term of a collective agreement, including an agreement which was not intended, or is presumed not to have been intended, to be a legally enforceable contract;
  - (b) any rule made by an employer for application to all or any of the persons who are employed by him or who apply to be, or are, considered by him for employment;
  - (c) any rule made by a trade organisation (within the meaning of regulation 18) or a qualifications body (within the meaning of regulation 19) for application to—
    - (i) all or any of its members or prospective members; or
    - (ii) all or any of the persons on whom it has conferred professional or trade qualifications (within the meaning of regulation 19) or who are seeking the professional or trade qualifications which it has power to confer.
- (2) Any term or rule to which this Part of this Schedule applies is void where—
- (a) the making of the collective agreement is, by reason of the inclusion of the term, unlawful by virtue of these Regulations;
  - (b) the term or rule is included or made in furtherance of an act which is unlawful by virtue of these Regulations; or
  - (c) the term or rule provides for the doing of an act which is unlawful by virtue of these Regulations.

[<sup>F1</sup>(3) Sub-paragraph (2) shall apply whether the agreement was entered into, or the rule made, before or after the date on which any term of the agreement or rule became unlawful by virtue of these Regulations; but in the case of an agreement entered into, or a rule made, before the date on which a term, or rule, became unlawful, that sub-paragraph does not apply to that term or rule in relation to any period before that date.]

#### Textual Amendments

- F1** Sch. 5 para. 4(3) substituted (30.9.2006) by [The Employment Equality \(Age\) \(Amendment\) Regulations 2006 \(S.I. 2006/2408\)](#), regs. 1, 2(6)(c)

5. A person to whom this paragraph applies may present a complaint to an employment tribunal that a term or rule is void by virtue of paragraph 4 if he has reason to believe—
- (a) that the term or rule may at some future time have effect in relation to him; and
  - (b) where he alleges that it is void by virtue of paragraph 4(2)(c), that—
    - (i) an act for the doing of which it provides, may at some such time be done in relation to him, and
    - (ii) the act would be unlawful by virtue of these Regulations if done in relation to him in present circumstances.
6. In the case of a complaint about—

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Employment Equality (Age) Regulations 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) a term of a collective agreement made by or on behalf of—
  - (i) an employer,
  - (ii) an organisation of employers of which an employer is a member, or
  - (iii) an association of such organisations of one of which an employer is a member, or
- (b) a rule made by an employer within the meaning of paragraph 4(1)(b),

paragraph 5 applies to any person who is, or is genuinely and actively seeking to become, one of his employees.

7. In the case of a complaint about a rule made by an organisation or body to which paragraph 4(1)(c) applies, paragraph 5 applies to any person—

- (a) who is, or is genuinely and actively seeking to become, a member of the organisation or body;
- (b) on whom the organisation or body has conferred a professional or trade qualification (within the meaning of regulation 19) which the organisation or body has power to confer; or
- (c) who is genuinely and actively seeking such a professional or trade qualification which the organisation or body has power to confer.

8.—(1) When an employment tribunal finds that a complaint presented to it under paragraph 5 is well-founded the tribunal shall make an order declaring that the term or rule is void.

(2) An order under sub-paragraph (1) may include provision as respects any period before the making of the order (but after <sup>F2</sup>the date on which the inclusion of the term or rule became unlawful by virtue of these Regulations]).

#### Textual Amendments

**F2** Words in Sch. 5 para. 8(2) substituted (30.9.2006) by [The Employment Equality \(Age\) \(Amendment\) Regulations 2006 \(S.I. 2006/2408\)](#), regs. 1, 2(6)(d)

9. The avoidance by virtue of paragraph 4(2) of any term or rule which provides for any person to be discriminated against shall be without prejudice to the following rights (except in so far as they enable any person to require another person to be treated less favourably than himself), namely—

- (a) such of the rights of the person to be discriminated against; and
- (b) such of the rights of any person who will be treated more favourably in direct or indirect consequence of the discrimination,

as are conferred by or in respect of a contract made or modified wholly or partly in pursuance of, or by reference to, that term or rule.

10. In this Schedule “collective agreement” means any agreement relating to one or more of the matters mentioned in section 178(2) of the Trade Union and Labour Relations (Consolidation) Act 1992 (collective agreements and collective bargaining), being an agreement made by or on behalf of one or more employers or one or more organisations of employers or associations of such organisations with one or more organisations of workers or associations of such organisations.

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Employment Equality (Age) Regulations 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- Regulations revoked (except Schs. 6, 8) by [2010 c. 15 Sch. 27 Pt. 2](#) (Regulations revoked except Schs. 6, 8)

**Commencement Orders yet to be applied to the The Employment Equality (Age) Regulations 2006**

Commencement Orders bringing legislation that affects this Instrument into force:

- [S.I. 2010/2317 art. 2\(15\)\(f\)](#) commences ([2010 c. 15](#))
- [S.I. 2011/1066 art. 2\(h\)](#) commences ([2010 c. 15](#))