



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.

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Discrimination by other bodies

11 Partnerships

- (1) It is unlawful for a firm consisting of six or more 5 partners, in relation to a position as partner in the firm, to discriminate against a woman—
 - (a) in the arrangements they make for the purpose of determining who should be offered that position, or
 - (b) in the terms on which they offer her that position, or
 - (c) by refusing or deliberately omitting to offer her that position, or
 - (d) in a case where the woman already holds that position—
 - (i) in the way they afford her access to any benefits, facilities or services, or by refusing or deliberately omitting to afford her access to them, or
 - (ii) by expelling her from that position, or subjecting her to any other detriment.
- (2) Subsection (1) shall apply in relation to persons proposing to form themselves into a partnership as it applies in relation to a firm.
- (3) Subsection (1)(a) and (c) do not apply to a position as partner where, if it were employment, being a man would be a genuine occupational qualification for the job.
- (4) Subsection (1)(b) and (d) do not apply to provision made in relation to death or retirement.
- (5) In the case of a limited partnership references in subsection (1) to a partner shall be construed as references to a general partner as defined in section 3 of the Limited Partnerships Act 1907.

12 Trade unions etc.

- (1) This section applies to an organisation of workers, an organisation of employers, or any other organisation whose members carry on a particular profession or trade for the purposes of which the organisation exists.
- (2) It is unlawful for an organisation to which this section applies, in the case of a woman who is not a member of the organisation, to discriminate against her—
 - (a) in the terms on which it is prepared to admit her to membership, or
 - (b) by refusing, or deliberately omitting to accept, her application for membership.
- (3) It is unlawful for an organisation to which this section applies, in the case of a woman who is a member of the organisation, to discriminate against her—
 - (a) 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
 - (b) by depriving her of membership, or varying the terms on which she is a member, or
 - (c) by subjecting her to any other detriment.
- (4) This section does not apply to provision made in relation to the death or retirement from work of a member.

13 Qualifying bodies

- (1) It is unlawful for an authority or body which can confer an authorisation or qualification which is needed for, or facilitates, engagement in a particular profession or trade to discriminate against a woman—
 - (a) in the terms on which it is prepared to confer on her that authorisation or qualification, or
 - (b) by refusing or deliberately omitting to grant her application for it, or
 - (c) by withdrawing it from her or varying the terms on which she holds it.
- (2) Where an authority or body is required by law to satisfy itself as to his good character before conferring on a person an authorisation or qualification which is needed for, or facilitates, his engagement in any profession or trade then, without prejudice to any other duty to which it is subject, that requirement shall be taken to impose on the authority or body a duty to have regard to any evidence tending to show that he, or any of his employees, or agents (whether past or present), has practised unlawful discrimination in, or in connection with, the carrying on of any profession or trade.
- (3) In this section—
 - (a) "authorisation or qualification" includes recognition, registration, enrolment, approval and certification,
 - (b) "confer" includes renew or extend.
- (4) Subsection (1) does not apply to discrimination which is rendered unlawful by section 22 or 23.

14 Vocational training bodies

- (1) It is unlawful for a person to whom this subsection applies, in the case of a woman seeking or undergoing training which would help to fit her for any employment, to discriminate against her—
 - (a) in the terms on which that person affords her access to any training courses or other facilities, or
 - (b) by refusing or deliberately omitting to afford her such access, or
 - (c) by terminating her training.
- (2) Subsection (1) applies to—
 - (a) industrial training boards established under section 1 of the Industrial Training Act 1964;
 - (b) the Manpower Services Commission, the Employment Service Agency, and the Training Services Agency;
 - (c) any association which comprises employers and has as its principal object, or one of its principal objects, affording their employees access to training facilities;
 - (d) any other person providing facilities for training for employment, being a person designated for the purposes of this paragraph in an order made by or on behalf of the Secretary of State.
- (3) Subsection (1) does not apply to discrimination which is rendered unlawful by section 22 or 23.

15 Employment agencies

- (1) It is unlawful for an employment agency to discriminate against a woman—
 - (a) in the terms on which the agency offers to provide any of its services, or
 - (b) by refusing or deliberately omitting to provide any of its services, or
 - (c) in the way it provides any of its services.
- (2) It is unlawful for a local education authority or an education authority to do any act in the performance of its functions under section 8 of the Employment and Training Act 1973 which constitutes discrimination.
- (3) References in subsection (1) to the services of an employment agency include guidance on careers and any other services related to employment.
- (4) This section does not apply if the discrimination only concerns employment which the employer could lawfully refuse to offer the woman.
- (5) An employment agency or local education authority or an education authority shall not be subject to any liability under this section if it proves—
 - (a) that it acted in reliance on a statement made to it by the employer to the effect that, by reason of the operation of subsection (4), its action would not be unlawful, and
 - (b) that it was reasonable for it to rely on the statement.
- (6) A person who knowingly or recklessly makes a statement such as is referred to in subsection (5)(a) which in a material respect is false or misleading commits an offence, and shall be liable on summary conviction to a fine not exceeding £400.

16 Manpower Services Commission etc.

- (1) It is unlawful for any of the following bodies to discriminate in the provision of facilities or services under section 2 of the Employment and Training Act 1973—
 - (a) the Manpower Services Commission ;
 - (b) the Employment Service Agency;
 - (c) the Training Services Agency.
- (2) This section does not apply in a case where—
 - (a) section 14 applies, or
 - (b) the body is acting as an employment agency.

Special cases

17 Police

- (1) For the purposes of this Part, the holding of the office of constable shall be treated as employment—
 - (a) by the chief officer of police as respects any act done by him in relation to a constable or that office;
 - (b) by the police authority as respects any act done by them in relation to a constable or that office.
- (2) Regulations made under section 33, 34 or 35 of the Police Act 1964 shall not treat men and women differently except—

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- (a) as to requirements relating to height, uniform or equipment, or allowances in lieu of uniform or equipment, or
 - (b) so far as special treatment is accorded to women in connection with pregnancy or childbirth, or
 - (c) in relation to pensions to or in respect of special constables or police cadets.
- (3) Nothing in this Part renders unlawful any discrimination between male and female constables as to matters such as are mentioned in subsection (2)(a).
- (4) There shall be paid out of the police fund—
- (a) any compensation, costs or expenses awarded against a chief officer of police in any proceedings brought against him under this Act, and any costs or expenses incurred by him in any such proceedings so far as not recovered by him in the proceedings; and
 - (b) any sum required by a chief officer of police for the settlement of any claim made against him under this Act if the settlement is approved by the police authority.
- (5) Any proceedings under this Act which, by virtue of subsection (1), would lie against a chief officer of police shall be brought against the chief officer of police for the time being or, in the case of a vacancy in that office, against the person for the time being performing the functions of that office; and references in subsection (4) to the chief officer of police shall be construed accordingly.
- (6) Subsections (1) and (3) apply to a police cadet and appointment as a police cadet as they apply to a constable and the office of constable.
- (7) In this section—
- " chief officer of police "—
 - (a) in relation to a person appointed, or an appointment falling to be made, under a specified Act, has the same meaning as in the Police Act 1964,
 - (b) in relation to any other person or appointment means the officer who has the direction and control of the body of constables or cadets in question ;
 - " police authority "—
 - (a) in relation to a person appointed, or an appointment falling to be made, under a specified Act, has the same meaning as in the Police Act 1964,
 - (b) in relation to any other person or appointment, means the authority by whom the person in question is or on appointment would be paid;
 - " police cadet " means any person appointed to undergo training with a view to becoming a constable ;
 - " police fund " in relation to a chief officer of police within paragraph (a) of the above definition of that term has the same meaning as in the Police Act 1964, and in any other case means money provided by the police authority;
 - " specified Act " means the Metropolitan Police Act 1829, the City of London Police Act 1839 or the Police Act 1964.
- (8) In the application of this section to Scotland, in subsection (7) for any reference to the Police Act 1964 there shall be substituted a reference to the Police (Scotland) Act 1967, and for the reference to sections 33, 34 and 35 of the former Act in subsection (2) there shall be substituted a reference to sections 26 and 27 of the latter Act.

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18 Prison officers

- (1) Nothing in this Part renders unlawful any discrimination between male and female prison officers as to requirements relating to height.
- (2) In section 7(2) of the Prison Act 1952 the words " and if women only are received in a prison the Governor shall be a woman " are repealed.

19 Ministers of religion etc.

- (1) Nothing in this Part applies to employment for purposes of an organised religion where the employment is limited to one sex so as to comply with the doctrines of the religion or avoid offending the religious susceptibilities of a significant number of its followers.
- (2) Nothing in section 13 applies to an authorisation or qualification (as defined in that section) for purposes of an organised religion where the authorisation or qualification is limited to one sex so as to comply with the doctrines of the religion or avoid offending the religious susceptibilities of a significant number of its followers.

20 Midwives

- (1) Section 6(1) does not apply to employment as a midwife.
- (2) Section 6(2)(a) does not apply to promotion, transfer or training as a midwife.
- (3) Section 14 does not apply to training as a midwife.
- (4) In the Midwives Act 1951 the following section is inserted after section 35—

“35A Extension of Act to men.

From 1st January 1976 references in this of Act to Act to women (except to a woman in childbirth) apply equally to men.”

- (5) In the Midwives (Scotland) Act 1951 the said section 35A is inserted after section 37 of that Act as section 37A.

21 Mineworkers

- (1) The following shall be substituted for section 124(1) of the Mines and Quarries Act 1954 (which provides that no female shall be employed below ground at a mine)—
 - “(1) No female shall be employed in a job the duties of which ordinarily require the employee to spend a significant proportion of his time below ground at a mine which is being worked”
- (2) Throughout the Coal Mines Regulation Act 1908, for " workman " or " man " there is substituted " worker ", and for "workmen" or "men" there is substituted " workers " .