



Employment Act 1989

1989 CHAPTER 38

Overriding of provisions requiring discrimination as respects employment or training

1 Overriding of statutory requirements which conflict with certain provisions of 1975 Act.

(1) Any provision of—

- (a) an Act passed before the ^{M1}Sex Discrimination Act 1975, or
- (b) an instrument approved or made by or under such an Act (including one approved or made after the passing of the 1975 Act),

shall be of no effect in so far as it imposes a requirement to do an act which would be rendered unlawful by any of the provisions of that Act referred to in subsection (2).

(2) Those provisions are—

- (a) Part II (discrimination as respects employment);
- (b) Part III (discrimination as respects education etc.) so far as it applies to vocational training; and
- (c) Part IV (other unlawful acts) so far as it has effect in relation to the provisions mentioned in paragraphs (a) and (b) above.

(3) Where in any legal proceedings (of whatever nature) there falls to be determined the question whether subsection (1) operates to negative the effect of any provision in so far as it requires the application by any person of a [^{F1}provision, criterion or practice] falling within [^{F2}section 1(2)(b)(i) or 3(1)(b)(i)] of the 1975 Act (indirect discrimination on grounds of sex or marital status)—

- (a) it shall be for any party to the proceedings who claims that subsection (1) does not so operate in relation to that provision to show the [^{F1}provision, criterion or practice] in question to be justifiable as mentioned in [^{F3}section 1(2)(b)(ii) or 3(1)(b)(ii) of that Act]; and
- (b) the said [^{F4}section 1(2)(b)(ii) or 3(1)(b)(ii)] shall accordingly have effect in relation to the [^{F1}provision, criterion or practice] as if the reference to the person applying it were a reference to any such party to the proceedings.

Status: Point in time view as at 12/10/2001.

Changes to legislation: There are currently no known outstanding effects for the Employment Act 1989, Cross Heading: Overriding of provisions requiring discrimination as respects employment or training. (See end of Document for details)

- (4) Where an Act passed after the 1975 Act, whether before or after the passing of this Act, re-enacts (with or without modification) a provision of an Act passed before the 1975 Act, that provision as re-enacted shall be treated for the purposes of subsection (1) as if it continued to be contained in an Act passed before the 1975 Act.

Textual Amendments

- F1** Words in s. 1(3) substituted (12.10.2001) by S.I. 2001/2660, reg. 9(a)
F2 Words in s. 1(3) substituted (12.10.2001) by S.I. 2001/2660, reg. 9(b)
F3 Words in s. 1(3)(a) substituted (12.10.2001) by S.I. 2001/2660, reg. 9(c)
F4 Words in s. 1(3)(b) substituted (12.10.2001) by S.I. 2001/2660, reg. 9(d)

Modifications etc. (not altering text)

- C1** S. 1(1) excluded by S.I. 1989/2420, art. 2

Marginal Citations

- M1** 1975 c. 65.

2 Power of Secretary of State to repeal statutory provisions requiring discrimination as respects employment or training.

- (1) Where it appears to the Secretary of State that a relevant provision, namely any provision of—
- an Act passed before this Act, or
 - an instrument approved or made by or under such an Act (including one approved or made after the passing of this Act),
- requires the doing of an act which would (within the meaning of the 1975 Act) constitute an act of discrimination in circumstances relevant for the purposes of any of the provisions of that Act falling within section 1(2) above, he may by order make such provision (whether by amending, repealing or revoking the relevant provision or otherwise) as he considers appropriate for removing any such requirement.
- (2) Subsection (1) shall have effect in relation to a provision to which section 1(1) above applies as if the reference to a relevant provision requiring the doing of an act were a reference to its so requiring but for the operation of section 1(1).
- (3) Any order under this section which makes any amendment, repeal or revocation of a relevant provision within the meaning of subsection (1) may (without prejudice to the generality of section 28(5) below) amend or repeal any provision of this Act by virtue of which acts done in pursuance of the relevant provision are not to be unlawful for the purposes of provisions of the 1975 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 (1) as if it continued to be contained in an Act passed before this Act.

Modifications etc. (not altering text)

- C2** S. 2: transfer of certain functions (1.7.1999) by S.I. 1999/672, art. 2, Sch. 1

Status:

Point in time view as at 12/10/2001.

Changes to legislation:

There are currently no known outstanding effects for the Employment Act 1989, Cross Heading: Overriding of provisions requiring discrimination as respects employment or training.