



# Employment Act 1989

## 1989 CHAPTER 38

### *Removal of restrictions and other requirements relating to employment*

**F19** **Repeal or modification of provisions requiring different treatment of different categories of employees.**

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#### **Textual Amendments**

**F1** S. 9 repealed (1.10.2010) by [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010 \(S.I. 2010/2279\)](#), art. 1(2), [Sch. 2](#) (see S.I. 2010/2317, art. 2)

**10** **Removal of restrictions relating to employment of young persons.**

- (1) The following enactments, namely—
  - (a) the enactments listed in Part I of Schedule 3 (which impose prohibitions or requirements with respect to the hours of employment and holidays of young persons and with respect to related matters), and
  - (b) the enactments listed in Part II of that Schedule (which impose other prohibitions or requirements for, or in connection with, regulating the employment of young persons),shall cease to have effect.
- (2) The enactments mentioned in Part III of Schedule 3 shall have effect subject to the amendments there specified (which include amendments by virtue of which certain occupations, instead of being restricted to persons who are 16 or older, are restricted to persons over school-leaving age).
- (3) If the Secretary of State considers it appropriate to do so, he may by order—
  - (a) repeal or amend any statutory provision in consequence of subsection (1) or (2);

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- (b) repeal any statutory provision relating to the employment of persons, or any class of persons, who have not attained the age of 18 or (as the case may be) some specified lower age of not less than 16;
  - (c) amend any statutory provision falling within paragraph (b) and framed by reference to a specified age expressed as a number of years so that it is instead framed by reference to school-leaving age;
  - (d) repeal any statutory provision appearing to the Secretary of State to be unnecessary in view of any other such provision, being a provision relating to the employment of persons under school-leaving age.
- (4) Nothing in any order under subsection (3) (apart from a repeal effected by virtue of paragraph (d) of that subsection) shall affect any statutory provision relating to the employment of persons under school-leaving age.
- (5) Any reference in subsection (3)(d) or (4) to a statutory provision relating to the employment of persons under school-leaving age shall be construed, in relation to a statutory provision which relates to both—
- (a) the employment of such persons, and
  - (b) the employment of persons over that age,
- as a reference to so much of that provision as relates to the employment of persons under that age.
- (6) In this section—
- “school-leaving age means—
- (a) in relation to England and Wales, the upper limit of compulsory school age [<sup>F2</sup>(construed in accordance with section 8 of the Education Act 1996)];
  - (b) in relation to Scotland, the upper limit of school age for the purposes of the <sup>M1</sup>Education (Scotland) Act 1980; and
  - (c) in relation to Northern Ireland, the upper limit of compulsory school age for the purposes of the <sup>M2</sup>Education and Libraries (Northern Ireland) Order 1986; and
- “statutory provision means a provision of an Act or of subordinate legislation (and references to the repeal of a statutory provision shall be construed accordingly).

#### Extent Information

**E1** For extent of s. 10 see s. 30(5)(6)(b)

#### Textual Amendments

**F2** Words in s. 10(6) substituted (1.9.1997) by 1996 c. 56, s. 582(1), **Sch. 37 Pt. II**, para. 139 (with ss. 1(4), 410, Sch. 39); S.I. 1997/1623, **art. 2(2)**

#### Marginal Citations

**M1** 1980 c. 44.

**M2** S.I.1986/594 (N.I.3).

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## **11 Exemption of Sikhs from requirements as to wearing of safety helmets [<sup>F3</sup> at workplaces].**

- (1) Any requirement to wear a safety helmet which (apart from this section) would, by virtue of any statutory provision or rule of law, be imposed on a Sikh who is [<sup>F4</sup> at a workplace] shall not apply to him at any time when he is wearing a turban.
- (2) Accordingly, where—
  - (a) a Sikh who is [<sup>F5</sup> at a workplace] is for the time being wearing a turban, and
  - (b) (apart from this section) any associated requirement would, by virtue of any statutory provision or rule of law, be imposed—
    - (i) on the Sikh, or
    - (ii) on any other person,in connection with the wearing by the Sikh of a safety helmet, that requirement shall not apply to the Sikh or (as the case may be) to that other person.
- (3) In subsection (2) “associated requirement” means any requirement (other than one falling within subsection (1)) which is related to or connected with the wearing, provision or maintenance of safety helmets.
- (4) It is hereby declared that, where a person does not comply with any requirement, being a requirement which for the time being does not apply to him by virtue of subsection (1) or (2)—
  - (a) he shall not be liable in tort to any person in respect of any injury, loss or damage caused by his failure to comply with that requirement; and
  - (b) in Scotland no action for reparation shall be brought against him by any person in respect of any such injury, loss or damage.
- (5) If a Sikh who is [<sup>F6</sup> at a workplace]—
  - (a) does not comply with any requirement to wear a safety helmet, being a requirement which for the time being does not apply to him by virtue of subsection (1), and
  - (b) in consequence of any act or omission of some other person sustains any injury, loss or damage which is to any extent attributable to the fact that he is not wearing a safety helmet in compliance with the requirement,that other person shall, if liable to the Sikh in tort (or, in Scotland, in an action for reparation), be so liable only to the extent that injury, loss or damage would have been sustained by the Sikh even if he had been wearing a safety helmet in compliance with the requirement.
- (6) Where—
  - (a) the act or omission referred to in subsection (5) causes the death of the Sikh, and
  - (b) the Sikh would have sustained some injury (other than loss of life) in consequence of the act or omission even if he had been wearing a safety helmet in compliance with the requirement in question,the amount of any damages which, by virtue of that subsection, are recoverable in tort (or, in Scotland, in an action for reparation) in respect of that injury shall not exceed the amount of any damages which would (apart from that subsection) be so recoverable in respect of the Sikh’s death.

[<sup>F7</sup>(6A) This section does not apply to a Sikh who—

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- (a) works, or is training to work, in an occupation that involves (to any extent) providing an urgent response to fire, riot or other hazardous situations, and
  - (b) is at the workplace—
    - (i) to provide such a response in circumstances where the wearing of a safety helmet is necessary to protect the Sikh from a risk of injury, or
    - (ii) to receive training in how to provide such a response in circumstances of that kind.
- (6B) This section also does not apply to a Sikh who—
- (a) is a member of Her Majesty's forces or a person providing support to Her Majesty's forces, and
  - (b) is at the workplace—
    - (i) to take part in a military operation in circumstances where the wearing of a safety helmet is necessary to protect the Sikh from a risk of injury, or
    - (ii) to receive training in how to take part in such an operation in circumstances of that kind.]
- (7) In this section—
- F8 ...  
F8 ...
- [<sup>F9</sup>Her Majesty's forces " has the same meaning as in the Armed Forces Act 2006; ]
- “injury” includes loss of life, any impairment of a person’s physical or mental condition and any disease;
- “safety helmet” means any form of protective headgear; and
- “statutory provision” means a provision of an Act or of subordinate legislation.
- [<sup>F10</sup>“workplace” means any premises where work is being undertaken, including premises occupied or normally occupied as a private dwelling; and “premises” includes any place and, in particular, includes—
- (a) any vehicle, vessel, aircraft or hovercraft,
  - (b) any installation (including a floating installation or one resting on the seabed or its subsoil or on other land covered with water or its subsoil), and
  - (c) any tent or moveable structure.]
- (8) In this section—
- (a) any reference to a Sikh is a reference to a follower of the Sikh religion; and
  - (b) any reference to a Sikh being [<sup>F11</sup>at a workplace] is a reference to his being there whether while at work or otherwise.
- (9) This section shall have effect in relation to any [<sup>F12</sup>relevant workplace] within the territorial sea adjacent to Great Britain as it has effect in relation to any [<sup>F13</sup>workplace] within Great Britain.
- (10) In subsection (9) [<sup>F14</sup>“relevant workplace” means any workplace where work is being undertaken if the premises and the activities being undertaken there are premises and activities to which the Health and Safety at Work etc. Act 1974 applies by virtue of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2013.]

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### Textual Amendments

- F3** Words in s. 11 sidenote substituted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 6(10)**, 115(7); S.I. 2015/994, [art. 11\(b\)](#) (with [art. 12\(1\)](#))
- F4** Words in s. 11(1) substituted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 6(2)**, 115(7); S.I. 2015/994, [art. 11\(b\)](#) (with [art. 12\(1\)](#))
- F5** Words in s. 11(2)(a) substituted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 6(3)**, 115(7); S.I. 2015/994, [art. 11\(b\)](#) (with [art. 12\(1\)](#))
- F6** Words in s. 11(5) substituted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 6(4)**, 115(7); S.I. 2015/994, [art. 11\(b\)](#) (with [art. 12\(1\)](#))
- F7** S. 11(6A)(6B) inserted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 6(5)**, 115(7); S.I. 2015/994, [art. 11\(b\)](#) (with [art. 12\(1\)](#))
- F8** Words in s. 11(7) omitted (1.10.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), **ss. 6(6)(a)**, 115(7); S.I. 2015/994, [art. 11\(b\)](#) (with [art. 12\(1\)](#))
- F9** Words in s. 11(7) inserted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 6(6)(b)**, 115(7); S.I. 2015/994, [art. 11\(b\)](#) (with [art. 12\(1\)](#))
- F10** Words in s. 11(7) inserted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 6(6)(c)**, 115(7); S.I. 2015/994, [art. 11\(b\)](#) (with [art. 12\(1\)](#))
- F11** Words in s. 11(8)(b) substituted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 6(7)**, 115(7); S.I. 2015/994, [art. 11\(b\)](#) (with [art. 12\(1\)](#))
- F12** Words in s. 11(9) substituted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 6(8)(a)**, 115(7); S.I. 2015/994, [art. 11\(b\)](#) (with [art. 12\(1\)](#))
- F13** Word in s. 11(9) substituted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 6(8)(b)**, 115(7); S.I. 2015/994, [art. 11\(b\)](#) (with [art. 12\(1\)](#))
- F14** Words in s. 11(10) substituted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 6(9)**, 115(7); S.I. 2015/994, [art. 11\(b\)](#) (with [art. 12\(1\)](#))

## 12 Protection of Sikhs from racial discrimination in connection with requirements as to wearing of safety helmets.

### (1) Where—

- (a) any person applies to a Sikh any [<sup>F15</sup>provision, criterion or practice] relating to the wearing by him of a safety helmet while he is [<sup>F16</sup>at a workplace], and
- (b) at the time when he so applies the [<sup>F15</sup>provision, criterion or practice] that person has no reasonable grounds for believing that the Sikh would not wear a turban at all times when [<sup>F17</sup>at such a workplace],

then, for the purpose of determining whether the application of the [<sup>F15</sup>provision, criterion or practice] to the Sikh constitutes an act of discrimination falling within [<sup>F18</sup>section 19 of the Equality Act 2010 (indirect discrimination), the provision, criterion or practice is to be taken as one in relation to which the condition in subsection (2)(d) of that section (proportionate means of achieving a legitimate aim) is satisfied]

- (2) Any special treatment afforded to a Sikh in consequence of section 11(1) or (2) above shall not be regarded for the purposes of [<sup>F19</sup>section 13 of the Equality Act 2010 as giving rise to discrimination against any other person]
- (3) [<sup>F20</sup>Subsections (6A) to (10)] of section 11 above shall apply for the purposes of this section as they apply for the purposes of that section.

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### Textual Amendments

- F15** Words in s. 12(1) substituted (1.10.2010) by Equality Act 2010 (c. 15), s. 216(3), **Sch. 26 para. 15(2)** (with ss. 6(4), 205); S.I. 2010/2317, art. 2(15)(e)(ii) (with arts.arts. 4-2515Schs. 1-8) (as amended (1.10.2010) by S.I. 2010/2337, art. 2)
- F16** Words in s. 12(1)(a) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), **ss. 6(12)(a)**, 115(7); S.I. 2015/994, art. 11(b) (with art. 12(2))
- F17** Words in s. 12(1)(b) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), **ss. 6(12)(b)**, 115(7); S.I. 2015/994, art. 11(b) (with art. 12(2))
- F18** Words in s. 12(1) substituted (1.10.2010) by Equality Act 2010 (c. 15), s. 216(3), **Sch. 26 para. 15(3)** (with ss. 6(4), 205); S.I. 2010/2317, art. 2(15)(e)(ii) (with arts.arts. 4-2515Schs. 1-8) (as amended (1.10.2010) by S.I. 2010/2337, art. 2)
- F19** Words in s. 12(2) substituted (1.10.2010) by Equality Act 2010 (c. 15), s. 216(3), **Sch. 26 para. 15(4)** (with ss. 6(4), 205); S.I. 2010/2317, art. 2(15)(e)(ii) (with arts.arts. 4-2515Schs. 1-8) (as amended (1.10.2010) by S.I. 2010/2337, art. 2)
- F20** Words in s. 12(3) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), **ss. 6(13)**, 115(7); S.I. 2015/994, art. 11(b) (with art. 12(2))

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