

SCHEDULES

SCHEDULE 1

FURTHER PROVISIONS RELATING TO ACCESS TO EMPLOYMENT

PART II

SCOPE OF APPLICATION OF PROVISIONS

Introduction

- 9 The provisions of this Part of this Schedule apply with respect to the operation of sections 1 to 3 and this Schedule (referred to below as “the provisions of this Act relating to access to employment”).

Restriction on contracting out

- 10 (1) An agreement is void in so far as it purports—
- (a) to exclude or limit the operation of any of the provisions of this Act relating to access to employment, or
 - (b) to preclude a person from presenting a complaint to, or bringing any proceedings under those provisions before, an industrial tribunal.
- (2) Sub-paragraph (1) does not apply to an agreement to refrain from instituting or continuing proceedings before an industrial tribunal where a conciliation officer has taken action in accordance with section 133(2) or (3) of the Employment Protection (Consolidation) Act 1978.

Crown employment and House of Commons and House of Lords staff

- 11 (1) The provisions of this Act relating to access to employment have effect in relation to Crown employment as in relation to other employment.
- (2) Crown employment means employment under or for the purposes of—
- (a) a government department, or
 - (b) any officer or body exercising on behalf of the Crown functions conferred by an enactment;
- and, subject to the following provisions, this paragraph applies to all Crown employment.
- (3) This paragraph does not apply to service as a member of the naval, military or air forces of the Crown but does apply to employment by an association established for the purposes of Part VI of the Reserve Forces Act 1980 (territorial, auxiliary and reserve forces associations).

Status: This is the original version (as it was originally enacted).

- (4) This paragraph does not apply to employment in respect of which there is in force a certificate under section 138(4) of the Employment Protection (Consolidation) Act 1978 (employment excepted from that Act for the purpose of safeguarding national security).
- 12 (1) The provisions of this Act relating to access to employment apply in relation to employment as a relevant member of the House of Commons or House of Lords staff as in relation to other employment.
- (2) Nothing in any rule of law or the law or practice of Parliament prevents a person from bringing before an industrial tribunal proceedings of any description under those provisions which could be brought before such a tribunal in relation to other employment.
- (3) In this paragraph “relevant member of the House of Commons staff” has the same meaning as in section 139 of the Employment Protection (Consolidation) Act 1978 (which provides for the application of provisions of that Act to such staff); and subsections (3) to (6) and (9) of that section (person to be treated as employer) apply, with any necessary adaptations, for the purposes of the provisions of this Act relating to access to employment.
- (4) In this paragraph “relevant member of the House of Lords staff” means a member of the House of Lords staff appointed by the Clerk of the Parliaments or the Gentleman Usher of the Black Rod.
- (5) For the purposes of the provisions of this Act relating to access to employment the holder for the time being of the office of Clerk of the Parliaments or Gentleman Usher of the Black Rod is the employer in relation to employment to which a person is appointed by the holder of that office; and anything done, before or after he took office, in relation to a person seeking such employment shall be treated as done by him.
- (6) If the House of Lords resolves at any time that any provision of sub-paragraphs (4) and (5) should be amended in its application to any employment as a member of the staff of that House, Her Majesty may by Order in Council amend that provision accordingly.
- Any such Order—
- (a) may contain such incidental, supplementary or transitional provisions as appear to Her Majesty to be appropriate, and
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- 13 In the provisions of this Act relating to access to employment references to employment include, in relation to—
- (a) Crown employment, and
- (b) employment as a relevant member of the House of Commons or House of Lords staff,
- employment otherwise than under a contract, on terms corresponding to those of a contract of service or apprenticeship; and related expressions shall be construed accordingly.

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Police service

- 14 The provisions of this Act relating to access to employment do not apply to employment as a member of any constabulary maintained by virtue of an enactment or in any other capacity by virtue of which a person has the powers or privileges of a constable.

Employment outside Great Britain

- 15 The provisions of this Act relating to access to employment do not apply to employment where under his contract of employment an employee will ordinarily work outside Great Britain.

Mariners

- 16 (1) For the purposes of paragraph 15 employment on board a ship registered in the United Kingdom shall be treated as employment where under his contract a person will ordinarily work in Great Britain unless—
- (a) the ship is registered at a port outside Great Britain, or
 - (b) the employment is wholly outside Great Britain.
- (2) Sub-paragraph (1) does not apply where the person seeking employment or, as the case may be, seeking to avail himself of a service of an employment agency is not ordinarily resident in Great Britain.
- (3) The provisions of this Act relating to access to employment do not apply to employment as master or as a member of the crew of a fishing vessel where the remuneration is only by a share in the profits or gross earnings of the vessel.

Offshore employment

- 17 (1) Section 137 of the Employment Protection (Consolidation) Act 1978 (power to extend employment legislation to offshore employment) applies in relation to the provisions of this Act relating to access to employment.
- (2) As it so applies—
- (a) the references to a person in employment to which the section applies shall be construed as a reference to a person seeking such employment, and
 - (b) the references to section 141 and 144 of that Act shall be construed as references to paragraphs 15 and 16 above.

Crown application of provisions relating to employment agencies

- 18 (1) The provisions of this Act relating to access to employment bind the Crown so far as they relate to the activities of an employment agency in relation to employment to which those provisions apply.
- (2) This does not affect the operation of those provisions in relation to Crown employment (see paragraph 11 above).