



Sex Discrimination Act 1975 (repealed)

1975 CHAPTER 65

PART I

DISCRIMINATION TO WHICH ACT APPLIES^{F1}

Textual Amendments

F1 S. 2A inserted (1.5.1999) by S.I. 1999/1102, reg. 2(1)

[^{F2}1] **Direct and indirect discrimination against women**

- (1) In any circumstances relevant for the purposes of any provision of this Act, other than a provision to which subsection (2) applies, a person discriminates against a woman if—
- (a) on the ground of her sex he treats her less favourably than he treats or would treat a man, or
 - (b) he applies to her a requirement or condition which he applies or would apply equally to a man but—
 - (i) which is such that the proportion of women who can comply with it is considerably smaller than the proportion of men who can comply with it, and
 - (ii) which he cannot show to be justifiable irrespective of the sex of the person to whom it is applied, and
 - (iii) which is to her detriment because she cannot comply with it.
- (2) In any circumstances relevant for the purposes of a provision to which this subsection applies, a person discriminates against a woman if—
- (a) on the ground of her sex, he treats her less favourably than he treats or would treat a man, or
 - (b) he applies to her a provision, criterion or practice which he applies or would apply equally to a man, but—

Status: Point in time view as at 12/10/2001. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Sex Discrimination Act 1975 (repealed), Part I. (See end of Document for details)

- (i) which is such that it would be to the detriment of a considerably larger proportion of women than of men, and
 - (ii) which he cannot show to be justifiable irrespective of the sex of the person to whom it is applied, and
 - (iii) which is to her detriment.
- (3) Subsection (2) applies to—
- (a) any provision of Part 2,
 - (b) sections 35A and 35B ^{F3}, and
 - (c) any other provision of Part 3, so far as it applies to vocational training.
- (4) If a person treats or would treat a man differently according to the man’s marital status, his treatment of a woman is for the purposes of subsection (1)(a) or (2)(a) to be compared to his treatment of a man having the like marital status.]

Textual Amendments

F2 S. 1 substituted (12.10.2001) by S.I. 2001/2660, reg. 3

F3 Sections 35A and 35B were inserted by the Courts and Legal Services Act 1990 (c. 41), sections 64 and 65.

2 Sex discrimination against men.

- (1) Section 1, and the provisions of Parts II and III relating to sex discrimination against women, are to be read as applying equally to the treatment of men, and for that purpose shall have effect with such modifications as are requisite.
- (2) In the application of subsection (1) no account shall be taken of special treatment afforded to women in connection with pregnancy or childbirth.

2A “Discrimination on the grounds of gender reassignment.”

- (1) A person (“A”) discriminates against another person (“B”) in any circumstances relevant for the purposes of—
- (a) any provision of Part II,
 - (b) section 35A or 35B, or
 - (c) any other provision of Part III, so far as it applies to vocational training,
- if he treats B less favourably than he treats or would treat other persons, and does so on the ground that B intends to undergo, is undergoing or has undergone gender reassignment.
- (2) Subsection (3) applies to arrangements made by any person in relation to another’s absence from work or from vocational training.
- (3) For the purposes of subsection (1), B is treated less favourably than others under such arrangements if, in the application of the arrangements to any absence due to B undergoing gender reassignment—
- (a) he is treated less favourably than he would be if the absence was due to sickness or injury, or

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- (b) he is treated less favourably than he would be if the absence was due to some other cause and, having regard to the circumstances of the case, it is reasonable for him to be treated no less favourably.
- (4) In subsections (2) and (3) “arrangements” includes terms, conditions or arrangements on which employment, a pupillage or tenancy or vocational training is offered.
- (5) For the purposes of subsection (1), a provision mentioned in that subsection framed with reference to discrimination against women shall be treated as applying equally to the treatment of men with such modifications as are requisite.

[^{F4}3 **Direct and indirect discrimination against married persons in employment field**

- (1) In any circumstances relevant for the purposes of any provision of Part 2, a person discriminates against a married person of either sex if—
 - (a) on the ground of his or her marital status he treats that person less favourably than he treats or would treat an unmarried person of the same sex, or
 - (b) he applies to that person a provision, criterion or practice which he applies or would apply equally to an unmarried person, but—
 - (i) which is such that it would be to the detriment of a considerably larger proportion of married persons than of unmarried persons of the same sex, and
 - (ii) which he cannot show to be justifiable irrespective of the marital status of the person to whom it is applied, and
 - (iii) which is to that person’s detriment.
- (2) For the purposes of subsection (1), a provision of Part 2 framed with reference to discrimination against women shall be treated as applying equally to the treatment of men, and for that purpose shall have effect with such modifications as are requisite.]

Textual Amendments

F4 S. 3 substituted (12.10.2001) by S.I. 2001/2660, reg. 4

VALID FROM 01/10/2005

[^{F5}3A **Discrimination on the ground of pregnancy or maternity leave**

- (1) In any circumstances relevant for the purposes of a provision to which this subsection applies, a person discriminates against a woman if—
 - (a) at a time in a protected period, and on the ground of the woman's pregnancy, the person treats her less favourably than he would treat her had she not become pregnant; or
 - (b) on the ground that the woman is exercising or seeking to exercise, or has exercised or sought to exercise, a statutory right to maternity leave, the person treats her less favourably than he would treat her if she were neither exercising nor seeking to exercise, and had neither exercised nor sought to exercise, such a right.
- (2) In any circumstances relevant for the purposes of a provision to which this subsection applies, a person discriminates against a woman if, on the ground that section 72(1) of

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the Employment Rights Act 1996 (compulsory maternity leave) has to be complied with in respect of the woman, he treats her less favourably than he would treat her if that provision did not have to be complied with in respect of her.

- (3) For the purposes of subsection (1)—
- (a) in relation to a woman, a protected period begins each time she becomes pregnant, and the protected period associated with any particular pregnancy of hers ends in accordance with the following rules—
 - (i) if she is entitled to ordinary but not additional maternity leave in connection with the pregnancy, the protected period ends at the end of her period of ordinary maternity leave connected with the pregnancy or, if earlier, when she returns to work after the end of her pregnancy;
 - (ii) if she is entitled to ordinary and additional maternity leave in connection with the pregnancy, the protected period ends at the end of her period of additional maternity leave connected with the pregnancy or, if earlier, when she returns to work after the end of her pregnancy;
 - (iii) if she is not entitled to ordinary maternity leave in respect of the pregnancy, the protected period ends at the end of the 2 weeks beginning with the end of the pregnancy;
 - (b) where a person's treatment of a woman is on grounds of illness suffered by the woman as a consequence of a pregnancy of hers, that treatment is to be taken to be on the ground of the pregnancy;
 - (c) a “statutory right to maternity leave” means a right conferred by section 71(1) or 73(1) of the Employment Rights Act 1996 (ordinary and additional maternity leave).
- (4) In subsection (3) “ordinary maternity leave” and “additional maternity leave” shall be construed in accordance with sections 71 and 73 of the Employment Rights Act 1996.
- (5) Subsections (1) and (2) apply to—
- (a) any provision of Part 2,
 - (b) sections 35A and 35B, and
 - (c) any other provision of Part 3, so far as it applies to vocational training.]

Textual Amendments

- F5** S. 3A inserted (1.10.2005) by [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), [reg. 4](#)

VALID FROM 06/04/2008

[^{F1}
F6] 3B

Discrimination on the ground of pregnancy or maternity: goods, facilities, services or premises

- (1) In any circumstances relevant for the purposes of a provision to which this subsection applies, a person discriminates against a woman if he treats her less favourably—

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- (a) on the ground of her pregnancy, or
 - (b) within the period of 26 weeks beginning on the day on which she gives birth, on the ground that she has given birth.
- (2) A person (P) is taken to discriminate against a woman on the ground of her pregnancy if—
- (a) P refuses to provide her with goods, facilities or services because P thinks that providing them would, because of her pregnancy, create a risk to her health or safety, or
 - (b) P provides or offers to provide them on conditions intended to remove or reduce such a risk because P thinks that provision of them without the conditions would create such a risk.
- (3) Subsection (2) does not apply if—
- (a) it is reasonable for P to think as mentioned in paragraph (a) or (b), and
 - (b) P applies an equivalent policy.
- (4) An equivalent policy is—
- (a) for the purposes of subsection (2)(a), refusing to provide the goods, facilities or services to persons with other physical conditions because P thinks that to do so would, because of such physical conditions, create a risk to the health or safety of such persons;
 - (b) for the purposes of subsection (2)(b), imposing conditions on the provision of goods, facilities or services to such persons which are intended to remove or reduce the risk to their health or safety because P thinks that the provision without the conditions would create such a risk.
- (5) Subsection (1) applies to sections 29 to 31, except in so far as they relate to an excluded matter.]

Textual Amendments

- F6** S. 3B inserted (6.4.2008) by [The Sex Discrimination \(Amendment of Legislation\) Regulations 2008](#) (S.I. 2008/963), reg. 2(1), [Sch. 1 para. 3\(1\)](#)

4 Discrimination by way of victimisation.

- (1) A person (“the discriminator”) discriminates against another person (“the person victimised”) in any circumstances relevant for the purposes of any provision of this Act if he treats the person victimised less favourably than in those circumstances he treats or would treat other persons, and do so by reason that the person victimised has—
- (a) brought proceedings against the discriminator or any other person under this Act or the ^{M1}Equal Pay Act 1970 [^{F7}or sections 62 to 65 of the Pensions Act 1995], or
 - (b) given evidence or information in connection with proceedings brought by any person against the discriminator or any other person under this Act or the ^{M2}Equal Pay Act 1970 [^{F7}or sections 62 to 65 of the Pensions Act 1995], or
 - (c) otherwise done anything under or by reference to this Act or the ^{M3}Equal Pay Act 1970 [^{F7}or sections 62 to 65 of the Pensions Act 1995] in relation to the discriminator or any other person, or

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- (d) alleged that the discriminator or any other person has committed an act which (whether or not the allegation so states) would amount to a contravention of this Act or give rise to a claim under the ^{M4}Equal Pay Act 1970, [^{F8} or under sections 62 to 65 of the Pensions Act 1995]
- or by reason that the discriminator knows the person victimised intends to do any of those things, or suspects the person victimised has done, or intends to do, any of them.
- (2) Subsection (1) does not apply to treatment of a person by reason of any allegation made by him if the allegation was false and not made in good faith.
- (3) For the purposes of subsection (1), a provision of Part II or III framed with reference to discrimination against women shall be treated as applying equally to the treatment of men and for that purpose shall have effect with such modifications as are requisite.]

Textual Amendments

- F7** Words in s. 4(1)(a)-(c) inserted (1.1.1996) by 1995 c. 26, ss. 66(2)(a), 180(1); S.I. 1995/3104, art. 2(2)(b)
- F8** Words in s. 4(1)(d) added (1.1.1996) by 1995 c. 26, ss. 66(2)(b), 180(1); S.I. 1995/3104, art. 2(2)(b)

Marginal Citations

- M1** 1970 c. 41.
- M2** 1970 c. 41.
- M3** 1970 c. 41.
- M4** 1970 c. 41.

VALID FROM 01/10/2005

[^{F9}4A Harassment, including sexual harassment

- (1) For the purposes of this Act, a person subjects a woman to harassment if—
- (a) on the ground of her sex, he engages in unwanted conduct that has the purpose or effect—
- (i) of violating her dignity, or
- (ii) of creating an intimidating, hostile, degrading, humiliating or offensive environment for her,
- (b) he engages in any form of unwanted verbal, non-verbal or physical conduct of a sexual nature that has the purpose or effect—
- (i) of violating her dignity, or
- (ii) of creating an intimidating, hostile, degrading, humiliating or offensive environment for her, or
- (c) on the ground of her rejection of or submission to unwanted conduct of a kind mentioned in paragraph (a) or (b), he treats her less favourably than he would treat her had she not rejected, or submitted to, the conduct.
- (2) Conduct shall be regarded as having the effect mentioned in sub-paragraph (i) or (ii) of subsection (1)(a) or (b) only if, having regard to all the circumstances, including in particular the perception of the woman, it should reasonably be considered as having that effect.

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- (3) For the purposes of this Act, a person (“A”) subjects another person (“B”) to harassment if—
- (a) A, on the ground that B intends to undergo, is undergoing or has undergone gender reassignment, engages in unwanted conduct that has the purpose or effect—
 - (i) of violating B's dignity, or
 - (ii) of creating an intimidating, hostile, degrading, humiliating or offensive environment for B, or
 - (b) A, on the ground of B's rejection of or submission to unwanted conduct of a kind mentioned in paragraph (a), treats B less favourably than A would treat B had B not rejected, or submitted to, the conduct.
- (4) Conduct shall be regarded as having the effect mentioned in sub-paragraph (i) or (ii) of subsection (3)(a) only if, having regard to all the circumstances, including in particular the perception of B, it should reasonably be considered as having that effect.
- (5) Subsection (1) is to be read as applying equally to the harassment of men, and for that purpose shall have effect with such modifications as are requisite.
- (6) For the purposes of subsections (1) and (3), a provision of Part 2 or 3 framed with reference to harassment of women shall be treated as applying equally to the harassment of men, and for that purpose will have effect with such modifications as are requisite.]

Textual Amendments

- F9** S. 4A inserted (1.10.2005) by [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), [reg. 5](#)

5 Interpretation.

- (1) In this Act—
- (a) references to discrimination refer to any discrimination falling within sections 1 to 4; and
 - (b) references to sex discrimination refer to any discrimination falling within section 1 or 2,
- and related expressions shall be construed accordingly.
- (2) In this Act—
- “woman” includes a female of any age, and
 - “man” includes a male of any age.
- (3) A comparison of the cases of persons of different sex or marital status under [F10section 1(1) or (2)] or 3(1) [F11, or a comparison of the cases of persons required for the purposes of section 2A,] must be such that the relevant circumstances in the one case are the same, or not materially different, in the other.

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Textual Amendments

F10 Words in s. 5(3) substituted (12.10.2001) by S.I. 2001/2660, **reg. 8(1)**

F11 Words in s. 5(3) inserted (1.5.1999) by S.I. 1999/1102, **reg. 2(2)**

Status:

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Changes to legislation:

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