



# Sex Discrimination Act 1975 (repealed)

## 1975 CHAPTER 65

### PART II

#### [<sup>F1</sup>EMPLOYMENT FIELD]

##### Textual Amendments

- F1** Pt. 2 Heading: words substituted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), reg. 7(1)

##### Modifications etc. (not altering text)

- C1** Part II extended by Employment Protection Act 1975 (c. 71), s. 122(2)
- C2** Pt. II (ss. 6–21): excluded by Employment Act 1989 (c. 38, SIF 43:1, 106:1), ss. 4(1)(a), 5(1)(2)(a)(3)(4)(7); excluded by S.I. 1989/2420, art. 3; excluded (1.2.1994) by Measure 1993 No. 2, s. 6; Instrument dated 31.1.1994 made by Archbishops of Canterbury and York

#### *Discrimination by employers*

#### 6 <sup>F2</sup> . . . 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—
- in the arrangements he makes for the purpose of determining who should be offered that employment, or
  - in the terms on which he offers her that employment, or
  - 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—
- 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

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(b) by dismissing her, or subjecting her to any other detriment.

[<sup>F3</sup>(2A) It is unlawful for an employer, in relation to employment by him at an establishment in Great Britain, to subject to harassment—

- (a) a woman whom he employs, or
- (b) a woman who has applied to him for employment.]

(3) ..... <sup>F4</sup>

[<sup>F5</sup>(4) Subsections (1)(b) and (2) do not render it unlawful for a person to discriminate against a woman in relation to her membership of, or rights under, an occupational pension scheme in such a way that, were any term of the scheme to provide for discrimination in that way, then, by reason only of any provision made by or under sections 62 to 64 of the Pensions Act 1995 (equal treatment), an equal treatment rule would not operate in relation to that term.

(4A) In subsection (4), “occupational pension scheme” has the same meaning as in the Pension Schemes Act 1993 and “equal treatment rule” has the meaning given by section 62 of the Pensions Act 1995]

- (a) in such of the terms on which he offers her employment as make provision in relation to the way in which he will afford her access to opportunities for promotion, transfer or training or as provide for her dismissal or demotion; or
- (b) in the way he affords her access to opportunities for promotion, transfer or training or by refusing or deliberately omitting to afford her access to any such opportunities; or
- (c) by dismissing her or subjecting her to any detriment which results in her dismissal or consists in or involves her demotion.

(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 be included (directly . . . <sup>F6</sup>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.

[<sup>F7</sup>(8) In its application to any discrimination falling within section 2A, this section shall have effect with the omission of subsections (4) to (6).]

#### Textual Amendments

- F2** S. 6 heading: words omitted (1.10.2005) by virtue of [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), [reg. 7\(3\)](#)
- F3** S. 6(2A) inserted (1.10.2005) by [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), [reg. 7\(4\)](#)

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- F4** S. 6(3) repealed by Sex Discrimination Act 1986 (c. 59, SIF 106:1), ss. 1(1), 9, **Sch. Pt. II**  
**F5** S. 6(4)(4A) substituted for s. 6(4) (1.1.1996) by 1995 c. 26, s. 66(3); S.I. 1995/3104, art. 2(2)(b)  
**F6** Words repealed by Sex Discrimination Act 1986 (c. 59, SIF 106:1), s. 9, **Sch. Pt. II**  
**F7** S. 6(8) inserted (1.5.1999) by S.I. 1999/1102, **reg. 3(1)**

**Modifications etc. (not altering text)**

- C3** S. 6 modified (W.) (12.5.2006) by The Education (Modification of Enactments Relating to Employment) (Wales) Order 2006 (S.I. 2006/1073), art. 3, **Sch.**  
**C4** S. 6 modified by S.I. 1989/901, art. 3, **Sch.**  
**C5** S. 6 modified (2.3.1998) by S.I. 1998/218, art. 3, **Sch.** (which S.I. was revoked (1.9.1999) by S.I. 1999/2256, art. 1(2))  
**C6** S. 6 modified (1.9.1999) by S.I. 1999/2256, art. 3, **Sch.**  
**C7** S. 6 modified (E.) (1.9.2003) by The Education (Modification of Enactments Relating to Employment) (England) Order 2003 (S.I. 2003/1964), art. 3, **Sch.**

**[F8] 6A Exception relating to terms and conditions during maternity leave**

- (1) Subject to subsections (2) and (5), section 6(1)(b) and (2) does not make it unlawful to deprive a woman who is on ordinary maternity leave of any benefit from the terms and conditions of her employment relating to remuneration.
- (2) Subsection (1) does not apply to benefit by way of maternity-related remuneration.
- (3) Subject to subsections (4) and (5), section 6(1)(b) and (2) does not make it unlawful to deprive a woman who is on additional maternity leave of any benefit from the terms and conditions of her employment.
- (4) Subsection (3) does not apply to—
  - (a) benefit by way of maternity-related remuneration,
  - (b) the benefit of her employer's implied obligation to her of trust and confidence, or
  - (c) any benefit of terms and conditions in respect of—
    - (i) notice of the termination by her employer of her contract of employment,
    - (ii) compensation in the event of redundancy,
    - (iii) disciplinary or grievance procedures, or
    - (iv) membership of a pension scheme.
- (5) Neither of subsections (1) and (3) applies to—
  - (a) benefit by way of remuneration in respect of times when the woman is neither on ordinary maternity leave nor on additional maternity leave, including increase-related remuneration in respect of such times; or
  - (b) benefit by way of maternity-related remuneration that is increase-related.
- (6) For the purposes of subsection (5), remuneration is increase-related so far as it falls to be calculated by reference to increases in remuneration that the woman would have received had she not been on ordinary or additional maternity leave.
- (7) In this section—

“maternity-related remuneration”, in relation to a woman, means remuneration to which she is entitled as a result of being pregnant or being on ordinary or additional maternity leave;

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“on additional maternity leave” means absent from work in exercise of the right conferred by section 73(1) of the Employment Rights Act 1996;

“on ordinary maternity leave” means absent from work in exercise of the right conferred by section 71(1) of that Act (ordinary maternity leave) or in consequence of the prohibition in section 72(1) of that Act (compulsory maternity leave);

“remuneration” means benefits—

- (a) that consist of the payment of money to an employee by way of wages or salary, and
- (b) that are not benefits whose provision is regulated by the employee's contract of employment.]

#### Textual Amendments

**F8** S. 6A inserted (1.10.2005) by [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), [reg. 8](#)

## 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

[<sup>F9</sup>(ba) the job is likely to involve the holder of the job doing his work, or living, in a private home and needs to be held by a man because objection might reasonably be taken to allowing to a woman—

- (i) the degree of physical or social contact with a person living in the home, or
- (ii) the knowledge of intimate details of such a person's life,

which is likely, because of the nature or circumstances of the job or of the home, to be allowed to, or available to, the holder of the job; 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—

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- (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
    - (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
  - <sup>F10</sup>(f) .....
  - (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
    - [<sup>F11</sup>(i) by a married couple,
    - (ii) by a couple who are civil partners of each other, or
    - (iii) by a married couple or a couple who are civil partners of each other].
- (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) <sup>F12</sup> . . . 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.

#### Textual Amendments

**F9** S. 7(2)(ba) inserted by Sex Discrimination Act 1986 (c. 59, SIF 106:1), s. 1(2)

**F10** S. 7(2)(f) repealed by Employment Act 1989 (c. 38, SIF 43:1, 106:1), ss. 3(2), 29(4), Sch. 7 Pt. II (subject to a saving in Sch. 9 para. 1)

**F11** S. 7(2)(h): (i)-(iii) and preceding word substituted (5.12.2005) for words by Civil Partnership Act 2004 (c. 33), ss. 251(3), 263; S.I. 2005/3175, art. 2(1), Sch. 1

**F12** S. 7(4): ", (f)" repealed by Employment Act 1989 (c. 38, SIF 43:1), s. 29(4), Sch. 7 Pt. II

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#### **Modifications etc. (not altering text)**

- C8** S. 7 modified by S.I. 1989/901, art. 3, **Sch.**
- C9** S. 7 modified (W.) (12.5.2006) by The Education (Modification of Enactments Relating to Employment) (Wales) Order 2006 (S.I. 2006/1073), art. 3, **Sch.**
- C10** S. 7 modified (2.3.1998) by S.I. 1998/218, art. 3, **Sch.** (which S.I. was revoked (1.9.1999) by S.I. 1999/2256, **art. 1(2)**)
- C11** S. 7 modified (1.9.1999) by S.I. 1999/2256, art. 3, **Sch.**
- C12** S. 7 modified (E.) (1.9.2003) by The Education (Modification of Enactments Relating to Employment) (England) Order 2003 (S.I. 2003/1964), art. 3, **Sch.**

#### **[<sup>F13</sup>7A “Corresponding exception relating to gender reassignment.”**

- (1) In their application to discrimination falling within section 2A, subsections (1) and (2) of section 6 do not make unlawful an employer’s treatment of another person if—
- (a) in relation to the employment in question—
    - (i) being a man is a genuine occupational qualification for the job, or
    - (ii) being a woman is a genuine occupational qualification for the job, and
  - (b) the employer can show that the treatment is reasonable in view of the circumstances described in the relevant paragraph of section 7(2) and any other relevant circumstances.
- (2) In subsection (1) the reference to the employment in question is a reference—
- (a) in relation to any paragraph of section 6(1), to the employment mentioned in that paragraph;
  - (b) in relation to section 6(2)—
    - (i) in its application to opportunities for promotion or transfer to any employment or for training for any employment, to that employment;
    - (ii) otherwise, to the employment in which the person discriminated against is employed or from which that person is dismissed.
- (3) In determining for the purposes of subsection (1) whether being a man or being a woman is a genuine occupational qualification for a job, section 7(4) applies in relation to dismissal from employment as it applies in relation to the filling of a vacancy.

[ Subsection (1) does not apply in relation to discrimination against a person whose <sup>F14</sup>(4) gender has become the acquired gender under the Gender Recognition Act 2004.]

#### **Textual Amendments**

- F13** Ss. 7A, 7B inserted (1.5.1999) by S.I. 1999/1102, **reg. 4(1)**
- F14** S. 7A(4) inserted (4.4.2005) by Gender Recognition Act 2004 (c. 7), ss. 14, 26, **Sch. 6 para. 2**; S.I. 2005/54, **art. 2**

#### **7B “Supplementary exceptions relating to gender reassignment.”**

- (1) In relation to discrimination falling within section 2A—
- (a) section 6(1)(a) or (c) does not apply to any employment where there is a supplementary genuine occupational qualification for the job,

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- (b) section 6(2)(a) does not apply to a refusal or deliberate omission to afford access to opportunities for promotion or transfer to or training for such employment, and
  - (c) section 6(2)(b) does not apply to dismissing an employee from, or otherwise not allowing him to continue in, such employment.
- (2) Subject to subsection (3), there is a supplementary genuine occupational qualification for a job only if—
- (a) the job involves the holder of the job being liable to be called upon to perform intimate physical searches pursuant to statutory powers;
  - (b) the job is likely to involve the holder of the job doing his work, or living, in a private home and needs to be held otherwise than by a person who is undergoing or has undergone gender reassignment, because objection might reasonably be taken to allowing to such a person—
    - (i) the degree of physical or social contact with a person living in the home, or
    - (ii) the knowledge of intimate details of such a person's life,which is likely, because of the nature or circumstances of the job or of the home, to be allowed to, or available to, the holder of the job;
  - (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 such that reasonable objection could be taken, for the purpose of preserving decency and privacy, to the holder of the job sharing accommodation and facilities with either sex whilst undergoing gender reassignment, and
    - (ii) it is not reasonable to expect the employer either to equip those premises with suitable accommodation or to make alternative arrangements; or
  - (d) the holder of the job provides vulnerable individuals with personal services promoting their welfare, or similar personal services, and in the reasonable view of the employer those services cannot be effectively provided by a person whilst that person is undergoing gender reassignment.
- [<sup>F15</sup>(3) Subsection (2) does not apply in relation to discrimination against a person whose gender has become the acquired gender under the Gender Recognition Act 2004.]
- [ Paragraph (a) of subsection (2) does not apply in relation to the filling of a vacancy at
- <sup>F16</sup>(4) a time when the employer already has employees falling within subsection (5)—
- (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.
- (5) An employee falls within this subsection if the employee does not intend to undergo and is not undergoing gender reassignment and either—
- (a) the employee has not undergone gender reassignment; or
  - (b) the employee's gender has become the acquired gender under the Gender Recognition Act 2004 <sup>F17</sup>.]



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#### Textual Amendments

- F13** Ss. 7A, 7B inserted (1.5.1999) by S.I. 1999/1102, **reg. 4(1)**
- F15** S. 7B(3) substituted (4.4.2005) by Gender Recognition Act 2004 (c. 7), ss. 14, 26, **Sch. 6 para. 3**; S.I. 2005/54, **art. 2**
- F16** S. 7B(4)(5) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 9**
- F17** 2004 c. 7.

## 8 Equal Pay Act 1970.]

- (1) In section 1 of the <sup>M1</sup>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—

(ii) 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;

(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



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variation is genuinely due to a material difference (other than the difference in sex) between her case and his.”

- (2) Section 1(1) of the <sup>M2</sup>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 <sup>M3</sup>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 <sup>M4</sup>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.
- [<sup>F18</sup>(7) In its application to any discrimination falling within section 2A, this section shall have effect with the omission of subsections (3), (4) and (5)(b).]

#### Textual Amendments

**F13** Ss. 7A, 7B inserted (1.5.1999) by S.I. 1999/1102, reg. 4(1)

**F18** S. 8(7) inserted (1.5.1999) by S.I. 1999/1102, reg. 3(2)

#### Modifications etc. (not altering text)

**C13** The text of ss. 8(1)(6), 18(2), 21(2), Sch. 1 Pt. I paras. 1–5, 6(1), Sch. 1 Pt. II, Sch. 3 para. 16(1)(2), Sch. 5 para. 1 and Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M1** 1970 c. 41.

**M2** 1970 c. 41.

**M3** 1970 c. 41.

**M4** 1970 c. 41.

## 9 <sup>F19</sup> . . . contract workers.

- (1) This section applies to any work [<sup>F20</sup>at an establishment in Great Britain,] 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—

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- (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.

[<sup>F21</sup>(2A) It is unlawful for a principal, in relation to contract work at an establishment in Great Britain, to subject a contract worker to harassment.]

- (3) [<sup>F22</sup>Subject to subsection (3A),]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.

[<sup>F23</sup>(3A) Subsection (3) does not apply in relation to discrimination falling within section 2A.

(3B) In relation to discrimination falling within section 2A, the principal does not contravene subsection (2)(a), (b), (c) or (d) by doing any act in relation to a woman if—

- (a) he does it at a time when, if the work were to be done by a person taken into his employment—
  - (i) being a man would be a genuine occupational qualification for the job, or
  - (ii) being a woman would be a genuine occupational qualification for the job, and

(b) he can show that the act is reasonable in view of the circumstances relevant for the purposes of paragraph (a) and any other relevant circumstances.

(3C) In relation to discrimination falling within section 2A, 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, there would be a supplementary genuine occupational qualification for the job.]

[<sup>F24</sup>(3D) Subsections (3B) and (3C) do not apply in relation to discrimination against a person whose gender has become the acquired gender under the Gender Recognition Act 2004.]

- (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.

#### Textual Amendments

- F19** S. 9: words in heading omitted (1.10.2005) by virtue of [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), [reg. 10\(2\)](#)
- F20** Words in s. 9(1) inserted (1.10.2005) by [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), [reg. 10\(3\)](#)
- F21** S. 9(2A) inserted (1.10.2005) by [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), [reg. 10\(4\)](#)
- F22** Words in s. 9(3) inserted (1.5.1999) by S.I. 1999/1102, [reg. 4\(2\)](#)
- F23** S. 9(3A)(3B)(3C) inserted (1.5.1999) by S.I. 1999/1102, [reg. 4\(3\)](#)
- F24** S. 9(3D) inserted (4.4.2005) by [Gender Recognition Act 2004 \(c. 7\)](#), ss. 14, 26, [Sch. 6 para. 4](#); S.I. 2005/54, [art. 2](#)

*Status: Point in time view as at 05/12/2005.*

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

**Modifications etc. (not altering text)**

- C14** S. 9 modified (W.) (12.5.2006) by [The Education \(Modification of Enactments Relating to Employment\) \(Wales\) Order 2006 \(S.I. 2006/1073\)](#), art. 3, **Sch.**
- C15** S. 9 modified by [S.I. 1989/901](#), art. 3, **Sch.**
- C16** S. 9 modified (2.3.1998) by [S.I. 1998/218](#), art. 3, **Sch.** (which S.I. was revoked (1.9.1999) by [S.I. 1999/2556](#), art. 1(2))
- C17** S. 9 modified (1.9.1999) by [S.I. 1999/2256](#), art. 3, **Sch.**
- C18** S. 9 modified (E.) (1.9.2003) by [The Education \(Modification of Enactments Relating to Employment\) \(England\) Order 2003 \(S.I. 2003/1964\)](#), art. 3, **Sch.**

**10 Meaning of employment at establishment in Great Britain.**

[<sup>F25</sup>(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 if—

- (a) the employee does his work wholly or partly in Great Britain, or
- (b) the employee does his work wholly outside Great Britain and subsection (1A) applies.

(1A) This subsection applies if—

- (a) the employer has a place of business at an establishment in Great Britain,
- (b) the work is for the purposes of the business carried on at that establishment, and
- (c) the employee is ordinarily resident in Great Britain—
  - (i) at the time when he applies for or is offered the employment, or
  - (ii) at any time during the course of the employment.]

[<sup>F26</sup>(2) The reference to “employment” in subsection (1) includes—

- (a) employment on board a ship [<sup>F27</sup>, only if the ship is] registered at a port of registry in Great Britain, and
- (b) employment on aircraft or hovercraft [<sup>F28</sup>, only if the aircraft or hovercraft is] registered in the United Kingdom and operated by a person who has his principal place of business, or is ordinarily resident, in 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 [<sup>F29</sup> and subsection (1A) does not apply]) 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 [<sup>F30</sup> provide that subsections (1) and (3) shall have effect as if—

- (a) the reference to Great Britain in each of paragraphs (a) and (b) of subsection (1), and
- (b) each of the references to Great Britain in subsections (1A) to (3),

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included] any area for the time being designated under section 1(7) of the <sup>M5</sup>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 <sup>M6</sup>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.
- [<sup>F31</sup>(8) Subsections (1) to (4) or, where an Order in Council under subsection (5) is in force, those subsections as modified by the Order, apply for the purposes of determining whether contract work, within the meaning given by section 9, is at an establishment in Great Britain, but so apply with the following modifications—
- (a) a reference to employment is to be read as a reference to work to which section 9 applies, and
  - (b) “employee” and “employer” shall be read (respectively) as “contract worker” and “principal”, with “contract worker” and “principal” having the meaning given by section 9.]

#### Textual Amendments

- F25** S. 10: (1)(1A) substituted (1.10.2005) for (1) by [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), **reg. 11(2)**
- F26** S. 10(2) substituted (16.12.1999) by [S.I. 1999/3163](#), **reg. 2**
- F27** Words in s. 10(2)(a) inserted (1.10.2005) by [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), **reg. 11(3)**
- F28** Words in s. 10(2)(b) inserted (1.10.2005) by [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), **reg. 11(4)**
- F29** Words in s. 10(3) substituted (1.10.2005) by [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), **reg. 11(5)**
- F30** Words in s. 10(5) substituted (1.10.2005) by [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), **reg. 11(6)**
- F31** S. 10(8) inserted (1.10.2005) by [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), **reg. 11(7)**

#### Modifications etc. (not altering text)

- C19** S. 10(1) extended by [S.I. 1987/930](#), **art. 2**
- C20** S. 10(5) extended by [Employment \(Continental Shelf\) Act 1978 \(c. 46\)](#), **s. 1(2)**

#### Marginal Citations

- M5** 1964 c. 29.
- M6** 1970 c. 41.

[<sup>F32</sup>Discrimination against office-holders etc.

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### Textual Amendments

**F32** Ss. 10A, 10B and cross-heading inserted (1.10.2005) by [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), **reg. 13(1)**

## 10A Offices and posts to which section 10B applies

- (1) Subject to subsections (2) and (3), section 10B applies to an office or post if—
  - (a) the office or post is one—
    - (i) to which persons are appointed to discharge functions personally under the direction of another person, and
    - (ii) in respect of which they are entitled to remuneration,
  - (b) the office or post is one to which appointments are made by a Minister of the Crown, a government department, the National Assembly for Wales or any part of the Scottish Administration, or
  - (c) the office or post is one to which appointments are made on the recommendation of, or subject to the approval of, a person referred to in paragraph (b).
- (2) Section 10B does not apply to an office or post if section 6 (employment), section 9 (contract work), section 11 (partnerships), section 35A (barristers) or section 35B (advocates)—
  - (a) applies in relation to an appointment to the office or post, or
  - (b) would apply in relation to an appointment to the office or post but for the operation of any other provision of this Act.
- (3) Section 10B does not apply to—
  - (a) any office of the House of Commons held by a member of it,
  - (b) a life peerage within the meaning of the Life Peerages Act 1958, or any office of the House of Lords held by a member of it,
  - (c) any office mentioned in Schedule 2 (Ministerial offices) to the House of Commons Disqualification Act 1975,
  - (d) the offices of Leader of the Opposition, Chief Opposition Whip or Assistant Opposition Whip within the meaning of the Ministerial and other Salaries Act 1975,
  - (e) any office of the Scottish Parliament held by a member of it,
  - (f) a member of the Scottish Executive within the meaning of section 44 of the Scotland Act 1998, or a junior Scottish Minister within the meaning of section 49 of that Act,
  - (g) any office of the National Assembly for Wales held by a member of it,
  - (h) in England, any office of a county council, a London borough council, a district council or a parish council held by a member of it,
  - (i) in Wales, any office of a county council, a county borough council or a community council held by a member of it,
  - (j) in relation to a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994, or a community council established under section 51 of the Local Government (Scotland) Act 1973, any office of such a council held by a member of it,
  - (k) any office of the Greater London Authority held by a member of it,

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- (l) any office of the Common Council of the City of London held by a member of it,
  - (m) any office of the Council of the Isles of Scilly held by a member of it, or
  - (n) any office of a political party.
- (4) For the purposes of subsection (1)(a), the holder of an office or post—
- (a) is to be regarded as discharging her functions under the direction of another person if that other person is entitled to direct her as to when and where she discharges those functions;
  - (b) is not to be regarded as entitled to remuneration merely because she is entitled to payments—
    - (i) in respect of expenses incurred by her in carrying out the functions of the office or post, or
    - (ii) by way of compensation for the loss of income or benefits she would or might have received from any person had she not been carrying out the functions of the office or post.
- (5) In this section and section 10B, appointment to an office or post does not include election to an office or post.

## **10B Office-holders**

- (1) It is unlawful for a relevant person, in relation to an appointment to an office or post to which this section applies, to discriminate against a woman—
- (a) in the arrangements which he makes for the purpose of determining to whom the appointment should be offered,
  - (b) in the terms on which he offers her the appointment, or
  - (c) by refusing to offer her the appointment.
- (2) It is unlawful, in relation to an appointment to an office or post to which this section applies and which is an office or post referred to in section 10A(1)(c), for a relevant person on whose recommendation, or subject to whose approval, appointments to the office or post are made, to discriminate against a woman—
- (a) in the arrangements which he makes for the purpose of determining who should be recommended or approved in relation to the appointment, or
  - (b) in making or refusing to make a recommendation, or giving or refusing to give an approval, in relation to the appointment.
- (3) It is unlawful for a relevant person, in relation to a woman who has been appointed to an office or post to which this section applies, to discriminate against her—
- (a) in the terms of the appointment,
  - (b) in the opportunities which he affords her for promotion, a transfer, training or receiving any other benefit, or by refusing to afford her any such opportunity,
  - (c) by terminating the appointment, or
  - (d) by subjecting her to any other detriment in relation to the appointment.
- (4) It is unlawful for a relevant person, in relation to an office or post to which this section applies, to subject to harassment a woman—
- (a) who has been appointed to the office or post,
  - (b) who is seeking or being considered for appointment to the office or post, or

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- (c) who, in relation to appointment to the office or post, is seeking or being considered for a recommendation or approval referred to in section 10A(1)(c).
- (5) Subsections (1) and (3) do not apply to any act in relation to an office or post where, if holding the office or post constituted employment, that act would be lawful by virtue of section 7, 7A or 7B (exception where sex is a genuine occupational qualification etc.) or section 19 (ministers of religion etc.).
- (6) Subsection (2) does not apply to any act in relation to an office or post where, if holding the office or post constituted employment, it would be lawful by virtue of section 7, 7A, 7B or 19 to refuse to offer the person such employment.
- (7) Subsection (3) does not apply to benefits of any description if the relevant person is concerned with the provision (for payment or not) of benefits of that description to the public, or a section of the public to which the person appointed belongs, unless—
- (a) that provision differs in a material respect from the provision of the benefits to persons appointed to offices or posts which are the same as, or not materially different from, that which the person appointed holds,
  - (b) the provision of the benefits to the person appointed is regulated by the terms and conditions of her appointment, or
  - (c) the benefits relate to training.
- (8) In subsection (3)(c), the reference to the termination of the appointment includes a reference—
- (a) to the termination of the appointment by the expiration of any period (including a period expiring by reference to an event or circumstance), not being a termination immediately after which the appointment is renewed on the same terms and conditions, and
  - (b) to the termination of the appointment by any act of the person appointed (including the giving of notice) in circumstances such that she is entitled to terminate the appointment without notice by reason of the conduct of the relevant person.
- (9) In this section “relevant person”, in relation to an office or post, means—
- (a) in a case relating to an appointment to an office or post, the person with power to make that appointment;
  - (b) in a case relating to the making of a recommendation or the giving of an approval in relation to an appointment, a person or body referred to in section 10A(1)(b) with power to make that recommendation or (as the case may be) to give that approval;
  - (c) in a case relating to a term of an appointment, the person with power to determine that term;
  - (d) in a case relating to a working condition afforded in relation to an appointment—
    - (i) the person with power to determine that working condition, or
    - (ii) where there is no such person, the person with power to make the appointment;
  - (e) in a case relating to the termination of an appointment, the person with power to terminate the appointment;
  - (f) in a case relating to the subjection of a person to any other detriment or to harassment, any person or body falling within one or more of paragraphs (a) to (e) in relation to such cases as are there mentioned.



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- (10) In subsection (9)(d) “working condition” includes any opportunity for promotion, a transfer, training or receiving any other benefit.
- (11) In this section—
- (a) references to making a recommendation include references to making a negative recommendation;
  - (b) references to refusal include references to deliberate omission;
  - (c) “benefits” includes facilities and services.]

#### Textual Amendments

**F32** Ss. 10A, 10B and cross-heading inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 13(1)**

### *Discrimination by other bodies*

## 11 Partnerships.

- (1) It is unlawful for a firm <sup>F33</sup> . . ., 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.
- [<sup>F34</sup>(2A) It is unlawful for a firm, in relation to a position as partner in the firm, to subject to harassment a woman who holds or has applied for that position.]
- (3) [<sup>F35</sup>Subject to subsection (3A),]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.
- [<sup>F36</sup>(3A) Subsection (3) does not apply in relation to discrimination falling within section 2A.
- (3B) In relation to discrimination falling within section 2A, subsection (1) does not make unlawful a firm’s treatment of a person in relation to a position as partner where—
- (a) if it were employment—
    - (i) being a man would be a genuine occupational qualification for the job, or
    - (ii) being a woman would be a genuine occupational qualification for the job, and

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(b) the firm can show that the treatment is reasonable in view of the circumstances relevant for the purposes of paragraph (a) and any other relevant circumstances.

(3C) In relation to discrimination falling within section 2A, subsection (1)(a), (c) and, so far as it relates to expulsion, (d)(ii) do not apply to a position as partner where, if it were employment, there would be a supplementary genuine occupational qualification for the job.]

[<sup>F37</sup>(3D) Subsections (3B) and (3C) do not apply in relation to discrimination against a person whose gender has become the acquired gender under the Gender Recognition Act 2004.]

(4) <sup>F38</sup> .....

(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 <sup>M7</sup>Limited Partnerships Act 1907.

[<sup>F39</sup>(6) This section applies to a limited liability partnership as it applies to a firm; and, in its application to a limited liability partnership, references to a partner in a firm are references to a member of the limited liability partnership.]

#### Textual Amendments

- F33** Words repealed by [Sex Discrimination Act 1986 \(c. 59, SIF 106:1\)](#), ss. 1(3), 9, **Sch. Pt. II**
- F34** [S. 11\(2A\)](#) inserted (1.10.2005) by [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), **reg. 14(2)**
- F35** Words in [s. 11\(3\)](#) inserted (1.5.1999) by [S.I. 1999/1102](#), **reg. 4(4)**
- F36** [S. 11\(3A\)\(3B\)\(3C\)](#) inserted (1.5.1999) by [S.I. 1999/1102](#), **reg. 4(5)**
- F37** [S. 11\(3D\)](#) inserted (4.4.2005) by [Gender Recognition Act 2004 \(c. 7\)](#), ss. 14, 26, **Sch. 6 para. 5**; [S.I. 2005/54](#), **art. 2**
- F38** [S. 11\(4\)](#) omitted (1.10.2005) by virtue of [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), **reg. 14(3)**
- F39** [S. 11\(6\)](#) inserted (6.4.2001) by [S.I. 2001/1090](#), **reg. 9, Sch. 5 para. 6**

#### Marginal Citations

- M7** 1907 c. 24.

## 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—

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- (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.

[<sup>F40</sup>(3A) It is unlawful for an organisation to which this section applies, in relation to membership of that organisation, to subject to harassment a woman who—

- (a) is a member of the organisation, or
- (b) has applied for membership of the organisation.]

(4) <sup>F41</sup> .....

#### Textual Amendments

**F40** S. 12(3A) inserted (1.10.2005) by [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), [reg. 15\(2\)](#)

**F41** S. 12(4) omitted (1.10.2005) by virtue of [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), [reg. 15\(3\)](#)

### 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.

[<sup>F42</sup>(1A) It is unlawful for a body to which this section applies, in relation to an authorisation or qualification of a kind mentioned in subsection (1), to subject to harassment a woman who holds or applies for such an authorisation or qualification.]

- (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.

[<sup>F43</sup>(5) Subsection (1A) does not apply to harassment which is rendered unlawful by section 22 or 23.]

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#### Textual Amendments

- F42** S. 13(1A) inserted (1.10.2005) by [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), [reg. 16\(2\)](#)
- F43** S. 13(5) inserted (1.10.2005) by [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), [reg. 16\(3\)](#)

### [<sup>F44</sup>14 Persons concerned with provision of vocational training.

[<sup>F45</sup>(1) It is unlawful, in the case of a woman seeking or receiving vocational training, for any person who provides, or makes arrangements for the provision of, facilities for vocational training to discriminate against her—

- (a) in the arrangements that person makes for the purpose of selecting people to receive vocational training,
- (b) in the terms on which that person affords her access to any vocational training or facilities concerned with vocational training,
- (c) by refusing or deliberately omitting to afford her such access,
- (d) by terminating her vocational training, or
- (e) by subjecting her to any detriment during the course of her vocational training.

(1A) It is unlawful for a provider of vocational training, in relation to such training, to subject to harassment a woman—

- (a) to whom he is providing such training, or
- (b) who has asked him to provide such training.

(1B) In this section “vocational training”, in relation to a woman, includes (if it would not otherwise do so) any training which would help fit her for any employment.]

(2) Subsection (1) does not apply to—

- (a) discrimination which is rendered unlawful by section 6(1) or (2) or section 22 or 23, or
- (b) discrimination which would be rendered unlawful by any of those provisions but for the operation of any other provision of this Act.

#### Textual Amendments

- F44** S. 14 substituted by [Employment Act 1989 \(c. 38, SIF 43:1, 106:1\)](#), [s. 7\(1\)](#)
- F45** S. 14(1)(1A)(1B) substituted (1.10.2005) for (1) by [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), [reg. 17\(1\)](#)

### 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.

[ It is unlawful for an employment agency, in relation to the provision of its services,  
<sup>F46</sup>(1A) to subject to harassment a woman—

- (a) to whom it provides such services, or

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(b) who has requested the provision of such services.]

<sup>F47</sup> [ It is unlawful for a local education authority or education authority or any other person (2) to do any act in providing services in pursuance of arrangements made, or a direction given, under section 10 of the <sup>M8</sup>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 [<sup>F48</sup>, education authority or other person] 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 [<sup>F49</sup>level 5 on the standard scale].]

#### Textual Amendments

**F44** S. 14 substituted by [Employment Act 1989](#) (c. 38, SIF 43:1, 106:1), **s. 7(1)**

**F46** S. 15(1A) inserted (1.10.2005) by [The Employment Equality \(Sex Discrimination\) Regulations 2005](#) (S.I. 2005/2467), **reg. 18(2)**

**F47** S. 15(2) substituted (1.4.1994 in relation to England and Scotland and 1.4.1995 for all other purposes) by [1993 c. 19, s. 49\(2\)](#), **Sch. 8 para. 8(a)**; S.I. 1993/2503, art. 2(3), **Sch.3**

**F48** Words in s. 15(5) substituted (1.4.1994 in relation to England and Scotland . and 1.4.1995 for all other purposes) by [1993 c. 19, s. 49\(2\)](#), **Sch. 8 para. 8(b)**; S.I. 1993/2503, art. 2(3), **Sch.3**

**F49** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982](#) (c. 48, SIF 39:1), **ss. 38, 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975](#) (c. 21, SIF 39:1), **ss. 289F, 289G**

#### Marginal Citations

**M8** 1973 c. 50.

## 16 Manpower Services Commission etc.

<sup>F50</sup>(1) It is unlawful for the [<sup>F51</sup>Secretary of State . . . <sup>F52</sup>]to discriminate [<sup>F53</sup>, or subject a woman to harassment] in the provision of facilities or services under section 2 of the Employment and Training Act 1973.]

<sup>F54</sup>(1A) It is unlawful for Scottish Enterprise or Highlands and Islands Enterprise to discriminate [<sup>F55</sup>, or subject a woman to harassment] in the provision of facilities or services under such arrangements as are mentioned in section 2(3) of the Enterprise and New Towns (Scotland) Act 1990 (arrangements analogous to arrangements in pursuance of section 2 of the said Act of 1973).]

(2) This section does not apply in a case where—

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- (a) section 14 applies, or
- (b) the [<sup>F56</sup>Secretary of State] is acting as an employment agency.

#### Textual Amendments

- F50** S. 16(1) substituted by Employment and Training Act 1981 (c. 57, SIF 43:1), s. 9, **Sch. 2 para. 18**
- F51** Words substituted by Employment Act 1988 (c. 19, SIF 43:5), s. 33, **Sch. 3 Pt. II para. 11(2)**
- F52** Words repealed by Employment Act 1989 (c. 38, SIF 43:1), s. 29(4), **Sch. 7 Pt. I**
- F53** Words in s. 16(1) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 19(2)**
- F54** S. 16(1A) inserted (S.) (1.4.1991) by Enterprise and New Towns (Scotland) Act 1990 (c. 35, SIF 64), **s. 8**
- F55** Words in s. 16(1A) inserted (1.10.2005) by The Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467), **reg. 19(3)**
- F56** Words substituted by Employment Act 1989 (c. 38, SIF 43:1, 106:1), s. 29(3), **Sch. 6 para. 12**

#### *Special case*

### 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 [<sup>F57</sup>it] in relation to a constable or that office.

[<sup>F58</sup>(1A) For the purposes of section 41—

- (a) the holding of the office of constable shall be treated as employment by the chief officer of police (and as not being employment by any other person); and
  - (b) anything done by a person holding such an office in the performance, or purported performance, of his functions shall be treated as done in the course of that employment.]
- (2) Regulations made under [<sup>F59</sup>section 50, 51 or 52 of the Police Act 1996] shall not treat men and women differently except—
  - (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

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- (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.
- [<sup>F60</sup>(5A) A police authority may, in such cases and to such extent as appear to it to be appropriate, pay out of the police fund—
- (a) any compensation, costs or expenses awarded in proceedings under this Act against a person under the direction and control of the chief officer of police;
  - (b) any costs or expenses incurred and not recovered by such a person in such proceedings; and
  - (c) any sum required in connection with the settlement of a claim that has or might have given rise to such proceedings.]
- (6) Subsections (1) [<sup>F61</sup>, (1A)] 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) [<sup>F62</sup>Subject to subsection (9),] 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 [<sup>F63</sup>the Police Act 1996],
    - [<sup>F64</sup>(aa) in relation to a person appointed, or an appointment falling to be made, under section 9(1)(b) or 55(1)(b) of the Police Act 1997 (police members of the National Criminal Intelligence Service and the National Crime Squad) means the Director General of the National Criminal Intelligence Service or, as the case may be, the Director General of the National Crime Squad,]
    - (b) in relation to any other person or appointment means the officer [<sup>F65</sup>or other person] 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 [<sup>F63</sup>the Police Act 1996],
    - [<sup>F66</sup>(aa) in relation to a person appointed, or an appointment falling to be made, under section 9(1)(b) or 55(1)(b) of the Police Act 1997 <sup>F67</sup>, means the Service Authority for the National Criminal Intelligence Service or, as the case may be, the Service Authority for the National Crime Squad,]
    - (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 [<sup>F63</sup>the Police Act 1996][<sup>F68</sup>, in relation to a chief officer of police within paragraph (aa) of that definition means the service fund established under section 16 or, as the case may be, 61 of the Police Act 1997], and in any other case means money provided by the police authority;



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“specified Act” means the <sup>M9</sup>Metropolitan Police Act 1829, the <sup>M10</sup>City of London Police Act 1839 or [<sup>F63</sup>the Police Act 1996].

(8) In the application of this section to Scotland, in subsection (7) for any reference to [<sup>F69</sup>the Police Act 1996] there shall be substituted a reference to the <sup>M11</sup>Police (Scotland) Act 1967, and for the reference to [<sup>F70</sup>sections 50, 51 and 52] of the former Act in subsection (2) there shall be substituted a reference to sections 26 and 27 of the latter Act.

[<sup>F71</sup>(9) In relation to a constable of a force who is not under the direction and control of the chief officer of police for that force, references in this section to the chief officer of police are references to the chief officer for the force under whose direction and control he is, and references in this section to the police authority are references to the relevant police authority for that force.]

#### Textual Amendments

- F57** Word in s. 17(1)(b) substituted (19.7.2003) by [The Sex Discrimination Act 1975 \(Amendment\) Regulations 2003 \(S.I. 2003/1657\)](#), [reg. 2\(2\)](#)
- F58** S. 17(1A) inserted (19.7.2003) by [The Sex Discrimination Act 1975 \(Amendment\) Regulations 2003 \(S.I. 2003/1657\)](#), [reg. 2\(3\)](#)
- F59** Words in s. 17(2) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), [Sch. 7 Pt. II para. 27\(2\)](#)
- F60** S. 17(5A) inserted (19.7.2003) by [The Sex Discrimination Act 1975 \(Amendment\) Regulations 2003 \(S.I. 2003/1657\)](#), [reg. 2\(4\)](#)
- F61** Word in s. 17(6) inserted (19.7.2003) by [The Sex Discrimination Act 1975 \(Amendment\) Regulations 2003 \(S.I. 2003/1657\)](#), [reg. 2\(5\)](#)
- F62** Words in s. 17(7) inserted (19.7.2003) by [The Sex Discrimination Act 1975 \(Amendment\) Regulations 2003 \(S.I. 2003/1657\)](#), [reg. 2\(6\)](#)
- F63** Words in s. 17(7) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), [Sch. 7 Pt. II para. 27\(3\)](#)
- F64** S. 17(7): in the definition of “chief officer of police”  
para (aa) inserted (1.4.1998) by 1997 c. 50, s. 134(1), [Sch. 9 para. 31\(a\)](#); S.I. 1998/354, [art. 2\(2\)\(bc\)](#)
- F65** S. 17(7): words in para. (b) of definition of “chief officer of police” inserted (19.7.2003) by [The Sex Discrimination Act 1975 \(Amendment\) Regulations 2003 \(S.I. 2003/1657\)](#), [reg. 2\(7\)](#)
- F66** S. 17(7): words in para. (aa) of definition of “police authority” inserted (19.7.2003) by [The Sex Discrimination Act 1975 \(Amendment\) Regulations 2003 \(S.I. 2003/1657\)](#), [reg. 2\(2\)](#)
- F67** 1997 c. 50.
- F68** S. 17(7): words in definition of “police fund”  
inserted (1.4.1998) by 1997 c. 50, s. 134(1), [Sch. 9 para. 31\(b\)](#); S.I. 1998/354, [art. 2\(2\)\(bc\)](#)
- F69** Words in s. 17(8) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), [Sch. 7 Pt. II para. 27\(4\)](#)
- F70** Words in s. 17(8) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), [Sch. 7 Pt. II para. 27\(4\)](#)
- F71** S. 17(9) inserted (19.7.2003) by [The Sex Discrimination Act 1975 \(Amendment\) Regulations 2003 \(S.I. 2003/1657\)](#), [reg. 2\(9\)](#)

#### Marginal Citations

- M9** 1829 c. 44.  
**M10** 1839 c. xciv.  
**M11** 1967 c. 77.

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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.
- <sup>X1</sup>(2) In section 7(2) of the <sup>M12</sup>Prison Act 1952 the words “and if women only are recieved in a prison the Governor shall be a woman” are repealed.

### Editorial Information

**X1** The text of ss. 8(1)(6), 18(2), 21(2), Sch. 1 Pt. I paras. 1–5, 6(1), Sch. 1 Pt. II, Sch. 3 para. 16(1)(2), Sch. 5 para. 1 and Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### Marginal Citations

**M12** 1952 c. 52.

## [<sup>F72</sup>19 Ministers of religion etc.

- (1) Nothing in this Part shall make it unlawful to apply a requirement in relation to employment where—
- (a) the employment is for purposes of an organised religion,
  - (b) the requirement is one to which subsection (3) applies, and
  - (c) the requirement is applied—
    - (i) so as to comply with the doctrines of the religion, or
    - (ii) because of the nature of the employment and the context in which it is carried out, so as to avoid conflicting with the strongly-held religious convictions of a significant number of the religion's followers.
- (2) Nothing in section 13 shall make it unlawful to apply a requirement in relation to an authorisation or qualification (as defined in that section) where—
- (a) the authorisation or qualification is for purposes of an organised religion,
  - (b) the requirement is one to which subsection (3) applies, and
  - (c) the requirement is applied—
    - (i) so as to comply with the doctrines of the religion, or
    - (ii) by the authority or body concerned, or by the person by whom the authority or body acts in a particular case, so as to avoid conflicting with the strongly-held religious convictions of a significant number of the religion's followers.
- (3) This subsection applies to—
- (a) a requirement to be of a particular sex,
  - (b) a requirement not to be undergoing or to have undergone gender reassignment,
  - (c) a requirement relating to not being married or to not being a civil partner,
  - (d) a requirement, applied in relation to a person who is married, or is a civil partner, that relates—
    - (i) to the person, or the person's spouse or civil partner, not having a living former spouse or a living former civil partner, or

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- (ii) to how the person, or the person's spouse or civil partner, has at any time ceased to be married or ceased to be a civil partner.]

**Textual Amendments**

**F72** S. 19 substituted (1.10.2005) by [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), **reg. 20(1)**

**20 Midwives.**

- (1) [<sup>F73</sup>Until 1st September 1983]Section 6(1) does not apply to employment as a midwife.  
(2) [<sup>F73</sup>Until 1st September 1983]Section 6(2)(a) does not apply to promotion, transfer or training as a midwife.  
(3) [<sup>F73</sup>Until 1st September 1983]Section 14 does not apply to training as a midwife.

<sup>F74</sup>(4) .....

**Textual Amendments**

**F73** Words inserted by [S.I. 1983/1202](#), **art. 2**

**F74** S. 20(4)(5), Sch. 5 para. 2 repealed by [Nurses, Midwives and Health Visitors Act 1979 \(c. 36, SIF 83:1\)](#), **Sch. 8**

*Relationships which have come to an end*

[<sup>F75</sup>  
<sup>F76</sup>**20A** **Relationships which have come to an end**

- (1) This section applies where—  
(a) there has been a relevant relationship between a woman and another person (“the relevant person”), and  
(b) the relationship has come to an end (whether before or after the commencement of this section).  
(2) In this section, a “relevant relationship” is a relationship during the course of which an act of discrimination by one party to the relationship against the other party to it is unlawful under any preceding provision of this Part.  
(3) It is unlawful for the relevant person to discriminate against the woman by subjecting her to a detriment where the discrimination arises out of and is closely connected to the relevant relationship.

[ It is unlawful for the relevant person to subject a woman to harassment where that <sup>F77</sup>(4) treatment arises out of or is closely connected to the relevant relationship.]]

**Textual Amendments**

**F75** S. 20A and cross-heading inserted (19.7.2003) by [The Sex Discrimination Act 1975 \(Amendment\) Regulations 2003 \(S.I. 2003/1657\)](#), **reg. 3**

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- F76** S. 20A and cross-heading inserted (19.7.2003) by [The Sex Discrimination Act 1975 \(Amendment\) Regulations 2003 \(S.I. 2003/1657\)](#), **reg. 3**
- F77** S. 20A(4) inserted (1.10.2005) by [The Employment Equality \(Sex Discrimination\) Regulations 2005 \(S.I. 2005/2467\)](#), **reg. 21**

## <sup>x2</sup>**21 Mineworkers.**

<sup>F78</sup>(1) . . . . .

<sup>F79</sup>(2) . . . . .]

### **Editorial Information**

- X2** The insertion of the new cross-heading "Relationships which have come to an end" on 19.7.2003 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

### **Textual Amendments**

- F75** S. 20A and cross-heading inserted (19.7.2003) by [The Sex Discrimination Act 1975 \(Amendment\) Regulations 2003 \(S.I. 2003/1657\)](#), **reg. 3**
- F78** S. 21(1) repealed by [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 29(4), **Sch. 7 Pt. III**
- F79** S. 21(2) repealed (20.11.1993) by [Coal Industry Act 1992 \(c. 17\)](#), s. 3(3), **Sch. Pt.II**; S.I. 1993/2514, **art.2**.

## [<sup>F80</sup>**21A Public authorities**

- (1) It is unlawful for a public authority exercising a function to do any act which constitutes—
  - (a) discrimination, or
  - (b) harassment within the meaning of section 4A(1) and (2), (5) and (6).
- (2) In subsection (1)—
  - (a) “public authority” includes any person who has functions of a public nature (subject to subsections (3) and (4)), and
  - (b) “function” means function of a public nature.
- (3) The prohibition in subsection (1) shall not apply to—
  - (a) the House of Commons,
  - (b) the House of Lords,
  - (c) the Security Service,
  - (d) the Secret Intelligence Service,
  - (e) the Government Communications Headquarters, or
  - (f) a part of the armed forces of the Crown which is, in accordance with a requirement of the Secretary of State, assisting the Government Communications Headquarters.
- (4) The prohibition in subsection (1) shall not apply to the functions and actions listed in the Table of Exceptions in subsection (9) (but nothing in that Table permits anything which is prohibited by virtue of any Community law relating to discrimination).
- (5) The Secretary of State may by order amend the Table of Exceptions.

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- (6) In an action under section 66 in respect of a contravention of this section—
- (a) the court shall not grant an injunction or interdict unless satisfied that it will not prejudice criminal proceedings or a criminal investigation, and
  - (b) the court shall grant any application to stay or sist the section 66 proceedings on the grounds of prejudice to criminal proceedings or to a criminal investigation, unless satisfied that the proceedings or investigation will not be prejudiced.
- (7) Section 74(2)(b) shall not apply in relation to a respondent's reply, or a failure to reply, to a question in connection with an alleged contravention of this section—
- (a) if the respondent reasonably asserts that to have replied differently or at all might have prejudiced criminal proceedings or a criminal investigation,
  - (b) if the respondent reasonably asserts that to have replied differently or at all would have revealed the reason for not instituting or not continuing criminal proceedings,
  - (c) where the reply is of a kind specified for the purposes of this paragraph by order of the Secretary of State,
  - (d) where the reply is given in circumstances specified for the purposes of this paragraph by order of the Secretary of State, or
  - (e) where the failure occurs in circumstances specified for the purposes of this paragraph by order of the Secretary of State.
- (8) In this section “criminal investigation” means—
- (a) an investigation into the commission of an alleged offence, and
  - (b) a decision whether to institute criminal proceedings.
- (9) The following is the Table of Exceptions referred to in subsection (4).

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	<i>Legislation</i>
1	Preparing, making, or considering— <ul style="list-style-type: none"><li>(a) an Act of Parliament,</li><li>(b) a Bill for an Act of Parliament,</li><li>(c) an Act of the Scottish Parliament,</li><li>or</li><li>(d) a Bill for an Act of the Scottish Parliament.</li></ul>
2	Preparing, making, confirming, approving, or considering legislation made or to be made— <ul style="list-style-type: none"><li>(a) by a Minister of the Crown,</li><li>(b) by Order in Council,</li><li>(c) by the Scottish Ministers or any member of the Scottish Executive,</li><li>(d) by the National Assembly for Wales, or</li><li>(e) by or by virtue of a Measure of the General Synod of the Church of England.</li></ul>

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- 3 Action which is necessary, or in so far as it is necessary, for the purpose of complying with—
- (a) an Act of Parliament,
  - (b) an Act of the Scottish Parliament,
  - or
  - (c) legislation of a kind described in Item 2.
- The courts, &c.*
- 4 A judicial function (whether in connection with a court or a tribunal).
- 5 Anything done on behalf of or on the instructions of a person exercising a judicial function (whether in connection with a court or a tribunal).
- 6 A decision not to institute or continue criminal proceedings.
- 7 Anything done for the purpose of reaching, or in pursuance of, a decision not to institute or continue criminal proceedings.
- Separate services, &c.*
- 8 The provision of a service for one sex only where only persons of that sex require the service.
- 9 The provision of separate services for each sex where a joint service would or might be less effective.
- 10 The provision of a service for one sex only where—
- (a) the service is also provided jointly for both sexes, and
  - (b) if the service were provided only jointly it would or might be insufficiently effective.
- 11 The provision of a service for one sex only where—
- (a) if the service were provided for both sexes jointly it would or might be less effective, and
  - (b) the extent to which the service is required by the other sex makes it not reasonably practicable to provide separate services for that sex.

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- 12 The provision of separate services for each sex in different ways or to different extents where—
- (a) if the service were provided for both sexes jointly it would or might be less effective, and
  - (b) the extent to which the service is required by one sex makes it not reasonably practicable to provide the service for that sex in the same way or to the same extent as for the other sex.
- 13 Action taken for the purpose of assisting one sex to overcome—
- (a) a disadvantage (as compared with the other sex), or
  - (b) the effects of discrimination.
- Miscellaneous*
- 14 The exercise of a function of the Charity Commissioners for England and Wales or the holder of the Office of the Scottish Charity Regulator in relation to an instrument in relation to which section 43 applies.
- 15 Action which is unlawful by virtue of another provision of this Act.
- 16 Action which would be unlawful by virtue of another provision of this Act but for an express exception.]

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**Textual Amendments**

**F80** S. 21A inserted (6.4.2007) by [Equality Act 2006 \(c. 3\)](#), **ss. 83(1)**, 93 (with s. 92); [S.I. 2006/1082](#), **art. 4(a)**



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**Changes to legislation:**

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