



# Race Relations Act 1976

## 1976 CHAPTER 74

### PART II

#### DISCRIMINATION IN THE EMPLOYMENT FIELD

##### *Discrimination by employers*

#### **4 Discrimination against 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 another—
  - (a) in the arrangements he makes for the purpose of determining who should be offered that employment; or
  - (b) in the terms on which he offers him that employment; or
  - (c) by refusing or deliberately omitting to offer him that employment.
- (2) It is unlawful for a person, in the case of a person employed by him at an establishment in Great Britain, to discriminate against that employee—
  - (a) in the terms of employment which he affords him ; or
  - (b) in the way he affords him access to opportunities for promotion, transfer or training, or to any other benefits, facilities or services, or by refusing or deliberately omitting to afford him access to them ; or
  - (c) by dismissing him, or subjecting him to any other detriment.
- (3) Except in relation to discrimination falling within section 2, subsections (1) and (2) do not apply to employment for the purposes of a private household.
- (4) 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 employee 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

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- (b) the provision of the benefits, facilities or services to the employee in question is regulated by his contract of employment; or
- (c) the benefits, facilities or services relate to training.

## **5 Exceptions for genuine occupational qualifications**

- (1) In relation to racial discrimination—
  - (a) section 4(1)(a) or (c) does not apply to any employment where being of a particular racial group is a genuine occupational qualification for the job ; and
  - (b) section 4(2)(b) does not apply to opportunities for promotion or transfer to, or training for, such employment.
- (2) Being of a particular racial group is a genuine occupational qualification for a job only where—
  - (a) the job involves participation in a dramatic performance or other entertainment in a capacity for which a person of that racial group is required for reasons of authenticity ; or
  - (b) the job involves participation as an artist's or photographic model in the production of a work of art, visual image or sequence of visual images for which a person of that racial group is required for reasons of authenticity; or
  - (c) the job involves working in a place where food or drink is (for payment or not) provided to and consumed by members of the public or a section of the public in a particular setting for which, in that job, a person of that racial group is required for reasons of authenticity; or
  - (d) the holder of the job provides persons of that racial group with personal services promoting their welfare, and those services can most effectively be provided by a person of that racial group.
- (3) Subsection (2) applies where some only of the duties of the job fall within paragraph (a), (b) (c) or (d) as well as where all of them do.
- (4) Paragraph (a), (b), (c) or (d) of subsection (2) does not apply in relation to the filling of a vacancy at a time when the employer already has employees of the racial group in question—
  - (a) who are capable of carrying out the duties falling within that paragraph; and
  - (b) and  
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.

## **6 Exception for employment intended to provide training in skills to be exercised outside Great Britain**

Nothing in section 4 shall render unlawful any act done by an employer for the benefit of a person not ordinarily resident in Great Britain in or in connection with employing him at an establishment in Great Britain, where the purpose of that employment is to provide him with training in skills which he appears to the employer to intend to exercise wholly outside Great Britain.

## **7 Discrimination against contract workers**

- (1) This section applies to any work 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 contract worker—
  - (a) in the terms on which he allows him to do that work ; or
  - (b) by not allowing him to do it or continue to do it; or
  - (c) in the way he affords him access to any benefits, facilities or services or by refusing or deliberately omitting to afford him access to them; or
  - (d) by subjecting him to any other detriment.
- (3) The principal does not contravene subsection (2)(b) by doing any act in relation to a person not of a particular racial group at a time when, if the work were to be done by a person taken into the principal's employment, being of that racial group would be a genuine occupational qualification for the job.
- (4) Nothing in this section shall render unlawful any act done by the principal for the benefit of a contract worker not ordinarily resident in Great Britain in or in connection with allowing him to do work to which this section applies, where the purpose of his being allowed to do that work is to provide him with training in skills which he appears to the principal to intend to exercise wholly outside Great Britain.
- (5) 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 contract worker in question 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.

## **8 Meaning of employment at establishment in Great Britain**

- (1) For the purposes of this Part (" the relevant purposes "), employment is to be regarded as being at an establishment in Great Britain unless the employee does his work wholly or mainly outside Great Britain.
- (2) In relation to—
  - (a) employment on board a ship registered at a port of registry in Great Britain ; or
  - (b) employment on an aircraft or hovercraft registered in the United Kingdom and operated by a person who has his principal place of business, or is ordinarily resident, in Great Britain, other than an aircraft or hovercraft while so operated in pursuance of a contract with a person who has his principal place of business, or is ordinarily resident, outside the United Kingdom,subsection (1) shall have effect as if the words " or mainly " were omitted.
- (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) the ship shall for the relevant purposes be deemed to be the establishment.

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- (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 provide that subsections (1) to (3) shall have effect as if in both subsection (1) and subsection (3) the last reference to Great Britain included any area for the time being designated under section 1(7) of the 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 is 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 has been laid before and approved by resolution of each House of Parliament.

## **9 Exception for seamen recruited abroad**

- (1) Nothing in section 4 shall render unlawful any act done by an employer in or in connection with employment by him on any ship in the case of a person who applied or was engaged for that employment outside Great Britain.
- (2) Nothing in section 7 shall, as regards work to which that section applies, render unlawful any act done by the principal in or in connection with such work on any ship in the case of a contract worker who was engaged outside Great Britain by the person by whom he is supplied.
- (3) Subsections (1) and (2) do not apply to employment or work concerned with exploration of the sea bed or subsoil or the exploitation of their natural resources in any area for the time being designated under section 1(7) of the Continental Shelf Act 1964, not being an area or part of an area in which the law of Northern Ireland applies.
- (4) For the purposes of subsection (1) a person brought to Great Britain with a view to his entering into an agreement in Great Britain to be employed on any ship shall be treated as having applied for the employment outside Great Britain.

### *Discrimination by other bodies*

## **10 Partnerships**

- (1) It is unlawful for a firm consisting of six or more partners, in relation to a position as partner in the firm, to discriminate against a person—
  - (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 him that position; or
  - (c) by refusing or deliberately omitting to offer him that position; or
  - (d) in a case where the person already holds that position—
    - (i) in the way they afford him access to any benefits, facilities or services, or by refusing or deliberately omitting to afford him access to them; or

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- (ii) by expelling him from that position, or subjecting him 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.
- (3) Subsection (1)(a) and (c) do not apply to a position as partner where, if it were employment, being of a particular racial group would be a genuine occupational qualification for the job.
- (4) In the case of a limited partnership references in this section to a partner shall be construed as references to a general partner as defined in section 3 of the Limited Partnerships Act 1907.

## **11 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 person who is not a member of the organisation, to discriminate against him—
  - (a) in the terms on which it is prepared to admit him to membership; or
  - (b) by refusing, or deliberately omitting to accept, his application for membership.
- (3) It is unlawful for an organisation to which this section applies, in the case of a person who is a member of the organisation, to discriminate against him—
  - (a) in the way it affords him access to any benefits, facilities or services, or by refusing or deliberately omitting to afford him access to them ; or
  - (b) by depriving him of membership, or varying the terms on which he is a member; or
  - (c) by subjecting him to any other detriment.

## **12 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 person—
  - (a) in the terms on which it is prepared to confer on him that authorisation or qualification ; or
  - (b) by refusing, or deliberately omitting to grant, his application for it; or
  - (c) by withdrawing it from him or varying the terms on which he holds it.
- (2) In this section—
  - (a) " authorisation or qualification" includes recognition, registration, enrolment, approval and certification;
  - (b) " confer " includes renew or extend.
- (3) Subsection (1) does not apply to discrimination which is rendered unlawful by section 17 or 18.

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### **13 Vocational training bodies**

- (1) It is unlawful for a person to whom this subsection applies, in the case of an individual seeking or undergoing training which would help to fit him for any employment, to discriminate against him—
  - (a) in the terms on which that person affords him access to any training courses or other facilities; or
  - (b) by refusing or deliberately omitting to afford him such access; or
  - (c) by terminating his training.
- (2) Subsection (1) applies to—
  - (a) industrial training boards established under section 1 of the Industrial Training Act 1964 ;
  - (b) the Manpower Services Commission, the Employment Service Agency, and the Training Services Agency ;
  - (c) any association which comprises employers and has as its principal object, or one of its principal objects, affording their employees access to training facilities ;
  - (d) any other person providing facilities for training for employment, being a person designated for the purposes of this paragraph in an order made by the Secretary of State.
- (3) Subsection (1) does not apply to discrimination which is rendered unlawful by section 17 or 18.

### **14 Employment agencies**

- (1) It is unlawful for an employment agency to discriminate against a person—
  - (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.
- (2) It is unlawful for a local education authority or an education authority to do any act in the performance of its functions under section 8 of the 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 person in question.
- (5) An employment agency or local education authority or an education authority 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 £400.

## **15 Manpower Services Commission etc.**

- (1) It is unlawful for any of the following bodies to discriminate in the provision of facilities or services under section 2 of the Employment and Training Act 1973—
  - (a) the Manpower Services Commission ;
  - (b) the Employment Service Agency ;
  - (c) the Training Services Agency.
- (2) This section does not apply in a case where—
  - (a) section 13 applies; or
  - (b) the body is acting as an employment agency.

### *Police*

## **16 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 them in relation to a constable or that office.
- (2) 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
  - (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.
- (3) 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 (2) to the chief officer of police shall be construed accordingly.
- (4) Subsection (1) applies to a police cadet and appointment as a police cadet as it applies to a constable and the office of constable.
- (5) 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 the Police Act,
    - (b) in relation to any other person or appointment, means the officer who has the direction and control of the body of constables or cadets in question;
  - " the Police Act " means, for England and Wales, the Police Act 1964 or, for Scotland, the Police (Scotland) Act 1967;
  - " 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 the Police Act,

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(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 the Police Act, and in any other case means money provided by the police authority;

" specified Act " means the Metropolitan Police Act 1829, the City of London Police Act 1839 or the Police Act.