
DRAFT STATUTORY INSTRUMENTS

2003 No.

The Race Relations Act 1976 (Amendment) Regulations 2003

Other office holders

51. After section 76 of the 1976 Act insert—

“Other office holders

76ZA.—(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 person on the grounds of race or ethnic or national origins—

- (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 him the appointment; or
- (c) by refusing or deliberately omitting to offer him the appointment.

(2) It is unlawful for a relevant person, in relation to a person who has been appointed to an office or post to which this section applies, to discriminate against him on grounds of race or ethnic or national origins—

- (a) in the terms of the appointment;
- (b) in the way he affords him access to opportunities for promotion, transfer, training or to any other benefits, facilities or services, or by refusing or deliberately omitting to afford him access to them;
- (c) by terminating the appointment; or
- (d) by subjecting him to any other detriment in relation to the appointment.

(3) It is unlawful for a relevant person, in relation to an office or post to which this section applies, to subject to harassment a person who has been appointed to, or is seeking or being considered for appointment to, such an office or post.

(4) Subsections (1) and (2) do not apply to any act in relation to an office or post where, if the office or post constituted employment, the act would be lawful by virtue of section 4A (exception for genuine occupational requirement).

(5) Subsection (2) does not apply to benefits, facilities or services of any description if the relevant person is concerned with the provision (for payment or not) of benefits, facilities or services of that description to the public, or a section of the public to which the person belongs, unless—

- (a) that provision differs in a material respect from the provision of the benefits, facilities or services to persons appointed to offices or posts which are the same as, or not materially different from, that to which the person has been appointed;
- (b) the provision of the benefits, facilities or services to the person appointed is regulated by the terms and conditions of his appointment; or
- (c) the benefits, facilities or services relate to training.

- (6) In subsection (2)(c) reference to the termination of the appointment includes 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 he is entitled to terminate the appointment by reason of the conduct of the relevant person.
- (7) This section applies to any office or post, other than a political office or post, where—
- (a) sections 4, 7, 10, 26A, 26B and 76 do not apply in relation to appointment to that office or post;
 - (b) it is an office or post to which persons are appointed to discharge functions personally under the direction of another person; and
 - (c) it is an office or post in respect of which they are entitled to remuneration.
- (8) For the purposes of subsection (7) the holder of an office or post—
- (a) is to be regarded as discharging his functions under the direction of another person if that other person is entitled to direct him as to when and where he discharges those functions; and
 - (b) is not to be regarded as entitled to remuneration merely because he is entitled to payments—
 - (i) in respect of expenses incurred by him in carrying out the functions of the office or post, or
 - (ii) by way of compensation for the loss of income or benefits he would or might have received from any person had he not been carrying out the functions of the office or post.
- (9) In this section—
- (a) appointment to an office or post does not include election to an office or post;
 - (b) “political office or post” means—
 - (i) any office of the House of Commons held by a member of it;
 - (ii) a life peerage within the meaning of the Life Peerages Act 1958 (1), or any office held in the House of Lords by a member of it;
 - (iii) any office mentioned in Schedule 2 (Ministerial offices) to the House of Commons Disqualification Act 1975(2);
 - (iv) 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(3);
 - (v) any office of the Scottish Parliament held by a member of it;
 - (vi) a member of the Scottish Executive within the meaning of section 44 of the Scotland Act 1998(4), or a junior Scottish Minister within the meaning of section 49 of that Act;

(1) 1958 c. 21.

(2) 1975 c. 24. Schedule 2 was amended by S.I.2002/794, article 5(2), Schedule 2, and by the Scotland Act 1998 (c. 46), sections 48(6), 87(1) and Schedule 9.

(3) 1975 c. 27.

(4) 1998 c. 46.

- (vii) any office of the National Assembly for Wales held by a member of it;
 - (viii) 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;
 - (ix) in Wales, any office of a county council, a county borough council or a community council held by a member of it;
 - (x) in relation to a council constituted under section 2 of the Local Government etc (Scotland) Act 1994⁽⁵⁾ or a community council established under section 51 of the Local Government (Scotland) Act 1973⁽⁶⁾, which is held by a member of it;
 - (xi) any office of the Greater London Authority held by a member of it;
 - (xii) any office of the Common Council of the City of London held by a member of it;
 - (xiii) any office of the Council of the Isles of Scilly held by a member of it; or
 - (xiv) any office of a political party; and
- (c) “relevant person”, in relation to an office or post, means—
- (i) any person with power to make or terminate appointments to the office or post, or to determine the terms of appointment; and
 - (ii) any person with power to determine the working conditions of a person appointed to the office or post in relation to opportunities for promotion, a transfer, training or for receiving any other benefit.”

⁽⁵⁾ 1994 c. 39. Section 2 was amended by the Environment Act 1995 (c. 25), Schedule 22, paragraph 232(1).

⁽⁶⁾ 1973 c. 65. Section 51 was amended by the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 14, paragraph 1.