
DRAFT STATUTORY INSTRUMENTS

2006 No.

The Employment Equality (Age) Regulations 2006

PART 1

GENERAL

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Employment Equality (Age) Regulations 2006, and shall come into force on 1st October 2006.

(2) Any amendment, repeal or revocation made by these Regulations has the same extent as the provision to which it relates.

(3) Subject to that, these Regulations do not extend to Northern Ireland.

Interpretation

2.—(1) In these Regulations, references to discrimination are to any discrimination falling within regulation 3 (discrimination on grounds of age), regulation 4 (discrimination by way of victimisation) or regulation 5 (instructions to discriminate) and related expressions shall be construed accordingly, and references to harassment shall be construed in accordance with regulation 6 (harassment on grounds of age).

(2) In these Regulations—

“1996 Act” means the Employment Rights Act 1996⁽¹⁾;

“act” includes a deliberate omission;

“benefit”, except in regulation 11 and Schedule 2 (pension schemes), includes facilities and services;

“commencement date” means 1st October 2006;

“Crown employment” means —

(a) service for purposes of a Minister of the Crown or government department, other than service of a person holding a statutory office; or

(b) service on behalf of the Crown for purposes of a person holding a statutory office or purposes of a statutory body;

“detriment” does not include harassment within the meaning of regulation 6;

“employment” means employment under a contract of service or of apprenticeship or a contract personally to do any work, and related expressions (such as “employee” and “employer”) shall be construed accordingly, but this definition does not apply in relation to regulation 30 (exception for retirement) or to Schedules 2, 6, 7 and 8;

“Great Britain” includes such of the territorial waters of the United Kingdom as are adjacent to Great Britain;

(1) 1996 c. 18.

“Minister of the Crown” includes the Treasury and the Defence Council;

“proprietor”, in relation to a school, has the meaning given by section 579 of the Education Act 1996(2);

“relevant member of the House of Commons staff” means any person who was appointed by the House of Commons Commission or who is a member of the Speaker’s personal staff;

“relevant member of the House of Lords staff” means any person who is employed under a contract of employment with the Corporate Officer of the House of Lords;

“school”, in England and Wales, has the meaning given by section 4 of the Education Act 1996(3), and, in Scotland, has the meaning given by section 135(1) of the Education (Scotland) Act 1980(4), and references to a school are to an institution in so far as it is engaged in the provision of education under those sections;

“service for purposes of a Minister of the Crown or government department” does not include service in any office mentioned in Schedule 2 (Ministerial offices) to the House of Commons Disqualification Act 1975(5);

“statutory body” means a body set up by or in pursuance of an enactment, and “statutory office” means an office so set up; and

“worker” in relation to regulations 32 and 34 and to Schedule 2, means, as the case may be—

- (a) an employee;
- (b) a person holding an office or post to which regulation 12 (office-holders etc) applies;
- (c) a person holding the office of constable;
- (d) a partner within the meaning of regulation 17 (partnerships);
- (e) a member of a limited liability partnership within the meaning of that regulation;
- (f) a person in Crown employment;
- (g) a relevant member of the House of Commons staff;
- (h) a relevant member of the House of Lords staff.

(3) In these Regulations references to “employer”, in their application to a person at any time seeking to employ another, include a person who has no employees at that time.

Discrimination on grounds of age

3.—(1) For the purposes of these Regulations, a person (“A”) discriminates against another person (“B”) if—

- (a) on grounds of B’s age, A treats B less favourably than he treats or would treat other persons, or
- (b) A applies to B a provision, criterion or practice which he applies or would apply equally to persons not of the same age group as B, but—
 - (i) which puts or would put persons of the same age group as B at a particular disadvantage when compared with other persons, and
 - (ii) which puts B at that disadvantage,

(2) 1996 c. 56; section 579 has been amended on a number of occasions. The relevant amendments for the purposes of these Regulations were those made by section 140(1) of, and paragraph 183(a)(iii) of Schedule 30 to, the School Standards and Framework Act 1998 (c. 31) and regulation 3 of S.I. 2003/2045.

(3) Section 4 was amended by section 51 of the Education Act 1997 (c. 44) and Part 3 of Schedule 22 to the Education Act 2002 (c. 32).

(4) 1980 c. 44.

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

and A cannot show the treatment or, as the case may be, provision, criterion or practice to be a proportionate means of achieving a legitimate aim.

(2) A comparison of B's case with that of another person under paragraph (1) must be such that the relevant circumstances in the one case are the same, or not materially different, in the other.

(3) In this regulation—

- (a) “age group” means a group of persons defined by reference to age, whether by reference to a particular age or a range of ages; and
- (b) the reference in paragraph (1)(a) to B's age includes B's apparent age.

Discrimination by way of victimisation

4.—(1) For the purposes of these Regulations, a person (“A”) discriminates against another person (“B”) if he treats B less favourably than he treats or would treat other persons in the same circumstances, and does so by reason that B has—

- (a) brought proceedings against A or any other person under or by virtue of these Regulations;
- (b) given evidence or information in connection with proceedings brought by any person against A or any other person under or by virtue of these Regulations;
- (c) otherwise done anything under or by reference to these Regulations in relation to A or any other person; or
- (d) alleged that A or any other person has committed an act which (whether or not the allegation so states) would amount to a contravention of these Regulations,

or by reason that A knows that B intends to do any of those things, or suspects that B has done or intends to do any of them.

(2) Paragraph (1) does not apply to treatment of B by reason of any allegation made by him, or evidence or information given by him, if the allegation, evidence or information was false and not made (or, as the case may be, given) in good faith.

Instructions to discriminate

5. For the purposes of these Regulations, a person (“A”) discriminates against another person (“B”) if he treats B less favourably than he treats or would treat other persons in the same circumstances, and does so by reason that—

- (a) B has not carried out (in whole or in part) an instruction to do an act which is unlawful by virtue of these Regulations, or
- (b) B, having been given an instruction to do such an act, complains to A or to any other person about that instruction.

Harassment on grounds of age

6.—(1) For the purposes of these Regulations, a person (“A”) subjects another person (“B”) to harassment where, on grounds of age, A engages in unwanted conduct which has the purpose or effect of—

- (a) violating B's dignity; or
- (b) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

(2) Conduct shall be regarded as having the effect specified in paragraph (1)(a) or (b) only if, having regard to all the circumstances, including in particular the perception of B, it should reasonably be considered as having that effect.

Draft Legislation: This is a draft item of legislation. This draft has since been made as
a UK Statutory Instrument: The Employment Equality (Age) Regulations 2006 No. 1031
