

*Status: Point in time view as at 01/04/2003.*

*Changes to legislation: Sex Discrimination Act 1975 (repealed) is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 8.

### EQUAL PAY ACT 1970

#### PART I

#### AMENDMENTS OF ACT

- 1 (1) In section 1(6), paragraph (b) is repealed and the following is inserted after paragraph (c): “and men shall be treated as in the same employment with a woman if they are men employed by her employer or any associated employer at the same establishment or at establishments in Great Britain which include that one and at which common terms and conditions of employment are observed either generally or for employees of the relevant classes”.
- (2) Section 1(7) is repealed.
- (3) The following is substituted for section 1(8)—
- “(8) This section shall apply to—
- (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,
- as it applies to employment by a private person, and shall so apply as if references to a contract of employment included references to the terms of service.
- (9) Subsection (8) does not apply in relation to service in—
- (a) the naval, military or air forces of the Crown, or
  - (b) any women’s service administered by the Defence Council.
- (10) In this section “statutory body” means a body set up by or in pursuance of an enactment, and “statutory office” means an office so set up; and service “for purposes of” a Minister of the Crown or government department does not include service in any office in Schedule 2 (Ministerial offices) to the House of Commons Disqualification Act 1975 as for the time being in force.”
- (4) The following subsections are inserted at the end of section 1—
- “(11) For the purposes of this Act it is immaterial whether the law which (apart from this subsection) is the proper law of a contract is the law of any part of the United Kingdom or not.
- (12) In this Act “Great Britain” includes such of the territorial waters of the United Kingdom as are adjacent to Great Britain.

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- (13) Provisions of this section and section 2 below framed with reference to women and their treatment relative to men are to be read as applying equally in a converse case to men and their treatment relative to women.”

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

**C1** 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.

- 2 (1) The following is substituted for section 2(1)—

“(1) Any claim in respect of the contravention of a term modified or included by virtue of an equality clause, including a claim for arrears of remuneration or damages in respect of the contravention, may be presented by way of a complaint to an [F<sup>1</sup>employment tribunal].”

- (2) After section 2(1) there is inserted—

“(1A) Where a dispute arises in relation to the effect of an equality clause the employer may apply to an [F<sup>1</sup>employment tribunal] for an order declaring the rights of the employer and the employee in relation to the matter in question.”

- (3) In section 2(2)—

- (a) for “failing to comply with their equal pay clauses” there is substituted “contravening a term modified or included by virtue of their equality clauses”, and  
(b) after “the question may be referred by him” there is inserted “as respects all or any of them”, and  
(c) after “claim by the women” there is inserted “or woman”.

- (4) Section 2(6) is repealed.

- (5) In section 2(7), the words “and there shall be paid” onwards are repealed.

**Textual Amendments**

**F1** Words in Sch. 1 Pt. I para. 2(1)(2) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a); S.I. 1998/1658, art. 2, Sch. 1 (with art. 3)

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

**C2** 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.

- 3 In section 6 the following is substituted for subsection (1)—

“(1) Neither an equality clause nor the provisions of section 3(4) above shall operate in relation to terms—

- (a) affected by compliance with the laws regulating the employment of women, or  
(b) affording special treatment to women in connection with pregnancy or childbirth.

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(1A) An equality clause and those provisions—

- (a) shall operate in relation to terms relating to membership of an occupational pension scheme (within the meaning of the Social Security Pensions Act 1975) so far as those terms relate to any matter in respect of which the scheme has to conform with the equal access requirements of Part IV of that Act ; but
- (b) subject to this, shall not operate in relation to terms related to death or retirement, or to any provision made in connection with death or retirement.”

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

- C3** 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.

4 Section 8 is repealed.

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

- C4** 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.

5 in section 9(1), the words “Except as provided by subsection (2) below”, and sections 9(2) to (5) and 10(4) are repealed.

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

- C5** 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.

6 (1) For references to an equal pay clause in each place where they occur there are substituted references to an equality clause.

(2) For the words “the Industrial Court”, in each place where they occur, there are substituted the words “the Industrial Arbitration Board” ; in sections 4 . . . <sup>F2</sup>for the words “Court” and “Court’s” in each place where they occur there are substituted respectively “Board” and “Board’s”, and in section 5 for the word “Board” in each place where it occurs there is substituted “Agricultural Wages Board” and for the word “Court” in each place where it occurs there is substituted “Industrial Arbitration Board”.

**Textual Amendments**

- F2** Words repealed by [Sex Discrimination Act 1986 \(c. 59, SIF 106:1\)](#), s. 9, **Sch. Pt. II**

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

- C6** 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.
- C7** The text of Sch. 1 Pt. I para. 6(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**PART II**

**ACT AS AMENDED**

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

- C8** 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.

*1970 CHAPTER 41*

- 1 (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—
- (i) 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 a term ;
- (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

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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 variation is genuinely due to a material difference (other than the difference of sex) between her case and his.
- (4) A woman is to be regarded as employed on like work with men if, but only if, her work and theirs is of the same or a broadly similar nature, and the differences (if any) between the things she does and the things they do are not of practical importance in relation to terms and conditions of employment ; and accordingly in comparing her work with theirs regard shall be had to the frequency or otherwise with which any such differences occur in practice as well as to the nature and extent of the differences.
- (5) A woman is to be regarded as employed on work rated as equivalent with that of any men if, but only if, her job and their job have been given an equal value, in terms of the demand made on a worker under various headings (for instance effort, skill, decision), on a study undertaken with a view to evaluating in those terms the jobs to be done by all or any of the employees in an undertaking or group of undertakings, or would have been given an equal value but for the evaluation being made on a system setting different values for men and women on the same demand under any heading.
- (6) Subject to the following subsections, for purposes of this section—
  - (a) "employed" means employed under a contract of service or of apprenticeship or a contract personally to execute any work or labour, and related expressions shall be construed accordingly;
  - .....
  - (c) two employers are to be treated as associated if one is a company of which the other (directly or indirectly) has control or if both are companies of which a third person (directly or indirectly) has control,

and men shall be treated as in the same employment with a woman if they are men employed by her employer or any associated employer at the same establishment or at establishments in Great Britain which include that one and at which common terms and conditions of employment are observed either generally or for employees of the relevant classes.

.....

- (8) This section shall apply to—
  - (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,as it applies to employment by a private person, and shall so apply as if references to a contract of employment included references to the terms of service.
- (9) Subsection (8) does not apply in relation to service in—
  - (a) the naval, military or air forces of the Crown, or
  - (b) any women's service administered by the Defence Council.

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- (10) In this section “statutory body” means a body set up by or in pursuance of an enactment, and “statutory office” means an office so set up ; and service “for purposes of” a Minister of the Crown or government department does not include service in any office in Schedule 2 (Ministerial offices) to the <sup>M1</sup>House of Commons Disqualification Act 1975 as for the time being in force.
- (11) For the purposes of this Act it is immaterial whether the law which (apart from this subsection) is the proper law of a contract is the law of any part of the United Kingdom or not.
- (12) In this Act “Great Britain” includes such of the territorial waters of the United Kingdom as are adjacent to Great Britain.
- (13) Provisions of this section and section 2 below framed with reference to women and their treatment relative to men are to be read as applying equally in a converse case to men and their treatment relative to women.

#### Marginal Citations

M1 1975 c. 25

#### *Disputes as to, and enforcement of, requirement of equal treatment.*

- 2 (1) Any claim in respect of the contravention of a term modified or included by virtue of an equality clause, including a claim for arrears of remuneration or damages in respect of the contravention, may be presented by way of a complaint to an [F<sup>3</sup>employment tribunal].
- (1A) Where a dispute arises in relation to the effect of an equality clause the employer may apply to an [F<sup>3</sup>employment tribunal] for an order declaring the rights of the employer and the employee in relation to the matter in question.
- (2) Where it appears to the Secretary of State that there may be a question whether the employer of any women is or has been contravening a term modified or included by virtue of their equality clauses, but that it is not reasonable to expect them to take steps to have the question determined, the question may be referred by him as respects all or any of them to an [F<sup>3</sup>employment tribunal] and shall be dealt with as if the reference were of a claim by the women or woman against the employer.
- (3) Where it appears to the court in which any proceedings are pending that a claim or counterclaim in respect of the operation of an equality clause could more conveniently be disposed of separately by an [F<sup>3</sup>employment tribunal], the court may direct that the claim or counterclaim shall be struck out ; and (without prejudice to the foregoing) where in proceedings before any court a question arises as to the operation of an equality clause, the court may on the application of any party to the proceedings or otherwise refer that question, or direct it to be referred by a party to the proceedings, to an [F<sup>3</sup>employment tribunal] for determination by the tribunal, and may stay or sist the proceedings in the meantime.
- (4) No claim in respect of the operation of an equality clause relating to a woman’s employment shall be referred to an [F<sup>3</sup>employment tribunal] otherwise than by virtue of subsection (3) above, if she has not been employed in the employment within the six months preceding the date of the reference.

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(5) A woman shall not be entitled, in proceedings brought in respect of a failure to comply with an equality clause (including proceedings before an <sup>F3</sup>employment tribunal], to be awarded any payment by way of arrears of remuneration or damages in respect of a time earlier than two years before the date on which the proceedings were instituted.

.....

(7) In this section “<sup>F3</sup>employment tribunal]” means a tribunal established under section 12 of the <sup>M2</sup>Industrial Training Act 1964 . . .

**Textual Amendments**

**F3** Words in Sch. 1 Pt. II para. 2(1)-(7) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a); S.I. 1998/1658, art. 2, Sch. 1 (with art. 3)

**Marginal Citations**

**M2** 1964 c. 16.

*Collective agreements and pay structures.*

- 3 (1) Where a collective agreement made before or after the commencement of this Act contains any provision applying specifically to men only or to women only, the agreement may be referred, by any party to it or by the Secretary of State, to the Industrial Arbitration Board constituted under Part I of the <sup>M3</sup>Industrial Courts Act 1919 to declare what amendments need to be made in the agreement, in accordance with subsection (4) below, so as to remove that discrimination between men and women.
- (2) Where on a reference under subsection (1) above the Industrial Arbitration Board have declared the amendments needing to be made in a collective agreement in accordance with that subsection, then—
- (a) in so far as the terms and conditions of a person’s employment are dependent on that agreement, they shall be ascertained by reference to the agreement as so amended, and any contract regulating those terms and conditions shall have effect accordingly ; and
  - (b) if the Industrial Arbitration Board make or have made, under section 8 of the <sup>M4</sup>Terms and Conditions of Employment Act 1959 or any other enactment, an award or determination requiring an employer to observe the collective agreement, the award or determination shall have effect by reference to the agreement as so amended.
- (3) On a reference under subsection (1) above the Industrial Arbitration Board may direct that all or any of the amendments needing to be made in the collective agreement shall be treated as not becoming effective until a date after their decision, or as having been effective from a date before their decision but not before the reference to them, and may specify different dates for different purposes; and subsection (2) above and any such contract, award or determination as is there mentioned shall have or be deemed to have had effect accordingly.
- (4) Subject to section 6 below, the amendments to be made in a collective agreement under this section shall be such as are needed—

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- (a) to extend to both men and women any provision applying specifically to men only or to women only ; and
- (b) to eliminate any resulting duplication in the provisions of the agreement in such a way as not to make the terms and conditions agreed for men, or those agreed for women, less favourable in any respect than they would have been without the amendments ;

but the amendments shall not extend the operation of the collective agreement to men or to women not previously falling within it, and where accordingly a provision applying specifically to men only or to women only continues to be required for a category of men or of women (there being no provision in the agreement for women or, as the case may be, for men of that category), then the provision shall be limited to men or women of that category but there shall be made to it such amendments, if any, as are needed to secure that the terms and conditions of the men or women of that category are not in any respect less favourable than those of all persons of the other sex to whom the agreement applies.

- (5) For purposes of this section “collective agreement” means any agreement as to terms and conditions of employment, being an agreement between—
- (a) parties who are or represent employers or organisations of employers or associations of such organisations ; and
  - (b) parties who are or represent organisations of employees or associations of such organisations;

but includes also any award modifying or supplementing such an agreement.

- (6) Subsections (1) to (4) above (except subsection (2)(b) and subsection (3) in so far as it relates to subsection (2)(b)) shall have effect in relation to an employer’s pay structure as they have effect in relation to a collective agreement, with the adaptation that a reference to the Industrial Arbitration Board may be made by the employer or by the Secretary of State; and for this purpose “pay structure” means any arrangements adopted by an employer (with or without any associated employer) which fix common terms and conditions of employment for his employee or any class of his employees, and of which the provisions are generally known or open to be known by the employees concerned.
- (7) In this section the expression “employment” and related expressions, and the reference to an associated employer, shall be construed in the same way as in section 1 above, and section 1(8) shall have effect in relation to this section as well as in relation to that section.

#### **Marginal Citations**

**M3** 1919 c. 69.

**M4** 1959 c. 26.

#### *Wages regulation orders.*

- 4 (1) Where a wages regulation order made before or after the commencement of this Act contains any provision applying specifically to men only or to women only, the order may be referred by the Secretary of State to the Industrial Arbitration Board to declare what amendments need to be made in the order, in accordance with the like rules as apply under section 3(4) above to the amendment under that section of a collective



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agreement, so as to remove that discrimination between men and women; and when the Board have declared the amendments needing to be so made, the Secretary of State may by order made by statutory instrument coming into operation not later than five months after the date of the Board's decision direct that (subject to any further wages regulation order) the order referred to the Board shall have effect subject to those amendments.

- (2) A wages regulation order shall be referred to the Industrial Arbitration Board under this section if the Secretary of State is requested so to refer it either—
- (a) by a member or members of the wages council concerned with the order who was or who were appointed as representing employers ; or
  - (b) by a member or members of that wages council who was or who were appointed as representing workers ;

or if in any case it appears to the Secretary of State that the order may be amendable under this section.

- (3) Where by virtue of section 12(1) of the <sup>M5</sup>Wages Councils Act 1959 a contract between a worker and an employer is to have effect with modifications specified in section 12(1) then (without prejudice to the general saving in section 11(7) of that Act for rights conferred by or under other Acts) the contract as so modified shall have effect subject to any further term implied by virtue of section 1 above.
- (4) In this section “wages regulation order” means an order made or having effect as if made under section 11 of the Wages Councils Act 1959.

#### Marginal Citations

M5 1959 c. 69.

#### *Agricultural wages orders.*

- 5 (1) Where an agricultural wages order made before or after the commencement of this Act contains any provision applying specifically to men only or to women only, the order may be referred by the Secretary of State to the Industrial Arbitration Board to declare what amendments need to be made in the order, in accordance with the like rules as apply under section 3(4) above to the amendment under that section of a collective agreement, so as to remove that discrimination between men and women ; and when the Industrial Arbitration Board have declared the amendments needing to be so made, it shall be the duty of the Agricultural Wages Board, by a further agricultural wages order coming into operation not later than five months after the date of the Industrial Arbitration Board's decision, either to make those amendments in the order referred to the Industrial Arbitration Board or otherwise to replace or amend that order so as to remove the discrimination.
- (2) Where the Agricultural Wages Board certify that the effect of an agricultural wages order is only to make such amendments of a previous order as have under this section been declared by the Industrial Arbitration Board to be needed, or to make such amendments as aforesaid with minor modifications or modifications of limited application, or is only to revoke and reproduce with such amendments a previous order, then the Agricultural Wages Board may instead of complying with paragraphs 1 and 2 of Schedule 4, or in the case of Scotland paragraphs 1 and 2 of Schedule 3, to the Agricultural Wages Act give notice of the proposed order in such manner as

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appears to the Agricultural Wages Board expedient in the circumstances, and may make the order at any time after the expiration of seven days from the giving of the notice.

- (3) An agricultural wages order shall be referred to the Industrial Arbitration Board under this section if the Secretary of State is requested so to refer it either—
- (a) by a body for the time being entitled to nominate for membership of the Agricultural Wages Board persons representing employers (or, if provision is made for any of the persons representing employers to be elected instead of nominated, then by a member or members representing employers) ; or
  - (b) by a body for the time being entitled to nominate for membership of the Agricultural Wages Board persons representing workers (or, if provision is made for any of the persons representing workers to be elected instead of nominated, then by a member or members representing workers) ;

or if in any case it appears to the Secretary of State that the order may be amendable under this section.

- (4) In this section “the Agricultural Wages Board” means the Agricultural Wages Board for England and Wales or the Scottish Agricultural Wages Board, “the Agricultural Wages Act” means the <sup>M6</sup>Agricultural Wages Act 1948 or the Agricultural Wages (Scotland) Act 1949 and “agricultural wages order” means an order of the <sup>M7</sup>Agricultural Wages Board under the Agricultural Wages Act.

#### Marginal Citations

**M6** 1948 c. 47

**M7** 1949 c. 30.

*Exclusion from ss. 1 to 5 of pensions etc.*

- 6 (1) Neither an equality clause nor the provisions of section 3(4) above shall operate in relation to terms—
- (a) affected by compliance with the laws regulating the employment of women, or
  - (b) affording special treatment to women in connection with pregnancy or childbirth.
- (1A) An equality clause and those provisions—
- (a) shall operate in relation to terms relating to membership of an occupational pension scheme (within the meaning of the Social Security Pensions Act 1975) so far as those terms relate to any matter in respect of which the scheme has to conform with the equal access requirements of Part IV of that Act; but
  - (b) subject to this, shall not operate in relation to terms related to death or retirement, or to any provision made in connection with death or retirement.
- (2) Any reference in this section to retirement includes retirement, whether voluntary or not, on grounds of age, length of service or incapacity.

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*Service pay.*

- 7 (1) The Secretary of State or Defence Council shall not make, or recommend to Her Majesty the making of, any instrument relating to the terms and conditions of service of members of the naval, military or air forces of the Crown or of any women's service administered by the Defence Council, if the instrument has the effect of making a distinction, as regards pay, allowances or leave between men and women who are members of those forces or of any such service, not being a distinction fairly attributable to differences between the obligations undertaken by men and those undertaken by women as such members as aforesaid.
- (2) The Secretary of State or Defence Council may refer to the Industrial Arbitration Board for their advice any question whether a provision made or proposed to be made by any such instrument as is referred to in subsection (1) above ought to be regarded for purposes of this section as making a distinction not permitted by that subsection.

.....

*Commencement.*

- 9 (1) The foregoing provisions of this Act shall come into force on the 29th December 1975 and references in this Act to its commencement shall be construed as referring to the coming into force of those provisions on that date.

.....

*Preliminary references to Industrial Arbitration Board.*

- 10 (1) A collective agreement, pay structure or order which after the commencement of this Act could under section 3, 4 or 5 of this Act be referred to the Industrial Arbitration Board to declare what amendments need to be made as mentioned in that section may at any time not earlier than one year before that commencement be referred to the Board under this section for their advice as to the amendments needing to be so made.
- (2) A reference under this section may be made by any person authorised by section 3, 4 or 5, as the case may be, to make a corresponding reference under that section, but the Secretary of State shall not under this section refer an order to the Industrial Arbitration Board unless requested so to do as mentioned in section 4(2) or 5(3), as the case may be, nor be required to refer an order if so requested.
- (3) A collective agreement, pay structure or order referred to the Industrial Arbitration Board under this section may after the commencement of this Act be again referred to the Board under section 3, 4 or 5 ; but at that commencement any reference under this section (if still pending) shall lapse.

.....

*Short title, interpretation and extent.*

- 11 (1) This Act may be cited as the Equal Pay Act 1970.
- (2) In this Act the expressions “man” and “woman” shall be read as applying to persons of whatever age.
- (3) This Act shall not extend to Northern Ireland.

*Status: Point in time view as at 01/04/2003.*

*Changes to legislation: Sex Discrimination Act 1975 (repealed) is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULE 2

Section 27.

### TRANSITIONAL EXEMPTION ORDERS FOR EDUCATIONAL ADMISSIONS

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

**C9** Sch. 2: transfer of functions (1.7.1999) by 1999/672, art. 2, Sch. 1

*Public sector (England and Wales)*

- 1 Where [<sup>F4</sup>under section 35, 41 or 259 of the Education Act 1996 a responsible body submits to the Secretary of State], proposals for an alteration in its admissions arrangements such as is mentioned in section 27(1) of this Act the submission of those proposals shall be treated as an application for the making by the Secretary of State of a transitional exemption order, and if he thinks fit the Secretary of State may make the order accordingly.

**Textual Amendments**

**F4** Words in Sch. 2 para. 1 substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para. 37(a)

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

**C10** Sch. 2 para. 1 excluded (1.11.1996) by 1996 c. 56, ss. 552(1), 583(2)

**C11** Sch. 2 para. 1 continued for certain functions (1.4.1999) by S.I. 1999/704, reg. 20(1)

- 2 ..... <sup>F5</sup>

**Textual Amendments**

**F5** Sch. 2 para. 2 repealed by Education Act 1980 (c. 20, SIF 41:1), s. 38(6), Sch. 7

- 3 Regulations under [<sup>F6</sup>section 485 of the Education Act 1996] may provide for the submission to the Secretary of State of an application for the making by him of a transitional exemption order in relation to an establishment—
- (a) which is designated under section 24(1), and
  - (b) in respect of which grants are payable under [<sup>F7</sup>the said section 485]
- and for the making by him of the order.

**Textual Amendments**

**F6** Words in Sch. 2 para. 3 substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para. 37(b)(i)

**F7** Words in Sch. 2 para. 3(b) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para. 37(b)(ii)

- [<sup>F8</sup>4 Regulations under section 218 of the Education Reform Act 1988 may provide for the submission to the Secretary of State of an application for the making by him of a transitional exemption order in relation to any school or institution to which that

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section, or any part of that section, applies and which does not fall within paragraph 3 above, and for the making by him of the order.]

#### Textual Amendments

**F8** Sch. 2 para. 4 substituted (1.4.1993) by virtue of Further and Higher Education Act 1992 (c. 13), s. 93(1), Sch. 8 Pt. II para.83; S.I. 1992/831, art. 2, Sch. 3.

[<sup>F9</sup>4A Where, under section 113A of the Learning and Skills Act 2000, the Learning and Skills Council for England submit proposals to the Secretary of State for an alteration in the admission arrangements of a school such as is mentioned in section 27(1) of this Act, the submission of the proposals shall be treated as an application for the making by the Secretary of State of a transitional exemption order, and if he thinks fit the Secretary of State may make the order accordingly.]

#### Textual Amendments

**F9** Sch. 2 para. 4A inserted (1.4.2003 for E. and 1.8.2007 for W.) by Education Act 2002 (c. 32), ss. 215(1), 216(4), Sch. 21 para. 3(b) (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4; S.I. 2007/3611, art. 4(1), Sch. Pt. 1 (with Sch. Pt. 3 para. 1)

#### *Private sector (England and Wales)*

- 5
- (1) In the case of an establishment in England and Wales not falling within paragraphs 1 to 4 the responsible body may submit to the Equal Opportunities Commission set up under Part VI an application for the making by the Commission of a transitional exemption order in relation to the establishment, and if they think fit the Commission may make the order accordingly.
  - (2) An application under this paragraph shall specify the transitional period proposed by the responsible body to be provided for in the order, the stages by which within that period the body proposes to move to the position where section 22(b) is complied with, and any other matters relevant to the terms and operation of the order applied for.
  - (3) The Commission shall not make an order on an application under this paragraph unless they are satisfied that the terms of the application are reasonable having regard to the nature of the premises at which the establishment is carried on, the accommodation, equipment and facilities available, and the financial resources of the responsible body.

#### *Public and private sectors (Scotland)*

- 6 Any application for a transitional exemption order made by the responsible body in relation to an establishment falling within paragraph 6 [<sup>F10</sup>7, 7A, 7B or 7C], of the Table in section 22 shall be made to the Secretary of State, and in relation to an establishment falling within paragraphs 8, 9 and 10 of that Table shall be made to the Equal Opportunities Commission.

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### Textual Amendments

**F10** Words in [Sch. 2 para. 6](#) substituted (16.5.1992) by [Further and Higher Education \(Scotland\) Act 1992 \(c. 37\)](#), s. 62(2), [Sch. 9 para. 4\(6\)](#); S.I. 1992/817, art. 3(2), [Sch. 1](#)

- 7 An application under paragraph 6 shall specify the transitional period proposed by the responsible body to be provided for in the order, the stages by which within that period the body proposes to move to the position where section 22(b) is complied with, and any other matters relevant to the terms and operation of the order applied for.
- 8 The Secretary of State on any application under paragraph 6 may make a transitional exemption order on such terms and conditions as he may think fit.
- 9 The Commission on any application under paragraph 6 may if they think fit make a transitional exemption order, but shall not make such an order unless they are satisfied that the terms of the application are reasonable having regard to the nature of the premises at which the establishment is carried on, the accommodation, equipment and facilities available, and the financial resources of the responsible body.

## SCHEDULE 3

Section 53.

### EQUAL OPPORTUNITIES COMMISSION

#### *Incorporation and status*

- 1 On the appointment by the Secretary of State of the first Commissioners, the Commission shall come into existence as a body corporate with perpetual succession and a common seal.
- 2 (1) The Commission is not an emanation of the Crown, and shall not act or be treated as the servant or agent of the Crown.
- (2) Accordingly—
- (a) neither the Commission nor a Commissioner or member of its staff as such is entitled to any status, immunity, privilege or exemption enjoyed by the Crown;
  - (b) the Commissioners and members of the staff of the Commission as such are not civil servants; and
  - (c) the Commission's property is not the property of, or held on behalf of, the Crown.

#### *Tenure of office of Commissioners*

- 3 (1) A Commissioner shall hold and vacate his office in accordance with the terms of his appointment.

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- (2) A person shall not be appointed a Commissioner for more than five years.
- (3) With the consent of the Commissioner concerned, the Secretary of State may alter the terms of an appointment so as to make a full-time Commissioner into a part-time Commissioner or vice versa, or for any other purpose.
- (4) A Commissioner may resign by notice to the Secretary of State.
- (5) The Secretary of State may terminate the appointment of a Commissioner if satisfied that—
  - (a) without the consent of the Commission, he failed to attend the meetings of the Commission during a continuous period of six months beginning not earlier than nine months before the termination; or
  - (b) he is an undischarged bankrupt, or has made an arrangement with his creditors, or is insolvent within the meaning of paragraph 9(2) of Schedule 3 to the <sup>M8</sup>Conveyancing and Feudal Reform (Scotland) Act 1970; or
  - (c) he is by reason of physical or mental illness, or for any other reason, incapable of carrying out his duties.
- (6) Past service as a Commissioner is no bar to re-appointment.

#### Marginal Citations

**M8** 1970 c. 35.

#### *Tenure of office of chairman and deputy chairmen*

- 4 (1) The chairman and each deputy chairman shall hold and vacate his office in accordance with the terms of his appointment, and may resign by notice to the Secretary of State.
- (2) The office of the chairman or a deputy chairman is vacated if he ceases to be a Commissioner.
- (3) Past service as chairman or deputy chairman is no bar to re-appointment.

#### *Remuneration of Commissioners*

- 5 The Secretary of State may pay, or make such payments towards the provision of, such remuneration, pensions, allowances or gratuities to or in respect of the Commissioners or any of them as, with the consent of [<sup>F11</sup>the Treasury], he may determine.

#### Textual Amendments

**F11** Words substituted by S.I. 1981/1670, arts. 2(2), 3(5)

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- 6 Where a person ceases to be a Commissioner otherwise than on the expiry of his term of office, and it appears to the Secretary of State that there are special circumstances which make it right for that person to receive compensation, the Secretary of State may with the consent of [<sup>F12</sup>the Treasury] direct the Commission to make to that person a payment of such amount as, with the consent of that Minister, the Secretary of State may determine.

**Textual Amendments**

**F12** Words substituted by [S.I. 1981/1670, arts. 2\(2\), 3\(5\)](#)

*Additional Commissioners*

- 7 (1) Paragraphs 2(2), 3(1) and (6), and 6 shall apply to additional Commissioners appointed under section 57(2) as they apply to Commissioners.
- (2) The Commission may pay, or make such payments towards the provision of, such remuneration, pensions, allowances or gratuities to or in respect of an additional Commissioner as the Secretary of State, with the consent of [<sup>F13</sup>the Treasury], may determine.
- (3) With the approval of the Secretary of State and the consent of the additional Commissioners concerned, the Commissioner may alter the terms of an appointment of an additional Commissioner so as to make a full-time additional Commissioner into a part-time additional Commissioner or vice-versa, or for any other purpose.
- (4) An additional Commissioner may resign by notice to the Commission.
- (5) The Secretary of State, or the Commission acting with the approval of the Secretary of State, may terminate the appointment of an additional Commissioner if satisfied that—
- (a) without reasonable excuse he failed to carry out the duties for which he was appointed during a continuous period of three months beginning not earlier than six months before the termination; or
  - (b) he is a person such as is mentioned in paragraph 3(5)(b); or
  - (c) he is by reason of physical or mental illness, or for any other reason, incapable of carrying out his duties.
- (6) The appointment of an additional Commissioner shall terminate at the conclusion of the investigation for which he was appointed, if not sooner.

**Textual Amendments**

**F13** Words substituted by [S.I. 1981/1670, arts. 2\(2\), 3\(5\)](#)



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### *Staff*

- 8 The Commission may, after consultation with the Secretary of State, appoint such officers and servants as they think fit, subject to the approval of [<sup>F14</sup>the Treasury] as to numbers and as to remuneration and other terms and conditions of service.

#### **Textual Amendments**

**F14** Words substituted by S.I. 1981/1670, arts. 2(2), 3(5)

- 9 (1) Employment with the Commission shall be included among the kinds of employment to which a superannuation scheme under section 1 of the <sup>M9</sup>Superannuation Act 1972 can apply, and accordingly in Schedule 1 to that Act (in which those kinds of employment are listed) the words “Equal Opportunities Commission” shall be inserted at the appropriate place in alphabetical order.
- (2) Where a person who is employed by the Commission and is by reference to that employment a participant in a scheme under section 1 of the <sup>M10</sup>Superannuation Act 1972 becomes a Commissioner or an additional Commissioner, [<sup>F15</sup>the Treasury] may determine that his service as a Commissioner or additional Commissioner shall be treated for the purposes of the scheme as service as an employee of the Commission; and his rights under the scheme shall not be affected by paragraphs 5 or 7(2).

#### **Textual Amendments**

**F15** Words substituted by S.I. 1981/1670, arts. 2(2), 3(5)

#### **Marginal Citations**

**M9** 1972 c. 11.

**M10** 1972 c. 11.

- 10 The <sup>M11</sup>Employers’ Liability (Compulsory Insurance) Act 1969 shall not require insurance to be effected by the Commission.

#### **Marginal Citations**

**M11** 1969 c. 57.

### *Proceedings and business*

- 11 (1) Subject to the provisions of this Act, the Commission may make arrangements for the regulation of their proceedings and business, and may vary or revoke those arrangements.

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- (2) The arrangements may, with the approval of the Secretary of State, provide for the discharge under the general direction of the Commission of any of the Commission's functions by a committee of the Commission, or by two or more Commissioners.
- (3) Anything done by or in relation to a committee, or Commissioners, in the discharge of the Commission's functions shall have the same effect as if done by or in relation to the Commission.
- 12 The validity of any proceedings of the Commission shall not be affected by any vacancy among the members of the Commission or by any defect in the appointment of any Commissioner or additional Commissioner.
- 13 The quorum for meetings of the Commission shall in the first instance be determined by a meeting of the Commission attended by not less than five Commissioners.

### *Finance*<sup>F16</sup>

#### **Textual Amendments**

**F16** Para. 15 substituted by [Race Relations Act 1976 \(c. 74\)](#), [Sch. 4 para. 9](#)

- 14 The Secretary of State shall pay to the Commission expenses incurred or to be incurred by it under paragraphs 6, 7 and 8, and, with the consent of the Minister for the Civil Service and the Treasury, shall pay to the Commission such sums as the Secretary of State thinks fit for enabling the Commission to meet other expenses.

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

**C12** [Sch. 3 para. 14](#): functions which were exercisable jointly by the Minister for the Civil Service and the Treasury now exercisable by the Treasury: [S.I. 1981/1670](#), [art. 2\(4\)](#)

- 15 (1) The accounting year of the Commission shall be the twelve months ending on 31st March.
- (2) It shall be the duty of the Commission—
- (a) to keep proper accounts and proper records in relation to the accounts;
  - (b) to prepare in respect of each accounting year a statement of accounts in such form as the Secretary of State may direct with the approval of the Treasury; and
  - (c) to send copies of the statement to the Secretary of State and the Comptroller and Auditor General before the end of the month of November next following the accounting year to which the statement relates.

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- (3) The Comptroller and Auditor General shall examine, certify and report on each statement received by him in pursuance of this Schedule and shall lay copies of each statement and of his report before each House of Parliament.

#### *Disqualification Acts*

- 16 (1) In Part II of Schedule 1 to the <sup>M12</sup>House of Commons Disqualification Act 1975 and Part II of Schedule 1 to the <sup>M13</sup>Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified under those Acts) there shall (at the appropriate place in alphabetical order) be inserted the following entry:— “ The Equal Opportunities Commission ”
- (2) In Part III of Schedule 1 to each of those Acts of 1975 (other disqualifying offices) there shall (at the appropriate place in alphabetical order) be inserted the following entry:— “ Additional Commissioner of the Equal Opportunities Commission ”

#### **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**

**M12** 1975 c. 24.

**M13** 1975 c. 25.

## SCHEDULE 4

Section 83.

### TRANSITIONAL PROVISIONS

- 1 Section 12 does not apply, as respects any organisation,—
- (a) to contributions or other payments falling to be made to the organisation by its members or by persons seeking membership, or
  - (b) to financial benefits accruing to members of the organisation by reason of their membership,
- where the payment falls to be made, or the benefit accrues, before 1st January 1978 under rules of the organisation made before the passing of this Act.
- 2 Until 1st January 1978, section 12(2) does not apply to any organisation of members of the teaching profession where at the passing of this Act—
- (a) the organisation is an incorporated company with articles of association, and
  - (b) the articles of association restrict membership to persons of one sex (disregarding any minor exceptions), and
  - (c) there exists another organisation within paragraphs (a) and (b) which is for persons of the opposite sex and has objects, as set out in the memorandum of association, which are substantially the same as those of the first

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mentioned organisation, subject only to differences consequential on the difference of sex.

- 3 (1) Until a date specified by order made by the Secretary of State, the courses of training to be undergone by men as a condition of [<sup>F17</sup>registration as midwives under the <sup>M14</sup>Nurses, Midwives and Health Visitors Act 1979] must be courses approved in writing by or on behalf of the Secretary of State for the purposes of this paragraph.
- (2) ..... <sup>F18</sup>
- (3) ..... <sup>F18</sup>
- (4) An order under this paragraph shall be laid in draft before each House of Parliament, and section 6(1) of the <sup>M15</sup>Statutory Instruments Act 1946 (Parliamentary control by negative resolution of draft instruments) shall apply accordingly.

#### Textual Amendments

**F17** Words substituted by Nurses, Midwives and Health Visitors Act 1979 (c. 36), s. 24(2), **Sch. 7 para. 26**

**F18** Sch. 4 para. 3(2)(3) repealed by Nurses, Midwives and Health Visitors Act 1979 (c. 36), s. 24(2), **Sch. 8**

#### Marginal Citations

**M14** 1979 c. 36.

**M15** 1946 c. 36.

- 4 (1) If the responsible body for any educational establishment which (apart from this sub-paragraph) would be required to comply with the provisions of section 22(b), and of section 25 so far as they apply to acts to which section 22(b) relates, from the commencement of those provisions, is of the opinion that it would be impracticable for it to do so, it may before that commencement apply for an order authorising discriminatory admissions during the transitional period specified in the order.
- (2) Section 27(2) to (5) and Schedule 2 shall apply for the purposes of sub-paragraph (1) as they apply in relation to transitional exemption orders.
- 5 (1) Section 6 of the <sup>M16</sup>Equal Pay Act 1970 (as amended by paragraph 3 of Schedule 1 to this Act) shall apply as if the references to death or retirement in subsection (1A)(b) of the said section 6 included references to sums payable on marriage in pursuance of a contract of employment made before the passing of this Act, or the commutation, at any time, of the right to such sums.
- (2) In relation to service within section 1(8) of the said Act of 1970 (service of the Crown) for the reference in this paragraph to a contract of employment made before the passing of this Act there shall be substituted a reference to terms of service entered into before the passing of this Act.

#### Marginal Citations

**M16** 1970 c. 41.

*Status: Point in time view as at 01/04/2003.*

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## SCHEDULE 5

Section 83.

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *Factories Act 1961 (c. 34)*

- 1 In section 15(2) (unfenced machinery : operations carried out by specified male persons) the word “male” shall be omitted.

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

- C14** 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.

- 2 ..... **F19**

#### **Textual Amendments**

- F19** S. 20(4)(5), Sch. 5 para. 2 repealed by [Nurses, Midwives and Health Visitors Act 1979 \(c. 36, SIF 83:1\)](#), [Sch. 8](#)

- 3 ..... **F20**

#### **Textual Amendments**

- F20** Sch. 5 para. 3 repealed by [Sex Discrimination Act 1986 \(c. 59, SIF 106:1\)](#), s. 9, [Sch. Pt. III](#)

- 4 ..... **F21**

#### **Textual Amendments**

- F21** Sch. 5 para. 4 repealed by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 18](#)

## SCHEDULE 6

Section 83.

### FURTHER REPEALS

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

- C15** 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.

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Session and Chapter	Short Title	Extent of Repeal
7 & 8 Geo. 6. c. 31.	Education Act 1944.	Section 24(3).
14 & 15 Geo. 6. c. 53.	Midwives Act 1951.	In section 11(1), the words " or a male person ".
10 & 11 Eliz. 2. c. 47.	Education (Scotland) Act 1962.	Section 82(2).

**Status:**

Point in time view as at 01/04/2003.

**Changes to legislation:**

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