



Race Relations Act 1976 (Repealed)

1976 CHAPTER 74

PART II **E+W+S**

DISCRIMINATION IN THE EMPLOYMENT FIELD

Discrimination by employers

4 **Discrimination against applicants and employees.** **E+W+S**

- (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.

Modifications etc. (not altering text)

- C1** S. 4 modified by S.I. 1989/901, art. 3, **Sch.**
 S. 4 modified (E.W.)(2.3.1998) by S.I. 1998/218, art. 3, **Sch.**
 S. 4 modified (1.9.1999) by S.I. 1999/2256, art. 3, **Sch.** (which S.I. is revoked (E.) (1.9.2003) by S.I. 2003/1964, **art. 1(3)** and (W.) (12.5.2006) by S.I. 2006/1073, **art. 1(3)**)

VALID FROM 19/07/2003

4A Exception for genuine occupational requirement E+W+S

- (1) In relation to discrimination on grounds of race or ethnic or national origins—
 - (a) section 4(1)(a) or (c) does not apply to any employment; and
 - (b) section 4(2)(b) does not apply to promotion or transfer to, or training for, any employment; and
 - (c) section 4(2)(c) does not apply to dismissal from any employment; where subsection (2) applies.
- (2) This subsection applies where, having regard to the nature of the employment or the context in which it is carried out—
 - (a) being of a particular race or of particular ethnic or national origins is a genuine and determining occupational requirement;
 - (b) it is proportionate to apply that requirement in the particular case; and
 - (c) either—
 - (i) the person to whom that requirement is applied does not meet it, or
 - (ii) the employer is not satisfied, and in all the circumstances it is reasonable for him not to be satisfied, that that person meets it.

5 Exceptions for genuine occupational qualifications. E+W+S

- (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

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- (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) 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.

Modifications etc. (not altering text)

- C2** S. 5 modified by S.I. 1989/901, art. 3, Sch.
S. 5 modified (E.W.) (2.3.1998) by S.I. 1998/218, art. 3, Sch.
S. 5 modified (1.9.1999) by S.I. 1999/2256, art. 3, Sch. (which S.I. is revoked (E.) (1.9.2003) by S.I. 2003/1964, art. 1(3) and (W.) 12.5.2006 by S.I. 2006/1073, art. 1(3))

6 Exception for employment intended to provide training in skills to be exercised outside Great Britain. E+W+S

—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. E+W+S

- (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.

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- (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.

Modifications etc. (not altering text)

- C3** S. 7 modified by S.I. 1989/901, art. 3, **Sch.**
 S. 7 modified (E.W.) (2.3.1998) by S.I. 1998/218, art. 3, **Sch.**
 S. 7 modified (1.9.1999) by S.I. 1999/2256, art. 3, **Sch.** (which S.I. is revoked (E.) (1.9.2003) by S.I. 2003/1964, art. 1(3) and (W.) 12.5.2006 by S.I. 2006/1073, art. 1(3))

8 Meaning of employment at establishment in Great Britain. E+W+S

- (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.
- (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

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designated under section 1(7) of the ^{M1}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.

Modifications etc. (not altering text)

C4 S. 8(1)–(3) extended by S.I. 1987/929, art. 2

C5 S. 8(5) extended by Employment (Continental Shelf) Act 1978 (c. 46), s. 1(2)

Marginal Citations

M1 1964 c. 29.

9 Exception for seamen recruited abroad. E+W+S

- (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 ^{M2}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.

Marginal Citations

M2 1964 c. 29.

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