



Number 43 of 2015

Equality (Miscellaneous Provisions) Act 2015



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EQUALITY (MISCELLANEOUS PROVISIONS) ACT 2015

CONTENTS

Section

1. Definition
2. Amendment of section 68 of Pensions Act 1990
3. Amendment of section 2 of Act of 1998
4. Amendment of section 6 of Act of 1998
5. Amendment of section 8 of Act of 1998
6. Amendment of section 12 of Act of 1998
7. Amendment of section 13 of Act of 1998
8. Amendment of section 19 of Act of 1998
9. Amendment of section 22 of Act of 1998
10. Amendment of section 34 of Act of 1998
11. Amendment of section 37 of Act of 1998
12. Amendment of section 2 of Act of 2000
13. Amendment of section 3 of Act of 2000
14. Amendment of section 6 of Act of 2000
15. Amendment of section 7 of Act of 2000
16. Short title, collective citation and commencement

ACTS REFERRED TO

Employment Equality Act 1998 (No. 1)

Employment Equality Acts 1998 to 2011

Equal Status Act 2000 (No. 4)

Equal Status Acts 2000 to 2012

Equality Act 2004 (No. 24)

Housing (Miscellaneous Provisions) Act 2014 (No. 21)

Pensions Act 1990 (No. 25)

Pensions Acts 1990 to 2014

Social Welfare Acts

Social Welfare Consolidation Act 2005 (No. 26)



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EQUALITY (MISCELLANEOUS PROVISIONS) ACT 2015

An Act to provide for certain changes in the exclusion of discrimination on particular grounds in certain employments; to provide for certain changes relating to discriminatory job advertisements; to give further effect to Council Directive 2000/43/EC of 29 June 2000¹ implementing the principle of equal treatment between persons irrespective of racial and ethnic origin; to give further effect to Council Directive 2000/78/EC of 27 November 2000² establishing a general framework for equal treatment in employment and occupation; to give further effect to Council Directive 2004/113/EC of 13 December 2004³ implementing the principle of equal treatment between men and women in the access to and supply of goods and services; to give further effect to Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006⁴ on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast); to prohibit discrimination in the provision of accommodation on the basis of receipt of certain payments; and for those and other purposes to amend the Pensions Act 1990; the Employment Equality Act 1998 and the Equal Status Act 2000 and to provide for matters connected therewith. [10th December, 2015]

Be it enacted by the Oireachtas as follows:

Definition

1. In this Act—

“Act of 1998” means the Employment Equality Act 1998;

“Act of 2000” means the Equal Status Act 2000;

“Act of 2004” means the Equality Act 2004.

Amendment of section 68 of Pensions Act 1990

2. Section 68 of the Pensions Act 1990 is amended in subsection (1) by the substitution of “an apparently neutral rule of the scheme concerned would put persons” for “an

1 OJ No. L180, 19.7.2000, p. 22-26

2 OJ No. L303, 2.12.2000, p. 16-22

3 OJ No. L373, 21.12.2004, p. 37-43

4 OJ No. L204, 26.7.2006, p. 23-36

apparently neutral rule of the scheme concerned puts persons”.

Amendment of section 2 of Act of 1998

3. Section 2 of the Act of 1998 is amended in subsection (1) in the definition of “advertisement” by the substitution of “includes every form of statement to the public and every form of advertisement, whether to the public or not” for “includes every form of advertisement, whether to the public or not”.

Amendment of section 6 of Act of 1998

4. Section 6 of the Act of 1998 is amended in subsection (3) by the substitution of the following paragraph for paragraph (c):

“(c) Offering a fixed term contract to a person over the compulsory retirement age for that employment or to a particular class or description of employees in that employment shall not be taken as constituting discrimination on the age ground if—

- (i) it is objectively and reasonably justified by a legitimate aim, and
- (ii) the means of achieving that aim are appropriate and necessary.”.

Amendment of section 8 of Act of 1998

5. Section 8(5) of the Act of 1998 is amended—

- (a) in paragraph (a), by the substitution of “offered,” for “offered, or”,
- (b) in paragraph (b), by the substitution of “materially different, or” for “materially different.”, and
- (c) by the insertion of the following paragraph after paragraph (b):

“(c) by publishing or displaying, or causing to be published or displayed, an advertisement which contravenes section 10(1) in so far as such advertisement relates to access to employment.”.

Amendment of section 12 of Act of 1998

6. Section 12 of the Act of 1998 is amended—

- (a) in subsection (1)—
 - (i) in paragraph (b), by the substitution of “facility,” for “facility, or”,
 - (ii) in paragraph (c), by the substitution of “provided, or” for “provided.”, and
 - (iii) by the insertion of the following paragraph after paragraph (c):
- “(d) by publishing or displaying, or causing to be published or displayed, an advertisement in contravention of section 10(1) in respect of any such course offered.”,

- (b) in subsection (7)(a), by the substitution of the following subparagraph for subparagraph (i):

“(i) the fees for admission or attendance at any such course by persons who are citizens of Ireland, nationals of another Member State, nationals of the Swiss Confederation or nationals of a member state of the European Economic Area and persons who are not, or”,

and

- (c) by the insertion of the following subsection after subsection (7):

“(8) In this section, ‘member state of the European Economic Area’ means a state that is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by all subsequent amendments to that Agreement.”.

Amendment of section 13 of Act of 1998

7. The Act of 1998 is amended in section 13 by—

- (a) designating the section as subsection (1), and
(b) the insertion of the following subsection after subsection (1) (as designated by paragraph (a)):

“(2) A body referred to in subsection (1) shall not discriminate against a person by publishing or displaying, or causing to be published or displayed, an advertisement in contravention of section 10(1) in so far as the advertisement relates to—

- (a) membership of that body or any benefits, other than pension rights, provided by it, or
(b) entry to, or the carrying on of, a profession, vocation or occupation controlled by that body.”.

Amendment of section 19 of Act of 1998

8. Section 19 of the Act of 1998 is amended in subsection (4)(a) by the substitution of “apparently neutral provision would put” for “apparently neutral provision puts”.

Amendment of section 22 of Act of 1998

9. Section 22 of the Act of 1998 is amended in subsection (1)(a) by the substitution of “apparently neutral provision would put” for “apparently neutral provision puts”.

Amendment of section 34 of Act of 1998

10. Section 34 of the Act of 1998 is amended by the substitution of the following subsection for subsection (4):

“(4) Without prejudice to subsection (3), it shall not constitute discrimination on the age ground to fix different ages for the retirement (whether voluntarily or compulsorily) of employees or any class or description of employees if—

- (a) it is objectively and reasonably justified by a legitimate aim, and
- (b) the means of achieving that aim are appropriate and necessary.”.

Amendment of section 37 of Act of 1998

11. Section 37 of the Act of 1998 is amended—

- (a) in subsection (1), by the substitution of “Subject to subsections (1A) and (1B), a religious, educational or medical institution” for “A religious, educational or medical institution”, and

- (b) by the insertion of the following subsections after subsection (1):

“(1A) Where an educational or medical institution referred to in subsection (1) is maintained, in whole or in part, by monies provided by the Oireachtas more favourable treatment on the religion ground referred to in paragraph (a) of that subsection shall be taken to be discrimination unless—

- (a) that treatment does not constitute discrimination on any of the other discriminatory grounds, and
- (b) by reason of the nature of the institution’s activities or the context in which the activities are being carried out, the religion or belief of the employee or prospective employee constitutes a genuine, legitimate and justified occupational requirement having regard to the institution’s ethos.

(1B) Where an educational or medical institution referred to subsection (1) is maintained, in whole or in part, by monies provided by the Oireachtas, action of the type referred to in paragraph (b) of that subsection shall be taken to be discrimination unless by reason of the nature of the employment concerned or the context in which it is carried out—

- (a) the action is objectively justified by the institution’s aim of preventing the undermining of the religious ethos of the institution, and
- (b) the means of achieving that aim are appropriate and necessary.

(1C) An action referred to in subsection (1B) shall not be objectively justified in accordance with paragraph (a) of that subsection, or appropriate and necessary in accordance with paragraph (b) of that subsection, unless the action of the institution is—

- (a) rationally and strictly related to the institution’s religious ethos,

- (b) a response to conduct of the employee or prospective employee undermining the religious ethos of the institution rather than a response to that employee's, or prospective employee's, gender, civil status, family status, sexual orientation, age, disability, race or membership of the Traveller community, and
- (c) proportionate to the conduct of the employee or prospective employee, as the case may be, having due regard to—
 - (i) any other action the employer may take in the circumstances,
 - (ii) the consequences of that action for that employee or prospective employee,
 - (iii) the employee's or prospective employee's right to privacy, and
 - (iv) the actual damage caused to the religious ethos of the institution by the conduct of that employee or prospective employee.”.

Amendment of section 2 of Act of 2000

12. Section 2 of the Act of 2000 is amended in subsection (1) by the substitution of the following definition for the definition of “discriminatory grounds”:

“ ‘discriminatory grounds’ has the meaning given by subsections (2) and (3B) of section 3;”.

Amendment of section 3 of Act of 2000

13. Section 3 of the Act of 2000 is amended—

- (a) in subsection (1)—

- (i) in paragraph (a), by the substitution of “on any of the grounds specified in subsection (2) or, if appropriate, subsection (3B),” for “on any of the grounds specified in subsection (2)”, and
- (ii) in paragraph (c), by the substitution of “would put a person” for “puts a person”,

and

- (b) by the insertion of the following subsection after subsection (3A):

“(3B) For the purposes of section 6(1)(c), the discriminatory grounds shall (in addition to the grounds specified in subsection (2)) include the ground that as between any two persons, that one is in receipt of rent supplement (within the meaning of section 6(8)), housing assistance (construed in accordance with Part 4 of the Housing (Miscellaneous Provisions) Act 2014) or any payment under the Social Welfare Acts and the other is not (the “housing assistance ground”).”.

Amendment of section 6 of Act of 2000**14.** Section 6 of the Act of 2000 is amended—

(a) in subsection (1)(c), by the substitution of “subject to subsection (1A), providing accommodation” for “providing accommodation”,

(b) by the insertion of the following subsection after subsection (1):

“(1A) Subsection (1)(c) is without prejudice to—

(a) any enactment or rule of law regulating the provision of accommodation, or

(b) the right of a person providing accommodation to make it a condition of the provision of that accommodation that rent supplement is paid directly to that person.”,

and

(c) by the insertion of the following subsection after subsection (7):

“(8) In this section, ‘rent supplement’ means a payment made under section 198(3) of the Social Welfare Consolidation Act 2005 towards the amount of rent payable by a person in respect of his or her residence.”.

Amendment of section 7 of Act of 2000**15.** Section 7 of the Act of 2000 is amended—

(a) in subsection (3)(d)(i), by the substitution of the following clause for clause (I):

“(I) the fees for admission or attendance by persons who are citizens of Ireland, nationals of another Member State, nationals of the Swiss Confederation or nationals of a member state of the European Economic Area and persons who are not, or”,

(b) in subsection (5)(b)—

(i) in subparagraph (i), by the substitution of “citizens of Ireland, nationals of a Member State, nationals of the Swiss Confederation or nationals of a member state of the European Economic Area” for “nationals of a member state of the European Union”, and

(ii) in subparagraph (ii), by the substitution of “such citizens or nationals” for “such nationals”,

and

(c) by the insertion of the following subsection after subsection (5):

“(6) In this section, ‘member state of the European Economic Area’ means a state that is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by all subsequent amendments to that Agreement.”.

Short title, collective citation and commencement

- 16.** (1) This Act may be cited as the Equality (Miscellaneous Provisions) Act 2015.
- (2) The Pensions Acts 1990 to 2014 and *section 2* may be cited together as the Pensions Acts 1990 to 2015.
- (3) The Employment Equality Acts 1998 to 2011 and *sections 3 to 11* may be cited together as the Employment Equality Acts 1998 to 2015.
- (4) The Equal Status Acts 2000 to 2012 and *sections 12 to 15* may be cited together as the Equal Status Acts 2000 to 2015.
- (5) This Act shall come into operation on such day or days as the Minister for Justice and Equality may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions.