



Race Relations Act 1976 (Repealed)

1976 CHAPTER 74

PART VIII

ENFORCEMENT

General

53 Restriction of proceedings for breach of Act.

- (1) Except as provided by this Act [^{F1}or the ^{M1}Special Immigration Appeals Commission Act 1997 or [^{F2}Part 5 of the Nationality, Immigration and Asylum Act 2002]] no proceedings, whether civil or criminal, shall lie against any person in respect of an act by reason that the act is unlawful by virtue of a provision of this Act.
- (2) Subsection (1) does not preclude the making of an order of certiorari, mandamus or prohibition.
- (3) In Scotland, subsection (1) does not preclude the exercise of the jurisdiction of the Court of Session to entertain an application for reduction or suspension of any order or determination or otherwise to consider the validity of any order or determination, or to require reasons for any order or determination to be stated.
- [^{F3}(4) Subsections (2) and (3) do not, except so far as provided by section 76, apply to any act which is unlawful by virtue of section 76(5) or (9) or by virtue of section 76(10) (b) and (11).]

Textual Amendments

- F1** Words in s. 53(1) inserted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 4** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**
- F2** Words in s. 53(1) substituted (1.4.2003) by 2002 c. 41, s. 141, **Sch. 7, para. 11** (with s. 159); S.I. 2003/754, **art. 2, Sch.**
- F3** S. 53(4) added (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 5** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**

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Changes to legislation: There are currently no known outstanding effects for the Race Relations Act 1976 (Repealed), Part VIII. (See end of Document for details)

Modifications etc. (not altering text)

C1 S. 53 restricted by Estate Agents Act 1979 (c. 38), ss. 5(3), 36(2)

Marginal Citations

M1 1997 c. 68.

Enforcement in employment field

54 Jurisdiction of [^{F4}employment tribunals].

- (1) A complaint by any person (“the complainant”) that another person (“the respondent”) —
- (a) has committed an act of discrimination against the complainant which is unlawful by virtue of Part II; or
 - (b) is by virtue of section 32 or 33 to be treated as having committed such an act of discrimination against the complainant,
- may be presented to an [^{F5}employment tribunal].
- (2) Subsection (1) does not apply to a complaint under section 12(1) of an act in respect of which an appeal, or proceedings in the nature of an appeal, may be brought under any enactment,^{F6} . . .

Textual Amendments

F4 Words in s. 54 sidenote substituted (1.8.1998) by 1998 c. 8, s. 1(2)(b); S.I. 1998/1658, art. 2(1), **Sch. 1**

F5 Words in s. 54(1) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a); S.I. 1998/1658, art. 2(1), **Sch. 1**

F6 Words in s. 54(2) repealed (1.5.2001) by 1996 c. 46, s. 35(2), **Sch. 7 Pt. III**; S.I. 2001/1519, **art. 2**

VALID FROM 19/07/2003

54A Burden of proof: employment tribunals

- (1) This section applies where a complaint is presented under section 54 and the complaint is that the respondent—
- (a) has committed an act of discrimination, on grounds of race or ethnic or national origins, which is unlawful by virtue of any provision referred to in section 1(1B)(a), (e) or (f), or Part IV in its application to those provisions, or
 - (b) has committed an act of harassment.
- (2) Where, on the hearing of the complaint, the complainant proves facts from which the tribunal could, apart from this section, conclude in the absence of an adequate explanation that the respondent—
- (a) has committed such an act of discrimination or harassment against the complainant, or
 - (b) is by virtue of section 32 or 33 to be treated as having committed such an act of discrimination or harassment against the complainant,

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the tribunal shall uphold the complaint unless the respondent proves that he did not commit or, as the case may be, is not to be treated as having committed, that act.

^{F7}55

Textual Amendments

F7 S. 55 repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, **Sch. 3 Pt. 1** (with s. 38) and subject to an amendment (1.8.1998) by 1998 c. 8, **s. 1(2)(a)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**

56 Remedies on complaint under s. 54.

(1) Where an [^{F8}employment tribunal] finds that a complaint presented to it under section 54 is well-founded, the tribunal shall make such of the following as it considers just and equitable—

- (a) an order declaring the rights of the complainant and the respondent in relation to the act to which the complaint relates;
- (b) an order requiring the respondent to pay to the complainant compensation of an amount corresponding to any damages he could have been ordered by a county court or by a sheriff court to pay to the complainant if the complaint had fallen to be dealt with under section 57;
- (c) a recommendation that the respondent take within a specified period action appearing to the tribunal to be practicable for the purpose of obviating or reducing the adverse effect on the complainant of any act of discrimination to which the complaint relates.

^{F9}(2)

^{F10}(3)

(4) If without reasonable justification the respondent to a complaint fails to comply with a recommendation made by an [^{F8}employment tribunal] under subsection (1)(c), then, if it thinks it just and equitable to do so—

- (a) the tribunal may ^{F11}. . . increase the amount of compensation required to be paid to the complainant in respect of the complaint by an order made under subsection (1)(b); or
- (b) if an order under subsection (1)(b) could have been made but was not, the tribunal may make such an order.

^{F12}(5) The Secretary of State may by regulations make provision—

- (a) for enabling a tribunal, where an amount of compensation falls to be awarded under subsection (1)(b), to include in the award interest on that amount; and
- (b) specifying, for cases where a tribunal decides that an award is to include an amount in respect of interest, the manner in which and the periods and rate by reference to which the interest is to be determined;

and the regulations may contain such incidental and supplementary provisions as the Secretary of State considers appropriate.

(6) The Secretary of State may by regulations modify the operation of any order made under [^{F13}section 14 of the [^{F14}Employment Tribunals Act 1996]] (power to make provision as to interest on sums payable in pursuance of [^{F8}employment tribunal])

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decisions) to the extent that it relates to an award of compensation under subsection (1) (b).]

Textual Amendments

- F8** Words in s. 56(1)(4)(6) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1
- F9** S. 56(2) repealed (3.7.1994) by 1994 c. 10, ss. 1(1), 3(2)(3), Sch.
- F10** S. 56(3) repealed (22.11.1993) by S.I. 1993/2798, reg. 1(3), Sch. para. 1
- F11** Words in s. 56(4) repealed (3.7.1994) by 1994 c. 10, ss. 3(2)(3), Sch.
- F12** S. 56(5)(6) inserted (3.7.1994) by 1994 c. 10, ss. 2(1), 3(3)
- F13** Words in s. 56(6) substituted (22.8.1996) by 1996 c. 17, ss. 43, 46, Sch. 1 (with s. 38)
- F14** Words in s. 56(6) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(c) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

Modifications etc. (not altering text)

- C2** S. 56 amended by Employment Protection (Consolidation) Act 1978 (c. 44), s. 76.

Enforcement of Part III

57 Claims under Part III.

- (1) A claim by any person (“the claimant”) that another person (“the respondent”)—
- (a) has committed an act of discrimination against the claimant which is unlawful by virtue of Part III; or
 - (b) is by virtue of section 32 or 33 to be treated as having committed such an act of discrimination against the claimant,
- may be made the subject of civil proceedings in like manner as any other claim in tort or (in Scotland) in reparation for breach of statutory duty.
- (2) Proceedings under subsection (1)—
- (a) shall, in England and Wales, be brought only in a designated county court; and
 - (b) shall, in Scotland, be brought only in a sheriff court;
- but all such remedies shall be obtainable in such proceedings as, apart from this subsection and section 53(1), would be obtainable in the High Court or the Court of Session, as the case may be.
- (3) As respects an unlawful act of discrimination falling within section 1(1)(b), no award of damages shall be made if the respondent proves that the requirement or condition in question was not applied with the intention of treating the claimant unfavourably on racial grounds.
- (4) For the avoidance of doubt it is hereby declared that damages in respect of an unlawful act of discrimination may include compensation for injury to feelings whether or not they include compensation under any other head.
- [^{F15}(4A) As respects an act which is done, or by virtue of section 32 or 33 is treated as done, by a person in carrying out public investigator functions or functions as a public prosecutor and which is unlawful by virtue of section 19B, no remedy other than—
- (a) damages; or
 - (b) a declaration or, in Scotland, a declarator;

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shall be obtainable unless the court is satisfied that the remedy concerned would not prejudice a criminal investigation, a decision to institute criminal proceedings or any criminal proceedings.

(4B) In this section—

“criminal investigation” means—

- (a) any investigation which a person in carrying out functions to which section 19B applies has a duty to conduct with a view to it being ascertained whether a person should be charged with, or in Scotland prosecuted for, an offence, or whether a person charged with or prosecuted for an offence is guilty of it;
- (b) any investigation which is conducted by a person in carrying out functions to which section 19B applies and which in the circumstances may lead to a decision by that person to institute criminal proceedings which the person has power to conduct; or
- (c) any investigation which is conducted by a person in carrying out functions to which section 19B applies and which in the circumstances may lead to a decision by that person to make a report to the procurator fiscal for the purpose of enabling him to determine whether criminal proceedings should be instituted; and

“public investigator functions” means functions of conducting criminal investigations or charging offenders;

and in this subsection “offence” includes any offence under the ^{M2}Army Act 1955, the ^{M3}Air Force Act 1955 or the ^{M4}Naval Discipline Act 1957 (and “offender” shall be construed accordingly).

(4C) Subsection (4D) applies where a party to proceedings under subsection (1) which have arisen by virtue of section 19B has applied for a stay or sist of those proceedings on the grounds of prejudice to—

- (a) particular criminal proceedings;
- (b) a criminal investigation; or
- (c) a decision to institute criminal proceedings.

(4D) The court shall grant the stay or sist unless it is satisfied that the continuance of the proceedings under subsection (1) would not result in the prejudice alleged.]

(5) Civil proceedings in respect of a claim by any person that he has been discriminated against in contravention of section 17 or 18 by a body to which [^{F16}subsection (5A)] applies shall not be instituted unless the claimant has given notice of the claim to the Secretary of State ^{F17}. . . .

[^{F18}(5A) This subsection applies to—

- (a) local education authorities in England and Wales;
- (b) education authorities in Scotland; and
- (c) any body which is a responsible body in relation to an establishment falling within paragraph 3, 3B or 7B of the table in section 17.]

(6) In Scotland, when any proceedings are brought under this section, in addition to the service on the defender of a copy of the summons or initial writ initiating the action a copy thereof shall be sent as soon as practicable to the Commission in a manner to be prescribed by Act of Sederunt.

[^{F19}(7) This section has effect subject to section 57A.]

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Textual Amendments

- F15** S. 57(4A)-(4D) inserted (2.4.2001) by 2000 c. 34, s. 5(1) (with s. 10(5)); S.I. 2001/566, art. 2(1)
- F16** Words in s. 57(5) substituted (2.4.2001) by 2000 c. 34, s. 9(1), Sch. 2 para. 6(a) (with s. 10(5)); S.I. 2001/566, art. 2(1)
- F17** Words in s. 57(5) repealed (2.4.2001) by 2000 c. 34, s. 9(1)(2), Sch. 2 para. 6(b), Sch. 3 (with s. 10(5)); S.I. 2001/566, art. 2(1)
- F18** S. 57(5A) inserted (2.4.2001) by 2000 c. 34, s. 9(1), Sch. 2 para. 7 (with s. 10(5)); S.I. 2001/566, art. 2(1)
- F19** S. 57(7) added (2.4.2001) by 2000 c. 34, s. 6(1)(with s. 10(5)); S.I. 2001/566, art. 2(1)

Modifications etc. (not altering text)

- C3** S. 57(5): transfer of functions (1.7.1999) by S.I. 1999/672, art. 2, Sch. 1
S. 57(5): transfer of functions (S.) (1.7.1999) by S.I. 1999/1750, arts. 1(1), 2, Sch. 1 (with art. 7); S.I. 1998/3178, art. 3

Marginal Citations

- M2** 1955 c. 18.
M3 1955 c. 19.
M4 1957 c. 53.

VALID FROM 19/07/2003

57ZA Burden of proof : County and Sheriff Courts

- (1) This section applies where a claim is brought under section 57 and the claim is that the respondent—
- (a) has committed an act of discrimination, on grounds of race or ethnic or national origins, which is unlawful by virtue of any provision referred to in section 1(1B)(b) to (d), or Part IV in its application to those provisions, or
 - (b) has committed an act of harassment.
- (2) Where, on the hearing of the claim, the claimant proves facts from which the court could, apart from this section, conclude in the absence of an adequate explanation that the respondent—
- (a) has committed such an act of discrimination or harassment against the claimant, or
 - (b) is by virtue of section 32 or 33 to be treated as having committed such an act of discrimination or harassment against the claimant,
- the court shall uphold the claim unless the respondent proves that he did not commit or, as the case may be, is not to be treated as having committed, that act.

[^{F20}57A Claims under section 19B in immigration cases.

- (1) No proceedings may be brought by a claimant under section 57(1) in respect of an immigration claim if—
- (a) the act to which the claim relates was done in the taking by an immigration authority of a relevant decision and the question whether that act was unlawful by virtue of section 19B has been or could be raised in proceedings on an

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- appeal which is pending, or could be brought, under the 1997 Act or [^{F21}Part 5 of the 2002 Act]; or
- (b) it has been decided in relevant immigration proceedings that that act was not unlawful by virtue of that section.
- (2) For the purposes of this section an immigration claim is a claim that a person—
- (a) has committed a relevant act of discrimination against the claimant which is unlawful by virtue of section 19B; or
- (b) is by virtue of section 32 or 33 to be treated as having committed such an act of discrimination against the claimant.
- (3) Where it has been decided in relevant immigration proceedings that an act to which an immigration claim relates was unlawful by virtue of section 19B, any court hearing that claim under section 57 shall treat that act as an act which is unlawful by virtue of section 19B for the purposes of the proceedings before it.
- (4) No relevant decision of an immigration authority involving an act to which an immigration claim relates and no relevant decision of an immigration appellate body in relation to such a decision shall be subject to challenge or otherwise affected by virtue of a decision of a court hearing the immigration claim under section 57.
- (5) In this section—
- [^{F22}“the Immigration Acts” has the same meaning given by section 158 of the 2002 Act ;]
- “immigration appellate body” means an adjudicator appointed for the purposes of [^{F23}Part 5 of the 2002 Act], the Immigration Appeal Tribunal, the Special Immigration Appeals Commission, the Court of Appeal, the Court of Session or the House of Lords;
- [^{F24}“immigration authority” means the Secretary of State, an immigration officer or a person responsible for the grant or refusal of entry clearance (within the meaning of section 33(1) of the Immigration Act 1971 (c. 77));]
- “immigration claim” has the meaning given by subsection (2) above;
- “pending” has the same meaning as in the 1997 Act or, as the case may be, [^{F25}Part 5 of the 2002 Act];
- “relevant act of discrimination” means an act of discrimination done by an immigration authority in taking any relevant decision;
- “relevant decision” means—
- (a) in relation to an immigration authority, any decision under the Immigration Acts relating to the entitlement of the claimant to enter or remain in the United Kingdom; and
- (b) in relation to an immigration appellate body, any decision on an appeal under the 1997 Act or [^{F26}Part 5 of the 2002 Act] in relation to a decision falling within paragraph (a);
- “relevant immigration proceedings” means proceedings on an appeal under the 1997 Act or [^{F27}Part 5 of the 2002 Act];
- “the 1997 Act” means the ^{M5}Special Immigration Appeals Commission Act 1997;
- [^{F28}“the 2002 Act” means the Nationality, Immigration and Asylum Act 2002;]

and, for the purposes of subsection (1)(a), any power to grant leave to appeal out of time shall be disregarded.]

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Textual Amendments

- F20** S. 57A inserted (2.4.2001) by 2000 c. 34, s. 6(2) (with s. 10(5)); S.I. 2001/566, art. 2(1)
- F21** Words in s. 57A(1)(a) substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(2), Sch. 7, para. 12(a); S.I. 2003/754, art. 2(1), Sch.
- F22** Definition in s. 57A(5) substituted (1.4.2003) by 2002 c. 41, s. 114, Sch. 7, para. 12(b) (with s. 159); S.I. 2003/754, art. 2(1), Sch.
- F23** Words in definition substituted (1.4.2003) by 2002 c. 41, s. 114, Sch. 7, para. 12(c) (with s. 159); S.I. 2003/754, art. 2(1), Sch.
- F24** Definition in s. 57A(5) substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(1), Sch. 7, para. 12(d) (with s. 159); S.I. 2003/754, art. 2(1), Sch.
- F25** Words in definition in s. 57A(5) substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(1), Sch. 7, para. 12(e) (with s. 159); S.I. 2003/754, art. 2(1), Sch.
- F26** Words in definition in s. 57A(5) substituted (1.4.2003) by 2002 c.41, ss. 114, 162(1), Sch. 7, para. 12(f) (with s. 159); S.I. 2003/754, art. 2(1), Sch.
- F27** Words in definition in s. 57A(5) substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(1), Sch. 7, para. 12(g) (with s. 159); S.I. 2003/754, art. 2(1), Sch.
- F28** Definition in s. 57A(5) substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(1), Sch. 7, para. 12(h) (with s. 159); S.I. 2003/754, art. 2(1), Sch.

Marginal Citations

- M5** 1997 c. 68.

Non-discrimination notices

58 Issue of non-discrimination notice.

- (1) This section applies to—
- (a) an unlawful discriminatory act; and
 - (b) an act contravening section 28; and
 - (c) an act contravening section 29, 30 or 31,
- and so applies whether or not proceedings have been brought in respect of the act.
- (2) If in the course of a formal investigation the Commission become satisfied that a person is committing, or has committed, any such acts, the Commission may in the prescribed manner serve on him a notice in the prescribed form (“a non-discrimination notice”) requiring him—
- (a) not to commit any such acts; and
 - (b) where compliance with paragraph (a) involves changes in any of his practices or other arrangements—
 - (i) to inform the Commission that he has effected those changes and what those changes are; and
 - (ii) to take such steps as may be reasonably required by the notice for the purpose of affording that information to other persons concerned.
- (3) A non-discrimination notice may also require the person on whom it is served to furnish the Commission with such other information as may be reasonably required by the notice in order to verify that the notice has been complied with.

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- (4) The notice may specify the time at which, and the manner and form in which, any information is to be furnished to the Commission, but the time at which any information is to be furnished in compliance with the notice shall not be later than five years after the notice has become final.
- (5) The Commission shall not serve a non-discrimination notice in respect of any person unless they have first—
 - (a) given him notice that they are minded to issue a non-discrimination notice in his case, specifying the grounds on which they contemplate doing so; and
 - (b) offered him an opportunity of making oral or written representations in the matter (or both oral and written representations if he thinks fit) within a period of not less than 28 days specified in the notice; and
 - (c) taken account of any representations so made by him.

^{F29}(6)

- (7) Section 50(4) shall apply to requirements under subsection (2)(b), (3) and (4) contained in a non-discrimination notice which has become final as it applies to requirements in a notice served under section 50(1).

Textual Amendments

F29 S. 58(6) repealed (2.4.2001) by 2000 c. 34, s. 9(2), **Sch. 3** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**

59 Appeal against non-discrimination notice.

- (1) Not later than six weeks after a non-discrimination notice is served on any person he may appeal against any requirement of the notice—
 - (a) to an [^{F30}employment tribunal], so far as the requirement relates to acts which are within the jurisdiction of the tribunal;
 - (b) to a designated county court or a sheriff court, so far as the requirement relates to acts which are within the jurisdiction of the court [^{F31}(ignoring section 57A)] and are not within the jurisdiction of an [^{F30}employment tribunal].
- (2) Where the tribunal or court considers a requirement in respect of which an appeal is brought under subsection (1) to be unreasonable because it is based on an incorrect finding of fact or for any other reason, the tribunal or court shall quash the requirement.
- (3) On quashing a requirement under subsection (2) the tribunal or court may direct that the non-discrimination notice shall be treated as if, in place of the requirement quashed, it had contained a requirement in terms specified in the direction.
- (4) Subsection (1) does not apply to a requirement treated as included in a non-discrimination notice by virtue of a direction under subsection (3).

Textual Amendments

F30 Words in s. 59(1)(a)(b) substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)** (with s. 16(2)); S.I. 1998/1658, **art. 2(1), Sch. 1**

F31 Words in s. 59(1)(b) inserted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 8** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**

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60 Investigation as to compliance with non-discrimination notice.

- (1) If—
- (a) the terms of reference of a formal investigation state that its purpose is to determine whether any requirements of a non-discrimination notice are being or have been carried out, but section 50(2)(b) does not apply; and
 - (b) section 49(3) is complied with in relation to the investigation on a date (“the commencement date”) not later than the expiration of the period of five years beginning when the non-discrimination notice became final,
- the Commission may within the period referred to in subsection (2) serve notices under section 50(1) for the purposes of the investigation without needing to obtain the consent of the Secretary of State.
- (2) The said period begins on the commencement date and ends on the later of the following dates—
- (a) the date on which the period of five years mentioned in subsection (1)(b) expires;
 - (b) the date two years after the commencement date.

61 Register of non-discrimination notices.

- (1) The Commission shall establish and maintain a register (“the register”) of non-discrimination notices which have become final.
- (2) Any person shall be entitled, on payment of such fee (if any) as may be determined by the Commission—
 - (a) to inspect the register during ordinary office hours and take copies of any entry; or
 - (b) to obtain from the Commission a copy, certified by the Commission to be correct, of any entry in the register.
- (3) The Commission may, if they think fit, determine that the right conferred by subsection (2)(a) shall be exercisable in relation to a copy of the register instead of, or in addition to, the original.
- (4) The Commission shall give general notice of the place or places where, and the times when, the register or a copy of it may be inspected.

Other enforcement by Commission

62 Persistent discrimination.

- (1) If, during the period of five years beginning on the date on which any of the following became final in the case of any person, namely—
 - (a) a non-discrimination notice served on him; or
 - (b) a finding by a tribunal or court under section 54 or 57; that he has done an unlawful discriminatory act; or
- [^{F32}(ba) a finding under the ^{M6}Special Immigration Appeals Commission Act 1997 or [^{F33}Part 5 of the Nationality, Immigration and Asylum Act 2002] that he has done an act which was unlawful by virtue of section 19B; or]

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- (c) a finding by a court in proceedings under section 19 or 20 of the ^{M7}Race Relations Act 1968 that he has done an act which was unlawful by virtue of any provision of Part I of that Act,

it appears to the Commission that unless restrained he is likely to do one or more acts falling within paragraph (b), or contravening section 28, the Commission may apply to a designated county court for an injunction, or to a sheriff court for an order, restraining him from doing so; and the court, if satisfied that the application is well-founded, may grant the injunction or order in the terms applied for or in more limited terms.

- (2) In proceedings under this section the Commission shall not allege that the person to whom the proceedings relate has done an act falling within subsection (1)(b) or contravening section 28 which is within the jurisdiction of an [^{F34}employment tribunal] unless a finding by an [^{F34}employment tribunal] that he did that act has become final.

Textual Amendments

- F32** S. 62(1)(ba) inserted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 9** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**
- F33** Words in s. 62(1)(ba) substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(2), **Sch. 7, para. 13** (with s. 159); S.I. 2003/754, **art. 2(1)**, **Sch.**
- F34** Words in s. 62(2) substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)** (with s. 16(2)); S.I. 1998/1658, **art. 2(1)**, **Sch. 1**

Marginal Citations

- M6** 1997 c. 68.
M7 1968 c. 71.

63 Enforcement of ss. 29 to 31.

- (1) Proceedings in respect of a contravention of section 29, 30 or 31 shall be brought only by the Commission in accordance with the following provisions of this section.
- (2) The proceedings shall be—
- (a) an application for a decision whether the alleged contravention occurred; or
- (b) an application under subsection (4),
- or both.
- (3) An application under subsection (2)(a) shall be made—
- (a) in a case based on any provision of Part II, to an [^{F35}employment tribunal]; and
- (b) in any other case, to a designated county court or a sheriff court.
- (4) If it appears to the Commission—
- (a) that a person has done an act which by virtue of section 29, 30 or 31 was unlawful; and
- (b) that unless restrained he is likely to do further acts which by virtue of that section are unlawful,

the Commission may apply to a designated county court for an injunction, or to a sheriff court for an order, restraining him from doing such acts; and the court, if satisfied that the application is well-founded, may grant the injunction or order in the terms applied for or more limited terms.

Status: Point in time view as at 09/07/2003. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Race Relations Act 1976 (Repealed), Part VIII. (See end of Document for details)

- (5) In proceedings under subsection (4) the Commission shall not allege that the person to whom the proceedings relate has done an act which is unlawful under this Act and within the jurisdiction of an [F35 employment tribunal] unless a finding by an [F35 employment tribunal] that he did that act has become final.

Textual Amendments

F35 Words in s. 63(3)(a)(5) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

64 Preliminary action in employment cases.

- (1) With a view to making an application under section 62(1) or 63(4) in relation to a person the Commission may present to an [F36 employment tribunal] a complaint that he has done an act within the jurisdiction of an [F36 employment tribunal], and if the tribunal considers that the complaint is well-founded it shall make a finding to that effect and, if it thinks it just and equitable to do so in the case of an act contravening any provision of Part II may also (as if the complaint had been presented by the person discriminated against) make an order such as is referred to in section 56(1)(a), or a recommendation such as is referred to in section 56(1)(c), or both.
- (2) Subsection (1) is without prejudice to the jurisdiction conferred by section 63(2).
- (3) In sections 62 and 63 and this section, the acts “within the jurisdiction of an [F36 employment tribunal]” are those in respect of which such jurisdiction is conferred by sections 54 and 63.

Textual Amendments

F36 Words in s. 64(1)(3) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

Help for persons suffering discrimination

65 Help for aggrieved persons in obtaining information etc.

- (1) With a view to helping a person (“the person aggrieved”) who considers he may have been discriminated against in contravention of this Act to decide whether to institute proceedings and, if he does so, to formulate and present his case in the most effective manner, the Secretary of State shall by order prescribe—
- forms by which the person aggrieved may question the respondent on his reasons for doing any relevant act, or on any other matter which is or may be relevant; and
 - forms by which the respondent may if he so wishes reply to any questions.
- (2) Where the person aggrieved questions the respondent (whether in accordance with an order under subsection (1) or not)—
- the question, and any reply by the respondent (whether in accordance with such an order or not) shall, subject to the following provisions of this section, be admissible as evidence in the proceedings;

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Changes to legislation: There are currently no known outstanding effects for the Race Relations Act 1976 (Repealed), Part VIII. (See end of Document for details)

- (b) if it appears to the court or tribunal that the respondent deliberately, and without reasonable excuse, omitted to reply within a reasonable period or that his reply is evasive or equivocal, the court or tribunal may draw any inference from that fact that it considers it just and equitable to draw, including an inference that he committed an unlawful act.
- (3) The Secretary of State may by order—
- (a) prescribe the period within which questions must be duly served in order to be admissible under subsection (2)(a); and
 - (b) prescribe the manner in which a question, and any reply by the respondent, may be duly served.
- (4) Rules may enable the court entertaining a claim under section 57 to determine, before the date fixed for the hearing of the claim, whether a question or reply is admissible under this section or not.
- [^{F37}(4A) In section 19B proceedings, subsection (2)(b) does not apply in relation to a failure to reply, or a particular reply, if the conditions specified in subsection (4B) are satisfied.
- (4B) Those conditions are that—
- (a) at the time of doing any relevant act, the respondent was carrying out public investigator functions or was a public prosecutor; and
 - (b) he reasonably believes that a reply or (as the case may be) a different reply would be likely to prejudice any criminal investigation, any decision to institute criminal proceedings or any criminal proceedings or would reveal the reasons behind a decision not to institute, or a decision not to continue, criminal proceedings.
- (4C) For the purposes of subsections (4A) and (4B)—
- “public investigator functions” has the same meaning as in section 57;
- “section 19B proceedings” means proceedings in respect of a claim under section 57 which has arisen by virtue of section 19B.]
- (5) This section is without prejudice to any other enactment or rule of law regulating interlocutory and preliminary matters in proceedings before a county court, sheriff court or [^{F38}employment tribunal], and has effect subject to any enactment or rule of law regulating the admissibility of evidence in such proceedings.
- (6) In this section “respondent” includes a prospective respondent and “rules”—
- (a) in relation to county court proceedings, means county court rules;
 - (b) in relation to sheriff court proceedings, means sheriff court rules.
- [^{F39}(7) This section does not apply in relation to any proceedings under—
- (a) the Special Immigration Appeals Commission Act 1997; or
 - (b) [^{F40}Part 5 of the Nationality, Immigration and Asylum Act 2002].]

Textual Amendments

F37 S. 65(4A)-(4C) inserted (2.4.2001) by 2000 c. 34, s. 5(2) (with s. 10(5)); S.I. 2001/566, art. 2(1)

F38 Words in s. 65(5) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

F39 S. 65(7) inserted (2.4.2001) by 2000 c. 34, s. 9(1), Sch. 2 para. 10 (with s. 10(5)); S.I. 2001/566, art. 2(1)

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Changes to legislation: There are currently no known outstanding effects for the Race Relations Act 1976 (Repealed), Part VIII. (See end of Document for details)

F40 Words in s. 65(7)(b) substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(2), Sch. 7, para. 14 (with s. 159); S.I. 2003/754, art. 2(1), Sch.

66 Assistance by Commission.

- (1) Where, in relation to proceedings or prospective proceedings under this Act, an individual who is an actual or prospective complainant or claimant applies to the Commission for assistance under this section, the Commission shall consider the application and may grant it if they think fit to do so—
 - (a) on the ground that the case raises a question of principle; or
 - (b) on the ground that it is unreasonable, having regard to the complexity of the case, or to the applicant's position in relation to the respondent or another person involved, or to any other matter, to expect the applicant to deal with the case unaided; or
 - (c) by reason of any other special consideration.
- (2) Assistance by the Commission under this section may include—
 - (a) giving advice;
 - (b) procuring or attempting to procure the settlement of any matter in dispute;
 - (c) arranging for the giving of advice or assistance by a solicitor or counsel;
 - (d) arranging for representation by any person, including all such assistance as is usually given by a solicitor or counsel in the steps preliminary or incidental to any proceedings, or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings;
 - (e) any other form of assistance which the Commission may consider appropriate, but paragraph (d) shall not affect the law and practice regulating the descriptions of persons who may appear in, conduct, defend, and address the court in, any proceedings.
- (3) Where under subsection (1) an application for assistance under this section is made in writing, the Commission shall, within the period of two months beginning when the application is received—
 - (a) consider the application after making such enquiries as they think fit; and
 - (b) decide whether or not to grant it; and
 - (c) inform the applicant of their decision, stating whether or not assistance under this section is to be provided by the Commission and, if so, what form it will take.
- (4) If, in a case where subsection (3) applies, the Commission within the period of two months there mentioned give notice to the applicant that, in relation to his application—
 - (a) the period of two months allowed them by that subsection is by virtue of the notice extended to three months; and
 - (b) the reference to two months in section 68(3) is by virtue of the notice to be read as a reference to three months,
 subsection (3) and section 68(3) shall have effect accordingly.
- (5) In so far as expenses are incurred by the Commission in providing the applicant with assistance under this section, the recovery of those expenses (as taxed or assessed in such manner as may be prescribed by rules or regulations) shall constitute a first charge for the benefit of the Commission—

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- (a) on any costs or expenses which (whether by virtue of a judgment or order of a court or tribunal or an agreement or otherwise) are payable to the applicant by any other person in respect of the matter in connection with which the assistance is given; and
 - (b) so far as relates to any costs or expenses, on his rights under any compromise or settlement arrived at in connection with that matter to avoid or bring to an end any proceedings.
- (6) The charge conferred by subsection (5) is subject to any charge ^[F41]imposed by section 10(7) of the Access to Justice Act 1999], or any charge or obligation for payment in priority to other debts under ^[F42]the ^{M8}Legal Aid and Advice (Scotland) Acts 1967 ^{M9} and 1972^[F42]the Legal Aid (Scotland) Act 1986], and is subject to any provision in ^[F43], or made under, ^[F44]either of those Acts for payment of any sum to the ^[F45]Legal Services Commission] or into the Scottish Legal Aid Fund].
- (7) In this section “respondent” includes a prospective respondent and “rules or regulations”—
- (a) in relation to county court proceedings, means county court rules;
 - (b) in relation to sheriff court proceedings, means sheriff court rules;
 - (c) in relation to ^[F46]employment tribunal] proceedings, means ^[F47]^[F46]employment tribunal] procedure regulations under Part I of ^[F48]the Employment Tribunals Act 1996]]
- ^[F49](8) This section (except for subsection (4)) applies to proceedings or prospective proceedings under the Special Immigration Appeals Commission Act 1997 or ^[F50]Part 5 of the Nationality, Immigration and Asylum Act 2002] so far as they relate to acts which may be unlawful by virtue of section 19B as it applies to proceedings or prospective proceedings under this Act.
- (9) In this section as it applies by virtue of subsection (8) “rules and regulations” means—
- (a) in relation to proceedings under the Act of 1997, ^[F51]rules under that Act];
 - (b) in relation to proceedings under ^[F51]Part 5 of the Act of 2002], ^[F51]rules under that Act.].]

Textual Amendments

- F41** Words in s. 66(6) substituted (1.4.2000) by 1999 c. 22, s. 24, **Sch. 4 para. 14(a)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2000/774, **art. 2** (subject to arts. 3, 4)
- F42** Words “the Legal Aid (Scotland) Act 1986” substituted (S.) for “the Legal Aid and Advice (Scotland) Acts 1967 and 1972” by Legal Aid (Scotland) Act 1986 (c. 47, SIF 77:2), s. 45, **Sch. 3 para. 6**
- F43** Words in s. 66(6) inserted (1.4.2000) by 1999 c. 22, s. 24, **Sch. 4 para. 14(b)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2000/774, **art. 2** (subject to arts. 3, 4)
- F44** Words substituted by Legal Aid Act 1988 (c. 34, SIF 77:1), s. 45, **Sch. 5 para. 7(b)**
- F45** Words in s. 66(6) substituted (1.4.2000) by 1999 c. 22, s. 24, **Sch. 4 para. 14(c)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2000/774, **art. 2** (subject to arts. 3, 4)
- F46** Words in s. 66(7)(c) substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F47** Words in s. 66(7)(c) substituted (22.8.1996) by 1996 c. 17, ss. 43, 46, **Sch. 1 para. 4** (with s. 38)
- F48** Words in s. 66(7)(c) substituted (1.8.1998) by 1998 c. 8 s. 1(2)(c) (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F49** S. 66(8)(9) inserted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 11** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**

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Changes to legislation: There are currently no known outstanding effects for the Race Relations Act 1976 (Repealed), Part VIII. (See end of Document for details)

F50 Words in s. 66(8) substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(2), Sch. 7, para. 15(a) (with s. 159); S.I. 2003/754, **art. 2(1)**, Sch.

F51 Words in s. 66(9) substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(2), Sch. 7, para. 15(b) (with s. 159); S.I. 2003/754, **art. 2(1)**, Sch.

Modifications etc. (not altering text)

C4 S. 66(2)(c)(d) amended (E.W.) (1.1.1992) by S.I. 1991/2684, arts. 2(1), 4, **Sch. 1**

Marginal Citations

M8 1967 c. 43.

M9 1972 c. 50.

Sheriff courts and designated county courts

67 Sheriff courts and designated county courts.

- (1) For the purposes of this Act a “designated” county court is one designated for the time being for those purposes by an order made by the Lord Chancellor.
- (2) An order under subsection (1) designating any county court for the purposes of this Act shall assign to that court as its district for those purposes any county court district or two or more county court districts.
- (3) A designated county court or a sheriff court shall have jurisdiction to entertain proceedings under this Act with respect to an act done on a ship, aircraft or hovercraft outside its district, including such an act done outside Great Britain.
- [^{F52}(3A) A designated county court or a sheriff court shall have jurisdiction to entertain proceedings under this Act with respect to an act done outside the United Kingdom where section 19B applies in relation to such an act by virtue of section 27(1A).]
- (4) In any proceedings under this Act in a designated county court or a sheriff court the judge or sheriff shall, unless with the consent of the parties he sits without assessors, be assisted by two assessors appointed from a list of persons prepared and maintained by the Secretary of State, being persons appearing to the Secretary of State to have special knowledge and experience of problems connected with relations between persons of different racial groups.
- (5) The remuneration of assessors appointed under subsection (4) shall be at such rate as may, with the approval of [^{F53}the Treasury], be determined by the Lord Chancellor (for proceedings in England and Wales) or the Lord President of the Court of Session (for proceedings in Scotland).
- (6) Without prejudice to section 74(3), an order for the discontinuance of the jurisdiction of any county court under this Act, whether wholly or within a part of the district assigned to it for the purposes of this Act, may include provision with respect to any proceedings under this Act commenced in that court before the order comes into operation.

Textual Amendments

F52 S. 67(3A) inserted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 12** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**

Status: Point in time view as at 09/07/2003. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Race Relations Act 1976 (Repealed), Part VIII. (See end of Document for details)

F53 Words substituted by S.I. 1981/1670, arts. 2(2), 3(5)

[^{F54}**67A National security: procedure.**

- (1) Rules may make provision for enabling a court in which relevant proceedings have been brought, where it considers it expedient in the interests of national security—
 - (a) to exclude from all or part of the proceedings—
 - (i) the claimant;
 - (ii) the claimant’s representatives; or
 - (iii) the assessors (if any) appointed by virtue of section 67(4);
 - (b) to permit a claimant or representative who has been excluded to make a statement to the court before the commencement of the proceedings, or the part of the proceedings, from which he is excluded;
 - (c) to take steps to keep secret all or part of the reasons for its decision in the proceedings.
- (2) The Attorney General or, in Scotland, the Advocate General for Scotland, may appoint a person to represent the interests of a claimant in, or in any part of, any proceedings from which the claimant and his representatives are excluded by virtue of subsection (1).
- (3) A person appointed under subsection (2)—
 - (a) if appointed for the purposes of proceedings in England and Wales, must have a general qualification (within the meaning of section 71 of the ^{M10}Courts and Legal Services Act 1990); and
 - (b) if appointed for the purposes of proceedings in Scotland, must be—
 - (i) an advocate; or
 - (ii) a solicitor who has by virtue of section 25A of the ^{M11}Solicitors (Scotland) Act 1980 rights of audience in the Court of Session or the High Court of Justiciary.
- (4) A person appointed under subsection (2) shall not be responsible to the person whose interests he is appointed to represent.
- (5) In this section—

“relevant proceedings” means proceedings brought under this Act—

 - (a) in England and Wales, in a designated county court; or
 - (b) in Scotland, in a sheriff court; and

“rules” has the same meaning as in section 65.]

Textual Amendments

F54 S. 67A inserted (2.4.2001) by 2000 c. 34, s. 8 (with s. 10(5)); S.I. 2001/566, art. 2(1)

Marginal Citations

M10 1990 c. 41.

M11 1980 c. 46.

Status: Point in time view as at 09/07/2003. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Race Relations Act 1976 (Repealed), Part VIII. (See end of Document for details)

Period within which proceedings to be brought

68 Period within which proceedings to be brought.

(1) An [F55employment tribunal] shall not consider a complaint under section 54 unless it is presented to the tribunal before the end of [F56—

- (a) the period of three months beginning when the act complained of was done; or
- (b) in a case to which section 75(8) applies, the period of six months so beginning.]

(2) [F57Subject to subsection (2A)] a county court or a sheriff court shall not consider a claim under section 57 unless proceedings in respect of the claim are instituted before the end of—

(a) the period of six months beginning when the act complained of was done;

[F58] (b)

[F59(2A) In relation to an immigration claim within the meaning of section 57A, the period of six months mentioned in subsection (2)(a) begins on the expiry of the period during which, by virtue of section 57A(1)(a), no proceedings may be brought under section 57(1) in respect of the claim.]

(3) Where, in relation to proceedings or prospective proceedings by way of a claim under section 57, an application for assistance under section 66 is made to the Commission before the end of the period of six [F60] . . . months mentioned in paragraph (a) [F60] . . . of subsection (2), the period allowed by that paragraph for instituting proceedings in respect of the claim shall be extended by two months.

(4) An [F55employment tribunal], county court or sheriff court shall not consider an application under section 63(2)(a) unless it is made before the end of the period of six months beginning when the act to which it relates was done; and a county court or sheriff court shall not consider an application under section 63(4) unless it is made before the end of the period of five years so beginning.

(5) An [F55employment tribunal] shall not consider a complaint under section 64(1) unless it is presented to the tribunal before the end of the period of six months beginning when the act complained of was done.

(6) A court or tribunal may nevertheless consider any such complaint, claim or application which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.

- (7) For the purposes of this section—
- (a) when the inclusion of any term in a contract renders the making of the contract an unlawful act, that act shall be treated as extending throughout the duration of the contract; and
 - (b) any act extending over a period shall be treated as done at the end of that period; and
 - (c) a deliberate omission shall be treated as done when the person in question decided upon it;

and in the absence of evidence establishing the contrary a person shall be taken for the purposes of this section to decide upon an omission when he does an act inconsistent with doing the omitted act or, if he has done no such inconsistent act, when the period

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expires within which he might reasonably have been expected to do the omitted act if it was to be done.

Textual Amendments

- F55** Words in s. 68(1)(4)(5) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F56** S. 68(1)(a)(b) substituted for words in s. 68(1) (1.10.1997) by 1996 c. 46, s. 23(4); S.I. 1997/2164, arts. 2, 3
- F57** Words s. 68(2) inserted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 13** (with s. 10(5)); S.I. 2001/566, art. 2(1)
- F58** S. 68(2)(b) and the word “or” immediately preceding it repealed (2.4.2001) by 2000 c. 34, s. 9(2), **Sch. 3** (with s. 10(5)); S.I. 2001/566, art. 2(1)
- F59** S. 68(2A) inserted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 14** (with s. 10(5)); S.I. 2001/566, art. 2(1)
- F60** Words in s. 68(3) repealed (2.4.2001) by 2000 c. 34, s. 9(2), **Sch. 3** (with s. 10(5)); S.I. 2001/566, art. 2(1)

Evidence

69 Evidence.

- (1) Any finding by a court under section 19 or 20 of the ^{M12}Race Relations Act 1968, or by a court or ^{F61}employment tribunal] under this Act, in respect of any act shall, if it has become final, be treated as conclusive in any proceedings under this Act.
- (2) In any proceedings under this Act [^{F62}or any enactment mentioned in section 19D(5)] a certificate signed by or on behalf of a Minister of the Crown and certifying—
 - (a) that any arrangements or conditions specified in the certificate were made, approved or imposed by a Minister of the Crown and were in operation at a time or throughout a period so specified; ^{F63} . . .
 - ^{F63}(b)
shall be conclusive evidence of the matters certified.
- (3) A document purporting to be a certificate such as is mentioned in subsection (2) shall be received in evidence and, unless the contrary is proved, shall be deemed to be such a certificate.

Textual Amendments

- F61** Words in s. 69(1) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F62** Words in s. 69(2) inserted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 15** (with s. 10(5)); S.I. 2001/566, art. 2
- F63** S. 69(2)(b) and the word “or” immediately preceding it repealed (2.4.2001) by 2000 c. 34, ss. 7(2), 9(2), **Sch. 3** (with s. 10(5)); S.I. 2001/566, art. 2

Modifications etc. (not altering text)

- C5** S. 69: certification function made exercisable by the Assembly concurrently with any Minister of the Crown by whom it is exercisable (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

Status: Point in time view as at 09/07/2003. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Race Relations Act 1976 (Repealed), Part VIII. (See end of Document for details)

Marginal Citations

M12 1968 c. 71.

Status:

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Changes to legislation:

There are currently no known outstanding effects for the Race Relations Act 1976 (Repealed), Part VIII.