



# Race Relations Act 1976 (Repealed)

## 1976 CHAPTER 74

### PART VIII

#### ENFORCEMENT

##### *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.

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[<sup>F1</sup>(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;

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 <sup>M1</sup>Army Act 1955, the <sup>M2</sup>Air Force Act 1955 or the <sup>M3</sup>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 [<sup>F2</sup>subsection (5A)] applies shall not be instituted unless the claimant has given notice of the claim to the Secretary of State <sup>F3</sup>. . . .

[<sup>F4</sup>(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.]

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- (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.

[<sup>F5</sup>(7) This section has effect subject to section 57A.]

#### Textual Amendments

- F1** 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)
- F2** 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)
- F3** 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)
- F4** 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)
- F5** 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)

- C1** 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

- M1** 1955 c. 18.  
**M2** 1955 c. 19.  
**M3** 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—
- 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
  - 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—
- has committed such an act of discrimination or harassment against the claimant, or
  - 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.

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**[<sup>F6</sup>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 appeal which is pending, or could be brought, under the 1997 Act or Part IV of the 1999 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—
  - “the Immigration Acts” has the same meaning as in the 1999 Act;
  - “immigration appellate body” means an adjudicator appointed for the purposes of the 1999 Act, the Immigration Appeal Tribunal, the Special Immigration Appeals Commission, the Court of Appeal, the Court of Session or the House of Lords;
  - “immigration authority” means an authority within the meaning of section 65 of the 1999 Act (human rights and racial discrimination cases);
  - “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, Part IV of the 1999 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 Part IV of the 1999 Act in relation to a decision falling within paragraph (a);
  - “relevant immigration proceedings” means proceedings on an appeal under the 1997 Act or Part IV of the 1999 Act;
  - “the 1997 Act” means the <sup>M4</sup>Special Immigration Appeals Commission Act 1997;

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“the 1999 Act” means the <sup>M5</sup>Immigration and Asylum Act 1999;  
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**

**F6** S. 57A inserted (2.4.2001) by 2000 c. 34, s. 6(2) (with s. 10(5)); S.I. 2001/566, art. 2(1)

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**Marginal Citations**

**M4** 1997 c. 68.

**M5** 1999 c. 33.

**Status:**

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