

Status: Point in time view as at 01/12/2003. This version of this schedule contains provisions that are not valid for this point in time.
Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995, SCHEDULE 3. (See end of Document for details)

SCHEDULES

SCHEDULE 3

SECTIONS [F1 17A(8)] AND 25(6). ENFORCEMENT AND PROCEDURE

Extent Information

- E1** In its application to Northern Ireland, this Schedule has effect subject to the modifications set out in Sch. 8; see s. 70(6)

Textual Amendments

- F1** Sch. 3: word in side note substituted (E.W.S.) (3.7.2003 for certain purposes and otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **29(2)(a)** and same word substituted (N.I.) (21.2.2004 for certain purposes and otherwise 1.10.2004) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **28(2)(a)**

PART I

EMPLOYMENT

Conciliation

F2¹

Textual Amendments

- F2** Sch. 3 para. 1 repealed (E.W.S.)(22.8.1996) by [1996 c. 17, ss. 45, 46](#), **Sch. 3 Pt. I** (with s. 38) and (N.I.) (24.9.1996) by [S.I. 1996/1921 \(N.I.18\)](#), art. 28, **Sch. 3** (with Sch. 2)

Restriction on proceedings for breach of Part II

- 2 [F3(1) Except as provided by Part 2, no civil or criminal proceedings may be brought against any person in respect of an act merely because the act is unlawful under that Part.]
- (2) Sub-paragraph (1) does not prevent the making of an application for judicial review[F4 or the investigation or determination of any matter in accordance with Part 10 (investigations) of the Pension Schemes Act 1993 F5 by the Pensions Ombudsman”].

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Textual Amendments

- F3** Sch. 3 para. 2(1) substituted (E.W.S.) (3.7.2003 for certain purposes and otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **29(2)(b)** and said words substituted (N.I.) (21.2.2004 for certain purposes and otherwise 1.10.2004) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **28(2)(b)**
- F4** Words in Sch. 3 para. 2(2) inserted (E.W.S.) (1.12.2003 for certain purposes, otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Pensions\) Regulations 2003 \(S.I. 2003/2770\)](#), regs. 1(2)(3), **4(5)**
- F5** 1993 c. 48.

Period within which proceedings must be brought

- 3 (1) An [^{F6}employment tribunal] shall not consider a complaint under [^{F7}section 17A or 25(8)] unless it is presented before the end of the period of three months beginning when the act complained of was done.
- (2) A tribunal may consider any such complaint which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.
- (3) For the purposes of sub-paragraph (1)—
- (a) where an unlawful act ^{F8} . . . is attributable to a term in a contract, that act is to be treated as extending throughout the duration of the contract;
 - (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.
- (4) In the absence of evidence establishing the contrary, a person shall be taken for the purposes of this paragraph to decide upon an omission—
- (a) when he does an act inconsistent with doing the omitted act; or
 - (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.

Textual Amendments

- F6** Words in Sch. 3 para. 3 substituted (1.8.1998) by 1998 c. 8, **s. 1(2)** (with s. 16(2))
- F7** Words in Sch. 3 para. 3(1) substituted (E.W.S.) (3.7.2003 for certain purposes, otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **29(2)(c)** and said words substituted (N.I.) (21.2.2004 for certain purposes, otherwise 1.10.2004) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **28(2)(d)**
- F8** Words in Sch. 3 para. 3(3)(a) omitted (E.W.S.) (3.7.2003 for certain purposes, otherwise 1.10.2004) by virtue of [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **29(2)(d)** and said words omitted (N.I.) (21.2.2004 for certain purposes, otherwise 1.10.2004) by virtue of the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **28(2)(e)**

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Evidence

- 4 (1) In any proceedings under [^{F9}section 17A or 25(8)], a certificate signed by or on behalf of a Minister of the Crown and certifying—
- (a) that any conditions or requirements specified in the certificate were imposed by a Minister of the Crown and were in operation at a time or throughout a time so specified, ^{F10} . . .
- ^{F10}(b)
- shall be conclusive evidence of the matters certified.
- (2) A document purporting to be such a certificate shall be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

Textual Amendments

- F9** Words in Sch. 3 para. 4(1) substituted (E.W.S.) (3.7.2003, otherwise 1.10.2004) by The Disability Discrimination Act 1995 (Amendment) Regulations 2003 (S.I. 2003/1673), regs. 1(2)(3), 29(2)(e) and said words substituted (N.I.) (21.2.2004 for certain purposes and 1.10.2004 insofar as not yet in force) by the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004/55), regs. 1(2)(3), 28(2)(f)
- F10** Sch. 3 para. 4(1)(b) and preceding word repealed (16.7.2001) by 1999 c. 26, ss. 41, 44, Sch. 8 para. 7, Sch. 9(12); S.I. 2001/1187, art. 3, Sch. (as amended by S.I. 2001/1461, art. 2)

PART II

DISCRIMINATION IN OTHER AREAS

Restriction on proceedings for breach of Part III

- 5 (1) Except as provided by section 25 no civil or criminal proceedings may be brought against any person in respect of an act merely because the act is unlawful under Part III.
- (2) Sub-paragraph (1) does not prevent the making of an application for judicial review.

Period within which proceedings must be brought

- 6 (1) A county court or a sheriff court shall not consider a claim under section 25 unless proceedings in respect of the claim are instituted before the end of the period of six months beginning when the act complained of was done.
- (2) Where, in relation to proceedings or prospective proceedings under section 25, [^{F11}the dispute concerned is referred for conciliation in pursuance of arrangements under section 28] before the end of the period of six months mentioned in sub-paragraph (1), the period allowed by that sub-paragraph shall be extended by two months.

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- (3) A court may consider any claim under section 25 which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.
- (4) For the purposes of sub-paragraph (1)—
- (a) where an unlawful act of discrimination is attributable to a term in a contract, that act is to be treated as extending throughout the duration of the contract;
 - (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.
- (5) In the absence of evidence establishing the contrary, a person shall be taken for the purposes of this paragraph to decide upon an omission—
- (a) when he does an act inconsistent with doing the omitted act; or
 - (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.

Extent Information

E2 In its application to Northern Ireland, this paragraph has effect subject to the modifications set out in Sch. 8: see s. 70(6)

Textual Amendments

F11 Words in Sch. 3 para. 6(2) substituted (25.4.2000) by 1999 c. 17, s. 14(1), **Sch. 4 para. 3(3)** (with s. 15); S.I. 2000/880, art. 2, **Sch. 2** (subject to transitional provision in art. 3); S.I. 2000/1110 (N.I. 2), art. **15(3)**; S.R. 2000/140, art. 2, **Sch.**

VALID FROM 04/12/2006

^{F12}Staying or sisting proceedings on section 21B claim affecting criminal matters

Textual Amendments

F12 Sch. 3 paras. 6A, 6B and cross-headings inserted (E.W.S.) (4.12.2006) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), **Sch. 1 para. 38(5)**; S.I. 2005/2774, art. 4

- 6A (1) Sub-paragraph (2) applies where a party to proceedings under section 25 which have arisen by virtue of section 21B(1) 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.
- (2) The court shall grant the stay or sist unless it is satisfied that the continuance of the proceedings under section 25 would not result in the prejudice alleged.

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VALID FROM 04/12/2006

Restriction of remedies for section 21B claim relating to criminal matters

- 6B (1) Sub-paragraph (2) applies to a remedy other than—
- (a) damages; or
 - (b) a declaration or, in Scotland, a declarator.
- (2) In proceedings under section 25, the remedy shall be obtainable in respect of a relevant discriminatory act only if the court is satisfied that—
- (a) no criminal investigation,
 - (b) no decision to institute criminal proceedings, and
 - (c) no criminal proceedings,
- would be prejudiced by the remedy.
- (3) In sub-paragraph (2) “relevant discriminatory act” means an act—
- (a) which is done, or by virtue of section 57 or 58 is treated as done, by a person—
 - (i) in carrying out public investigator functions, or
 - (ii) in carrying out functions as a public prosecutor; and
 - (b) which is unlawful by virtue of section 21B(1).]

Compensation for injury to feelings

- 7 In any proceedings under section 25, the amount of any damages awarded as compensation for injury to feelings shall not exceed the prescribed amount.

Evidence

- 8 (1) In any proceedings under section 25, a certificate signed by or on behalf of a Minister of the Crown and certifying—
- (a) that any conditions or requirements specified in the certificate were imposed by a Minister of the Crown and were in operation at a time or throughout a time so specified, or
 - (b) that an act specified in the certificate was done for the purpose of safeguarding national security,
- shall be conclusive evidence of the matters certified.
- (2) A document purporting to be such a certificate shall be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

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[^{F13}PART 3

DISCRIMINATION IN SCHOOLS]

Textual Amendments

F13 Sch. 3 Pt. 3 (paras. 9-11) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 19(2), Sch. 3 para. 1 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

Restriction on proceedings for breach of Part 4, Chapter 1

- ^{F14}9 (1) Except as provided by sections 28I, 28K and 28L, no civil or criminal proceedings may be brought against any person in respect of an act merely because the act is unlawful under Chapter 1 of Part 4.
- (2) Sub-paragraph (1) does not prevent the making of an application for judicial review.

Textual Amendments

F14 Sch. 3 Pt. 3 (paras. 9-11) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 19(2), Sch. 3 para. 1 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

Period within which proceedings must be brought

- ^{F15}10 (1) The Tribunal [^{F16}or the Welsh Tribunal] shall not consider a claim under section 28I unless proceedings in respect of the claim are instituted before the end of the period of six months beginning when the act complained of was done.
- (2) If, in relation to proceedings or prospective proceedings under section 28I, the dispute concerned is referred for conciliation in pursuance of arrangements under section 31B before the end of the period of six months mentioned in sub-paragraph (1), the period allowed by that sub-paragraph shall be extended by two months.
- (3) The Tribunal [^{F16}or the Welsh Tribunal] may consider any claim under section 28I which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.
- (4) But sub-paragraph (3) does not permit the Tribunal [^{F16}or the Welsh Tribunal] to decide to consider a claim if a decision not to consider that claim has previously been taken under that sub-paragraph.
- (5) For the purposes of sub-paragraph (1)—
- (a) if an unlawful act of discrimination is attributable to a term in a contract, that act is to be treated as extending throughout the duration of the contract;
 - (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.
- (6) In the absence of evidence establishing the contrary, a person shall be taken for the purposes of this paragraph to decide upon an omission—

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- (a) when he does an act inconsistent with doing the omitted act; or
- (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.

Textual Amendments

- F15** Sch. 3 Pt. 3 (paras. 9-11) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 19(2), **Sch. 3 para. 1** (with s. 43(13)); S.I. 2002/2217, art. 3, **Sch. 1 Pt. 1**
- F16** Words in Sch. 3 para. 10(1)(3)(4) inserted (1.9.2003) by 2002 c. 32, s. 195, **Sch. 18 para. 12** (with ss. 210(8), 214(4), Sch. 18 para. 17); S.I. 2002/3185, art. 6, **Sch. Pt. III**

Evidence

- ^{F17}11 (1) In any proceedings under section 28I, 28K or 28L, a certificate signed by or on behalf of a Minister of the Crown and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by a Minister of the Crown, and
 - (b) were in operation at a time or throughout a time so specified,
- shall be conclusive evidence of the matters certified.
- (2) A document purporting to be such a certificate shall be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

Textual Amendments

- F17** Sch. 3 Pt. 3 (paras. 9-11) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 19(2), **Sch. 3 para. 1** (with s. 43(13)); S.I. 2002/2217, art. 3, **Sch. 1 Pt. 1**

[^{F18}PART 4

DISCRIMINATION IN FURTHER AND HIGHER EDUCATION INSTITUTIONS]

Textual Amendments

- F18** Sch. 3 Pt. 4 (paras. 12-15) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 30(2), **Sch. 3 para. 2** (with s. 43(13)); S.I. 2002/2217, art. 3, **Sch. 1 Pt. 1**

Restriction on proceedings for breach of Part 4, Chapter 2

- ^{F19}12 (1) Except as provided by section 28V, no civil or criminal proceedings may be brought against any person in respect of an act merely because the act is unlawful under Chapter 2 of Part 4.
- (2) Sub-paragraph (1) does not prevent the making of an application for judicial review.

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Textual Amendments

F19 Sch. 3 Pt. 4 (paras. 12-15) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 30(2), (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. I

Period within which proceedings must be brought

- ^{F20}13 (1) A county court or a sheriff court shall not consider a claim under section 28V unless proceedings in respect of the claim are instituted before the end of the period of six months beginning when the act complained of was done.
- (2) If, in relation to proceedings or prospective proceedings under section 28V, the dispute concerned is referred for conciliation in pursuance of arrangements under section 31B before the end of the period of six months mentioned in sub-paragraph (1), the period allowed by that sub-paragraph shall be extended by two months.
- (3) A court may consider any claim under section 28V which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.
- (4) For the purposes of sub-paragraph (1)—
- (a) if an unlawful act of discrimination is attributable to a term in a contract, that act is to be treated as extending throughout the duration of the contract;
 - (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.
- (5) In the absence of evidence establishing the contrary, a person shall be taken for the purposes of this paragraph to decide upon an omission—
- (a) when he does an act inconsistent with doing the omitted act; or
 - (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.

Textual Amendments

F20 Sch. 3 Pt. 4 (paras. 12-15) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 30(2), (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. I

Compensation for injury to feelings

- ^{F21}14 In any proceedings under section 28V, the amount of any damages awarded as compensation for injury to feelings shall not exceed the prescribed amount.

Textual Amendments

F21 Sch. 3 Pt. 4 (paras. 12-15) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 30(2), (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. I

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Evidence

- ^{F22}15 (1) In any proceedings under section 28V, a certificate signed by or on behalf of a Minister of the Crown and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by a Minister of the Crown, and
 - (b) were in operation at a time or throughout a time so specified,
- is conclusive evidence of the matters certified.
- (2) A document purporting to be such a certificate is to be—
- (a) received in evidence; and
 - (b) deemed to be such a certificate unless the contrary is proved.

Textual Amendments

F22 Sch. 3 Pt. 4 (paras. 12-15) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 30(2), (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. I

VALID FROM 01/09/2007

^{F23}PART 5

DISCRIMINATION IN GENERAL QUALIFICATIONS BODIES

Textual Amendments

F23 Sch. 3 Pt. 5 (paras. 16-18 and cross-headings) inserted (E.W.S.) (1.9.2007) by The Disability Discrimination Act 1995 (Amendment etc.) (General Qualifications Bodies) (Alteration of Premises and Enforcement) Regulations (S.I. 2007/2405), regs. 1(2), 4(3) (with reg. 14)

Restriction on proceedings for breach of Part 4, Chapter 2A

- 16 (1) Except as provided by section 31ADA, no civil or criminal proceedings may be brought against any person in respect of an act merely because the act is unlawful under Chapter 2A of Part 4.
- (2) Sub-paragraph (1) does not prevent the making of an application for judicial review.

Period within which proceedings must be brought

- 17 (1) A county court or a sheriff court shall not consider a claim under section 31ADA unless proceedings in respect of the claim are instituted before the end of the period of six months beginning when the act complained of was done.
- (2) If, in relation to proceedings or prospective proceedings under section 31ADA, the dispute concerned is referred to conciliation in pursuance of arrangements under

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section 27 of the Equality Act 2006 before the end of the period of six months mentioned in sub-paragraph (1), the period of six months allowed by that sub-paragraph shall be extended by three months.

- (3) A court may consider any claim under section 31ADA which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.
- (4) For the purposes of sub-paragraph (1)—
- (a) if an unlawful act is attributable to a term in a contract, that act is to be treated as extending throughout the duration of the contract;
 - (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.
- (5) In the absence of evidence establishing the contrary, a person shall be taken for the purposes of this paragraph to decide upon an omission—
- (a) when he does an act inconsistent with doing the omitted act; or
 - (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.

Evidence]

- 18 (1) In any proceedings under section 31ADA, a certificate signed by or on behalf of a Minister of the Crown and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by a Minister of the Crown, and
 - (b) were in operation at a time or throughout a time so specified,
- is conclusive evidence of the matters certified.
- (2) In any proceedings under section 31ADA, a certificate signed by or on behalf of the Scottish Ministers and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by a member of the Scottish Executive, and
 - (b) were in operation at a time or throughout a time so specified,
- is conclusive evidence of the matters certified.
- (3) In any proceedings under section 31ADA, a certificate signed by or on behalf of the Welsh Ministers and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by them, and
 - (b) were in operation at a time or throughout a time so specified,
- is conclusive evidence of the matters certified.
- (4) A document purporting to be such a certificate as is mentioned in sub-paragraph (1), (2) or (3) is to be—
- (a) received in evidence; and
 - (b) deemed to be such a certificate unless the contrary is proved.

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