



Race Relations (Amendment) Act 2000

2000 CHAPTER 34

Further extension of 1976 Act to police and other public authorities

3 Certain appointment functions outside the employment field

- (1) Section 76 of the 1976 Act (government appointments outside the employment field) is amended as follows.
- (2) In subsection (1) for “This section” there is substituted “Subsection (2)”.
- (3) After subsection (2) there is added—
 - “(3) Subsection (5) applies to—
 - (a) any recommendation made by a Minister of the Crown or government department in relation to an appointment to an office or post where section 4 does not apply in relation to the appointment; and
 - (b) any approval given by such a Minister or department in relation to any such appointment.
 - (4) Subsection (5) also applies to—
 - (a) any recommendation made by a Minister of the Crown or government department in relation to a conferment by the Crown of a dignity or honour; and
 - (b) any approval given by such a Minister or department in relation to any such conferment.
- (5) In making the recommendation, or giving the approval, and in making the arrangements for determining who should be recommended or approved, the Minister of the Crown or government department shall not do an act which would be unlawful under section 4 if the recommendation or approval were an offer of employment and the Crown were the employer for the purposes of this Act.
- (6) Subsections (3) to (5) do not apply in relation to the making of negative recommendations.

- (7) Subsection (9) applies to—
- (a) any negative recommendation made by a Minister of the Crown or government department, or any refusal to make a recommendation by such a Minister or department, in relation to an appointment to an office or post where section 4 does not apply in relation to the appointment; and
 - (b) any approval refused by such a Minister or department in relation to any such appointment.
- (8) Subsection (9) also applies to—
- (a) any negative recommendation made by a Minister of the Crown or government department, or any refusal to make a recommendation by such a Minister or department, in relation to a conferment by the Crown of a dignity or honour; and
 - (b) any approval refused by such a Minister or department in relation to any such conferment.
- (9) In making a negative recommendation or in refusing to make a recommendation or give an approval, and in making the arrangements for determining whether to make such a recommendation or refusal, the Minister of the Crown or government department shall not do an act which would be unlawful under section 4 if the recommendation or refusal were a refusal to offer the person concerned employment and the Crown were the employer for the purposes of this Act.
- (10) Subsection (11) applies in relation to any appointment to an office or post where section 4 does not apply and—
- (a) the appointment is made by a Minister of the Crown or government department; or
 - (b) the office or post is an office or post in relation to which a Minister of the Crown or government department has made a recommendation (other than a negative recommendation) or given an approval.
- (11) A Minister of the Crown or government department shall not do an act in connection with—
- (a) the terms of the appointment;
 - (b) access for the person appointed to opportunities for promotion, transfer or training, or to any other benefits, facilities or services; or
 - (c) the termination of the appointment, or subjecting the person appointed to any other detriment;
- which would be unlawful under section 4 if the Crown were the employer for the purposes of this Act.
- (12) The High Court may, on an application for judicial review, make a declaration to the effect that a Minister of the Crown or government department has contravened subsection (5), subsection (9) or, in relation to an appointment falling within subsection (10)(b), subsection (11), and may award damages in respect of the contravention.
- (13) In Scotland, the Court of Session may, in a petition for judicial review, grant declarator to the like effect and may award damages in respect of the contravention.

- (14) The sanctions provided by virtue of the operation of section 53(2) to (4) in relation to this section shall be the only sanctions under this Act in relation to appointments, conferments and other acts to which this section applies.
- (15) In this section—
- (a) references to refusal include references to deliberate omission;
 - (b) references to Ministers of the Crown and government departments include references to the National Assembly for Wales and any part of the Scottish Administration; and
 - (c) references to Ministers of the Crown and government departments so far as they relate to the making of a recommendation or a refusal to make a recommendation, or the giving or refusal of an approval, in relation to a conferment of a peerage for life under section 1 of the Life Peerages Act 1958 include references to any body established by a Minister of the Crown to make such a recommendation to the Prime Minister or to determine whether to give such an approval.”