



Sex Discrimination Act 1975 (repealed)

1975 CHAPTER 65

PART VI

EQUAL OPPORTUNITIES COMMISSION

53 Establishment and duties of Commission.

- (1) There shall be a body of Commissioners named the Equal Opportunities Commission, consisting of at least eight but not more than fifteen individuals each appointed by the Secretary of State on a full-time or part-time basis, which shall have the following duties—
 - (a) to work towards the elimination of discrimination,
 - (b) to promote equality of opportunity between men and women generally,^{F1} . . .
 - [^{F2}(ba) to promote equality of opportunity, in the field of employment and of vocational training, for persons who intend to undergo, are undergoing or have undergone gender reassignment, and]
 - (c) to keep under review the working of this Act and the^{M1}Equal Pay Act 1970 and, when they are so required by the Secretary of State or otherwise think it necessary, draw up and submit to the Secretary of State proposals for amending them.
- (2) The Secretary of State shall appoint—
 - (a) one of the Commissioners to be chairman of the Commission, and
 - (b) either one or two of the Commissioners (as the Secretary of State thinks fit) to be deputy chairman or deputy chairmen of the Commission.
- (3) The Secretary of State may by order amend subsection (1) so far as it regulates the number of Commissioners.
- (4) Schedule 3 shall have effect with respect to the Commission.

Textual Amendments

F1 Word in s. 53(1)(a) omitted (1.5.1999) by virtue of S.I. 1999/1102, reg. 7(1)

Status: Point in time view as at 01/05/1999.

Changes to legislation: There are currently no known outstanding effects for the Sex Discrimination Act 1975 (repealed), Part VI. (See end of Document for details)

F2 S. 53(1)(ba) inserted (1.5.1999) by S.I. 1999/1102, reg. 7(1)

Marginal Citations

M1 1970 c. 41.

54 Research and education.

- (1) The Commission may undertake or assist (financially or otherwise) the undertaking by other persons of any research, and any educational activities, which appear to the Commission necessary or expedient for the purposes of section 53(1).
- (2) The Commission may make charges for educational or other facilities or services made available by them.

55 Review of discriminatory provisions in health and safety legislation.

- (1) Without prejudice to the generality of section 53(1), the Commission, in pursuance of the duties imposed by paragraphs (a) and (b) of that subsection—
 - (a) shall keep under review the relevant statutory provisions in so far as they require men and women to be treated differently, and
 - (b) if so required by the Secretary of State, make to him a report on any matter specified by him which is connected with those duties and concerns the relevant statutory provisions.

Any such report shall be made within the time specified by the Secretary of State, and the Secretary of State shall cause the report to be published.

- (2) Whenever the Commission think it necessary, they shall draw up and submit to the Secretary of State proposals for amending the relevant statutory provisions.
- (3) The Commission shall carry out their duties in relation to the relevant statutory provisions in consultation with the Health and Safety Commission.
- (4) In this section “the relevant statutory provisions” has the meaning given by section 53 of the ^{M2}Health and Safety at Work etc. Act 1974.

Marginal Citations

M2 1974 c. 37.

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- (1) As soon as practicable after the end of each calendar year the Commission shall make to the Secretary of State a report on their activities during the year (an “annual report”).
- (2) Each annual report shall include a general survey of developments, during the period to which it relates, in respect of matters falling within the scope of the Commission’s duties.
- (3) The Secretary of State shall lay a copy of every annual report before each House of Parliament, and shall cause the report to be published.

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Codes of practice

56A Codes of practice.

- (1) The Commission may issue codes of practice containing such practical guidance as the Commission think fit for [^{F3}one or more]of the following purposes, namely—
 - (a) the elimination of discrimination in the field of employment;
 - (b) the promotion of equality of opportunity in that field between men and women.

[^{F4}(ba) the promotion of equality of opportunity in that field for persons who intend to undergo, are undergoing or have undergone gender reassignment.]
- (2) When the Commission propose to issue a code of practice, they shall prepare and publish a draft of that code, shall consider any representations made to them about the draft and may modify the draft accordingly.
- (3) In the course of preparing any draft code of practice for eventual publication under subsection (2) the Commission shall consult with—
 - (a) such organisations or associations of organisations representative of employers or of workers; and
 - (b) such other organisations, or bodies,as appear to the Commission to be appropriate.
- (4) If the Commission determine to proceed with the draft, they shall transmit the draft to the Secretary of State who shall—
 - (a) if he approves of it, lay it before both Houses of Parliament; and
 - (b) if he does not approve of it, publish details of his reasons for withholding approval.
- (5) If, within the period of forty days beginning with the day on which a copy of a draft code of practice is laid before each House of Parliament, or, if such copies are laid on different days, with the later of the two days, either House so resolves, no further proceedings shall be taken thereon, but without prejudice to the laying before Parliament of a new draft.
- (6) In reckoning the period of forty days referred to in subsection (5), no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (7) If no such resolution is passed as is referred to in subsection (5), the Commission shall issue the code in the form of the draft and the code shall come into effect on such day as the Secretary of State may by order appoint.
- (8) Without prejudice to section 81(4), an order under subsection (7) may contain such transitional provisions or savings as appear to the Secretary of State to be necessary or expedient in connection with the code of practice thereby brought into operation.
- (9) The Commission may from time to time revise the whole or any part of a code of practice issued under this section and issue that revised code, and subsections (2) to (8) shall apply (with appropriate modifications) to such a revised code as they apply to the first issue of a code.
- (10) A failure on the part of any person to observe any provision of a code of practice shall not of itself render him liable to any proceedings; but in any proceedings under this

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Act [^{F5}or the ^{M3}Equal Pay Act 1970]before an [^{F6}employment tribunal] any code of practice issued under this section shall be admissible in evidence, and if any provision of such a code appears to the tribunal to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.

- (11) Without prejudice to subsection (1), a code of practice issued under this section may include such practical guidance as the Commission think fit as to what steps it is reasonably practicable for employers to take for the purpose of preventing their employees from doing in the course of their employment acts made unlawful by this Act.

Textual Amendments

- F3** Words in s. 56A(1) substituted (1.5.1999) by S.I. 1999/1102, reg. 7(2)(a)
F4 S. 56A(1)(ba) inserted (1.5.1999) by S.I. 1999/1102, reg. 7(2)(b)
F5 Words in s. 56A(10) inserted (30.8.1993) by 1993 c. 19, s. 49(1), Sch. 7 para. 15; S.I. 1993/1908, art. 2(1), Sch. 1
F6 Words in s. 56A(10) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a); S.I. 1998/1658, art. 2, Sch. 1 (with art. 3)

Marginal Citations

- M3** 1970 c. 41.

Investigations

57 Power to conduct formal investigations.

- (1) Without prejudice to their general power to do anything requisite for the performance of their duties under section 53(1), the Commission may if they think fit, and shall if required by the Secretary of State, conduct a formal investigation for any purpose connected with the carrying out of those duties.
- (2) The Commission may, with the approval of the Secretary of State, appoint, on a full-time or part-time basis, one or more individuals as additional Commissioners for the purposes of a formal investigation.
- (3) The Commission may nominate one or more Commissioners, with or without one or more additional Commissioners, to conduct a formal investigation on their behalf, and may delegate any of their functions in relation to the investigation to the persons so nominated.

58 Terms of reference.

- (1) The Commission shall not embark on a formal investigation unless the requirements of this section have been complied with.
- (2) Terms of reference for the investigation shall be drawn up by the Commission or, if the Commission were required by the Secretary of State to conduct the investigation, by the Secretary of State after consulting the Commission.
- (3) It shall be the duty of the Commission to give general notice of the holding of the investigation unless the terms of reference confine it to activities of persons named

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in them, but in such a case the Commission shall in the prescribed manner give those persons notice of the holding of the investigation.

[^{F7}(3A) Where the terms of reference of the investigation confine it to activities of persons named in them and the Commission in the course of it propose to investigate any act made unlawful by this Act which they believe that a person so named may have done, the Commission shall—

- (a) inform that person of their belief and of their proposal to investigate the act in question; and
- (b) offer him an opportunity of making oral or written representations with regard to it (or both oral and written representations if he thinks fit);

and a person so named who avails himself of an opportunity under this subsection of making oral representations may be represented—

- (i) by counsel or a solicitor; or
- (ii) by some other person of his choice, not being a person to whom the Commission object on the ground that he is unsuitable.]

(4) The Commission or, if the Commission were required by the Secretary of State to conduct the investigation, the Secretary of State after consulting the Commission may from time to time revise the terms of reference; and subsections (1) [^{F8}(3) and (3A)] shall apply to the revised investigation and terms of reference as they applied to the original.

Textual Amendments

- F7** S. 58(3A) inserted by Race Relations Act 1976 (c. 74), Sch. 4 para. 2(1)
- F8** Words substituted by Race Relations Act 1976 (c. 74), Sch. 4 para. 2(2)

59 Power to obtain information.

(1) For the purposes of a formal investigation the Commission, by a notice in the prescribed form served on him in the prescribed manner,—

- (a) may require any person to furnish such written information as may be described in the notice, and may specify the time at which, and the manner and form in which, the information is to be furnished;
- (b) may require any person to attend at such time and place as is specified in the notice and give oral information about, and produce all documents in his possession or control relating to, any matter specified in the notice.

(2) Except as provided by section 69, a notice shall be served under subsection (1) only where—

- (a) service of the notice was authorised by an order made by or on behalf of the Secretary of State, or
- (b) the terms of reference of the investigation state that the Commission believe that a person named in them may have done or may be doing acts of all or any of the following descriptions—
 - (i) unlawful discriminatory acts,
 - (ii) contraventions of section 37,
 - (iii) contraventions of sections 38, 39 or 40, and
 - (iv) acts in breach of a term modified or included by virtue of an equality clause,

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and confine the investigation to those acts.

- (3) A notice under subsection (1) shall not require a person—
- (a) to give information, or produce any documents, which he could not be compelled to give in evidence, or produce, in civil proceedings before the High Court or the Court of Session, or
 - (b) to attend at any place unless the necessary expenses of his journey to and from that place are paid or tendered to him.
- (4) If a person fails to comply with a notice served on him under subsection (1) or the Commission has reasonable cause to believe that he intends not to comply with it, the Commission may apply to a county court for an order requiring him to comply with it or with such directions for the like purpose as may be contained in the order; and [^{F9}section 55 (penalty for neglecting or refusing to give evidence) of the County Courts Act 1984] shall apply to failure without reasonable excuse to comply with any such order as it applies in the cases there provided.
- (5) In the application of subsection (4) to Scotland—
- (a) for the reference to a county court there shall be substituted a reference to a sheriff court, and
 - (b) for the words after “order; and” to the end of the subsection there shall be substituted the words “paragraph 73 of the First Schedule to the ^{M4}Sheriff Courts (Scotland) Act 1907 (power of sheriff to grant second diligence for compelling the attendances of witnesses or havers) shall apply to any such order as it applies in proceedings in the sheriff court”.
- (6) A person commits an offence if he—
- (a) wilfully alters, suppresses, conceals or destroys a document which he has been required by a notice or order under this section to produce, or
 - (b) in complying with such a notice or order, knowingly or recklessly makes any statement which is false in a material particular,
- and shall be liable on summary conviction to a fine not exceeding [^{F10}level 5 on the standard scale].
- (7) Proceedings for an offence under subsection (6) may (without prejudice to any jurisdiction exercisable apart from this subsection) be instituted—
- (a) against any person at any place at which he has an office or other place of business;
 - (b) against an individual at any place where he resides, or at which he is for the time being.

Textual Amendments

F9 Words substituted by [County Courts Act 1984 \(c. 28, SIF 34\)](#), [Sch. 2 para. 54](#)

F10 Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#)

Marginal Citations

M4 [1907 c. 51.](#)

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60 Recommendations and reports on formal investigations.

- (1) If in the light of any of their findings in a formal investigation it appears to the Commission necessary or expedient, whether during the course of the investigation or after its conclusion,—
 - (a) to make to any persons, with a view to promoting equality of opportunity between men and women who are affected by any of their activities, recommendations for changes in their policies or procedures, or as to any other matters, or
 - (b) to make to the Secretary of State any recommendations, whether for changes in the law or otherwise,the Commission shall make those recommendations accordingly.
- (2) The Commission shall prepare a report of their findings in any formal investigation conducted by them.
- (3) If the formal investigation is one required by the Secretary of State—
 - (a) the Commission shall deliver the report to the Secretary of State, and
 - (b) the Secretary of State shall cause the report to be published,and unless required by the Secretary of State the Commission shall not publish the report.
- (4) If the formal investigation is not one required by the Secretary of State, the Commission shall either publish the report, or make it available for inspection in accordance with subsection (5).
- (5) Where under subsection (4) a report is to be made available for inspection, any person shall be entitled, on payment of such fee (if any) as may be determined by the Commission—
 - (a) to inspect the report during ordinary office hours and take copies of all or any part of the report, or
 - (b) to obtain from the Commission a copy, certified by the Commission to be correct, of the report.
- (6) The Commission may if they think fit determine that the right conferred by subsection (5)(a) shall be exercisable in relation to a copy of the report instead of, or in addition to, the original.
- (7) The Commission shall give general notice of the place or places where, and the times when, reports may be inspected under subsection (5).

61 Restriction on disclosure of information.

- (1) No information given to the Commission by any person (“the informant”) in connection with a formal investigation shall be disclosed by the Commission, or by any person who is or has been a Commissioner, additional Commissioner or employee of the Commission, except—
 - (a) on the order of any court, or
 - (b) with the informant’s consent, or
 - (c) in the form of a summary or other general statement published by the Commission which does not identify the informant or any other person to whom the information relates, or

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- (d) in a report of the investigation published by the Commission or made available for inspection under section 60(5), or
 - (e) to the Commissioners, additional Commissioners or employees of the Commission, or, so far as may be necessary for the proper performance of the functions of the Commission, to other persons, or
 - (f) for the purpose of any civil proceedings under this Act to which the Commission are a party, or any criminal proceedings.
- (2) Any person who discloses information in contravention of subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding [^{F11}level 5 on the standard scale].
- (3) In preparing any report for publication or for inspection the Commission shall exclude, so far as is consistent with their duties and the object of the report, any matter which relates to the private affairs of any individual or business interests of any person where the publication of that matter might, in the opinion of the Commission, prejudicially affect that individual or person.

Textual Amendments

- F11** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G
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Modifications etc. (not altering text)

- C1** S. 61 applied (with modifications) (1.10.2007) by The Equality Act 2006 (Dissolution of Commissions and Consequential and Transitional Provisions) Order 2007 (S.I. 2007/2602), art. 4(2)
- C2** S. 61(1): disclosure powers extended (14.12.2001) by 2001 c. 24, ss. 17, 127(2)(a), Sch. 4 para. 13

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