



# Sex Discrimination Act 1975 (repealed)

## 1975 CHAPTER 65

### PART VII

#### ENFORCEMENT

##### *Help for persons suffering discrimination*

#### **74 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—
  - (a) 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;
  - (b) 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)—
  - (a) 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;
  - (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

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- (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 66 to determine, before the date fixed for the hearing of the claim, whether a question or reply is admissible under this section or not.
- (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 industrial 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.

## **75 Assistance by Commission.**

- (1) Where, in relation to proceedings or prospective proceedings either under this Act or in respect of an equality clause, 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 on the ground that—
  - (a) the case raises a question of principle, or
  - (b) it is unreasonable, having regard to the complexity of the case or the applicant’s position in relation to the respondent or another person involved or any other matter, to expect the applicant to deal with the case unaided, or 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,
  - [<sup>F1</sup>(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) 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—
  - (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

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- (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.
- (4) The charge conferred by subsection (3) is subject to any charge under the [<sup>F2</sup>Legal Aid Act 1988], or any charge or obligation for payment in priority to other debts under [<sup>F3</sup>the Legal Aid (Scotland) Act 1986], and is subject to any provision in [<sup>F4</sup>either of those Acts for payment of any sum to the Legal Aid Board or into the Scottish Legal Aid Fund].
- (5) 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 industrial tribunal proceedings, means regulations made under [<sup>F5</sup>paragraph 1 of Schedule 9 to the <sup>M1</sup>Employment Protection (Consolidation) Act 1978.]

#### Textual Amendments

- F1** S. 75(2)(e) inserted by Race Relations Act 1976 (c. 74), **Sch. 4 para. 7**
- F2** Words substituted by Legal Aid Act 1988 (c. 34, SIF 77:1), s. 45, **Sch. 5 para. 6(a)**
- F3** Words “the Legal Aid (Scotland) Act 1986” substituted (S.) by Legal Aid (Scotland) Act 1986 (c. 47, SIF 77:2), s. 45, **Sch. 3 para. 5**
- F4** Words substituted by Legal Aid Act 1988 (c. 34, SIF 77:1), s. 45, **Sch. 5 para. 6(b)**
- F5** Words substituted by Employment Protection (Consolidation) Act 1978 (c. 44), **Sch. 16 para. 20(2)**

#### Modifications etc. (not altering text)

- C1** S. 75(2)(c)(d) amended (1.1.1992) by S.I. 1991/2684, arts. 2, 4, **Sch.1**

#### Marginal Citations

- M1** 1978 c. 44.

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