



# Race Relations Act 1976 (Repealed)

## 1976 CHAPTER 74

### PART I

#### DISCRIMINATION TO WHICH ACT APPLIES

#### 1 Racial discrimination.

- (1) A person discriminates against another in any circumstances relevant for the purposes of any provision of this Act if—
- (a) on racial grounds he treats that other less favourably than he treats or would treat other persons; or
  - (b) he applies to that other a requirement or condition which he applies or would apply equally to persons not of the same racial group as that other but—
    - (i) which is such that the proportion of persons of the same racial group as that other who can comply with it is considerably smaller than the proportion of persons not of that racial group who can comply with it; and
    - (ii) which he cannot show to be justifiable irrespective of the colour, race, nationality or ethnic or national origins of the person to whom it is applied; and
    - (iii) which is to the detriment of that other because he cannot comply with it.
- (2) It is hereby declared that, for the purposes of this Act, segregating a person from other persons on racial grounds is treating him less favourably than they are treated.

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

C1 S. 1(1)(b) modified by [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 12(1)

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*Changes to legislation: There are currently no known outstanding effects for the Race Relations Act 1976 (Repealed). (See end of Document for details)*

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## **2 Discrimination by way of victimisation.**

- (1) A person (“the discriminator”) discriminates against another person (“the person victimised”) in any circumstances relevant for the purposes of any provision of this Act if he treats the person victimised less favourably than in those circumstances he treats or would treat other persons, and does so by reason that the person victimised has—
- (a) brought proceedings against the discriminator or any other person under this Act; or
  - (b) given evidence or information in connection with proceedings brought by any person against the discriminator or any other person under this Act; or
  - (c) otherwise done anything under or by reference to this Act in relation to the discriminator or any other person; or
  - (d) alleged that the discriminator or any other person has committed an act which (whether or not the allegation so states) would amount to a contravention of this Act,
- or by reason that the discriminator knows that the person victimised intends to do any of those things, or suspects that the person victimised has done, or intends to do, any of them.
- (2) Subsection (1) does not apply to treatment of a person by reason of any allegation made by him if the allegation was false and not made in good faith.

## **3 Meaning of “racial grounds”, “racial group” etc.**

- (1) In this Act, unless the context otherwise requires—
- “racial grounds” means any of the following grounds, namely colour, race, nationality or ethnic or national origins;
- “racial group” means a group of persons defined by reference to colour, race, nationality or ethnic or national origins, and references to a person’s racial group refer to any racial group into which he falls.
- (2) The fact that a racial group comprises two or more distinct racial groups does not prevent it from constituting a particular racial group for the purposes of this Act.
- (3) In this Act—
- (a) references to discrimination refer to any discrimination falling within section 1 or 2; and
  - (b) references to racial discrimination refer to any discrimination falling within section 1,
- and related expressions shall be construed accordingly.
- (4) A comparison of the case of a person of a particular racial group with that of a person not of that group under section 1(1) must be such that the relevant circumstances in the one case are the same, or not materially different, in the other.

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VALID FROM 19/07/2003

### 3A Harassment

- (1) A person subjects another to harassment in any circumstances relevant for the purposes of any provision referred to in section 1(1B) where, on grounds of race or ethnic or national origins, he engages in unwanted conduct which has the purpose or effect of—
  - (a) violating that other person's dignity, or
  - (b) creating an intimidating, hostile, degrading, humiliating or offensive environment for him.
- (2) Conduct shall be regarded as having the effect specified in paragraph (a) or (b) of subsection (1) only if, having regard to all the circumstances, including in particular the perception of that other person, it should reasonably be considered as having that effect.

## PART II

### DISCRIMINATION IN THE EMPLOYMENT FIELD

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

- C2 Part II extended by [Employment Protection Act 1975 \(c. 71\), s. 122\(2\)](#)

#### *Discrimination by employers*

### 4 Discrimination against applicants and employees.

- (1) It is unlawful for a person, in relation to employment by him at an establishment in Great Britain, to discriminate against another—
  - (a) in the arrangements he makes for the purpose of determining who should be offered that employment; or
  - (b) in the terms on which he offers him that employment; or
  - (c) by refusing or deliberately omitting to offer him that employment.
- (2) It is unlawful for a person, in the case of a person employed by him at an establishment in Great Britain, to discriminate against that employee—
  - (a) in the terms of employment which he affords him; or
  - (b) in the way he affords him access to opportunities for promotion, transfer or training, or to any other benefits, facilities or services, or by refusing or deliberately omitting to afford him access to them; or
  - (c) by dismissing him, or subjecting him to any other detriment.
- (3) Except in relation to discrimination falling within section 2, subsections (1) and (2) do not apply to employment for the purposes of a private household.

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- (4) Subsection (2) does not apply to benefits, facilities or services of any description if the employer is concerned with the provision (for payment or not) of benefits, facilities or services of that description to the public, or to a section of the public comprising the employee in question, unless—
- (a) that provision differs in a material respect from the provision of the benefits, facilities or services by the employer to his employees; or
  - (b) the provision of the benefits, facilities or services to the employee in question is regulated by his contract of employment; or
  - (c) the benefits, facilities or services relate to training.

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

- C3** S. 4 modified by S.I. 1989/901, art. 3, **Sch.**  
 S. 4 modified (E.W.)(2.3.1998) by S.I. 1998/218, art. 3, **Sch.**  
 S. 4 modified (1.9.1999) by S.I. 1999/2256, art. 3, **Sch.** (which S.I. is revoked (E.) (1.9.2003) by S.I. 2003/1964, **art. 1(3)** and (W.) (12.5.2006) by S.I. 2006/1073, **art. 1(3)**)

VALID FROM 19/07/2003

**4A Exception for genuine occupational requirement**

- (1) In relation to discrimination on grounds of race or ethnic or national origins—
- (a) section 4(1)(a) or (c) does not apply to any employment; and
  - (b) section 4(2)(b) does not apply to promotion or transfer to, or training for, any employment; and
  - (c) section 4(2)(c) does not apply to dismissal from any employment; where subsection (2) applies.
- (2) This subsection applies where, having regard to the nature of the employment or the context in which it is carried out—
- (a) being of a particular race or of particular ethnic or national origins is a genuine and determining occupational requirement;
  - (b) it is proportionate to apply that requirement in the particular case; and
  - (c) either—
    - (i) the person to whom that requirement is applied does not meet it, or
    - (ii) the employer is not satisfied, and in all the circumstances it is reasonable for him not to be satisfied, that that person meets it.

**5 Exceptions for genuine occupational qualifications.**

- (1) In relation to racial discrimination—
- (a) section 4(1)(a) or (c) does not apply to any employment where being of a particular racial group is a genuine occupational qualification for the job; and
  - (b) section 4(2)(b) does not apply to opportunities for promotion or transfer to, or training for, such employment.
- (2) Being of a particular racial group is a genuine occupational qualification for a job only where—

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- (a) the job involves participation in a dramatic performance or other entertainment in a capacity for which a person of that racial group is required for reasons of authenticity; or
  - (b) the job involves participation as an artist's or photographic model in the production of a work of art, visual image or sequence of visual images for which a person of that racial group is required for reasons of authenticity; or
  - (c) the job involves working in a place where food or drink is (for payment or not) provided to and consumed by members of the public or a section of the public in a particular setting for which, in that job, a person of that racial group is required for reasons of authenticity; or
  - (d) the holder of the job provides persons of that racial group with personal services promoting their welfare, and those services can most effectively be provided by a person of that racial group.
- (3) Subsection (2) applies where some only of the duties of the job fall within paragraph (a), (b), (c) or (d) as well as where all of them do.
- (4) Paragraph (a), (b), (c) or (d) of subsection (2) does not apply in relation to the filling of a vacancy at a time when the employer already has employees of the racial group in question—
- (a) who are capable of carrying out the duties falling within that paragraph; and
  - (b) whom it would be reasonable to employ on those duties; and
  - (c) whose numbers are sufficient to meet the employer's likely requirements in respect of those duties without undue inconvenience.

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

- C4 S. 5 modified by S.I. 1989/901, art. 3, Sch.  
S. 5 modified (E.W.) (2.3.1998) by S.I. 1998/218, art. 3, Sch.  
S. 5 modified (1.9.1999) by S.I. 1999/2256, art. 3, Sch. (which S.I. is revoked (E.) (1.9.2003) by S.I. 2003/1964, art. 1(3) and (W.) 12.5.2006 by S.I. 2006/1073, art. 1(3))

**6 Exception for employment intended to provide training in skills to be exercised outside Great Britain.**

—Nothing in section 4 shall render unlawful any act done by an employer for the benefit of a person not ordinarily resident in Great Britain in or in connection with employing him at an establishment in Great Britain, where the purpose of that employment is to provide him with training in skills which he appears to the employer to intend to exercise wholly outside Great Britain.

**7 Discrimination against contract workers.**

- (1) This section applies to any work for a person ("the principal") which is available for doing by individuals ("contract workers") who are employed not by the principal himself but by another person, who supplies them under a contract made with the principal.
- (2) It is unlawful for the principal, in relation to work to which this section applies, to discriminate against a contract worker—
- (a) in the terms on which he allows him to do that work; or

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- (b) by not allowing him to do it or continue to do it; or
  - (c) in the way he affords him access to any benefits, facilities or services or by refusing or deliberately omitting to afford him access to them; or
  - (d) by subjecting him to any other detriment.
- (3) The principal does not contravene subsection (2)(b) by doing any act in relation to a person not of a particular racial group at a time when, if the work were to be done by a person taken into the principal’s employment, being of that racial group would be a genuine occupational qualification for the job.
- (4) Nothing in this section shall render unlawful any act done by the principal for the benefit of a contract worker not ordinarily resident in Great Britain in or in connection with allowing him to do work to which this section applies, where the purpose of his being allowed to do that work is to provide him with training in skills which he appears to the principal to intend to exercise wholly outside Great Britain.
- (5) Subsection (2)(c) does not apply to benefits, facilities or services of any description if the principal is concerned with the provision (for payment or not) of benefits, facilities or services of that description to the public, or to a section of the public to which the contract worker in question belongs, unless that provision differs in a material respect from the provision of the benefits, facilities or services by the principal to his contract workers.

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

**C5** S. 7 modified by S.I. 1989/901, art. 3, **Sch.**  
 S. 7 modified (E.W.) (2.3.1998) by S.I. 1998/218, art. 3, **Sch.**  
 S. 7 modified (1.9.1999) by S.I. 1999/2256, art. 3, **Sch.** (which S.I. is revoked (E.) (1.9.2003) by S.I. 2003/1964, **art. 1(3)**) and (W.) 12.5.2006 by S.I. 2006/1073, **art. 1(3)**)

**8 Meaning of employment at establishment in Great Britain.**

- (1) For the purposes of this Part (“the relevant purposes”), employment is to be regarded as being at an establishment in Great Britain unless the employee does his work wholly <sup>F1</sup> . . . outside Great Britain.
- <sup>F2</sup>(2) . . . . .
- (3) In the case of employment on board a ship registered at a port of registry in Great Britain (except where the employee does his work wholly outside Great Britain) the ship shall for the relevant purposes be deemed to be the establishment.
- (4) Where work is not done at an establishment it shall be treated for the relevant purposes as done at the establishment from which it is done or (where it is not done from any establishment) at the establishment with which it has the closest connection.
- (5) In relation to employment concerned with exploration of the sea bed or subsoil or the exploitation of their natural resources, Her Majesty may by Order in Council provide that subsections (1) to (3) shall have effect as if in both subsection (1) and subsection (3) the last reference to Great Britain included any area for the time being designated under section 1(7) of the <sup>M1</sup>Continental Shelf Act 1964, except an area or part of an area in which the law of Northern Ireland applies.

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- (6) An Order in Council under subsection (5) may provide that, in relation to employment to which the Order applies, this Part is to have effect with such modifications as are specified in the Order.
- (7) An Order in Council under subsection (5) shall be of no effect unless a draft of the Order has been laid before and approved by resolution of each House of Parliament.

#### Textual Amendments

- F1** Words in s. 8(1) omitted (16.12.1999) by virtue of S.I. 1999/3163, reg. 3  
**F2** S. 8(2) omitted (16.12.1999) by virtue of S.I. 1999/3163, reg. 3

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

- C6** S. 8(1)–(3) extended by S.I. 1987/929, art. 2  
**C7** S. 8(5) extended by Employment (Continental Shelf) Act 1978 (c. 46), s. 1(2)

#### Marginal Citations

- M1** 1964 c. 29.

## 9 Exception for seamen recruited abroad.

- (1) Nothing in section 4 shall render unlawful any act done by an employer in or in connection with employment by him on any ship in the case of a person who applied or was engaged for that employment outside Great Britain.
- (2) Nothing in section 7 shall, as regards work to which that section applies, render unlawful any act done by the principal in or in connection with such work on any ship in the case of a contract worker who was engaged outside Great Britain by the person by whom he is supplied.
- (3) Subsections (1) and (2) do not apply to employment or work concerned with exploration of the sea bed or subsoil or the exploitation of their natural resources in any area for the time being designated under section 1(7) of the <sup>M2</sup>Continental Shelf Act 1964, not being an area or part of an area in which the law of Northern Ireland applies.
- (4) For the purposes of subsection (1) a person brought to Great Britain with a view to his entering into an agreement in Great Britain to be employed on any ship shall be treated as having applied for the employment outside Great Britain.

#### Marginal Citations

- M2** 1964 c. 29.

### *Discrimination by other bodies*

## 10 Partnerships.

- (1) It is unlawful for a firm consisting of six or more partners, in relation to a position as partner in the firm, to discriminate against a person—
  - (a) in the arrangements they make for the purpose of determining who should be offered that position; or

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- (b) in the terms on which they offer him that position; or
  - (c) by refusing or deliberately omitting to offer him that position; or
  - (d) in a case where the person already holds that position—
    - (i) in the way they afford him access to any benefits, facilities or services, or by refusing or deliberately omitting to afford him access to them; or
    - (ii) by expelling him from that position, or subjecting him to any other detriment.
- (2) Subsection (1) shall apply in relation to persons proposing to form themselves into a partnership as it applies in relation to a firm.
- (3) Subsection (1)(a) and (c) do not apply to a position as partner where, if it were employment, being of a particular racial group would be a genuine occupational qualification for the job.
- (4) In the case of a limited partnership references in this section to a partner shall be construed as references to a general partner as defined in section 3 of the <sup>M3</sup>Limited Partnerships Act 1907.
- [<sup>F3</sup>(5) This section applies to a limited liability partnership as it applies to a firm; and, in its application to a limited liability partnership, references to a partner in a firm are references to a member of the limited liability partnership.]

**Textual Amendments**

**F3** S. 10(5) inserted (6.4.2001) by S.I. 2001/1090, reg. 9, Sch. 5 para. 7.

**Marginal Citations**

**M3** 1907 c. 24.

**11 Trade unions etc.**

- (1) This section applies to an organisation of workers, an organisation of employers, or any other organisation whose members carry on a particular profession or trade for the purposes of which the organisation exists.
- (2) It is unlawful for an organisation to which this section applies, in the case of a person who is not a member of the organisation, to discriminate against him—
- (a) in the terms on which it is prepared to admit him to membership; or
  - (b) by refusing or deliberately omitting to accept, his application for membership.
- (3) It is unlawful for an organisation to which this section applies, in the case of a person who is a member of the organisation, to discriminate against him—
- (a) in the way it affords him access to any benefits, facilities or services, or by refusing or deliberately omitting to afford him access to them; or
  - (b) by depriving him of membership, or varying the terms on which he is a member; or
  - (c) by subjecting him to any other detriment.



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## 12 Qualifying bodies.

- (1) It is unlawful for an authority or body which can confer an authorisation or qualification which is needed for, or facilitates, engagement in a particular profession or trade to discriminate against a person—
  - (a) in the terms on which it is prepared to confer on him that authorisation or qualification; or
  - (b) by refusing, or deliberately omitting to grant, his application for it; or
  - (c) by withdrawing it from him or varying the terms on which he holds it.
- (2) In this section—
  - (a) “authorisation or qualification” includes recognition, registration, enrolment, approval and certification;
  - (b) “confer” includes renew or extend.
- (3) Subsection (1) does not apply to discrimination which is rendered unlawful by section 17 or 18.

## [<sup>F4</sup>13 Persons concerned with provision of vocational training.

- (1) It is unlawful, in the case of an individual seeking or undergoing training which would help fit him for any employment, for any person who provides, or makes arrangements for the provision of, facilities for such training to discriminate against him—
  - (a) in the terms on which that person affords him access to any training course or other facilities concerned with such training; or
  - (b) by refusing or deliberately omitting to afford him such access; or
  - (c) by terminating his training; or
  - (d) by subjecting him to any detriment during the course of his training.
- (2) Subsection (1) does not apply to—
  - (a) discrimination which is rendered unlawful by section 4(1) or (2) or section 17 or 18; or
  - (b) discrimination which would be rendered unlawful by any of those provisions but for the operation of any other provision of this Act.]

### Textual Amendments

**F4** S. 13 substituted by [Employment Act 1989 \(c. 38, SIF 43:1, 106:1\), s. 7\(2\)](#)

## 14 Employment agencies.

- (1) It is unlawful for an employment agency to discriminate against a person—
  - (a) in the terms on which the agency offers to provide any of its services; or
  - (b) by refusing or deliberately omitting to provide any of its services; or
  - (c) in the way it provides any of its services.
- [<sup>F5</sup>(2) It is unlawful for a local education authority or education authority or any other person to do any act in providing services in pursuance of arrangements made, or a direction given, under section 10 of the Employment and Training Act 1973 which constitutes discrimination.]

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- (3) References in subsection (1) to the services of an employment agency include guidance on careers and any other services related to employment.
- (4) This section does not apply if the discrimination only concerns employment which the employer could lawfully refuse to offer the person in question.
- (5) An employment agency or local education authority [<sup>F6</sup>, education authority or other person] shall not be subject to any liability under this section if it proves—
  - (a) that it acted in reliance on a statement made to it by the employer to the effect that, by reason of the operation of subsection (4), its action would not be unlawful; and
  - (b) that it was reasonable for it to rely on the statement.
- (6) A person who knowingly or recklessly makes a statement such as is referred to in subsection (5)(a) which in a material respect is false or misleading commits an offence, and shall be liable on summary conviction to a fine not exceeding [<sup>F7</sup>level 5 on the standard scale].

#### Textual Amendments

- F5** S. 14(2) substituted (1.4.1994 for E. and S. and 1.4.1995 for all other purposes) by 1993 c. 19, s. 49(2), **Sch. 8 para. 9(a)**; S.I. 1993/2503, art. 2(3), **Sch. 3**.
- F6** Words in s. 14(5) substituted (1.4.1994 for E. and S. and 1.4.1995 for all other purposes) by 1993 c. 19, s. 49(2), **Sch. 8 para. 9(b)**; S.I. 1993/2503, art. 2(3), **Sch. 3**.
- F7** 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**

## 15 Manpower Services Commission etc.

- [<sup>F8</sup>(1) It is unlawful for the [<sup>F9</sup>Secretary of State <sup>F10</sup>. . . ] to discriminate in the provision of facilities or services under section 2 of the Employment and Training Act 1973]
- [<sup>F11</sup>(1A) It is unlawful for Scottish Enterprise or Highlands and Islands Enterprise to discriminate in the provision of facilities or services under such arrangements as are mentioned in section 2(3) of the Enterprise and New Towns (Scotland) Act 1990 (arrangements analogous to arrangements in pursuance of section 2 of the said Act of 1973).]
- (2) This section does not apply in a case where—
- (a) section 13 applies; or
  - (b) the [<sup>F12</sup>Secretary of State] is acting as an employment agency.

#### Textual Amendments

- F8** S. 15(1) substituted by **Employment and Training Act 1981 (c. 57, SIF 43:1), s. 9, Sch. 2 para. 20**
- F9** Words substituted by **Employment Act 1988 (c. 19, SIF 43:5), s. 33, Sch. 3 Pt. II para. 12(2)**
- F10** Words repealed by **Employment Act 1989 (c. 38, SIF 43:1), s. 29(4), Sch. 7 Pt. I**
- F11** S. 15(1A) inserted (S.) (1.4.1991) by **Enterprise and New Towns (Scotland) Act 1990 (c. 35, SIF 64), s. 18**
- F12** Words substituted by **Employment Act 1989 (c. 38, SIF 43:1, 106:1), s. 29(3), Sch. 6 para. 15**

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## Police

**F13** 16 .....

### Textual Amendments

**F13** S. 16 repealed (2.4.2001) by 2000 c. 34, s. 9(2), **Sch. 3** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**

## PART III

### DISCRIMINATION IN OTHER FIELDS

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

**C8** Pt. III (ss. 17-27) applied (1.9.1999) by 1998 c. 31, ss. 24, **Sch. 4 para. 8(b)** (with ss. 138(9), 144(6)); S.I. 1999/2323, **art. 2(1)**, **Sch. 1**

## Education

### 17 Discrimination by bodies in charge of educational establishments.

—It is unlawful, in relation to an educational establishment falling within column 1 of the following table, for a person indicated in relation to the establishment in column 2 (the “responsible body”) to discriminate against a person—

- (a) in the terms on which it offers to admit him to the establishment as a pupil; or
- (b) by refusing or deliberately omitting to accept an application for his admission to the establishment as a pupil; or
- (c) where he is a pupil of the establishment—
  - (i) in the way it affords him access to any benefits, facilities or services, or by refusing or deliberately omitting to afford him access to them; or
  - (ii) by excluding him from the establishment or subjecting him to any other detriment.

Table

| Establishment   | Responsible body   |
|---|--|
| <b>ENGLAND AND WALES</b>  |  |
| 1. Educational establishment maintained by a local education authority. | Local education authority or [ <sup>F14</sup> managers or][ <sup>F15</sup> governing body], according to which of them has the function in question. |
| 2. Independent school not being a special school.                       | Proprietor.  |
| 3. Special school not maintained by a local education authority.        | Proprietor.  |

F16

F16

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|---|---|
| ...   | ...   |
| [ <sup>F17</sup> 3B. Institution within the further education sector (within the meaning of section 91(3) of the further and Higher Education Act 1992).]   | [ <sup>F17</sup> Governing body]            |
| 4. University.  | Governing body.                             |
| [ <sup>F18</sup> 4A. Institution , other than a university, within the higher education sector (within the meaning of section 91(5) of the Further and Higher Education Act 1992).]   | [ <sup>F18</sup> Governing body.]           |
| 5. Establishment (not falling within paragraphs 1 [ <sup>F19</sup> to 4A]) providing full-time or part-time education, being an establishment designated under section 24(1) of the Sex Discrimination Act 1975 for the purposes of paragraph 5 of the corresponding table in section 22 of that Act. | Governing body.                             |
| <b>SCOTLAND</b>   |   |
| 6. Educational establishment managed by an education authority.   | Education authority.                        |
| 7. Educational establishment in respect of which the managers are for the time being receiving grants under section [ <sup>F20</sup> [ <sup>F21</sup> 73 (d)]of the Education (Scotland) Act 1980].   | Managers of the educational establishment.  |
| [ <sup>F22</sup> 7AA. A grant aided school, within the meaning of section 135 of the Education (Scotland) Act 1980.   | <sup>F22</sup> The managers of the school.] |
| 7A. Self-governing school.  | Board of management.                        |
| [ <sup>F23</sup> 7B. College of further education within the meaning of section 36(1) of the Further and Higher Education (Scotland) Act 1992 under the management of a board of management.]   | [ <sup>F23</sup> Board of management.]      |
| [ <sup>F24</sup> 7C. Designated institution within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992.]   | [ <sup>F24</sup> Governing body.]           |
| 8. University   | Governing body.                             |
| 9. Independent school.  | Proprietor.                                 |

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10. Any other educational establishment (not falling within paragraphs 6, 7 and 9) providing full or part-time school education or further education.

Managers of the educational establishment.

#### Textual Amendments

- F14** Words repealed (E.W.) by [Education Act 1980 \(c. 20, SIF 41:1\)](#), [Sch. 1 para. 28](#)
- F15** Words in [s. 17 Table](#) substituted (1.9.1999) by [1998 c. 31, s. 140\(1\)](#), [Sch. 30 para. 7](#) (with ss. 138(9), 144(6)); [S.I. 1999/2323, art. 2\(1\)](#), [Sch. 1](#)
- F16** Words in [s. 17 Table](#) repealed (1.9.1999) by [1998 c. 31, s. 140\(3\)](#), [Sch. 31](#) (with ss. 138(9), 144(6)); [S.I. 1999/2323, art. 2\(1\)](#), [Sch. 1](#)
- F17** [S. 17 Table para. 3B](#) inserted (6.5.1992) by [Further and Higher Education Act 1992 \(c. 13\), s. 93\(1\)](#), [Sch. 8 Pt. II para. 85\(1\)\(2\)](#); [S.I. 1992/831, art. 2](#), [Sch. 1](#).
- F18** [S. 17 Table para. 4A](#) substituted (6.5.1992) by [Further and Higher Education Act 1992 \(c. 13\), s. 93\(1\)](#), [Sch. 8 Pt. II para. 85\(3\)](#); [S.I. 1992/831, art. 2](#), [Sch. 1](#).
- F19** Words in [s. 17 Table para. 5](#) substituted (6.5.1992) by [Further and Higher Education Act 1992 \(c. 13\), s. 93\(1\)](#), [Sch. 8 Pt. II para. 85\(4\)](#); [S.I. 1992/831, art. 2](#), [Sch. 1](#).
- F20** Words substituted by [Education \(Scotland\) Act 1980 \(c. 44, SIF 41:2\)](#), [Sch. 3 para. 12](#)
- F21** Words in [para. 7](#) of [Table](#) in [s. 17](#) substituted (2.4.2001) by [2000 c. 34, s. 9\(1\)](#), [Sch. 2 para. 1\(a\)](#) (with [s. 10\(5\)](#)); [S.I. 2001/566, art. 2\(1\)](#)
- F22** [Para. 7AA](#) of [Table](#) in [s. 17](#) inserted (2.4.2001) by [2000 c. 34, s. 9\(1\)](#), [Sch. 2 para. 1\(b\)](#) (with [s. 10\(5\)](#)); [S.I. 2001/566, art. 2\(1\)](#)
- F23** [S. 17 Table para. 7B](#) inserted (16.5.1992) by [Further and Higher Education \(Scotland\) Act 1992 \(c. 37\), s. 62\(2\)](#), [Sch. 9 para. 5\(2\)\(a\)](#); [S.I. 1992/817, art. 3\(2\)](#), [Sch. 1](#).
- F24** [S. 17 Table para. 7C](#) inserted (16.5.1992) by [Further and Higher Education \(Scotland\) Act 1992 \(c. 37\), s. 62\(2\)](#), [Sch. 9 para. 5\(2\)\(b\)](#); [S.I. 1992/817, art. 3\(2\)](#), [Sch. 1](#).

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

- C9** [S. 17](#) applied (1.4.1994) by [S.I. 1994/653, reg. 42\(1\)](#), [Sch. Pt. I](#)  
[S. 17](#) applied (9.5.1994) by [S.I. 1994/1084, reg. 8\(1\)](#), [Sch. 2 Pt. I](#)

#### [<sup>F25</sup>17A Meaning of pupil in section 17.

For the purposes of section 17, “pupil” includes, in England and Wales, any person who receives education at a school or institution to which that section applies.]

#### Textual Amendments

- F25** [S. 17A](#) inserted (1.8.1993) by [Further and Higher Education Act 1992 \(c. 13\), s. 93\(1\)](#), [Sch. 8 Pt. II para.86](#); [S.I. 1992/831, art. 2](#), [Sch.4](#).

#### 18 Other discrimination by local education authorities.

- (1) It is unlawful for a local education authority, in carrying out such of its functions under [<sup>F26</sup>the Education Acts]as do not fall under section 17, to do any act which constitutes racial discrimination.

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*Changes to legislation:* There are currently no known outstanding effects for the Race Relations Act 1976 (Repealed). (See end of Document for details)

- (2) It is unlawful for an education authority, in carrying out such of its functions under <sup>[F27]</sup>the Education (Scotland) <sup>[F28]</sup>Act 1980]] as do not fall under section 17, to do any act which constitutes racial discrimination.

#### Textual Amendments

- F26** Words in s. 18(1) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 39** (with ss. 1(4), 561, 562, Sch. 39 paras. 30, 36, 39)
- F27** Words substituted by Education Act 1980 (c. 20, SIF 41:1), **s. 33(2)**
- F28** Words substituted (S.) by Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 4 para. 13**

### <sup>[F29]</sup>18A Discrimination by Further Education and Higher Education Funding Councils

It is unlawful for <sup>[F30]</sup>the Learning and Skills Council for England, the National Council for Education and Training for Wales,] the Higher Education Funding Council for England or the Higher Education Funding Council for Wales in carrying out their functions under <sup>[F31]</sup>the Education Acts]]<sup>[F32]</sup>and the Learning and Skills Act 2000], to do any act which constitutes racial discrimination.]

#### Textual Amendments

- F29** S. 18A inserted (6.5.1992) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. II para. 87**; S.I. 1992/831, art. 2, **Sch. 1**.
- F30** Words in s. 18A substituted (28.7.2000 for specified purposes and 1.4.2001 otherwise so far as relating to England and Wales) by 2000 c. 21, ss. 149, 154(3)-(5), **Sch. 9 para. 9(a)**; S.I. 2001/654, art. 2(2), **Sch. Pt. II** (subject to savings and transitional provisions in art. 3); S.I. 2001/1274, art. 2(1), **Sch. Pt. I** (subject to savings and transitional provisions in art. 3)
- F31** Words in s. 18A substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 40** (with ss. 1(4), 561, 562, Sch. 39 paras. 30, 36, 39)
- F32** Words in s. 18A inserted (28.7.2000 for specified purposes and 1.4.2001 otherwise so far as relating to England and Wales) by 2000 c. 21, ss. 149, 154(3)-(5), **Sch. 9 para. 9(b)**; S.I. 2001/654, art. 2(2), **Sch. Pt. II** (subject to savings and transitional provisions in art. 3); S.I. 2001/1274, art. 2(1), **Sch. Pt. I** (subject to savings and transitional provisions in art.3)

### <sup>[F33]</sup>18B Discrimination by Scottish Further and Higher Education Funding Councils.

It is unlawful for the Scottish Further Education Funding Council or the Scottish Higher Education Funding Council in carrying out any of their functions to do any act which constitutes racial discrimination.]

#### Textual Amendments

- F33** S. 18B inserted (1.6.1992 for specified purposes and 21.11.1998 otherwise) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(2), **Sch. 9 para. 5(3)**; S.I. 1992/817, art. 3(2), **Sch.2**; S.I. 1998/2886, art. 2(c)

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VALID FROM 03/10/2005

**[<sup>F34</sup>18BAScottish Further and Higher Education Funding Council**

It is unlawful for the Scottish Further and Higher Education Funding Council in carrying out any of its functions to do any act which constitutes racial discrimination or harassment.]

**Textual Amendments**

**F34** S. 18BA inserted (3.10.2005) by [The Further and Higher Education \(Scotland\) Act 2005 \(Consequential Modifications\) Order 2005 \(S.I. 2005/2077\)](#), **art. 5(a)**

**<sup>F35</sup>18C .....**

**Textual Amendments**

**F35** S. 18C repealed (1.9.1999) by [1998 c. 31, s. 140\(3\)](#), **Sch. 31** (with ss. 138(9), 144(6)); [S.I. 1999/2323](#), **art. 2(1)**, **Sch. 1**

**[<sup>F36</sup>18D Discrimination by Teacher Training Agency.**

It is unlawful for the Teacher Training Agency in carrying out their functions under Part I of the Education Act 1994 to do any act which constitutes racial discrimination.]

**Textual Amendments**

**F36** S. 18D inserted (21.9.1994) by [1994 c. 30, s. 24](#), **Sch. 2 para. 6(3)**; [S.I. 1994/2204](#), **art. 2(1)**

**<sup>F37</sup>19 .....**

**Textual Amendments**

**F37** S. 19 repealed (2.4.2001) by [2000 c. 34, s. 9\(2\)](#), **Sch. 3** (with s. 10(5)); [S.I. 2001/566](#), **art. 2(1)**

**<sup>F38</sup>19ZA .....**

**Textual Amendments**

**F38** S. 19ZA repealed (2.4.2001) by [2000 c. 34, s. 9\(2\)](#), **Sch. 3** (with s. 10(5)); [S.I. 2001/566](#), **art. 2(1)**

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## [<sup>F39</sup> Planning]

### Textual Amendments

**F39** S. 19A inserted by [Housing and Planning Act 1986 \(c. 63, SIF 106:1\)](#), **s. 55**

### 19A Discrimination by planning authorities.

- (1) It is unlawful for a planning authority to discriminate against a person in carrying out their planning functions.
- (2) In this section “planning authority” means—
  - (a) in England and Wales, a county [<sup>F40</sup>county borough,], district or London borough council [<sup>F41</sup>the Broads Authority [<sup>F42</sup>a National Park authority or]], a joint planning board <sup>F43</sup>. . . and
  - (b) in Scotland, a planning authority or regional planning authority,
 and includes an urban development corporation and a body having functions (whether as an enterprise zone authority or a body invited to prepare a scheme) under Schedule 32 to the Local Government, Planning and Land Act 1980.
- (3) In this section “planning functions” means—
  - (a) in England and Wales, functions under [<sup>F44</sup>the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Planning (Hazardous Substances) Act 1990]and such other functions as may be prescribed, and
  - (b) in Scotland, functions under [<sup>F45</sup>the Town and Country Planning (Scotland) Act 1997, the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Planning (Hazardous Substances) (Scotland) Act 1997] or Part IX of the Local Government (Scotland) Act 1973, and such other functions as may be prescribed,
 and includes, in relation to an urban development corporation, planning functions under Part XVI of the Local Government, Planning and Land Act 1980 and, in relation to an enterprise zone authority or body invited to prepare an enterprise zone scheme, functions under Part XVIII of that Act.

### Textual Amendments

- F40** Words in s. 19A(2)(a) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 52** (with ss. 54(5)(7), 55(5), 66(7), Sch. 17 paras. 22(1) 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F41** Words inserted (E.W.) by [Norfolk and Suffolk Broads Act 1988 \(c. 4, SIF 81:1\)](#), ss. 2(5)(6), 23(2), [Sch. 3 para. 29](#), **Sch. 7**
- F42** Words in s. 19A(2)(a) inserted (E.W.) (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 15(1)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, art. 2(1)
- F43** Words in s. 19A(2)(a) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**
- F44** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 36**
- F45** Words in s. 19A(3)(b) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 26** (with s. 5, Sch. 3)



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

**C10** S. 19A(3): transfer of functions (1.7.1999) by S.I. 1999/672, art. 2, Sch.1

*[<sup>F46</sup> Public authorities]*

#### Textual Amendments

**F46** Ss. 19B-19F and cross-heading inserted (26.3.2001 for specified purposes otherwise 2.4.2001) by 2000 c. 34, s. 1 (with s. 10(5)); S.I. 2001/566, art. 2(1)(2)

#### <sup>F47</sup>19B Discrimination by public authorities.

- (1) It is unlawful for a public authority in carrying out any functions of the authority to do any act which constitutes discrimination.
- (2) In this section “public authority”—
  - (a) includes any person certain of whose functions are functions of a public nature; but
  - (b) does not include any person mentioned in subsection (3).
- (3) The persons mentioned in this subsection are—
  - (a) either House of Parliament;
  - (b) a person exercising functions in connection with proceedings in Parliament;
  - (c) the Security Service;
  - (d) the Secret Intelligence Service;
  - (e) the Government Communications Headquarters; and
  - (f) any unit or part of a unit of any of the naval, military or air forces of the Crown which is for the time being required by the Secretary of State to assist the Government Communications Headquarters in carrying out its functions.
- (4) In relation to a particular act, a person is not a public authority by virtue only of subsection (2)(a) if the nature of the act is private.
- (5) This section is subject to sections 19C to 19F.
- (6) Nothing in this section makes unlawful any act of discrimination which—
  - (a) is made unlawful by virtue of any other provision of this Act; or
  - (b) would be so made but for any provision made by or under this Act.

#### Textual Amendments

**F47** Ss. 19B-19F and cross-heading inserted (26.3.2001 for specified purposes otherwise 2.4.2001) by 2000 c. 34, s. 1 (with s. 10(5)); S.I. 2001/566, art. 2(1)(2)

#### <sup>F48</sup>19C Exceptions or further exceptions from section 19B for judicial and legislative acts etc.

- (1) Section 19B does not apply to—
  - (a) any judicial act (whether done by a court, tribunal or other person); or

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- (b) any act done on the instructions, or on behalf, of a person acting in a judicial capacity.
- (2) Section 19B does not apply to any act of, or relating to, making, confirming or approving any enactment or Order in Council or any instrument made by a Minister of the Crown under an enactment.
- (3) Section 19B does not apply to any act of, or relating to, making or approving arrangements, or imposing requirements or conditions, of a kind falling within section 41.
- (4) Section 19B does not apply to any act of, or relating to, imposing a requirement, or giving an express authorisation, of a kind mentioned in section 19D(3) in relation to the carrying out of immigration and nationality functions.
- (5) In this section—
  - “immigration and nationality functions” has the meaning given in section 19D; and
  - “Minister of the Crown” includes the National Assembly for Wales and a member of the Scottish Executive.

#### Textual Amendments

**F48** Ss. 19B-19F and cross-heading inserted (26.3.2001 for specified purposes otherwise 2.4.2001) by 2000 c. 34, s. 1 (with s. 10(5)); S.I. 2001/566, art. 2(1)(2)

#### <sup>F49</sup>19D Exception from section 19B for certain acts in immigration and nationality cases.

- (1) Section 19B does not make it unlawful for a relevant person to discriminate against another person on grounds of nationality or ethnic or national origins in carrying out [<sup>F50</sup>immigration functions].
- (2) For the purposes of subsection (1), “relevant person” means—
  - (a) a Minister of the Crown acting personally; or
  - (b) any other person acting in accordance with a relevant authorisation.
- (3) In subsection (2), “relevant authorisation” means a requirement imposed or express authorisation given—
  - (a) with respect to a particular case or class of case, by a Minister of the Crown acting personally;
  - (b) with respect to a particular class of case—
    - (i) by any of the enactments mentioned in subsection (5); or
    - (ii) by any instrument made under or by virtue of any of those enactments.
- [<sup>F51</sup>(4) In subsection (1) “immigration functions” means functions exercisable by virtue of any of the enactments mentioned in subsection (5).
- (5) Those enactments are—
  - (a) the Immigration Acts (within the meaning of section 158 of the Nationality, Immigration and Asylum Act 2002) excluding sections 28A to 28K of the Immigration Act 1971 (c. 77) so far as they relate to offences under Part III of that Act;
  - (b) the Special Immigration Appeals Commission Act 1997 (c. 68);

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- (c) provision made under section 2(2) of the European Communities Act 1972 (c. 68) which relates to immigration or asylum; and
- (d) any provision of Community law which relates to immigration or asylum.]

**Textual Amendments**

**F49** Ss. 19B-19F and cross-heading inserted (26.3.2001 for specified purposes otherwise 2.4.2001) by 2000 c. 34, s. 1 (with s. 10(5)); S.I. 2001/566, art. 2(1)(2)

**F50** Words in s. 19D(1) substituted (7.11.2002) by 2002 c. 41, s. 6(2), (with s. 159)

**F51** S. 19D(4)(5) substituted (7.11.2002) by 2002 c. 41, s. 6(3), (with s. 159)

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

**C11** S. 19D extended (coming into force in accordance with art. 1(2) of the extending S.I.) by The Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003 (S.I. 2003/2818), arts. 1(2), 11(3)

**<sup>F52</sup>19E Monitoring of exception in relation to immigration and nationality cases.**

- (1) The Secretary of State shall appoint a person who is not a member of his staff to act as a monitor.
- (2) Before appointing any such person, the Secretary of State shall consult the Commission.
- (3) The person so appointed shall monitor, in such manner as the Secretary of State may determine—
  - (a) the likely effect on the operation of the exception in section 19D of any relevant authorisation relating to the carrying out of [<sup>F53</sup>immigration functions] which has been given by a Minister of the Crown acting personally; and
  - (b) the operation of that exception in relation to acts which have been done by a person acting in accordance with such an authorisation.
- (4) The monitor shall make an annual report on the discharge of his functions to the Secretary of State.
- (5) The Secretary of State shall lay a copy of any report made to him under subsection (4) before each House of Parliament.
- (6) The Secretary of State shall pay to the monitor such fees and allowances (if any) as he may determine.

**<sup>F54</sup>(7)** .....

**Textual Amendments**

**F52** Ss. 19B-19F and cross-heading inserted (26.3.2001 for specified purposes otherwise 2.4.2001) by 2000 c. 34, s. 1 (with s. 10(5)); S.I. 2001/566, art. 2(1)(2)

**F53** Words in s. 19E(3)(a) substituted (7.11.2002) by 2002 c. 41, ss. 6(4)(a), 162(2) (with s. 159)

**F54** S. 19E(7) omitted (7.11.2002) by virtue of 2002 c. 41, s. 6(4)(b) and repealed (1.4.2003) by 2002 c. 41, ss. 161, 162(2), Sch. 9 (with s. 159); S.I. 2003/754, art. 2(1), Sch. 1

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## <sup>F55</sup>19F Exceptions from section 19B for decisions not to prosecute etc.

Section 19B does not apply to—

- (a) a decision not to institute criminal proceedings and, where such a decision has been made, any act done for the purpose of enabling the decision whether to institute criminal proceedings to be made;
- (b) where criminal proceedings are not continued as a result of a decision not to continue them, the decision and, where such a decision has been made—
  - (i) any act done for the purpose of enabling the decision whether to continue the proceedings to be made; and
  - (ii) any act done for the purpose of securing that the proceedings are not continued.

### Textual Amendments

**F55** Ss. 19B-19F and cross-heading inserted (26.3.2001 for specified purposes otherwise 2.4.2001) by 2000 c. 34, s. 1 (with s. 10(5)); S.I. 2001/566, art. 2(1)(2)

*Goods, facilities, services and premises*

## 20 Discrimination in provision of goods, facilities or services.

- (1) It is unlawful for any person concerned with the provision (for payment or not) of goods, facilities or services to the public or a section of the public to discriminate against a person who seeks to obtain or use those goods, facilities or services—
  - (a) by refusing or deliberately omitting to provide him with any of them; or
  - (b) by refusing or deliberately omitting to provide him with goods, facilities or services of the like quality, in the like manner and on the like terms as are normal in the first-mentioned person's case in relation to other members of the public or (where the person so seeking belongs to a section of the public) to other members of that section.
- (2) The following are examples of the facilities and services mentioned in subsection (1)
  - (a) access to and use of any place which members of the public are permitted to enter;
  - (b) accommodation in a hotel, boarding house or other similar establishment;
  - (c) facilities by way of banking or insurance or for grants, loans, credit or finance;
  - (d) facilities for education;
  - (e) facilities for entertainment, recreation or refreshment;
  - (f) facilities for transport or travel;
  - (g) the services of any profession or trade, or any local or other public authority.

## 21 Discrimination in disposal or management of premises.

- (1) It is unlawful for a person, in relation to premises in Great Britain of which he has power to dispose, to discriminate against another—
  - (a) in the terms on which he offers him those premises; or
  - (b) by refusing his application for those premises; or

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- (c) in his treatment of him in relation to any list of persons in need of premises of that description.
- (2) It is unlawful for a person, in relation to premises managed by him, to discriminate against a person occupying the premises—
- (a) in the way he affords him access to any benefits or facilities, or by refusing or deliberately omitting to afford him access to them; or
  - (b) by evicting him, or subjecting him to any other detriment.
- (3) Subsection (1) does not apply to a person who owns an estate or interest in the premises and wholly occupies them unless he uses the services of an estate agent for the purposes of the disposal of the premises, or publishes or causes to be published an advertisement in connection with the disposal.

## **22 Exception from ss. 20(1) and 21: small dwellings.**

- (1) Sections 20(1) and 21 do not apply to the provision by a person of accommodation in any premises, or the disposal of premises by him, if—
- (a) that person or a near relative of his (“the relevant occupier”) resides, and intends to continue to reside, on the premises; and
  - (b) there is on the premises, in addition to the accommodation occupied by the relevant occupier, accommodation (not being storage accommodation or means of access) shared by the relevant occupier with other persons residing on the premises who are not members of his household; and
  - (c) the premises are small premises.
- (2) Premises shall be treated for the purposes of this section as small premises if—
- (a) in the case of premises comprising residential accommodation for one or more households (under separate letting or similar agreements) in addition to the accommodation occupied by the relevant occupier, there is not normally residential accommodation for more than two such households and only the relevant occupier and any member of his household reside in the accommodation occupied by him;
  - (b) in the case of premises not falling within paragraph (a), there is not normally residential accommodation on the premises for more than six persons in addition to the relevant occupier and any members of his household.

## **23 Further exceptions from ss. 20(1) and 21.**

- (1) Sections 20(1) and 21 do not apply—
- (a) to discrimination which is rendered unlawful by any provision of Part II or section 17 or 18; or
  - (b) to discrimination which would be rendered unlawful by any provision of Part II but for any of the following provisions, namely sections 4(3), 5(1)(b), 6, 7(4), 9 and 14(4).
- (2) Section 20(1) does not apply to anything done by a person as a participant in arrangements under which he (for reward or not) takes into his home, and treats as if they were members of his family, children, elderly persons, or persons requiring a special degree of care and attention.

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## **24 Discrimination: consent for assignment or sub-letting.**

- (1) Where the licence or consent of the landlord or of any other person is required for the disposal to any person of premises in Great Britain comprised in a tenancy, it is unlawful for the landlord or other person to discriminate against a person by withholding the licence or consent for disposal of the premises to him.
- (2) Subsection (1) does not apply if—
  - (a) the person withholding a licence of consent, or a near relative of his (“the relevant occupier”) resides, and intends to continue to reside, on the premises; and
  - (b) there is on the premises, in addition to the accommodation occupied by the relevant occupier, accommodation (not being storage accommodation or means of access) shared by the relevant occupier with other persons residing on the premises who are not members of his household; and
  - (c) the premises are small premises.
- (3) Section 22(2) (meaning of “small premises”) shall apply for the purposes of this as well as of that section.
- (4) In this section “tenancy” means a tenancy created by a lease or sub-lease, by an agreement for a lease or sub-lease or by a tenancy agreement or in pursuance of any enactment; and “disposal”, in relation to premises comprised in a tenancy, includes assignment or assignation of the tenancy and sub-letting or parting with possession of the premises or any part of the premises.
- (5) This section applies to tenancies created before the passing of this Act, as well as to others.

## **25 Discrimination: associations not within s. 11.**

- (1) This section applies to any association of persons (however described, whether corporate or unincorporate, and whether or not its activities are carried on for profit) if—
  - (a) it has twenty-five or more members; and
  - (b) admission to membership is regulated by its constitution and is so conducted that the members do not constitute a section of the public within the meaning of section 20(1); and
  - (c) it is not an organisation to which section 11 applies.
- (2) It is unlawful for an association to which this section applies, in the case of a person who is not a member of the association, to discriminate against him—
  - (a) in the terms on which it is prepared to admit him to membership; or
  - (b) by refusing or deliberately omitting to accept his application for membership.
- (3) It is unlawful for an association to which this section applies, in the case of a person who is a member or associate of the association, to discriminate against him—
  - (a) in the way it affords him access to any benefits, facilities or services, or by refusing or deliberately omitting to afford him access to them; or
  - (b) in the case of a member, by depriving him of membership, or varying the terms on which he is a member; or
  - (c) in the case of an associate, by depriving him of his rights as an associate, or varying those rights; or

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- (d) in either case, by subjecting him to any other detriment.
- (4) For the purposes of this section—
- (a) a person is a member of an association if he belongs to it by virtue of his admission to any sort of membership provided for by its constitution (and is not merely a person with certain rights under its constitution by virtue of his membership of some other association), and references to membership of an association shall be construed accordingly;
  - (b) a person is an associate of an association to which this section applies if, not being a member of it, he has under its constitution some or all of the rights enjoyed by members (or would have apart from any provision in its constitution authorising the refusal of those rights in particular cases).

## 26 Exception from s. 25 for certain associations.

- (1) An association to which section 25 applies is within this subsection if the main object of the association is to enable the benefits of membership (whatever they may be) to be enjoyed by persons of a particular racial group defined otherwise than by reference to colour; and in determining whether that is the main object of an association regard shall be had to the essential character of the association and to all relevant circumstances including, in particular, the extent to which the affairs of the association are so conducted that the persons primarily enjoying the benefits of membership are of the racial group in question.
- (2) In the case of an association within subsection (1), nothing in section 25 shall render unlawful any act not involving discrimination on the ground of colour.

[<sup>F56</sup> Barristers]

### Textual Amendments

**F56** Ss. 26A, 26B inserted by virtue of Courts and Legal Services Act 1990 (c. 41, SIF 37), ss. 64(2), 65(2), Sch. 19 para. 1

## 26A Discrimination by, or in relation to, barristers.

- (1) It is unlawful for a barrister or barrister's clerk, in relation to any offer of a pupillage or tenancy, to discriminate against a person—
  - (a) in the arrangements which are made for the purpose of determining to whom it should be offered;
  - (b) in respect of any terms on which it is offered; or
  - (c) by refusing, or deliberately omitting, to offer it to him.
- (2) It is unlawful for a barrister or barrister's clerk, in relation to a pupil or tenant in the chambers in question, to discriminate against him—
  - (a) in respect of any terms applicable to him as a pupil or tenant;
  - (b) in the opportunities for training, or gaining experience which are afforded or denied to him;
  - (c) in the benefits, facilities or services which are afforded or denied to him; or

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- (d) by terminating his pupillage or by subjecting him to any pressure to leave the chambers or other detriment.
- (3) It is unlawful for any person, in relation to the giving, withholding or acceptance of instructions to a barrister, to discriminate against any person.
- (4) In this section— “barrister’s clerk” includes any person carrying out any of the functions of a barrister’s clerk; and “pupil”, “pupillage”, “tenancy” and “tenant” have the meanings commonly associated with their use in the context of a set of barristers’ chambers.
- (5) This section does not apply to Scotland.

#### *Advocates*

### **26B Discrimination by, or in relation to, advocates.**

- (1) It is unlawful for an advocate, in relation to taking any person as his pupil, to discriminate against a person—
  - (a) in the arrangements which he makes for the purpose of determining whom he will take as his pupil;
  - (b) in respect of any terms on which he offers to take any person as his pupil; or
  - (c) by refusing, or deliberately omitting, to take a person as his pupil.
- (2) It is unlawful for an advocate, in relation to a person who is a pupil, to discriminate against him—
  - (a) in respect of any terms applicable to him as a pupil;
  - (b) in the opportunities for training, or gaining experience, which are afforded or denied to him;
  - (c) in the benefits, facilities or services which are afforded or denied to him; or
  - (d) by terminating the relationship or by subjecting him to any pressure to terminate the relationship or other detriment.
- (3) It is unlawful for any person, in relation to the giving, withholding or acceptance of instructions to an advocate, to discriminate against any person.
- (4) In this section— “advocate” means a member of the Faculty of Advocates practising as such; and “pupil” has the meaning commonly associated with its use in the context of a person training to be an advocate.
- (5) This section does not apply to England and Wales.

#### *Extent*

### **27 Extent of Part III.**

- (1) Sections 17 to [F57 18D] do not apply to benefits, facilities or services outside Great Britain except—
  - (a) travel in a ship registered at a port of registry in Great Britain; and
  - (b) benefits, facilities or services provided on a ship so registered.



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[<sup>F58</sup>(1A) In its application in relation to granting entry clearance (within the meaning of the <sup>M4</sup>Immigration Act 1971) section 19B applies in relation to acts done outside the United Kingdom, as well as those done within Great Britain.]

(2) Section 20(1)—

- (a) does not apply to goods, facilities or services outside Great Britain except as provided in subsections (3) and (4); and
- (b) does not apply to facilities by way of banking or insurance or for grants, loans, credit or finance, where the facilities are for a purpose to be carried out, or in connection with risks wholly or mainly arising, outside Great Britain.

(3) Section 20(1) applies to the provision of facilities for travel outside Great Britain where the refusal or omission occurs in Great Britain or on a ship, aircraft or hovercraft within subsection (4).

(4) Section 20(1) applies on and in relation to—

- (a) any ship registered at a port of registry in Great Britain; and
- (b) any aircraft or hovercraft registered in the United Kingdom and operated by a person who has his principal place of business, or is ordinarily resident, in Great Britain,

even if the ship, aircraft or hovercraft is outside Great Britain.

(5) This section shall not render unlawful an act done in or over a country outside the United Kingdom, or in or over that country's territorial waters, for the purpose of complying with the laws of that country.

#### Textual Amendments

**F57** Words in s. 27(1) substituted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 2** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**

**F58** S. 27(1A) inserted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 3** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**

#### Marginal Citations

**M4** 1971 c. 77.

## PART IV

### OTHER UNLAWFUL ACTS

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

**C12** Part IV extended by [Employment Protection Act 1975 \(c. 71\), s. 122\(2\)](#)

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VALID FROM 19/07/2003

## **27A Relationships which have come to an end**

- (1) In this section a “relevant relationship” is a relationship during the course of which, by virtue of any provision referred to in section 1(1B), taken with section 1(1) or (1A), or (as the case may be) by virtue of section 3A—
  - (a) an act of discrimination by one party to the relationship (“the relevant party”) against another party to the relationship, on grounds of race or ethnic or national origins, or
  - (b) harassment of another party to the relationship by the relevant party, is unlawful.
- (2) Where a relevant relationship has come to an end it is unlawful for the relevant party—
  - (a) to discriminate against another party, on grounds of race or ethnic or national origins, by subjecting him to a detriment, or
  - (b) to subject another party to harassment, where the discrimination or harassment arises out of and is closely connected to that relationship.
- (3) In subsection (1) reference to an act of discrimination or harassment which is unlawful includes, in the case of a relationship which has come to an end before 19th July 2003, reference to such an act which would, after that date, be unlawful.
- (4) For the purposes of any proceedings in respect of an unlawful act under subsection (2), that act shall be treated as falling within circumstances relevant for the purposes of such of the provisions, or Parts, referred to in subsection (1) as determine most closely the nature of the relevant relationship.

## **28 Discriminatory practices.**

- (1) In this section “discriminatory practice” means the application of a requirement or condition which results in an act of discrimination which is unlawful by virtue of any provision of Part II or III taken with section 1(1)(b), or which would be likely to result in such an act of discrimination if the persons to whom it is applied included persons of any particular racial group as regards which there has been no occasion for applying it.
- (2) A person acts in contravention of this section if and so long as—
  - (a) he applies a discriminatory practice; or
  - (b) he operates practices or other arrangements which in any circumstances would call for the application by him of a discriminatory practice.
- (3) Proceedings in respect of a contravention of this section shall be brought only by the Commission in accordance with sections 58 to 62.

## **29 Discriminatory advertisements.**

- (1) It is unlawful to publish or to cause to be published an advertisement which indicates, or might reasonably be understood as indicating, an intention by a person to do an act

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of discrimination, whether the doing of that act by him would be lawful or, by virtue of Part II or III, unlawful.

- (2) Subsection (1) does not apply to an advertisement—
  - (a) if the intended act would be lawful by virtue of any of sections 5, 6, 7(3) and (4), 10(3), 26, 34(2)(b), 35 to 39 and 41; or
  - (b) if the advertisement relates to the services of an employment agency (within the meaning of section 14(1)) and the intended act only concerns employment which the employer could by virtue of section 5, 6 or 7(3) or (4) lawfully refuse to offer to persons against whom the advertisement indicates an intention to discriminate.
- (3) Subsection (1) does not apply to an advertisement which indicates that persons of any class defined otherwise than by reference to colour, race or ethnic or national origins are required for employment outside Great Britain.
- (4) The publisher of an advertisement made unlawful by subsection (1) shall not be subject to any liability under that subsection in respect of the publication of the advertisement if he proves—
  - (a) that the advertisement was published in reliance on a statement made to him by the person who caused it to be published to the effect that, by reason of the operation of subsection (2) or (3), the publication would not be unlawful; and
  - (b) that it was reasonable for him to rely on the statement.
- (5) A person who knowingly or recklessly makes a statement such as is mentioned in subsection (4)(a) which in a material respect is false or misleading commits an offence, and shall be liable on summary conviction to a fine not exceeding [<sup>F59</sup>level 5 on the standard scale].

#### Textual Amendments

**F59** 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](#)

### 30 Instructions to discriminate.

It is unlawful for a person—

- (a) who has authority over another person; or
  - (b) in accordance with whose wishes that other person is accustomed to act,
- to instruct him to do any act which is unlawful by virtue of Part II or III, or procure or attempt to procure the doing by him of any such act.

### 31 Pressure to discriminate.

- (1) It is unlawful to induce, or attempt to induce, a person to do any act which contravenes Part II or III.
- (2) An attempted inducement is not prevented from falling within subsection (1) because it is not made directly to the person in question, if it is made in such a way that he is likely to hear of it.

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### 32 Liability of employers and principals.

- (1) Anything done by a person in the course of his employment shall be treated for the purposes of this Act (except as regards offences thereunder) as done by his employer as well as by him, whether or not it was done with the employer's knowledge or approval.
- (2) Anything done by a person as agent for another person with the authority (whether express or implied, and whether precedent or subsequent) of that other person shall be treated for the purposes of this Act (except as regards offences thereunder) as done by that other person as well as by him.
- (3) In proceedings brought under this Act against any person in respect of an act alleged to have been done by an employee of his it shall be a defence for that person to prove that he took such steps as were reasonably practicable to prevent the employee from doing that act, or from doing in the course of his employment acts of that description.

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

**C13** S. 32 modified by S.I. 1989/901, art. 3, Sch.

**C14** S. 32 modified (2.3.1998) by S.I. 1998/218, art. 3, Sch.

S. 32 modified (1.9.1999) by S.I. 1999/2256, art. 3, Sch. (which S.I. is revoked (E.) (1.9.2003) by S.I. 2003/1964, art. 1(3) and (W.) 12.5.2006 by S.I. 2006/1073, art. 1(3))

S. 32 modified (E.) (1.9.2003) by The Education (Modification of Enactments Relating to Employment) (England) Order 2003 (S.I. 2003/1964), art. 3, Sch.

S. 32 modified (W.) (12.5.2006) by The Education (Modification of Enactments Relating to Employment) (Wales) Order 2006 (S.I. 2006/1073), art. 3, Sch.

### 33 Aiding unlawful acts.

- (1) A person who knowingly aids another person to do an act made unlawful by this Act shall be treated for the purposes of this Act as himself doing an unlawful act of the like description.
- (2) For the purposes of subsection (1) an employee or agent for whose act the employer or principal is liable under section 32 (or would be so liable but for section 32(3)) shall be deemed to aid the doing of the act by the employer or principal.
- (3) A person does not under this section knowingly aid another to do an unlawful act if—
  - (a) he acts in reliance on a statement made to him by that other person that, by reason of any provision of this Act, the act which he aids would not be unlawful; and
  - (b) it is reasonable for him to rely on the statement.
- (4) A person who knowingly or recklessly makes a statement such as is mentioned in subsection (3)(a) which in a material respect is false or misleading commits an offence, and shall be liable on summary conviction to a fine not exceeding [<sup>F60</sup>level 5 on the standard scale].

#### Textual Amendments

**F60** 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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## PART V

### CHARITIES

#### 34 Charities.

- (1) A provision which is contained in a charitable instrument (whenever that instrument took or takes effect) and which provides for conferring benefits on persons of a class defined by reference to colour shall have effect for all purposes as if it provided for conferring the like benefits—
- on persons of the class which results if the restriction by reference to colour is disregarded; or
  - where the original class is defined by reference to colour only, on persons generally;
- but nothing in this subsection shall be taken to alter the effect of any provision as regards any time before the coming into operation of this subsection.
- (2) Nothing in Parts II to IV shall—
- be construed as affecting a provision to which this subsection applies; or
  - render unlawful an act which is done in order to give effect to such a provision.
- (3) Subsection (2) applies to any provision which is contained in a charitable instrument (whenever that instrument took or takes effect) and which provides for conferring benefits on persons of a class defined otherwise than by reference to colour (including a class resulting from the operation of subsection (1)).
- (4) In this section “charitable instrument” means an enactment or other instrument passed or made for charitable purposes, or an enactment or other instrument so far as it relates to charitable purposes, and in Scotland includes the governing instrument of an endowment or of an educational endowment as those expressions are defined in section 135(1) of the <sup>M5</sup>Education (Scotland) Act 1962.

In the application of this section to England and Wales, “charitable purposes” means purposes which are exclusively charitable according to the law of England and Wales.

#### Marginal Citations

M5 1962 c. 47.

## PART VI

### GENERAL EXCEPTIONS FROM PARTS II TO IV

#### 35 Special needs of racial groups in regard to education, training or welfare.

—Nothing in Parts II to IV shall render unlawful any act done in affording persons of a particular racial group access to facilities or services to meet the special needs of persons of that group in regard to their education, training or welfare, or any ancillary benefits.

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### 36 Provision of education or training for persons not ordinarily resident in Great Britain.

—Nothing in Parts II to IV shall render unlawful any act done by a person for the benefit of persons not ordinarily resident in Great Britain in affording them access to facilities for education or training or any ancillary benefits, where it appears to him that the persons in question do not intend to remain in Great Britain after their period of education or training there.

### 37 Discriminatory training by certain bodies.

(1) Nothing in Parts II to IV shall render unlawful any act done in relation to particular work by [<sup>F61</sup>any person] in or in connection with—

- (a) affording only persons of a particular racial group access to facilities for training which would help to fit them for that work; or
- (b) encouraging only persons of a particular racial group to take advantage of opportunities for doing that work,

where [<sup>F61</sup>it reasonably appears to that person] that at any time within the twelve months immediately preceding the doing of the act—

- (i) there were no persons of that group among those doing that work in Great Britain; or
- (ii) the proportion of persons of that group among those doing that work in Great Britain was small in comparison with the proportion of persons of that group among the population of Great Britain.

(2) Where in relation to particular work [<sup>F62</sup>it reasonably appears to any person] that although the condition for the operation of subsection (1) is not met for the whole of Great Britain it is met for an area within Great Britain, nothing in Parts II to IV shall render unlawful any act done by [<sup>F62</sup>that person] in or in connection with—

- (a) affording persons who are of the racial group in question, and who appear likely to take up that work in that area, access to facilities for training which would help to fit them for that work; or
- (b) encouraging persons of that group to take advantage of opportunities in the area for doing that work.

[<sup>F63</sup>(3) The preceding provisions of this section shall not apply to any discrimination which is rendered unlawful by section 4(1) or (2).]

#### Textual Amendments

**F61** Words substituted by [Employment Act 1989 \(c. 38, SIF 43:1, 106:1\), s. 7\(3\)\(a\)](#)

**F62** Words substituted by [Employment Act 1989 \(c. 38, SIF 43:1, 106:1\), s. 7\(3\)\(b\)](#)

**F63** [S. 37\(3\)](#) substituted by [Employment Act 1989 \(c. 38, SIF 43:1, 106:1\), s. 7\(3\)\(c\)](#)

### 38 Other discriminatory training etc.

(1) Nothing in Parts II to IV shall render unlawful any act done by an employer in relation to particular work in his employment at a particular establishment in Great Britain, being an act done in or in connection with—

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- (a) affording only those of his employees working at that establishment who are of a particular racial group access to facilities for training which would help to fit them for that work; or
- (b) encouraging only persons of a particular racial group to take advantage of opportunities for doing that work at that establishment,

where any of the conditions in subsection (2) was satisfied at any time within the twelve months immediately preceding the doing of the act.

(2) Those conditions are—

- (a) that there are no persons of the racial group in question among those doing that work at that establishment; or
- (b) that the proportion of persons of that group among those doing that work at that establishment is small in comparison with the proportion of persons of that group—
  - (i) among all those employed by that employer there; or
  - (ii) among the population of the area from which that employer normally recruits persons for work in his employment at that establishment.

(3) Nothing in section 11 shall render unlawful any act done by an organisation to which that section applies in or in connection with—

- (a) affording only members of the organisation who are of a particular racial group access to facilities for training which would help to fit them for holding a post of any kind in the organisation; or
- (b) encouraging only members of the organisation who are of a particular racial group to take advantage of opportunities for holding such posts in the organisation,

where either of the conditions in subsection (4) was satisfied at any time within the twelve months immediately preceding the doing of the act.

(4) Those conditions are—

- (a) that there are no persons of the racial group in question among persons holding such posts in that organisation; or
- (b) that the proportion of persons of that group among those holding such posts in that organisation is small in comparison with the proportion of persons of that group among the members of the organisation.

(5) Nothing in Parts II to IV shall render unlawful any act done by an organisation to which section 11 applies in or in connection with encouraging only persons of a particular racial group to become members of the organisation where at any time within the twelve months immediately preceding the doing of the act—

- (a) no persons of that group were members of the organisation; or
- (b) the proportion of persons of that group among members of the organisation was small in comparison with the proportion of persons of that group among those eligible for membership of the organisation.

(6) Section 8 (meaning of employment at establishment in Great Britain) shall apply for the purposes of this section as if this section were contained in Part II.

### 39 Sports and competitions.

—Nothing in Parts II to IV shall render unlawful any act whereby a person discriminates against another on the basis of that other's nationality or place of birth

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or the length of time for which he has been resident in a particular area or place, if the act is done—

- (a) in selecting one or more persons to represent a country, place or area, or any related association, in any sport or game; or
- (b) in pursuance of the rules of any competition so far as they relate to eligibility to compete in any sport or game.

#### **40 Indirect access to benefits etc.**

- (1) References in this Act to the affording by any person of access to benefits, facilities or services are not limited to benefits, facilities or services provided by that person himself, but include any means by which it is in that person's power to facilitate access to benefits, facilities or services provided by any other person (the "actual provider").
- (2) Where by any provision of this Act the affording by any person of access to benefits, facilities or services in a discriminatory way is in certain circumstances prevented from being unlawful, the effect of the provision shall extend also to the liability under this Act of any actual provider.

#### **41 Acts done under statutory authority etc.**

- (1) Nothing in Parts II to IV shall render unlawful any act of discrimination done—
  - (a) in pursuance of any enactment or Order in Council; or
  - (b) in pursuance of any instrument made under any enactment by a Minister of the Crown; or
  - (c) in order to comply with any condition or requirement imposed by a Minister of the Crown (whether before or after the passing of this Act) by virtue of any enactment.

References in this subsection to an enactment, Order in Council or instrument include an enactment, Order in Council or instrument passed or made after the passing of this Act.

- (2) Nothing in Parts II to IV shall render unlawful any act whereby a person discriminates against another on the basis of that other's nationality or place of ordinary residence or the length of time for which he has been present or resident in or outside the United Kingdom or an area within the United Kingdom, if that act is done—
  - (a) in pursuance of any arrangements made (whether before or after the passing of this Act) by or with the approval of, or for the time being approved by, a Minister of the Crown; or
  - (b) in order to comply with any condition imposed (whether before or after the passing of this Act) by a Minister of the Crown.

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

C15 S. 41: amended (1.7.1999) by S.I. 1999/672, art. 2, Sch. 1

#### **42 Acts safeguarding national security.**

—Nothing in Parts II to IV shall render unlawful an act done for the purpose of safeguarding national security [<sup>F64</sup>if the doing of the act was justified by that purpose].



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#### Textual Amendments

**F64** Words in s. 42 added (2.4.2001) by 2000 c. 34, s. 7(1) (with s. 10(5)); S.I. 2001/566, art. 2(1)

## PART VII

### THE COMMISSION FOR RACIAL EQUALITY

#### General

#### 43 Establishment and duties of Commission.

(1) There shall be a body of Commissioners named the Commission for Racial Equality 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—

[<sup>F65</sup>(1A) One of the Commissioners shall be a person who appears to the Secretary of State to have special knowledge of Scotland.]

- (a) to work towards the elimination of discrimination;
- (b) to promote equality of opportunity, and good relations, between persons of different racial groups generally; and
- (c) to keep under review the working of this Act 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 it.

(2) The Secretary of State shall appoint—

- (a) one of the Commissioners to be chairman of the Commission; and
- (b) either one or more 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 1 shall have effect with respect to the Commission.

(5) The Race Relations Board and the Community Relations Commission are hereby abolished.

#### Textual Amendments

**F65** S. 43(1A) inserted (1.7.1999) by S.I. 1999/1756, art. 2, Sch. para. 6 (with art. 8); S.I. 1998/3178, art. 3

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

**C16** S. 43(1) modified (W.) (1.7.1999) by S.I. 1999/672, art. 5, Sch. 2

S. 43(1) amended (S.) (1.7.1999) by S.I. 1999/1750, art. 4, Sch. 3

**C17** S. 43(1A) restricted (1.7.1999) by S.I. 1999/1756, art. 8(2)(b) (with art. 8); S.I. 1998/3178, art. 3

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#### **44 Assistance to organisations.**

- (1) The Commission may give financial or other assistance to any organisation appearing to the Commission to be concerned with the promotion of equality of opportunity, and good relations, between persons of different racial groups, but shall not give any such financial assistance out of money provided (through the Secretary of State) by Parliament except with the approval of the Secretary of State given with the consent of the Treasury.
- (2) Except in so far as other arrangements for their discharge are made and approved under paragraph 13 of Schedule 1—
  - (a) the Commission's functions under subsection (1); and
  - (b) other functions of the Commission in relation to matters connected with the giving of such financial or other assistance as is mentioned in that subsection,
 shall be discharged under the general direction of the Commission by a committee of the Commission consisting of at least three but not more than five Commissioners, of whom one shall be the deputy chairman or one of the deputy chairmen of the Commission.

#### **45 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 43(1).
- (2) The Commission may make charges for educational or other facilities or services made available by them.

#### **46 Annual reports.**

- (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 functions.
- (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.

#### *Codes of practice*

#### **47 Codes of practice.**

- (1) The Commission may issue codes of practice containing such practical guidance as the Commission think fit for [<sup>F66</sup>all or any]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 persons of different racial groups;
  - [<sup>F67</sup>(c) the elimination of discrimination in the field of housing . . . <sup>F68</sup>;
  - (d) the promotion of equality of opportunity in the field of . . . <sup>F68</sup>housing between persons of different racial groups]

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- (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 [<sup>F69</sup>relating to the field of employment] 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.
- [<sup>F70</sup>(3A) In the course of preparing any draft code of practice relating to the field of . . . <sup>F68</sup>housing for eventual publication under subsection (2) the Commission shall consult with such organisations or bodies as appear to the Commission to be appropriate having regard to the content of the draft code.]
- (4) If the Commission determine to proceed with [<sup>F71</sup>a draft code of practice], 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 74(3), 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 Act before an [<sup>F72</sup>employment tribunal][<sup>F73</sup>a county court or, in Scotland, a sheriff court] 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 [<sup>F73</sup>or the court] to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.

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- (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.

#### Subordinate Legislation Made

- P1** For previous exercises of this power see Index to Government Orders.  
**P2** [S.47\(7\)](#) power exercised by [S.I. 1991/227](#)

#### Textual Amendments

- F66** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), [s. 137\(2\)](#)  
**F67** [S. 47\(1\)\(c\)\(d\)](#) added by [Housing Act 1988 \(c. 50, SIF 61\)](#), [s. 137\(2\)](#)  
**F68** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), ss. 180, 194, [Sch. 12 Pt. II](#)  
**F69** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), [s. 137\(3\)](#)  
**F70** [S. 47\(3A\)](#) inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), [s. 137\(3\)](#)  
**F71** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), [s. 137\(4\)](#)  
**F72** Words in [s. 47\(10\)](#) substituted (1.8.1998) by 1998 c. 8, [s. 1\(2\)\(a\)](#) (with [s. 16\(2\)](#)); [S.I. 1998/1658](#), [art. 2\(1\)](#), [Sch. 1](#)  
**F73** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), [s. 137\(5\)](#)

### *Investigations*

#### **48 Power to conduct formal investigations.**

- (1) Without prejudice to their general power to do anything requisite for the performance of their duties under section 43(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.

#### **49 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.

(4) 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.

(5) 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), (3) and (4) shall apply to the revised investigation and terms of reference as they applied to the original.

## **50 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 60, a notice shall be served under subsection (1) only where—

- (a) service of the notice was authorised by an order made by 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 28; and
- (iii) contraventions of sections 29, 30 or 31,

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.

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- (4) If a person fails to comply with a notice served on him under subsection (1) or the Commission have reasonable cause to believe that he intends not to comply with it, the Commission may apply to a county court or, in Scotland, a sheriff 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.
- (5) [<sup>F74</sup>Section 55 of the County Courts Act 1984](penalty for neglecting witness summons) shall apply to failure without reasonable excuse to comply with an order of a county court under subsection (4) as it applies in the cases provided in the [<sup>F74</sup>said section 55]; and paragraph 73 of Schedule 1 to the <sup>M6</sup>Sheriff Courts (Scotland) Act 1907 (power of sheriff to grant second diligence for compelling the attendance of witnesses or havers) shall apply to an order of a sheriff court under subsection (4) 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 [<sup>F75</sup>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

**F74** Words substituted by [County Courts Act 1984 \(c. 28, SIF 34\)](#), **Sch. 2 para. 61**

**F75** 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

**M6** [1907 c. 51](#).

## 51 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 person, with a view to promoting equality of opportunity between persons of different racial groups who are affected by any of his activities, recommendations for changes in his 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.

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- (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).

## **52 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
  - (d) in a report of the investigation published by the Commission or made available for inspection under section 51(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 [<sup>F76</sup>level 5 on the standard scale].

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- (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 the 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

- F76** 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](#)

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

- C18** [S. 52](#) 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\(2\)](#)
- C19** [S. 52\(1\)](#): disclosure power extended (14.12.2001) by [2001 c. 24, ss. 17, 127\(2\)\(a\)](#), [Sch. 4 Pt. I para. 14](#)

## PART VIII

### ENFORCEMENT

#### *General*

#### **53 Restriction of proceedings for breach of Act.**

- (1) Except as provided by this Act [<sup>F77</sup>or the <sup>M7</sup>Special Immigration Appeals Commission Act 1997 or [<sup>F78</sup>Part 5 of the Nationality, Immigration and Asylum Act 2002]] no proceedings, whether civil or criminal, shall lie against any person in respect of an act by reason that the act is unlawful by virtue of a provision of this Act.
- (2) Subsection (1) does not preclude the making of an order of certiorari, mandamus or prohibition.
- (3) In Scotland, subsection (1) does not preclude the exercise of the jurisdiction of the Court of Session to entertain an application for reduction or suspension of any order or determination or otherwise to consider the validity of any order or determination, or to require reasons for any order or determination to be stated.
- [<sup>F79</sup>(4) Subsections (2) and (3) do not, except so far as provided by section 76, apply to any act which is unlawful by virtue of section 76(5) or (9) or by virtue of section 76(10) (b) and (11).]

#### Textual Amendments

- F77** Words in [s. 53\(1\)](#) inserted (2.4.2001) by [2000 c. 34, s. 9\(1\)](#), [Sch. 2 para. 4](#) (with [s. 10\(5\)](#)); S.I. [2001/566, art. 2\(1\)](#)
- F78** Words in [s. 53\(1\)](#) substituted (1.4.2003) by [2002 c. 41, s. 141, Sch. 7, para. 11](#) (with [s. 159](#)); S.I. [2003/754, art. 2, Sch.](#)
- F79** [S. 53\(4\)](#) added (2.4.2001) by [2000 c. 34, s. 9\(1\)](#), [Sch. 2 para. 5](#) (with [s. 10\(5\)](#)); S.I. [2001/566, art. 2\(1\)](#)



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

**C20** S. 53 restricted by Estate Agents Act 1979 (c. 38), ss. 5(3), 36(2)

#### Marginal Citations

**M7** 1997 c. 68.

### *Enforcement in employment field*

#### **54 Jurisdiction of [<sup>F80</sup>employment tribunals].**

- (1) A complaint by any person (“the complainant”) that another person (“the respondent”) —
- (a) has committed an act of discrimination against the complainant which is unlawful by virtue of Part II; or
  - (b) is by virtue of section 32 or 33 to be treated as having committed such an act of discrimination against the complainant,
- may be presented to an [<sup>F81</sup>employment tribunal].
- (2) Subsection (1) does not apply to a complaint under section 12(1) of an act in respect of which an appeal,<sup>F82</sup> or proceedings in the nature of an appeal, may be brought under any enactment, . . .

#### Textual Amendments

**F80** Words in s. 54 sidenote substituted (1.8.1998) by 1998 c. 8, s. 1(2)(b); S.I. 1998/1658, art. 2(1), **Sch. 1**

**F81** Words in s. 54(1) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a); S.I. 1998/1658, art. 2(1), **Sch. 1**

**F82** Words in s. 54(2) repealed (1.5.2001) by 1996 c. 46, s. 35(2), **Sch. 7 Pt. III**; S.I. 2001/1519, **art. 2**

VALID FROM 19/07/2003

#### **54A Burden of proof: employment tribunals**

- (1) This section applies where a complaint is presented under section 54 and the complaint is that the respondent—
- (a) 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)(a), (e) or (f), or Part IV in its application to those provisions, or
  - (b) has committed an act of harassment.
- (2) Where, on the hearing of the complaint, the complainant proves facts from which the tribunal could, apart from this section, conclude in the absence of an adequate explanation that the respondent—
- (a) has committed such an act of discrimination or harassment against the complainant, or
  - (b) is by virtue of section 32 or 33 to be treated as having committed such an act of discrimination or harassment against the complainant,

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the tribunal shall uphold the complaint 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.

F83 55

**Textual Amendments**

**F83** S. 55 repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, **Sch. 3 Pt. 1** (with s. 38) and subject to an amendment (1.8.1998) by 1998 c. 8, **s. 1(2)(a)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**

**56 Remedies on complaint under s. 54.**

(1) Where an [F84 employment tribunal] finds that a complaint presented to it under section 54 is well-founded, the tribunal shall make such of the following as it considers just and equitable—

- (a) an order declaring the rights of the complainant and the respondent in relation to the act to which the complaint relates;
- (b) an order requiring the respondent to pay to the complainant compensation of an amount corresponding to any damages he could have been ordered by a county court or by a sheriff court to pay to the complainant if the complaint had fallen to be dealt with under section 57;
- (c) a recommendation that the respondent take within a specified period action appearing to the tribunal to be practicable for the purpose of obviating or reducing the adverse effect on the complainant of any act of discrimination to which the complaint relates.

F85 (2) .....

F86 (3) .....

(4) If without reasonable justification the respondent to a complaint fails to comply with a recommendation made by an [F84 employment tribunal] under subsection (1)(c), then, if it thinks it just and equitable to do so—

- (a) the tribunal may F87 . . . increase the amount of compensation required to be paid to the complainant in respect of the complaint by an order made under subsection (1)(b); or
- (b) if an order under subsection (1)(b) could have been made but was not, the tribunal may make such an order.

[F88 (5) The Secretary of State may by regulations make provision—

- (a) for enabling a tribunal, where an amount of compensation falls to be awarded under subsection (1)(b), to include in the award interest on that amount; and
- (b) specifying, for cases where a tribunal decides that an award is to include an amount in respect of interest, the manner in which and the periods and rate by reference to which the interest is to be determined;

and the regulations may contain such incidental and supplementary provisions as the Secretary of State considers appropriate.

(6) The Secretary of State may by regulations modify the operation of any order made under [F89 section 14 of the [F90 Employment Tribunals Act 1996]] (power to make provision as to interest on sums payable in pursuance of [F84 employment tribunal]

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decisions) to the extent that it relates to an award of compensation under subsection (1) (b).]

#### Textual Amendments

- F84** Words in s. 56(1)(4)(6) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1
- F85** S. 56(2) repealed (3.7.1994) by 1994 c. 10, ss. 1(1), 3(2)(3), Sch.
- F86** S. 56(3) repealed (22.11.1993) by S.I. 1993/2798, reg. 1(3), Sch. para. 1
- F87** Words in s. 56(4) repealed (3.7.1994) by 1994 c. 10, ss. 3(2)(3), Sch.
- F88** S. 56(5)(6) inserted (3.7.1994) by 1994 c. 10, ss. 2(1), 3(3)
- F89** Words in s. 56(6) substituted (22.8.1996) by 1996 c. 17, ss. 43, 46, Sch. 1 (with s. 38)
- F90** Words in s. 56(6) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(c) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

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

- C21** S. 56 amended by Employment Protection (Consolidation) Act 1978 (c. 44), s. 76.

### Enforcement of Part III

#### 57 Claims under Part III.

- (1) A claim by any person (“the claimant”) that another person (“the respondent”)—
- has committed an act of discrimination against the claimant which is unlawful by virtue of Part III; or
  - 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)—
- shall, in England and Wales, be brought only in a designated county court; and
  - 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.
- [<sup>F91</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—
- damages; or
  - a declaration or, in Scotland, a declarator;

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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>M8</sup>Army Act 1955, the <sup>M9</sup>Air Force Act 1955 or the <sup>M10</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>F92</sup>subsection (5A)] applies shall not be instituted unless the claimant has given notice of the claim to the Secretary of State <sup>F93</sup>. . . .

[<sup>F94</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.]

(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>F95</sup>(7) This section has effect subject to section 57A.]

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**Changes to legislation:** There are currently no known outstanding effects for the Race Relations Act 1976 (Repealed). (See end of Document for details)

#### Textual Amendments

- F91** 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)
- F92** 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)
- F93** 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)
- F94** 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)
- F95** 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)

- C22** 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

- M8** 1955 c. 18.  
**M9** 1955 c. 19.  
**M10** 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—
- (a) 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
  - (b) 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—
- (a) has committed such an act of discrimination or harassment against the claimant, or
  - (b) 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.

#### [<sup>F96</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

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- appeal which is pending, or could be brought, under the 1997 Act or [<sup>F97</sup>Part 5 of the 2002 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—
- [<sup>F98</sup>“the Immigration Acts” has the same meaning given by section 158 of the 2002 Act ;]
- “immigration appellate body” means an adjudicator appointed for the purposes of [<sup>F99</sup>Part 5 of the 2002 Act], the Immigration Appeal Tribunal, the Special Immigration Appeals Commission, the Court of Appeal, the Court of Session or the House of Lords;
- [<sup>F100</sup>“immigration authority” means the Secretary of State, an immigration officer or a person responsible for the grant or refusal of entry clearance (within the meaning of section 33(1) of the Immigration Act 1971 (c. 77));]
- “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, [<sup>F101</sup>Part 5 of the 2002 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 [<sup>F102</sup>Part 5 of the 2002 Act] in relation to a decision falling within paragraph (a);
- “relevant immigration proceedings” means proceedings on an appeal under the 1997 Act or [<sup>F103</sup>Part 5 of the 2002 Act];
- “the 1997 Act” means the <sup>M11</sup>Special Immigration Appeals Commission Act 1997;
- [<sup>F104</sup>“the 2002 Act” means the Nationality, Immigration and Asylum Act 2002;]

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

- F96** S. 57A inserted (2.4.2001) by 2000 c. 34, s. 6(2) (with s. 10(5)); S.I. 2001/566, art. 2(1)
- F97** Words in s. 57A(1)(a) substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(2), Sch. 7, para. 12(a); S.I. 2003/754, art. 2(1), Sch.
- F98** Definition in s. 57A(5) substituted (1.4.2003) by 2002 c. 41, s. 114, Sch. 7, para. 12(b) (with s. 159); S.I. 2003/754, art. 2(1), Sch.
- F99** Words in definition substituted (1.4.2003) by 2002 c. 41, s. 114, Sch. 7, para. 12(c) (with s. 159); S.I. 2003/754, art. 2(1), Sch.
- F100** Definition in s. 57A(5) substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(1), Sch. 7, para. 12(d) (with s. 159); S.I. 2003/754, art. 2(1), Sch.
- F101** Words in definition in s. 57A(5) substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(1), Sch. 7, para. 12(e) (with s. 159); S.I. 2003/754, art. 2(1), Sch.
- F102** Words in definition in s. 57A(5) substituted (1.4.2003) by 2002 c.41, ss. 114, 162(1), Sch. 7, para. 12(f) (with s. 159); S.I. 2003/754, art. 2(1), Sch.
- F103** Words in definition in s. 57A(5) substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(1), Sch. 7, para. 12(g) (with s. 159); S.I. 2003/754, art. 2(1), Sch.
- F104** Definition in s. 57A(5) substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(1), Sch. 7, para. 12(h) (with s. 159); S.I. 2003/754, art. 2(1), Sch.

### Marginal Citations

- M11** 1997 c. 68.

### *Non-discrimination notices*

#### **58 Issue of non-discrimination notice.**

- (1) This section applies to—
- (a) an unlawful discriminatory act; and
  - (b) an act contravening section 28; and
  - (c) an act contravening section 29, 30 or 31,
- and so applies whether or not proceedings have been brought in respect of the act.
- (2) If in the course of a formal investigation the Commission become satisfied that a person is committing, or has committed, any such acts, the Commission may in the prescribed manner serve on him a notice in the prescribed form (“a non-discrimination notice”) requiring him—
- (a) not to commit any such acts; and
  - (b) where compliance with paragraph (a) involves changes in any of his practices or other arrangements—
    - (i) to inform the Commission that he has effected those changes and what those changes are; and
    - (ii) to take such steps as may be reasonably required by the notice for the purpose of affording that information to other persons concerned.
- (3) A non-discrimination notice may also require the person on whom it is served to furnish the Commission with such other information as may be reasonably required by the notice in order to verify that the notice has been complied with.

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- (4) The notice may specify the time at which, and the manner and form in which, any information is to be furnished to the Commission, but the time at which any information is to be furnished in compliance with the notice shall not be later than five years after the notice has become final.
- (5) The Commission shall not serve a non-discrimination notice in respect of any person unless they have first—
- (a) given him notice that they are minded to issue a non-discrimination notice in his case, specifying the grounds on which they contemplate doing so; and
  - (b) offered him an opportunity of making oral or written representations in the matter (or both oral and written representations if he thinks fit) within a period of not less than 28 days specified in the notice; and
  - (c) taken account of any representations so made by him.
- <sup>F105</sup>(6) . . . . .
- (7) Section 50(4) shall apply to requirements under subsection (2)(b), (3) and (4) contained in a non-discrimination notice which has become final as it applies to requirements in a notice served under section 50(1).

#### Textual Amendments

**F105** S. 58(6) repealed (2.4.2001) by 2000 c. 34, s. 9(2), **Sch. 3** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**

### 59 Appeal against non-discrimination notice.

- (1) Not later than six weeks after a non-discrimination notice is served on any person he may appeal against any requirement of the notice—
- (a) to an [<sup>F106</sup>employment tribunal], so far as the requirement relates to acts which are within the jurisdiction of the tribunal;
  - (b) to a designated county court or a sheriff court, so far as the requirement relates to acts which are within the jurisdiction of the court [<sup>F107</sup>(ignoring section 57A)] and are not within the jurisdiction of an [<sup>F106</sup>employment tribunal].
- (2) Where the tribunal or court considers a requirement in respect of which an appeal is brought under subsection (1) to be unreasonable because it is based on an incorrect finding of fact or for any other reason, the tribunal or court shall quash the requirement.
- (3) On quashing a requirement under subsection (2) the tribunal or court may direct that the non-discrimination notice shall be treated as if, in place of the requirement quashed, it had contained a requirement in terms specified in the direction.
- (4) Subsection (1) does not apply to a requirement treated as included in a non-discrimination notice by virtue of a direction under subsection (3).

#### Textual Amendments

**F106** Words in s. 59(1)(a)(b) substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)** (with s. 16(2)); S.I. 1998/1658, **art. 2(1), Sch. 1**



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**F107** Words in s. 59(1)(b) inserted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 8** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**

## **60 Investigation as to compliance with non-discrimination notice.**

- (1) If—
  - (a) the terms of reference of a formal investigation state that its purpose is to determine whether any requirements of a non-discrimination notice are being or have been carried out, but section 50(2)(b) does not apply; and
  - (b) section 49(3) is complied with in relation to the investigation on a date (“the commencement date”) not later than the expiration of the period of five years beginning when the non-discrimination notice became final,the Commission may within the period referred to in subsection (2) serve notices under section 50(1) for the purposes of the investigation without needing to obtain the consent of the Secretary of State.
- (2) The said period begins on the commencement date and ends on the later of the following dates—
  - (a) the date on which the period of five years mentioned in subsection (1)(b) expires;
  - (b) the date two years after the commencement date.

## **61 Register of non-discrimination notices.**

- (1) The Commission shall establish and maintain a register (“the register”) of non-discrimination notices which have become final.
- (2) Any person shall be entitled, on payment of such fee (if any) as may be determined by the Commission—
  - (a) to inspect the register during ordinary office hours and take copies of any entry; or
  - (b) to obtain from the Commission a copy, certified by the Commission to be correct, of any entry in the register.
- (3) The Commission may, if they think fit, determine that the right conferred by subsection (2)(a) shall be exercisable in relation to a copy of the register instead of, or in addition to, the original.
- (4) The Commission shall give general notice of the place or places where, and the times when, the register or a copy of it may be inspected.

### *Other enforcement by Commission*

## **62 Persistent discrimination.**

- (1) If, during the period of five years beginning on the date on which any of the following became final in the case of any person, namely—
  - (a) a non-discrimination notice served on him; or
  - (b) a finding by a tribunal or court under section 54 or 57; that he has done an unlawful discriminatory act; or

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- [<sup>F108</sup>(ba) a finding under the <sup>M12</sup>Special Immigration Appeals Commission Act 1997 or [<sup>F109</sup>Part 5 of the Nationality, Immigration and Asylum Act 2002] that he has done an act which was unlawful by virtue of section 19B; or]
- (c) a finding by a court in proceedings under section 19 or 20 of the <sup>M13</sup>Race Relations Act 1968 that he has done an act which was unlawful by virtue of any provision of Part I of that Act,

it appears to the Commission that unless restrained he is likely to do one or more acts falling within paragraph (b), or contravening section 28, the Commission may apply to a designated county court for an injunction, or to a sheriff court for an order, restraining him from doing so; and the court, if satisfied that the application is well-founded, may grant the injunction or order in the terms applied for or in more limited terms.

- (2) In proceedings under this section the Commission shall not allege that the person to whom the proceedings relate has done an act falling within subsection (1)(b) or contravening section 28 which is within the jurisdiction of an [<sup>F110</sup>employment tribunal] unless a finding by an [<sup>F110</sup>employment tribunal] that he did that act has become final.

#### Textual Amendments

**F108** S. 62(1)(ba) inserted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 9** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**

**F109** Words in s. 62(1)(ba) substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(2), **Sch. 7, para. 13** (with s. 159); S.I. 2003/754, **art. 2(1), Sch.**

**F110** Words in s. 62(2) substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)** (with s. 16(2)); S.I. 1998/1658, **art. 2(1), Sch. 1**

#### Marginal Citations

**M12** 1997 c. 68.

**M13** 1968 c. 71.

### 63 Enforcement of ss. 29 to 31.

- (1) Proceedings in respect of a contravention of section 29, 30 or 31 shall be brought only by the Commission in accordance with the following provisions of this section.
- (2) The proceedings shall be—
- an application for a decision whether the alleged contravention occurred; or
  - an application under subsection (4),
- or both.
- (3) An application under subsection (2)(a) shall be made—
- in a case based on any provision of Part II, to an [<sup>F111</sup>employment tribunal]; and
  - in any other case, to a designated county court or a sheriff court.
- (4) If it appears to the Commission—
- that a person has done an act which by virtue of section 29, 30 or 31 was unlawful; and
  - that unless restrained he is likely to do further acts which by virtue of that section are unlawful,

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the Commission may apply to a designated county court for an injunction, or to a sheriff court for an order, restraining him from doing such acts; and the court, if satisfied that the application is well-founded, may grant the injunction or order in the terms applied for or more limited terms.

- (5) In proceedings under subsection (4) the Commission shall not allege that the person to whom the proceedings relate has done an act which is unlawful under this Act and within the jurisdiction of an [F111]employment tribunal] unless a finding by an [F111]employment tribunal] that he did that act has become final.

#### Textual Amendments

**F111** Words in s. 63(3)(a)(5) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

## 64 Preliminary action in employment cases.

- (1) With a view to making an application under section 62(1) or 63(4) in relation to a person the Commission may present to an an [F112]employment tribunal] a complaint that he has done an act within the jurisdiction of an [F112]employment tribunal], and if the tribunal considers that the complaint is well-founded it shall make a finding to that effect and, if it thinks it just and equitable to do so in the case of an act contravening any provision of Part II may also (as if the complaint had been presented by the person discriminated against) make an order such as is referred to in section 56(1)(a), or a recommendation such as is referred to in section 56(1)(c), or both.
- (2) Subsection (1) is without prejudice to the jurisdiction conferred by section 63(2).
- (3) In sections 62 and 63 and this section, the acts “within the jurisdiction of an [F112]employment tribunal]” are those in respect of which such jurisdiction is conferred by sections 54 and 63.

#### Textual Amendments

**F112** Words in s. 64(1)(3) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

### *Help for persons suffering discrimination*

## 65 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—
- 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; and
  - forms by which the respondent may if he so wishes reply to any questions.

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- (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
  - (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 57 to determine, before the date fixed for the hearing of the claim, whether a question or reply is admissible under this section or not.
- [<sup>F113</sup>(4A) In section 19B proceedings, subsection (2)(b) does not apply in relation to a failure to reply, or a particular reply, if the conditions specified in subsection (4B) are satisfied.
- (4B) Those conditions are that—
- (a) at the time of doing any relevant act, the respondent was carrying out public investigator functions or was a public prosecutor; and
  - (b) he reasonably believes that a reply or (as the case may be) a different reply would be likely to prejudice any criminal investigation, any decision to institute criminal proceedings or any criminal proceedings or would reveal the reasons behind a decision not to institute, or a decision not to continue, criminal proceedings.
- (4C) For the purposes of subsections (4A) and (4B)—
- “public investigator functions” has the same meaning as in section 57;
- “section 19B proceedings” means proceedings in respect of a claim under section 57 which has arisen by virtue of section 19B.]
- (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 [<sup>F114</sup>employment 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.
- [<sup>F115</sup>(7) This section does not apply in relation to any proceedings under—
- (a) the Special Immigration Appeals Commission Act 1997; or
  - (b) [<sup>F116</sup>Part 5 of the Nationality, Immigration and Asylum Act 2002].]

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### Textual Amendments

- F113** S. 65(4A)-(4C) inserted (2.4.2001) by 2000 c. 34, s. 5(2) (with s. 10(5)); S.I. 2001/566, art. 2(1)
- F114** Words in s. 65(5) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1
- F115** S. 65(7) inserted (2.4.2001) by 2000 c. 34, s. 9(1), Sch. 2 para. 10 (with s. 10(5)); S.I. 2001/566, art. 2(1)
- F116** Words in s. 65(7)(b) substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(2), Sch. 7, para. 14 (with s. 159); S.I. 2003/754, art. 2(1), Sch.

## 66 Assistance by Commission.

- (1) Where, in relation to proceedings or prospective proceedings under this Act, 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—
- (a) on the ground that the case raises a question of principle; or
  - (b) on the ground that it is unreasonable, having regard to the complexity of the case, or to the applicant's position in relation to the respondent or another person involved, or to any other matter, to expect the applicant to deal with the case unaided; or
  - (c) 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;
  - (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) Where under subsection (1) an application for assistance under this section is made in writing, the Commission shall, within the period of two months beginning when the application is received—
- (a) consider the application after making such enquiries as they think fit; and
  - (b) decide whether or not to grant it; and
  - (c) inform the applicant of their decision, stating whether or not assistance under this section is to be provided by the Commission and, if so, what form it will take.
- (4) If, in a case where subsection (3) applies, the Commission within the period of two months there mentioned give notice to the applicant that, in relation to his application—
- (a) the period of two months allowed them by that subsection is by virtue of the notice extended to three months; and

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- (b) the reference to two months in section 68(3) is by virtue of the notice to be read as a reference to three months,  
subsection (3) and section 68(3) shall have effect accordingly.
- (5) 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
- (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.
- (6) The charge conferred by subsection (5) is subject to any charge [<sup>F117</sup>imposed by section 10(7) of the Access to Justice Act 1999], or any charge or obligation for payment in priority to other debts under [<sup>F118</sup>the <sup>M14</sup>Legal Aid and Advice (Scotland) Acts 1967 <sup>M15</sup> and 1972][<sup>F118</sup>the Legal Aid (Scotland) Act 1986], and is subject to any provision in [<sup>F119</sup>, or made under,][<sup>F120</sup>either of those Acts for payment of any sum to the [<sup>F121</sup>Legal Services Commission] or into the Scottish Legal Aid Fund].
- (7) 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 [<sup>F122</sup>employment tribunal] proceedings, means [<sup>F123</sup>[<sup>F122</sup>employment tribunal] procedure regulations under Part I of [<sup>F124</sup>the Employment Tribunals Act 1996]]
- [<sup>F125</sup>(8) This section (except for subsection (4)) applies to proceedings or prospective proceedings under the Special Immigration Appeals Commission Act 1997 or [<sup>F126</sup>Part 5 of the Nationality, Immigration and Asylum Act 2002] so far as they relate to acts which may be unlawful by virtue of section 19B as it applies to proceedings or prospective proceedings under this Act.
- (9) In this section as it applies by virtue of subsection (8) “rules and regulations” means—
- (a) in relation to proceedings under the Act of 1997, [<sup>F127</sup>rules under that Act];
- (b) in relation to proceedings under [<sup>F127</sup>Part 5 of the Act of 2002], [<sup>F127</sup>rules under that Act.].]

#### Textual Amendments

**F117** Words in s. 66(6) substituted (1.4.2000) by 1999 c. 22, s. 24, **Sch. 4 para. 14(a)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2000/774, **art. 2** (subject to arts. 3, 4)

**F118** Words “the Legal Aid (Scotland) Act 1986” substituted (S.) for “the Legal Aid and Advice (Scotland) Acts 1967 and 1972” by Legal Aid (Scotland) Act 1986 (c. 47, SIF 77:2), s. 45, **Sch. 3 para. 6**

**F119** Words in s. 66(6) inserted (1.4.2000) by 1999 c. 22, s. 24, **Sch. 4 para. 14(b)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2000/774, **art. 2** (subject to arts. 3, 4)

**F120** Words substituted by Legal Aid Act 1988 (c. 34, SIF 77:1), s. 45, **Sch. 5 para. 7(b)**

**F121** Words in s. 66(6) substituted (1.4.2000) by 1999 c. 22, s. 24, **Sch. 4 para. 14(c)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2000/774, **art. 2** (subject to arts. 3, 4)

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- F122** Words in s. 66(7)(c) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F123** Words in s. 66(7)(c) substituted (22.8.1996) by 1996 c. 17, ss. 43, 46, **Sch. 1 para. 4** (with s. 38)
- F124** Words in s. 66(7)(c) substituted (1.8.1998) by 1998 c. 8 s. 1(2)(c) (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F125** S. 66(8)(9) inserted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 11** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**
- F126** Words in s. 66(8) substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(2), Sch. 7, para. 15(a) (with s. 159); S.I. 2003/754, **art. 2(1)**, Sch.
- F127** Words in s. 66(9) substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(2), Sch. 7, para. 15(b) (with s. 159); S.I. 2003/754, **art. 2(1)**, Sch.

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

- C23** S. 66(2)(c)(d) amended (E.W.) (1.1.1992) by S.I. 1991/2684, arts. 2(1), 4, **Sch. 1**

**Marginal Citations**

- M14** 1967 c. 43.  
**M15** 1972 c. 50.

*Sheriff courts and designated county courts*

**67 Sheriff courts and designated county courts.**

- (1) For the purposes of this Act a “designated” county court is one designated for the time being for those purposes by an order made by the Lord Chancellor.
- (2) An order under subsection (1) designating any county court for the purposes of this Act shall assign to that court as its district for those purposes any county court district or two or more county court districts.
- (3) A designated county court or a sheriff court shall have jurisdiction to entertain proceedings under this Act with respect to an act done on a ship, aircraft or hovercraft outside its district, including such an act done outside Great Britain.
- [<sup>F128</sup>(3A) A designated county court or a sheriff court shall have jurisdiction to entertain proceedings under this Act with respect to an act done outside the United Kingdom where section 19B applies in relation to such an act by virtue of section 27(1A).]
- (4) In any proceedings under this Act in a designated county court or a sheriff court the judge or sheriff shall, unless with the consent of the parties he sits without assessors, be assisted by two assessors appointed from a list of persons prepared and maintained by the Secretary of State, being persons appearing to the Secretary of State to have special knowledge and experience of problems connected with relations between persons of different racial groups.
- (5) The remuneration of assessors appointed under subsection (4) shall be at such rate as may, with the approval of [<sup>F129</sup>the Treasury], be determined by the Lord Chancellor (for proceedings in England and Wales) or the Lord President of the Court of Session (for proceedings in Scotland).
- (6) Without prejudice to section 74(3), an order for the discontinuance of the jurisdiction of any county court under this Act, whether wholly or within a part of the district assigned to it for the purposes of this Act, may include provision with respect to

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any proceedings under this Act commenced in that court before the order comes into operation.

#### Textual Amendments

**F128** S. 67(3A) inserted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 12** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**

**F129** Words substituted by S.I. 1981/1670, **arts. 2(2), 3(5)**

#### [<sup>F130</sup> 67A National security: procedure.

- (1) Rules may make provision for enabling a court in which relevant proceedings have been brought, where it considers it expedient in the interests of national security—
  - (a) to exclude from all or part of the proceedings—
    - (i) the claimant;
    - (ii) the claimant’s representatives; or
    - (iii) the assessors (if any) appointed by virtue of section 67(4);
  - (b) to permit a claimant or representative who has been excluded to make a statement to the court before the commencement of the proceedings, or the part of the proceedings, from which he is excluded;
  - (c) to take steps to keep secret all or part of the reasons for its decision in the proceedings.
- (2) The Attorney General or, in Scotland, the Advocate General for Scotland, may appoint a person to represent the interests of a claimant in, or in any part of, any proceedings from which the claimant and his representatives are excluded by virtue of subsection (1).
- (3) A person appointed under subsection (2)—
  - (a) if appointed for the purposes of proceedings in England and Wales, must have a general qualification (within the meaning of section 71 of the <sup>M16</sup>Courts and Legal Services Act 1990); and
  - (b) if appointed for the purposes of proceedings in Scotland, must be—
    - (i) an advocate; or
    - (ii) a solicitor who has by virtue of section 25A of the <sup>M17</sup>Solicitors (Scotland) Act 1980 rights of audience in the Court of Session or the High Court of Justiciary.
- (4) A person appointed under subsection (2) shall not be responsible to the person whose interests he is appointed to represent.
- (5) In this section—
 

“relevant proceedings” means proceedings brought under this Act—

  - (a) in England and Wales, in a designated county court; or
  - (b) in Scotland, in a sheriff court; and

“rules” has the same meaning as in section 65.]

#### Textual Amendments

**F130** S. 67A inserted (2.4.2001) by 2000 c. 34, s. 8 (with s. 10(5)); S.I. 2001/566, **art. 2(1)**



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**Marginal Citations**

- M16 1990 c. 41.
- M17 1980 c. 46.

*Period within which proceedings to be brought*

**68 Period within which proceedings to be brought.**

- (1) An [F131 employment tribunal] shall not consider a complaint under section 54 unless it is presented to the tribunal before the end of [F132—
  - (a) the period of three months beginning when the act complained of was done; or
  - (b) in a case to which section 75(8) applies, the period of six months so beginning.]
- (2) [F133 Subject to subsection (2A)] a county court or a sheriff court shall not consider a claim under section 57 unless proceedings in respect of the claim are instituted before the end of—
  - (a) the period of six months beginning when the act complained of was done;  
F134 . . . .
  - F134 (b) . . . . .
- [F135 (2A) In relation to an immigration claim [F135 within the meaning of section 57A, the period of six months mentioned in subsection (2)(a) begins on the expiry of the period during which, by virtue of section 57A(1)(a), no proceedings may be brought under section 57(1) in respect of the claim.]
- (3) Where, in relation to proceedings or prospective proceedings by way of a claim under section 57, an application for assistance under section 66 is made to the Commission before the end of the period of six F136 . . . months mentioned in paragraph (a) F136 . . . of subsection (2), the period allowed by that paragraph for instituting proceedings in respect of the claim shall be extended by two months.
- (4) An [F131 employment tribunal], county court or sheriff court shall not consider an application under section 63(2)(a) unless it is made before the end of the period of six months beginning when the act to which it relates was done; and a county court or sheriff court shall not consider an application under section 63(4) unless it is made before the end of the period of five years so beginning.
- (5) An [F131 employment tribunal] shall not consider a complaint under section 64(1) unless it is presented to the tribunal before the end of the period of six months beginning when the act complained of was done.
- (6) A court or tribunal may nevertheless consider any such complaint, claim or application which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.
- (7) For the purposes of this section—
  - (a) when the inclusion of any term in a contract renders the making of the contract an unlawful act, that act shall be treated as extending throughout the duration of the contract; and
  - (b) any act extending over a period shall be treated as done at the end of that period; and

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(c) a deliberate omission shall be treated as done when the person in question decided upon it;

and in the absence of evidence establishing the contrary a person shall be taken for the purposes of this section to decide upon an omission when he does an act inconsistent with doing the omitted act or, 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**

**F131** Words in s. 68(1)(4)(5) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**

**F132** S. 68(1)(a)(b) substituted for words in s. 68(1) (1.10.1997) by 1996 c. 46, s. 23(4); S.I. 1997/2164, **arts. 2, 3**

**F133** Words s. 68(2) inserted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 13** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**

**F134** S. 68(2)(b) and the word “or” immediately preceding it repealed (2.4.2001) by 2000 c. 34, s. 9(2), **Sch. 3** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**

**F135** S. 68(2A) inserted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 14** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**

**F136** Words in s. 68(3) repealed (2.4.2001) by 2000 c. 34, s. 9(2), **Sch. 3** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**

*Evidence*

**69 Evidence.**

(1) Any finding by a court under section 19 or 20 of the <sup>M18</sup>Race Relations Act 1968, or by a court or [<sup>F137</sup>employment tribunal] under this Act, in respect of any act shall, if it has become final, be treated as conclusive in any proceedings under this Act.

(2) In any proceedings under this Act [<sup>F138</sup>or any enactment mentioned in section 19D(5)] a certificate signed by or on behalf of a Minister of the Crown and certifying—

(a) that any arrangements or conditions specified in the certificate were made, approved or imposed by a Minister of the Crown and were in operation at a time or throughout a period so specified; <sup>F139</sup> . . .

<sup>F139</sup>(b) . . . . .

shall be conclusive evidence of the matters certified.

(3) A document purporting to be a certificate such as is mentioned in subsection (2) shall be received in evidence and, unless the contrary is proved, shall be deemed to be such a certificate.

**Textual Amendments**

**F137** Words in s. 69(1) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**

**F138** Words in s. 69(2) inserted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 15** (with s. 10(5)); S.I. 2001/566, **art. 2**

**F139** S. 69(2)(b) and the word “or” immediately preceding it repealed (2.4.2001) by 2000 c. 34, ss. 7(2), 9(2), **Sch. 3** (with s. 10(5)); S.I. 2001/566, **art. 2**

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

**C24** S. 69: certification function made exercisable by the Assembly concurrently with any Minister of the Crown by whom it is exercisable (1.7.1999) by S.I. 1999/672, art. 2, Sch. 1

**Marginal Citations**

**M18** 1968 c. 71.

**PART IX**

**70** <sup>F140</sup> .....

**Textual Amendments**

**F140** S. 70 repealed by Public Order Act 1986 (c. 64, SIF 39:2), s. 40(3), Sch. 3

**PART X**

SUPPLEMENTAL

[<sup>F141</sup>71 **Specified authorities: general statutory duty.**

- (1) Every body or other person specified in Schedule 1A or of a description falling within that Schedule shall, in carrying out its functions, have due regard to the need—
  - (a) to eliminate unlawful racial discrimination; and
  - (b) to promote equality of opportunity and good relations between persons of different racial groups.
- (2) The Secretary of State may by order impose, on such persons falling within Schedule 1A as he considers appropriate, such duties as he considers appropriate for the purpose of ensuring the better performance by those persons of their duties under subsection (1).
- (3) An order under subsection (2)—
  - (a) may be made in relation to a particular person falling within Schedule 1A, any description of persons falling within that Schedule or every person falling within that Schedule;
  - (b) may make different provision for different purposes.
- (4) Before making an order under subsection (2), the Secretary of State shall consult the Commission.
- (5) The Secretary of State may by order amend Schedule 1A; but no such order may extend the application of this section unless the Secretary of State considers that the extension relates to a person who exercises functions of a public nature.
- (6) An order under subsection (2) or (5) may contain such incidental, supplementary or consequential provision as the Secretary of State considers appropriate (including

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provision amending or repealing provision made by or under this Act or any other enactment).

- (7) This section is subject to section 71A and 71B and is without prejudice to the obligation of any person to comply with any other provision of this Act.]

#### Textual Amendments

**F141** Ss. 71-71E substituted for s. 71 (2.4.2001) by 2000 c. 34, s. 2(1) (with s. 10(5)); S.I. 2001/566, art. 2(1)

#### <sup>F142</sup>71A General statutory duty: special cases.

- (1) In relation to the carrying out of immigration and nationality functions <sup>F143</sup> . . . , section 71(1)(b) has effect with the omission of the words “equality of opportunity and”.

[<sup>F144</sup>(1A) In subsection (1) “immigration and nationality functions” means functions exercisable by virtue of—

- (a) the Immigration Acts (within the meaning of section 158 of the Nationality, Immigration and Asylum Act 2002) excluding sections 28A to 28K of the Immigration Act 1971 so far as they relate to offences under Part III of that Act;
  - (b) the British Nationality Act 1981;
  - (c) the British Nationality (Falkland Islands) Act 1983 (c. 6);
  - (d) the British Nationality (Hong Kong) Act 1990 (c. 34);
  - (e) the Hong Kong (War Wives and Widows) Act 1996 (c. 41);
  - (f) the British Nationality (Hong Kong) Act 1997 (c. 20);
  - (g) the Special Immigration Appeals Commission Act 1997 (c. 68);
  - (h) provision made under section 2(2) of the European Communities Act 1972 (c. 68) which relates to the subject matter of an enactment within any of paragraphs (a) to (g); or
  - (i) any provision of Community law which relates to the subject matter of an enactment within any of those paragraphs.]
- (2) Where an entry in Schedule 1A is limited to a person in a particular capacity, section 71(1) does not apply to that person in any other capacity.
- (3) Where an entry in Schedule 1A is limited to particular functions of a person, section 71(1) does not apply to that person in relation to any other functions.

#### Textual Amendments

**F142** Ss. 71-71E substituted for s. 71 (2.4.2001) by 2000 c. 34, s. 2(1) (with s. 10(5)); S.I. 2001/566, art. 2(1)

**F143** Words in s. 71A(1) omitted (7.11.2002) by virtue of 2002 c. 41, s. 6(5)(a) and repealed (1.4.2003) by 2002 c. 41, ss. 161, 162(2), Sch. 9 (with s. 159); S.I. 2003/754, art. 2(1), Sch.

**F144** S. 71A(1A) inserted (7.11.2002) by 2002 c. 41, s. 6(5)(b) (with s. 159)

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**F145 71B General statutory duty: Scotland and Wales.**

- (1) For the purposes of the <sup>M19</sup>Scotland Act 1998, subsections (2) to (4) of section 71 (and sections 71(6) and 74 so far as they apply to the power conferred by subsection (2) of section 71) shall be taken to be pre-commencement enactments within the meaning of that Act.
- (2) Before making an order under section 71(2) in relation to functions exercisable in relation to Wales by a person who is not a Welsh public authority, the Secretary of State shall consult the National Assembly for Wales.
- (3) The Secretary of State shall not make an order under section 71(2) in relation to functions of a Welsh public authority except with the consent of the National Assembly for Wales.
- (4) In this section “Welsh public authority” means any person whose functions are exercisable only in relation to Wales and includes the National Assembly for Wales.

**Textual Amendments**

**F145** Ss. 71-71E substituted for s. 71 (2.4.2001) by 2000 c. 34, s. 2(1) (with s. 10(5)); S.I. 2001/566, art. 2(1)

**Marginal Citations**

**M19** 1998 c. 46.

**F146 71C General statutory duty: codes of practice.**

- (1) The Commission may issue codes of practice containing such practical guidance as the Commission think fit in relation to the performance by persons of duties imposed on them by virtue of subsections (1) and (2) of section 71.
- (2) When the Commission propose to issue a code of practice under this section, they—
  - (a) shall prepare and publish a draft of the code;
  - (b) shall consider any representations made to them about the draft; and
  - (c) may modify the draft accordingly.
- (3) In the course of preparing any draft code of practice under this section the Commission shall consult such organisations or bodies as appear to the Commission to be appropriate having regard to the content of the draft code.
- (4) If the Commission determine to proceed with a draft code of practice, they shall transmit the draft to the Secretary of State who shall consult the Scottish Ministers and the National Assembly for Wales.
- (5) After consulting the Scottish Ministers and the National Assembly for Wales, the Secretary of State shall—
  - (a) if he approves of the draft code, lay it before both Houses of Parliament; and
  - (b) if he does not approve of it, publish details of his reasons for withholding approval.
- (6) 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

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proceedings shall be taken on the draft code of practice, but without prejudice to the laying before Parliament of a new draft.

- (7) In reckoning the period of forty days referred to in subsection (6), 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.
- (8) If no such resolution is passed as is referred to in subsection (6), 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, after consulting the Scottish Ministers and the National Assembly for Wales, by order appoint.
- (9) Without prejudice to section 74(3), an order under subsection (8) 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.
- (10) The Commission may revoke, or from time to time revise, the whole or any part of a code of practice issued under this section; and, where they revise the whole or any part of such a code, they shall issue the revised code, and subsections (2) to (9) shall apply (with appropriate modifications) to such a revised code as they apply to the first issue of a code.
- (11) A failure on the part of any person to observe any provision of a code of practice shall not of itself render that person liable to any proceedings; but any code of practice issued under this section shall be admissible in evidence in any legal proceedings, and if any provision of such a code appears to the court or tribunal concerned to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.
- (12) 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 persons to take for the purpose of preventing their staff from doing in the course of their duties acts made unlawful by this Act.

#### Textual Amendments

**F146** Ss. 71-71E substituted for s. 71 (2.4.2001) by 2000 c. 34, s. 2(1) (with s. 10(5)); S.I. 2001/566, art. 2(1)

#### <sup>F147</sup>71D General statutory duty: compliance notices.

- (1) If the Commission are satisfied that a person has failed to comply with, or is failing to comply with, any duty imposed by an order under section 71(2), the Commission may serve on that person a notice (“a compliance notice”).
- (2) A compliance notice shall require the person concerned—
  - (a) to comply with the duty concerned; and
  - (b) to inform the Commission, within 28 days of the date on which the notice is served, of the steps that the person has taken, or is taking, to comply with the duty.
- (3) A compliance notice may also require the person concerned to furnish the Commission with such other written information as may be reasonably required by the notice in order to verify that the duty has been complied with.

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- (4) The notice may specify—
  - (a) the time (no later than three months from the date on which the notice is served) at which any information is to be furnished to the Commission;
  - (b) the manner and form in which any such information is to be so furnished.
- (5) A compliance notice shall not require a person to furnish information which the person could not be compelled to furnish in evidence in civil proceedings before the High Court or the Court of Session.

#### Textual Amendments

**F147** Ss. 71-71E substituted for s. 71 (2.4.2001) by 2000 c. 34, s. 2(1) (with s. 10(5)); S.I. 2001/566, art. 2(1)

#### <sup>F148</sup>71E Enforcement of compliance notices.

- (1) The Commission may apply to a designated county court or, in Scotland, a sheriff court for an order requiring a person falling within Schedule 1A to furnish any information required by a compliance notice if—
  - (a) the person fails to furnish the information to the Commission in accordance with the notice; or
  - (b) the Commission have reasonable cause to believe that the person does not intend to furnish the information.
- (2) If the Commission consider that a person has not, within three months of the date on which a compliance notice was served on that person, complied with any requirement of the notice for that person to comply with a duty imposed by an order under section 71(2), the Commission may apply to a designated county court or, in Scotland, a sheriff court for an order requiring the person to comply with the requirement of the notice.
- (3) If the court is satisfied that the application is well-founded, it may grant the order in the terms applied for or in more limited terms.
- (4) The sanctions in section 71D and this section shall be the only sanctions for breach of any duty imposed by an order under section 71(2), but without prejudice to the enforcement under section 57 or otherwise of any other provision of this Act (where the breach is also a contravention of that provision).

#### Textual Amendments

**F148** Ss. 71-71E substituted for s. 71 (2.4.2001) by 2000 c. 34, s. 2(1) (with s. 10(5)); S.I. 2001/566, art. 2(1)

#### 72 Validity and revision of contracts.

- (1) A term of a contract is void where—
  - (a) its inclusion renders the making of the contract unlawful by virtue of this Act; or
  - (b) it is included in furtherance of an act rendered unlawful by this Act; or

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- (c) it provides for the doing of an act which would be rendered unlawful by this Act.
- (2) Subsection (1) does not apply to a term the inclusion of which constitutes, or is in furtherance of, or provides for, unlawful discrimination against a party to the contract, but the term shall be unenforceable against that party.
- (3) A term in a contract which purports to exclude or limit any provision of this Act is unenforceable by any person in whose favour the term would operate apart from this subsection.
- (4) Subsection (3) does not apply—
- (a) to a contract settling a complaint to which section 54(1) applies where the contract is made with the assistance of a conciliation officer; or
  - [<sup>F149</sup>(aa) to a contract settling a complaint to which section 54(1) applies if the conditions regulating compromise contracts under this Act are satisfied in relation to the contract;]
  - (b) to a contract settling a claim to which section 57 applies.
- [<sup>F150</sup>(4A) The conditions regulating compromise contracts under this Act are that—
- (a) the contract must be in writing;
  - (b) the contract must relate to the particular complaint;
  - (c) the complainant must have received [<sup>F151</sup>advice from a relevant independent advisor] as to the terms and effect of the proposed contract and in particular its effect on his ability to pursue his complaint before an [<sup>F152</sup>employment tribunal];
  - (d) there must be in force, when the adviser gives the advice, a [<sup>F153</sup>contract of insurance, or an indemnity provided for members of a profession or professional body,] covering the risk of a claim by the complainant in respect of loss arising in consequence of the advice;
  - (e) the contract must identify the adviser; and
  - (f) the contract must state that the conditions regulating compromise contracts under this Act are satisfied.
- [ A person is a relevant independent adviser for the purposes of subsection (4A)(c)—
- <sup>F154</sup>(4B) (a) if he is a qualified lawyer,
- (b) if he is an officer, official, employee or member of an independent trade union who has been certified in writing by the trade union as competent to give advice and as authorised to do so on behalf of the trade union,
  - (c) if he works at an advice centre (whether as an employee or a volunteer) and has been certified in writing by the centre as competent to give advice and as authorised to do so on behalf of the centre, or
  - (d) if he is a person of a description specified in an order made by the Secretary of State.
- (4BA) But a person is not a relevant independent adviser for the purposes of subsection (4A)(c) in relation to the complainant—
- (a) if he is, is employed by or is acting in the matter for the other party or a person who is connected with the other party,
  - (b) in the case of a person within subsection (4B)(b) or (c), if the trade union or advice centre is the other party or a person who is connected with the other party,



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- (c) in the case of a person within subsection (4B)(c), if the complainant makes a payment for the advice received from him, or
  - (d) in the case of a person of a description specified in an order under subsection (4B)(d), if any condition specified in the order in relation to the giving of advice by persons of that description is not satisfied.
- (4BB) In subsection (4B)(a) “qualified lawyer” means—
- (a) as respects England and Wales, a barrister (whether in practice as such or employed to give legal advice), a solicitor who holds a practising certificate, or a person other than a barrister or solicitor who is an authorised advocate or authorised litigator (within the meaning of the <sup>M20</sup>Courts and Legal Services Act 1990), and
  - (b) as respects Scotland, an advocate (whether in practice as such or employed to give legal advice), or a solicitor who holds a practising certificate.
- (4BC) In subsection (4B)(b) “independent trade union” has the same meaning as in the Trade Union and Labour Relations (Consolidation) Act 1992.
- (4C) For the purposes of subsection (4BA) any two persons are to be treated as connected—
- (a) if one is a company of which the other (directly or indirectly) has control, or
  - (b) if both are companies of which a third person (directly or indirectly) has control.]]
- [<sup>F155</sup>(4D) An agreement under which the parties agree to submit a dispute to arbitration—
- (a) shall be regarded for the purposes of subsection (4)(a) and (aa) as being a contract settling a complaint if—
    - (i) the dispute is covered by a scheme having effect by virtue of an order under section 212A of the <sup>M21</sup>Trade Union and Labour Relations (Consolidation) Act 1992, and
    - (ii) the agreement is to submit it to arbitration in accordance with the scheme, but
  - (b) shall be regarded for those purposes as neither being nor including such a contract in any other case.]
- (5) On the application of any person interested in a contract to which subsection (2) applies, a designated county court or a sheriff court may make such order as it thinks just for removing or modifying any term made unenforceable by that subsection; but such an order shall not be made unless all persons affected have been given notice of the application (except where under rules of court notice may be dispensed with) and have been afforded an opportunity to make representations to the court.
- (6) An order under subsection (5) may include provision as respects any period before the making of the order.

#### Textual Amendments

**F149** S. 72(4)(aa) inserted (30.8.1993) by 1993 c. 19, s. 39(2), **Sch. 6 para. 2(a)**; S.I. 1993/1908, art. 2(1), **Sch. 1**.

**F150** S. 72(4A)-(4C) inserted (30.8.1993) by 1993 c. 19, s. 39(2), **Sch. 6 para. 2(b)**; S.I. 1993/1908, art. 2(1), **Sch. 1**.

**F151** Words in s. 72(4A)(c) substituted (1.8.1998) by 1998 c. 8, **ss. 9(1)(2)(b)**; S.I. 1998/1658, art. 2, **Sch. 1**

**F152** Words in s. 72(4A)(c) substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**

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**Changes to legislation:** There are currently no known outstanding effects for the Race Relations Act 1976 (Repealed). (See end of Document for details)

**F153** Words in s. 72(4A)(d) substituted (1.8.1998) by 1998 c. 8, s. 10(1)(2)(b); S.I. 1998/1658, art. 2, Sch. 1

**F154** S. 72(4B)-(4C) substituted for s. 72(4B)(4C) (1.8.1998) by 1998 c. 8, s. 15, Sch. 1 para. 3; S.I. 1998/1658, art. 2(1), Sch. 1

**F155** S. 72(4D) inserted (1.8.1998) by 1998 c. 8, s. 8(2); S.I. 1998/1658, art. 2(1), Sch. 1

#### Marginal Citations

**M20** 1990 c. 41.

**M21** 1992 c. 52.

VALID FROM 19/07/2003

### 72A Collective agreements and rules of undertakings

- (1) This section applies to—
- (a) any term of a collective agreement, including an agreement which was not intended, or is presumed not to have been intended, to be a legally enforceable contract;
  - (b) any rule made by an employer for application to all or any of the persons who are employed by him or who apply to be, or are, considered by him for employment;
  - (c) any rule made by an organisation to which section 11 (trade organisations) applies, or by a body to which section 12 (qualifying bodies) applies, for application to—
    - (i) all or any of its members or prospective members; or
    - (ii) all or any of the persons on whom it has conferred authorisations or qualifications or who are seeking the authorisations or qualifications which it has power to confer.
- (2) Any term or rule to which this section applies is void where—
- (a) the making of the collective agreement is, by reason of the inclusion of the term, unlawful on grounds of race or ethnic or national origins, by virtue of a provision referred to in section 1(1B);
  - (b) the term or rule is included or made in furtherance of an act which is unlawful on such grounds by virtue of such a provision; or
  - (c) the term or rule provides for the doing of such an act.
- (3) Subsection (2) applies whether the agreement was entered into, or the rule made, before, on or after 19th July 2003; but in the case of an agreement entered into, or a rule made, before that date, that subsection does not apply in relation to any period before that date.
- (4) In this section, and in section 72B, “collective agreement” means any agreement relating to one or more of the matters mentioned in section 178(2) of the Trade Union and Labour Relations (Consolidation) Act 1992<sup>M22</sup> (meaning of trade dispute), being an agreement made by or on behalf of one or more employers or one or more organisations of employers or associations of such organisations with one or more organisations of workers or associations of such organisations.

**Status:** Point in time view as at 01/04/2003. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Race Relations Act 1976 (Repealed). (See end of Document for details)

### Marginal Citations

M22 1992 c. 52

VALID FROM 19/07/2003

### 72B

- (1) A person to whom this subsection applies may present a complaint to an employment tribunal that a term or rule is void by virtue of section 72A if he has reason to believe—
- (a) that the term or rule may at some future time have effect in relation to him; and
  - (b) where he alleges that it is void by virtue of section 72A(2)(c), that—
    - (i) an act for the doing of which it provides may at some such time be done in relation to him, and
    - (ii) the act would be rendered unlawful on grounds of race or ethnic or national origins by a provision referred to in section 1(1B) if done in relation to him in present circumstances.
- (2) In the case of a complaint about—
- (a) a term of a collective agreement made by or on behalf of—
    - (i) an employer;
    - (ii) an organisation of employers of which an employer is a member; or
    - (iii) an association of such organisations of one of which an employer is a member; or
  - (b) a rule made by an employer, within the meaning of section 72A(1)(b);
- subsection (1) applies to any person who is, or is genuinely and actively seeking to become, one of his employees.
- (3) In the case of a complaint about a rule made by an organisation or body to which section 72A(1)(c) applies, subsection (1) applies to any person—
- (a) who is, or is genuinely and actively seeking to become, a member of the organisation or body;
  - (b) on whom the organisation or body has conferred an authorisation or qualification; or
  - (c) who is genuinely and actively seeking an authorisation or qualification which the organisation or body has power to confer.
- (4) When an employment tribunal finds that a complaint presented to it under subsection (1) is well-founded the tribunal shall make an order declaring that the term or rule is void.
- (5) An order under subsection (4) may include provision as respects any period before the making of the order (but after 19th July 2003).
- (6) The avoidance by virtue of section 72 A(2) of any term or rule which provides for any person to be discriminated against shall be without prejudice to the following rights (except in so far as they enable any person to require another person to be treated less favourably than himself) namely—
- (a) such of the rights of the person to be discriminated against, and

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(b) such of the rights of any person who will be treated more favourably in direct or indirect consequence of the discrimination, as are conferred by or in respect of a contract made or modified wholly or partly in pursuance of, or by reference to, that term or rule.

### 73 Power to amend certain provisions of Act.

- (1) The Secretary of State may by an order the draft of which has been approved by each House of Parliament—
  - (a) amend or repeal section 9 (including that section as amended by a previous order under this subsection);
  - (b) amend Part II, III or IV so as to render lawful an act which, apart from the amendment, would be unlawful by reason of section 4(1) or (2), [F156 19B.] 20(1), 21, 24 or 25;
  - (c) amend section 10(1) or 25(1)(a) so as to alter the number of partners or members specified in that provision.
- (2) The Secretary of State shall not lay before Parliament the draft of an order under subsection (1) unless he has consulted the Commission about the contents of the draft.

#### Textual Amendments

**F156** Words in s. 73(1)(b) inserted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 16** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**

### 74 Orders and regulations.

- (1) Any power of a Minister of the Crown to make orders or regulations under the provisions of this Act (except [F157 section] 50(2)(a)) shall be exercisable by statutory instrument.
- (2) An order made by a Minister of the Crown under the preceding provisions of this Act (except sections . . . F158 50(2)(a) and 73(1)), and any regulations made under section [F159 56(5), (6) or] 75(5)(a) [F160 or (9A)], shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) An order under this Act may make different provision in relation to different cases or classes of case, may exclude certain cases or classes of case, and may contain transitional provisions and savings.
- (4) Any power conferred by this Act to make orders include power (exercisable in the like manner and subject to the like conditions) to vary or revoke any order so made.
- (5) Any document purporting to be an order made by the Secretary of State under section . . . F161 50(2)(a) and to be signed by him or on his behalf shall be received in evidence, and shall, unless the contrary is proved, be deemed to be made by him.

#### Textual Amendments

**F157** Word substituted by **Employment Act 1989** (c. 38, SIF 43:1, 106:1), s. 29(3), **Sch. 6 para. 16**

**F158** “13(2)(d), 37(3)(b),” repealed by **Employment Act 1989** (c. 38, SIF 43:1), s. 29(4), **Sch. 7 Pt. II**

**F159** Words in s. 74(2) inserted (3.7.1994) by 1994 c. 10, **ss. 2(2), 3(3)**

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**F160** Words in s. 74(2) inserted (1.10.1997) by 1996 c. 46, s. 23(5); S.I. 1997/2164, arts. 2, 3

**F161** “13(2)(d), 37(3)(b) or” repealed by Employment Act 1989 (c. 38, SIF 43:1), s. 29(4), Sch. 7 Pt. II

## 75 Application to Crown etc.

(1) This Act applies—

- (a) to an act done by or for purposes of a Minister of the Crown or government department; or
- (b) to an act done on behalf of the Crown by a statutory body, or a person holding a statutory office,

as it applies to an act done by a private person.

(2) Parts II and IV apply to—

- (a) service for purposes of a Minister of the Crown or government department, other than service of a person holding a statutory office; or
- (b) service on behalf of the Crown for purposes of a person holding a statutory office or purposes of a statutory body; or
- (c) service in the armed forces,

as they apply to employment by a private person, and shall so apply as if references to a contract of employment included references to the terms of service.

[<sup>F162</sup>(2A) Subsections (1) and (2) do not apply in relation to the provisions mentioned in subsection (2B).

(2B) Sections 19B to 19F, sections 71 to 71E (including Schedule 1A) and section 76 bind the Crown; and the other provisions of this Act so far as they relate to those provisions shall be construed accordingly (including, in particular, references to employment in Part IV).]

(3) Subsections (1) [<sup>F163</sup>to (2B)] have effect subject to [<sup>F164</sup>sections 76A and 76B].

(4) Subsection (2) of section 8 and subsection (4) of section 27 shall have effect in relation to any ship, aircraft or hovercraft belonging to or possessed by Her Majesty in right of the Government of the United Kingdom as it has effect in relation to a ship, aircraft or hovercraft such as is mentioned in paragraph (a) or (b) of the subsection in question; and section 8(3) shall apply accordingly.

(5) Nothing in this Act shall—

- (a) invalidate any rules (whether made before or after the passing of this Act) restricting employment in the service of the Crown or by any public body prescribed for the purposes of this subsection by regulations made by the Minister for the Civil Service to persons of particular birth, nationality, descent or residence; or
- (b) render unlawful the publication, display or implementation of any such rules, or the publication of advertisements stating the gist of any such rules.

In this subsection “employment” includes service of any kind, and “public body” means a body of persons, whether corporate or unincorporate, carrying on a service or undertaking of a public nature.

(6) The provisions of Parts II to IV of the <sup>M23</sup>Crown Proceedings Act 1947 shall apply to proceedings against the Crown under this Act as they apply to proceedings in England and Wales which by virtue of section 23 of that Act are treated for the purposes

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of Part II of that Act as civil proceedings by or against the Crown, except that in their application to proceedings under this Act section 20 of that Act (removal of proceedings from county court to High Court) shall not apply.

- (7) The provisions of Part V of the Crown Proceedings Act 1947 shall apply to proceedings against the Crown under this Act as they apply to proceedings in Scotland which by virtue of the said Part are treated as civil proceedings by or against the Crown, except that in their application to proceedings under this Act the proviso to section 44 of that Act (removal of proceedings from the sheriff court to the Court of Session) shall not apply.
- (8) This subsection applies to any complaint by a person (“the complainant”) that another person—
- (a) has committed an act of discrimination against the complainant which is unlawful by virtue of section 4; or
  - (b) is by virtue of section 32 or 33 to be treated as having committed such an act of discrimination against the complainant,
- if at the time when the act complained of was done the complainant was serving in the armed forces and the discrimination in question relates to his service in those forces.
- [<sup>F165</sup>(9) No complaint to which subsection (8) applies shall be presented to an [<sup>F166</sup>employment tribunal] under section 54 unless—
- (a) the complainant has made a complaint to an officer under the service redress procedures applicable to him and has submitted that complaint to the Defence Council under those procedures; and
  - (b) the Defence Council have made a determination with respect to the complaint.
- (9A) Regulations may make provision enabling a complaint to which subsection (8) applies to be presented to an [<sup>F166</sup>employment tribunal] under section 54 in such circumstances as may be specified by the regulations, notwithstanding that subsection (9) would otherwise preclude the presentation of the complaint to an [<sup>F166</sup>employment tribunal].
- (9B) Where a complaint is presented to an [<sup>F166</sup>employment tribunal] under section 54 by virtue of regulations under subsection (9A), the service redress procedures may continue after the complaint is so presented.]
- (10) In this section—
- (a) “the armed forces” means any of the naval, military or air forces of the Crown . . . <sup>F167</sup>;
  - [<sup>F168</sup>(aa) “regulations” means regulations made by the Secretary of State;
  - (ab) “the service redress procedures” means the procedures, excluding those which relate to the making of a report on a complaint to Her Majesty, referred to in section 180 of the <sup>M24</sup>Army Act 1955, section 180 of the <sup>M25</sup>Air Force Act 1955 and section 130 of the <sup>M26</sup>Naval Discipline Act 1957;]
  - (b) “statutory body” means a body set up by or in pursuance of an enactment, and “statutory office” means an office so set up; and
  - (c) service “for purposes of” a Minister of the Crown or government department does not include service in any office in Schedule 2 (Ministerial offices) to the <sup>M27</sup>House of Commons Disqualification Act 1975 as for the time being in force.

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**Changes to legislation:** There are currently no known outstanding effects for the Race Relations Act 1976 (Repealed). (See end of Document for details)

#### Textual Amendments

- F162** S. 75(2A)(2B) inserted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 17** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**
- F163** Words in s. 75(3) substituted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 18(a)** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**
- F164** Words in s. 75(3) substituted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 18(b)** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**
- F165** S. 75(9)(9A)(9B) substituted for s. 75(9) (1.10.1997) by 1996 c. 46, s. 23(2); S.I. 1997/2164, **arts. 2, 3**
- F166** Words in s. 75(9)(9A)(9B) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, **art. 2(1), Sch. 1**
- F167** Words repealed (with saving) by Armed Forces Act 1981 (c. 55, SIF 7:1), s. 28(2), **Sch. 5 Pt. I** note
- F168** S. 75(10)(aa)(ab) inserted (1.10.1997) by 1996 c. 46, s. 23(3); S.I. 1997/2164, **arts. 2, 3**

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

- C25** S. 75(10) amended (women's services) by Armed Forces Act 1981 (c. 55, SIF 7:1), **Sch. 3 para. 1**

#### Marginal Citations

- M23** 1947 c. 44.  
**M24** 1955 c. 18.  
**M25** 1955 c. 19.  
**M26** 1957 c. 53.  
**M27** 1975 c. 24

#### [<sup>F169</sup>75A Application to House of Commons staff.

- (1) Parts II and IV apply to an act done by an employer of a relevant member of the House of Commons staff, and to service as such a member, as they apply to an act done by and to service for the purposes of a Minister of the Crown or government department, and accordingly apply as if references to a contract of employment included references to the terms of service of such a member.
- (2) In this section “relevant member of the House of Commons staff” has the same meaning as in [<sup>F170</sup>section 195 of the Employment Rights Act 1996]; and [<sup>F171</sup>subsections (6) to (12)] of that section (person to be treated as employer of House of Commons staff) apply, with any necessary modifications, for the purposes of Parts II and IV as they apply by virtue of this section.]

#### Textual Amendments

- F169** S. 75A inserted (16.10.1992) by Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52), ss. 300(2), 302, **Sch. 2 para. 7**.
- F170** Words in s. 75A(2) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 10(2)(a)** (with ss. 191-195, 202)
- F171** Words in s. 75A(2) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 10(2)(b)** (with ss. 191-195, 202)

#### [<sup>F172</sup>75B Application to House of Lords staff.

- (1) Parts II and IV apply in relation to employment as a relevant member of the House of Lords staff as they apply in relation to other employment.

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- (2) In this section “relevant member of the House of Lords staff” has the same meaning as in [F173section 194 of the Employment Rights Act 1996]; and [F173subsection (7)] of that section applies for the purposes of this section.]

#### Textual Amendments

**F172** S. 75B inserted (30.11.1993) by 1993 c. 19, s. 49(1), **Sch. 7 para. 10**; S.I. 1993/2503, art. 2(2), **Sch. 2**.

**F173** Words in s. 75B(2) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 3(a)(b)** (with ss. 191-195, 202)

## 76 Government appointments outside s. 4.

- (1) [F174Subsection (2)] applies to any appointment by a Minister of the Crown or government department to an office or post where section 4 does not apply in relation to the appointment.
- (2) In making the appointment, and in making the arrangements for determining who should be offered the office or post, the Minister of the Crown or government department shall not do an act which would be unlawful under section 4 if the Crown were the employer for the purposes of this Act.

[F175(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.



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- (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

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recommendation, or the giving or refusal of an approval, in relation to a conferment of a peerage for life under section 1 of the <sup>M28</sup>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.]

#### Textual Amendments

**F174** Words in s. 76(1) substituted (2.4.2001) by 2000 c. 34, s. 3(2) (with s. 10(5)); S.I. 2001/566, art. 2(1)

**F175** S. 76(3)-(15) inserted (2.4.2001) by 2000 c. 34, ss. 3(1)(3) (with s. 10(5)); S.I. 2001/566, art. 2(1)

#### Marginal Citations

**M28** 1958 c. 21.

VALID FROM 19/07/2003

#### 76ZA Other office holders

- (1) It is unlawful for a relevant person, in relation to an appointment to an office or post to which this section applies, to discriminate against a person on the grounds of race or ethnic or national origins—
  - (a) in the arrangements which he makes for the purpose of determining to whom the appointment should be offered;
  - (b) in the terms on which he offers him the appointment; or
  - (c) by refusing or deliberately omitting to offer him the appointment.
- (2) It is unlawful for a relevant person, in relation to a person who has been appointed to an office or post to which this section applies, to discriminate against him on grounds of race or ethnic or national origins—
  - (a) in the terms of the appointment;
  - (b) in the way he affords him access to opportunities for promotion, transfer, training or to any other benefits, facilities or services, or by refusing or deliberately omitting to afford him access to them;
  - (c) by terminating the appointment; or
  - (d) by subjecting him to any other detriment in relation to the appointment.
- (3) It is unlawful for a relevant person, in relation to an office or post to which this section applies, to subject to harassment a person who has been appointed to, or is seeking or being considered for appointment to, such an office or post.
- (4) Subsections (1) and (2) do not apply to any act in relation to an office or post where, if the office or post constituted employment, the act would be lawful by virtue of section 4A (exception for genuine occupational requirement).
- (5) Subsection (2) does not apply to benefits, facilities or services of any description if the relevant person is concerned with the provision (for payment or not) of benefits, facilities or services of that description to the public, or a section of the public to which the person belongs, unless—
  - (a) that provision differs in a material respect from the provision of the benefits, facilities or services to persons appointed to offices or posts which are the

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- same as, or not materially different from, that to which the person has been appointed;
- (b) the provision of the benefits, facilities or services to the person appointed is regulated by the terms and conditions of his appointment; or
  - (c) the benefits, facilities or services relate to training.
- (6) In subsection (2)(c) reference to the termination of the appointment includes reference—
- (a) to the termination of the appointment by the expiration of any period (including a period expiring by reference to an event or circumstance), not being a termination immediately after which the appointment is renewed on the same terms and conditions; and
  - (b) to the termination of the appointment by any act of the person appointed (including the giving of notice) in circumstances such that he is entitled to terminate the appointment by reason of the conduct of the relevant person.
- (7) This section applies to any office or post, other than a political office or post, where—
- (a) sections 4, 7, 10, 26A, 26B and 76 do not apply in relation to appointment to that office or post;
  - (b) it is an office or post to which persons are appointed to discharge functions personally under the direction of another person; and
  - (c) it is an office or post in respect of which they are entitled to remuneration.
- (8) For the purposes of subsection (7) the holder of an office or post—
- (a) is to be regarded as discharging his functions under the direction of another person if that other person is entitled to direct him as to when and where he discharges those functions; and
  - (b) is not to be regarded as entitled to remuneration merely because he is entitled to payments—
    - (i) in respect of expenses incurred by him in carrying out the functions of the office or post, or
    - (ii) by way of compensation for the loss of income or benefits he would or might have received from any person had he not been carrying out the functions of the office or post.
- (9) In this section—
- (a) appointment to an office or post does not include election to an office or post;
  - (b) “political office or post” means—
    - (i) any office of the House of Commons held by a member of it;
    - (ii) a life peerage within the meaning of the Life Peerages Act 1958<sup>M29</sup>, or any office held in the House of Lords by a member of it;
    - (iii) any office mentioned in Schedule 2 (Ministerial offices) to the House of Commons Disqualification Act 1975<sup>M30</sup>;
    - (iv) the offices of Leader of the Opposition, Chief Opposition Whip or Assistant Opposition Whip within the meaning of the Ministerial and other Salaries Act 1975<sup>M31</sup>;
    - (v) any office of the Scottish Parliament held by a member of it;
    - (vi) a member of the Scottish Executive within the meaning of section 44 of the Scotland Act 1998<sup>M32</sup>, or a junior Scottish Minister within the meaning of section 49 of that Act;

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- (vii) any office of the National Assembly for Wales held by a member of it;
  - (viii) in England, any office of a county council, a London borough council, a district council or a parish council held by a member of it;
  - (ix) in Wales, any office of a county council, a county borough council or a community council held by a member of it;
  - (x) in relation to a council constituted under section 2 of the Local Government etc (Scotland) Act 1994 <sup>M33</sup> or a community council established under section 51 of the Local Government (Scotland) Act 1973 <sup>M34</sup>, which is held by a member of it;
  - (xi) any office of the Greater London Authority held by a member of it;
  - (xii) any office of the Common Council of the City of London held by a member of it;
  - (xiii) any office of the Council of the Isles of Scilly held by a member of it; or
  - (xiv) any office of a political party; and
- (c) “relevant person”, in relation to an office or post, means—
- (i) any person with power to make or terminate appointments to the office or post, or to determine the terms of appointment; and
  - (ii) any person with power to determine the working conditions of a person appointed to the office or post in relation to opportunities for promotion, a transfer, training or for receiving any other benefit.

#### Marginal Citations

**M29** 1958 c. 21

**M30** 1975 c. 24. Schedule 2 was amended by S.I. 2002/794, article 5(2), **Schedule 2**, and by the Scotland Act 1998 (c. 46), **sections 48(6), 87(1)** and Schedule 9.

**M31** 1975 c. 27

**M32** 1998 c. 46

**M33** 1994 c. 39. Section 2 was amended by the Environment Act 1995 (c. 25), **Schedule 22**, paragraph 232(1).

**M34** 1973 c. 65. Section 51 was amended by the Local Government etc. (Scotland) Act 1994 (c. 39), **Schedule 14**, paragraph 1.

[<sup>F176</sup> Police]

#### Textual Amendments

**F176** Ss. 76A, 76B and cross-heading inserted (2.4.2001) by 2000 c. 34, **s. 4** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**

#### <sup>F177</sup>76A Police forces.

- (1) In this section, “relevant police office” means—
- (a) the office of constable held—
    - (i) as a member of a police force; or
    - (ii) on appointment as a special constable for a police area; or

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- (b) an appointment as police cadet to undergo training with a view to becoming a member of a police force.
- (2) For the purposes of Part II, the holding of a relevant police office shall be treated as employment—
- (a) by the chief officer of police as respects any act done by him in relation to that office or a holder of it;
  - (b) by the police authority as respects any act done by it in relation to that office or a holder of it.
- (3) For the purposes of section 32—
- (a) the holding of a relevant police office shall be treated as employment by the chief officer of police (and as not being employment by any other person); and
  - (b) anything done by a person holding such an office in the performance, or purported performance, of his functions shall be treated as done in the course of that employment.
- (4) There shall be paid out of the police fund—
- (a) any compensation, costs or expenses awarded against a chief officer of police in any proceedings brought against him under this Act, and any costs or expenses incurred by him in any such proceedings so far as not recovered by him in the proceedings; and
  - (b) any sum required by a chief officer of police for the settlement of any claim made against him under this Act if the settlement is approved by the police authority.
- (5) Any proceedings under this Act which, by virtue of this section, would lie against a chief officer of police shall be brought against—
- (a) the chief officer of police for the time being; or
  - (b) in the case of a vacancy in that office, against the person for the time being performing the functions of that office;
- and references in subsection (4) to the chief officer of police shall be construed accordingly.
- (6) A police authority may, in such cases and to such extent as appear to it to be appropriate, pay out of the police fund—
- (a) any damages or costs awarded in proceedings under this Act against a person under the direction and control of the chief officer of police;
  - (b) any costs incurred and not recovered by such a person in such proceedings; and
  - (c) any sum required in connection with the settlement of a claim that has or might have given rise to such proceedings.

#### Textual Amendments

F177 Ss. 76A, 76B and cross-heading inserted (2.4.2001) by 2000 c. 34, s. 4 (with s. 10(5)); S.I. 2001/566, art. 2(1)

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## <sup>F178</sup>76B Other police bodies etc.

- (1) Section 76A applies in relation to the National Criminal Intelligence Service (“NCIS”) and the National Crime Squad (“the NCS”) as it applies in relation to a police force but as if any reference—
  - (a) to the chief officer of police were to the Director General of NCIS or of the NCS, as the case may be;
  - (b) to the police authority were to the Service Authority for the National Criminal Intelligence Service or the Service Authority for the National Crime Squad, as the case may be;
  - (c) to the police fund were to the service fund established under section 16 of the <sup>M35</sup>Police Act 1997 (NCIS service fund) or section 61 of that Act (the NCS service fund), as the case may be.
- (2) Section 76A also applies in relation to any other body of constables or cadets as it applies in relation to a police force, but as if any reference—
  - (a) to the chief officer of police were to the officer or other person who has the direction and control of the body in question;
  - (b) to the police authority were to the authority by whom the members of the body are paid;
  - (c) to the police fund were to money provided by that authority.
- (3) In relation to a member of a police force or a special constable who is not under the direction and control of the chief officer of police for that police force or, as the case may be, for the police area to which he is appointed, references in section 76A to the chief officer of police are references to the chief officer under whose direction and control he is.

### Textual Amendments

**F178** Ss. 76A, 76B and cross-heading inserted (2.4.2001) by 2000 c. 34, s. 4 (with s. 10(5)); S.I. 2001/566, art. 2(1)

### Marginal Citations

**M35** 1997 c. 50.

## 77 Financial provisions.

There shall be defrayed out of money provided by Parliament—

- (a) sums required by the Secretary of State for making payments under paragraph 5 or 16 of Schedule 1 or paragraph 12 of Schedule 2, and for defraying any other expenditure falling to be made by him under or by virtue of this Act;
- (b) any expenses incurred by the Secretary of State with the consent of the Treasury in undertaking, or financially assisting the undertaking by other persons of, research into any matter connected with relations between persons of different racial groups;
- (c) payments falling to be made under section 67(5) in respect of the remuneration of assessors; and
- (d) any increase attributable to the provisions of this Act in the sums payable out of money provided by Parliament under any other Act.

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## 78 General interpretation provisions.

(1) In this Act, unless the context otherwise requires—

“access” shall be construed in accordance with section 40;

“act” includes a deliberate omission;

“advertisement” includes every form of advertisement or notice, whether to the public or not, and whether in a newspaper or other publication, by television or radio, by display of notices, signs, labels, showcards or goods, by distribution of samples, circulars, catalogues, price lists or other material, by exhibition of pictures, models or films, or in any other way, and references to the publishing of advertisements shall be construed accordingly;

“board of management”, in relation to a self-governing school, has the same meaning as in the Education (Scotland) Act 1980;

[<sup>F179</sup>“board of management” in relation to a college of further education within the meaning of Part I of the Further and Higher Education (Scotland) Act 1992, has the same meaning as in that Part;]

[<sup>F180</sup>“body” includes an unincorporated association;]

“the Commission” means the Commission for Racial Equality;

“Commissioner” means a member of the Commission;

[<sup>F181</sup>“criminal investigation” has the meaning given by section 57(4B);]

[<sup>F182</sup>“criminal proceedings” includes—

(a) proceedings on dealing summarily with a charge under the <sup>M36</sup>Army Act 1955 or the <sup>M37</sup>Air Force Act 1955 or on summary trial under the <sup>M38</sup>Naval Discipline Act 1957;

(b) proceedings before a summary appeal court constituted under any of those Acts;

(c) proceedings before a court-martial constituted under any of those Acts or a disciplinary court constituted under section 52G of the Act of 1957;

(d) proceedings before the Courts-Martial Appeal Court; and

(e) proceedings before a Standing Civilian Court;]

“designated county court” has the meaning given by section 67(1);

“discrimination” and related terms shall be construed in accordance with section 3(3);

“dispose”, in relation to premises, includes granting a right to occupy the premises, and any reference to acquiring premises shall be construed accordingly;

“education” includes any form of training or instruction;

“education authority” and “educational establishment” have for Scotland the same meaning as they have respectively in [<sup>F183</sup>section 135(1) of the Education (Scotland) Act 1980];

“employment” means employment under a contract of service or of apprenticeship or a contract personally to execute any work or labour, and related expressions shall be construed accordingly;

“employment agency” means a person who, for profit or not, provides services for the purpose of finding employment for workers or supplying employers with workers;

[<sup>F184</sup>“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;]

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“estate agent” means a person who, by way of profession or trade, provides services for the purpose of finding premises for persons seeking to acquire them or assisting in the disposal of premises;

“final” shall be construed in accordance with subsection (4);

“firm” has the meaning given by section 4 of the <sup>M39</sup>Partnership Act 1890;

“formal investigation” means an investigation under section 48;

“further education” has . . . <sup>F185</sup>for Scotland the meaning given by [<sup>F186</sup>section 135(1) of the Education (Scotland) Act 1980];

“general notice”, in relation to any person, means a notice published by him at a time and in a manner appearing to him suitable for securing that the notice is seen within a reasonable time by persons likely to be affected by it;

“genuine occupational qualification” shall be construed in accordance with section 5;

“Great Britain” includes such of the territorial waters of the United Kingdom as are adjacent to Great Britain;

“independent school” has for England and Wales the meaning given by section 114(1) of the <sup>M40</sup>Education Act 1944, and for Scotland the meaning given by [<sup>F187</sup>section 135(1) of the Education (Scotland) Act 1980];

..... <sup>F188</sup>  
 “managers” has for Scotland the same meaning as in [<sup>F189</sup>s. 135(1) of the Education (Scotland) Act 1980];

“Minister of the Crown” includes the Treasury and the Defence Council;

“nationality” includes citizenship;

“near relative” shall be construed in accordance with subsection (5);

“non-discrimination notice” means a notice under section 58;

“notice” means a notice in writing;

“prescribed” means prescribed by regulations made by the Secretary of State;

“profession” includes any vocation or occupation;

“proprietor”, in relation to a school, has for England and Wales the meaning given by section 114(1) of the <sup>M41</sup>Education Act 1944, and for Scotland the meaning given by [<sup>F189</sup>s. 135(1) of the Education (Scotland) Act 1980].

“pupil” in Scotland includes a student of any age;

“racial grounds” and “racial group” have the meaning given by section 3(1);

“school” has for England and Wales the meaning given by section 114(1) of the <sup>M42</sup>Education Act 1944, and for Scotland the meaning given by [<sup>F189</sup>s. 135(1) of the Education (Scotland) Act 1980];

“school education” has for Scotland the meaning given by [<sup>F189</sup>s. 135(1) of the Education (Scotland) Act 1980];

“self-governing school” has the same meaning as in the Education (Scotland) Act 1980;

“trade” includes any business;

“training” includes any form of education or instruction;



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“university” includes a university college and the college, school or hall of a university;

F190

- (2) It is hereby declared that in this Act “premises”, unless the context otherwise requires, includes land of any description.
- (3) Any power conferred by this Act to designate establishments or persons may be exercised either by naming them or by identifying them by reference to a class or other description.
- (4) For the purposes of this Act a non-discrimination notice or a finding by a court or tribunal becomes final when an appeal against the notice or finding is dismissed, withdrawn or abandoned or when the time for appealing expires without an appeal having been brought; and for this purpose an appeal against a non-discrimination notice shall be taken to be dismissed if, notwithstanding that a requirement of the notice is quashed on appeal, a direction is given in respect of it under section 59(3).
- (5) For the purposes of this Act a person is a near relative of another if that person is the wife or husband, a parent or child, a grandparent or grandchild, or a brother or sister of the other (whether of full blood or half-blood or by affinity), and “child” includes an illegitimate child and the wife or husband of an illegitimate child.
- (6) Except so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended by or under any other enactment, including this Act.
- (7) In this Act, except where otherwise indicated—
  - (a) a reference to a numbered Part, section or Schedule is a reference to the Part or section of, or the Schedule to, this Act so numbered; and
  - (b) a reference in a section to a numbered subsection is a reference to the subsection of that section so numbered; and
  - (c) a reference in a section, subsection or Schedule to a numbered paragraph is a reference to the paragraph of that section, subsection or Schedule so numbered; and
  - (d) a reference to any provision of an Act (including this Act) includes a Schedule incorporated in the Act by that provision.

#### Textual Amendments

**F179** Definition in s. 78(1) inserted (16.5.1992) by [Further and Higher Education \(Scotland\) Act 1992](#) (c. 37), s. 62(2), [Sch. 9 para. 5\(5\)](#); S.I. 1992/817, art. 3(2), [Sch. 1](#).

**F180** S. 78(1): definition of “body”

inserted (2.4.2001) by [2000 c. 34, s. 9\(1\)](#), [Sch. 2 para. 19](#) (with s. 10(5)); S.I. 2001/566, [art. 2\(1\)](#)

**F181** S. 78(1): definition of “criminal investigation”

inserted (2.4.2001) by [2000 c. 34, s. 9\(1\)](#), [Sch. 2 para. 19](#) (with s. 10(5)); S.I. 2001/566, [art. 2\(1\)](#)

**F182** S. 78(1): definition of “criminal proceedings”

inserted (2.4.2001) by [2000 c. 34, s. 9\(1\)](#), [Sch. 2 para. 19](#) (with s. 10(5)); S.I. 2001/566, [art. 2\(1\)](#)

**F183** In s. 78(1) in the definition of “education authority” and “educational establishment” for the respective references to subsections (16) and (17) of section 145 of the [Education \(Scotland\) Act 1962](#) there are

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substituted references to section 135(1) of the Education (Scotland) Act 1980 by [Education \(Scotland\) Act 1980 \(c. 44, SIF 41:2\)](#), **Sch. 4 para. 15**

**F184** S. 78(1): definition of “enactment”

inserted (27.7.2000) by [S.I. 2000/2040](#), arts. 1(1), 2(1), **Sch. Pt. I para. 9**

**F185** Words repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237, **Sch. 13 Pt. II**

**F186** In s. 78(1) in the definition of “further Education” for the reference to subsection (21) of section 145 of the Education (Scotland) Act 1962 there is substituted a reference to section 135(1) of the Education (Scotland) Act 1980 by [Education \(Scotland\) Act 1980 \(c. 44, SIF 41:2\)](#), s. 136(2), **Sch. 4 para. 15**

**F187** In s. 78(1) in the definition of “independent school” for the reference to subsection (23) of section 145 of the Education (Scotland) Act 1962 there is substituted a reference to section 135(1) of the Education (Scotland) Act 1980 by [Education \(Scotland\) Act 1980 \(c. 44, SIF 41:2\)](#), s. 136(2), **Sch. 4 para. 15**

**F188** Definition of “industrial tribunal” repealed by [Industrial Training Act 1982 \(c. 10, SIF 43:1\)](#), **Sch. 4**

**F189** In s. 78(1) in the definitions of “managers”, “proprietor”, “school” and “school education” for the respective references to subsections (26), (37), (42) and (43A) of section 140 of the Education (Scotland) Act 1962 there are substituted references to s. 135(1) of the Education (Scotland) Act 1980 by [Education \(Scotland\) Act 1980 \(c. 44, SIF 41:2\)](#), **Sch. 4 para. 15**

**F190** S. 78(1): definition of

“upper limit of compulsory school age”

repealed (1.9.1997) by [1996 c. 56](#), ss. 582(2)(3), 583(2), **Sch. 38 Pt. II** (with ss. 1(4), 561, 562, [Sch. 39 paras. 5, 6, 8, 30, 39](#)); [S.I. 1997/1623](#), **art. 2(2)**

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

**C26** S. 78(1) modified by [Estate Agents Act 1979 \(c. 38, SIF 124:1\)](#), s. 3(1), **Sch. 1 para. 4(2)**

**C27** In s. 78(1) in the definition of “education authority” and “educational establishment” for the respective references to subsections (16) and (17) of section 145 of the Education (Scotland) Act 1962 there are substituted references to section 135(1) of the Education (Scotland) Act 1980 by [Education \(Scotland\) Act 1980 \(c. 44, SIF 41:2\)](#), **Sch. 4 para. 15**

**C28** In s. 78(1) in the definition of “further Education” for the reference to subsection (21) of section 145 of the Education (Scotland) Act 1962 there is substituted a reference to section 135(1) of the Education (Scotland) Act 1980 by [Education \(Scotland\) Act 1980 \(c. 44, SIF 41:2\)](#), s. 136(2), **Sch. 4 para. 15**

**C29** In s. 78(1) in the definition of “independent school” for the reference to subsection (23) of section 145 of the Education (Scotland) Act 1962 there is substituted a reference to section 135(1) of the Education (Scotland) Act 1980 by [Education \(Scotland\) Act 1980 \(c. 44, SIF 41:2\)](#), s. 136(2), **Sch. 4 para. 15**

**C30** In s. 78(1) in the definitions of “managers”, “proprietor”, “school” and “school education” for the respective references to subsections (26), (37), (42) and (43A) of section 140 of the Education (Scotland) Act 1962 there are substituted references to s. 135(1) of the Education (Scotland) Act 1980 by [Education \(Scotland\) Act 1980 \(c. 44, SIF 41:2\)](#), **Sch. 4 para. 15**

**C31** S. 78(4) modified by [Estate Agents Act 1979 \(c. 38, SIF 124:4\)](#), s. 3(1), **Sch. 1 para. 4(2)**

#### Marginal Citations

**M36** 1955 c. 18.

**M37** 1955 c. 19.

**M38** 1957 c. 53.

**M39** 1890 c. 39.

**M40** 1944 c. 31.

**M41** 1944 c. 31.

**M42** 1944 c. 31.

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## 79 Transitional and commencement provisions, amendments and repeals.

- (1) The provisions of Schedule 2 shall have effect for making transitional provision for the purposes of this Act.
- (2) This Act shall come into operation on such day as the Secretary of State may by order appoint, and different days may be so appointed for different provisions and for different purposes.
- <sup>X1</sup>(3) The enactments specified in Schedule 3 shall have effect subject to the amendments specified in that Schedule (being minor amendments or amendments consequential on the preceding provisions of this Act).
- <sup>X1</sup>(4) The <sup>M43</sup>Sex Discrimination Act 1975 shall have effect subject to the amendments specified in Schedule 4, being amendments for bringing provisions in that Act relating to its administration and enforcement into conformity with the corresponding provisions in this Act.
- (5) Subject to the provisions of Schedule 2, the enactments specified in Schedule 5 are hereby repealed to the extent shown in column 3 of that Schedule.
- (6) ..... <sup>F191</sup>
- (7) An order under this section may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into operation, including such adaptations of those provisions, or of any provisions of this Act then in operation, as appear to the Secretary of State necessary or expedient in consequence of the partial operation of this Act.

### Subordinate Legislation Made

**P3** [S. 79\(2\)](#): power of appointment fully exercised by S.Is. 1977/680 and 1977/840

### Editorial Information

**X1** The text of s. 79(3)(4), Sch. 1 para. 18(1)(2), Sch. 3 para. 1(1)(5), Sch. 4 paras. 1–9, Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### Textual Amendments

**F191** [S. 79\(6\)](#) repealed by [Public Order Act 1986 \(c. 64, SIF 39:2\)](#), s. 40(3), [Sch. 3](#)

### Marginal Citations

**M43** [1975 c. 65](#)

## 80 Short title and extent.

- (1) This Act may be cited as the Race Relations Act 1976.
- (2) This Act, except so far as it amends or repeals any provision of the <sup>M44</sup>House of Commons Disqualification Act 1975 or the <sup>M45</sup>Northern Ireland Assembly Disqualification Act 1975, does not extend to Northern Ireland.

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**Changes to legislation:** There are currently no known outstanding effects for the Race Relations Act 1976 (Repealed). (See end of Document for details)

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#### Marginal Citations

**M44** 1975 c. 24.

**M45** 1975 c. 25.

**Status:**

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**Changes to legislation:**

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