



# Race Relations Act 1976 (Repealed)

## 1976 CHAPTER 74

### PART VIII

#### ENFORCEMENT

##### *General*

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

- (1) Except as provided by this Act [<sup>F1</sup>or the <sup>M1</sup>Special Immigration Appeals Commission Act 1997 or [<sup>F2</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>F3</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) [<sup>F4</sup>, (11) and (11B)] .]

#### **Textual Amendments**

- F1** 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)**
- F2** 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.**
- F3** 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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*Changes to legislation: There are currently no known outstanding effects for the Race Relations Act 1976 (Repealed), Part VIII. (See end of Document for details)*

**F4** Words in s. 53(4) substituted (19.7.2003) by [The Race Relations Act 1976 \(Amendment\) Regulations 2003 \(S.I. 2003/1626\)](#), **reg. 39**

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

**C1** S. 53 restricted by [Estate Agents Act 1979 \(c. 38\)](#), **ss. 5(3), 36(2)**

**Marginal Citations**

**M1** 1997 c. 68.

*Enforcement in employment field*

**54 Jurisdiction of [<sup>F5</sup> employment tribunals].**

(1) A complaint by any person (“the complainant”) that another person (“the respondent”)

- (a) has committed an act <sup>F6</sup> . . . against the complainant which is unlawful by virtue of Part II [<sup>F7</sup>, section 76ZA or, in relation to discrimination on grounds of race or ethnic or national origins, or harassment, section 26A, 26B or 76] ; or
- (b) is by virtue of section 32 or 33 to be treated as having committed such an act <sup>F6</sup> . . . against the complainant,

may be presented to an [<sup>F8</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, or proceedings in the nature of an appeal, may be brought under any enactment, <sup>F9</sup> . . . .

**Textual Amendments**

**F5** 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**

**F6** Words in s. 54(1) omitted (19.7.2003) by virtue of [The Race Relations Act 1976 \(Amendment\) Regulation 2003 \(S.I. 2003/1626\)](#), **reg. 40(a)**

**F7** Words in s. 54(1)(a) inserted (19.7.2003) by [The Race Relations Act 1976 \(Amendment\) Regulations 2003 \(S.I. 2003/1626\)](#), **reg. 40(b)**

**F8** 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**

**F9** 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**

**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

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- (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,  
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.

<sup>F10</sup>55

**Textual Amendments**

**F10** 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 [<sup>F11</sup>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.

<sup>F12</sup>(2) .....

<sup>F13</sup>(3) .....

- (4) If without reasonable justification the respondent to a complaint fails to comply with a recommendation made by an [<sup>F11</sup>employment tribunal] under subsection (1)(c), then, if it thinks it just and equitable to do so—
- (a) the tribunal may <sup>F14</sup> . . . 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.

<sup>F15</sup>(5) The [<sup>F16</sup>Minister] 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 [<sup>F16</sup>Minister] considers appropriate.

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- (6) The <sup>F16</sup>Minister] may by regulations modify the operation of any order made under <sup>F17</sup>[section 14 of the <sup>F18</sup>Employment Tribunals Act 1996]] (power to make provision as to interest on sums payable in pursuance of <sup>F11</sup>employment tribunal] decisions) to the extent that it relates to an award of compensation under subsection (1)(b).]

#### Textual Amendments

- F11** 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**
- F12** S. 56(2) repealed (3.7.1994) by 1994 c. 10, ss. 1(1), 3(2)(3), **Sch.**
- F13** S. 56(3) repealed (22.11.1993) by S.I. 1993/2798, reg. 1(3), **Sch. para. 1**
- F14** Words in s. 56(4) repealed (3.7.1994) by 1994 c. 10, ss. 3(2)(3), **Sch.**
- F15** S. 56(5)(6) inserted (3.7.1994) by 1994 c. 10, ss. 2(1), 3(3)
- F16** Words in s. 56(5)(6) substituted (12.10.2007) by The Transfer of Functions (Equality) Order 2007 (S.I. 2007/2914), art. 8, **Sch. para. 10(a)**
- F17** Words in s. 56(6) substituted (22.8.1996) by 1996 c. 17, ss. 43, 46, **Sch. 1** (with s. 38)
- F18** 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)

- C2** S. 56 amended by Employment Protection (Consolidation) Act 1978 (c. 44), s. 76.

### Enforcement of Part III

#### 57 Claims under Part III <sup>F19</sup> etc.].

- (1) A claim by any person (“the claimant”) that another person (“the respondent”)—
- has committed an act <sup>F20</sup> . . . against the claimant which is unlawful by virtue of Part III <sup>F21</sup> other than, in relation to discrimination on grounds of race or ethnic or national origins, or harassment, section 26A or 26B] ; or
  - is by virtue of section 32 or 33 to be treated as having committed such an act <sup>F20</sup> . . . 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.

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[<sup>F22</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—

- (a) damages; or
- (b) a declaration or, in Scotland, a declarator;

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 [<sup>F23</sup>any service offence within the meaning of the Armed Forces Act 2006] (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>F24</sup>subsection (5A)] applies shall not be instituted unless the claimant has given notice of the claim to the Secretary of State <sup>F25</sup>. . . .

[<sup>F26</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.]

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- (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>F27</sup>(7) This section has effect subject to section 57A.]

#### Textual Amendments

- F19** S. 57: word in heading inserted (19.7.2003) by [The Race Relations Act 1976 \(Amendment\) Regulations 2003 \(S.I. 2003/1626\)](#), [reg. 42\(1\)](#)
- F20** Words in s. 57(1) omitted (19.7.2003) by virtue of [The Race Relations Act 1976 \(Amendment\) Regulations 2003 \(S.I. 2003/1626\)](#), [reg. 42\(2\)\(a\)](#)
- F21** Words in s. 57(1) inserted (19.7.2003) by [The Race Relations Act 1976 \(Amendment\) Regulations 2003 \(S.I. 2003/1626\)](#), [reg. 42\(2\)\(b\)](#)
- F22** 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\(1\)](#)
- F23** Words in s. 57(4B) substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 378\(1\), 383](#), [Sch. 16 para. 79](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F24** 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\(1\)](#)
- F25** 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\(1\)](#)
- F26** 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\(1\)](#)
- F27** 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)

- C3** S. 57(4B) modified (24.4.2009 for certain purposes and 31.10.2009 otherwise) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), [arts. 1\(3\), 205](#), [Sch. 1 para. 16\(1\)](#)
- C4** 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](#)

### 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—
- 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
  - 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—
- has committed such an act of discrimination or harassment against the claimant, or
  - is by virtue of section 32 or 33 to be treated as having committed such an act of discrimination or harassment against the claimant,

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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>F28</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 appeal which is pending, or could be brought, under the 1997 Act or [<sup>F29</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>F30</sup>“the Immigration Acts” has the same meaning given by section 158 of the 2002 Act ;]
  - “immigration appellate body” means [<sup>F31</sup>the Asylum and Immigration Tribunal,], the Special Immigration Appeals Commission, the Court of Appeal, the Court of Session or the [<sup>F32</sup>Supreme Court];
  - [<sup>F33</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>F34</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>F35</sup>Part 5 of the 2002 Act] in relation to a decision falling within paragraph (a);

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“relevant immigration proceedings” means proceedings on an appeal under the 1997 Act or [<sup>F36</sup>Part 5 of the 2002 Act];

“the 1997 Act” means the <sup>M2</sup>Special Immigration Appeals Commission Act 1997;

[<sup>F37</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.]

**Textual Amendments**

- F28** S. 57A inserted (2.4.2001) by 2000 c. 34, s. 6(2) (with s. 10(5)); S.I. 2001/566, art. 2(1)
- F29** 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.
- F30** 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.
- F31** S. 57A(5): words in definition substituted (31.8.2006) by Immigration, Asylum and Nationality Act 2006 (c. 13), s. 14, Sch. 1 para. 12; S.I. 2006/2226, art. 3, Sch. 1
- F32** Words in definiton in s. 57A(5) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 28; S.I. 2009/1604, art. 2
- F33** 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.
- F34** 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.
- F35** 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.
- F36** 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.
- F37** 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**

- M2** 1997 c. 68.

*Non-discrimination notices*

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

<sup>F38</sup> .....

**Textual Amendments**

- F38** S. 58 repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 27, Sch. 4 (with s. 92); S.I. 2007/2603, art. 2 (subject to art. 3)

**59 Appeal against non-discrimination notice.**

<sup>F39</sup> .....



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**Textual Amendments**

**F39** S. 59 repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 27, **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

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

**F40** .....

**Textual Amendments**

**F40** S. 60 repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 27, **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

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

**F41** .....

**Textual Amendments**

**F41** S. 61 repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 27, **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

*Other enforcement by Commission*

**62 Persistent discrimination.**

**F42** .....

**Textual Amendments**

**F42** S. 62 repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 27, **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

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

**F43** .....

**Textual Amendments**

**F43** S. 63 repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 27, **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

**64 Preliminary action in employment cases.**

**F44** .....

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### Textual Amendments

**F44** S. 64 repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 27, Sch. 4 (with s. 92); S.I. 2007/2603, art. 2 (subject to art. 3)

### *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 [<sup>F45</sup>or subjected to harassment] 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 [<sup>F46</sup>Minister] shall by order prescribe—
    - (a) forms by which the person aggrieved may question the respondent on his reasons for doing any relevant act, or on any other matter which is or may be relevant; and
    - (b) forms by which the respondent may if he so wishes reply to any questions.
  - (2) Where the person aggrieved questions the respondent (whether in accordance with an order under subsection (1) or not)—
    - (a) the question, and any reply by the respondent (whether in accordance with such an order or not) shall, subject to the following provisions of this section, be admissible as evidence in the proceedings;
    - (b) if it appears to the court or tribunal that the respondent deliberately, and without reasonable excuse, omitted to reply within a reasonable period [<sup>F47</sup>or, where the question relates to discrimination on grounds of race or ethnic or national origins, or to harassment, the period of eight weeks beginning with the day on which the question was served on him] 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 [<sup>F46</sup>Minister] 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>F48</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

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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 [F49employment 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.

[F50(7) This section does not apply in relation to any proceedings under—

- (a) the Special Immigration Appeals Commission Act 1997; or
- (b) [F51Part 5 of the Nationality, Immigration and Asylum Act 2002].]

#### Textual Amendments

- F45** Words in s. 65(1) inserted (19.7.2003) by The Race Relations Act 1976 (Amendment) Regulations 2003 (S.I. 2003/1626), **reg. 47(a)**
- F46** Words in s. 65(1)(3) substituted (12.10.2007) by The Transfer of Functions (Equality) Order 2007 (S.I. 2007/2914), art. 8, **Sch. para. 10(b)**
- F47** Words in s. 65(2)(b) inserted (19.7.2003) by The Race Relations Act 1976 (Amendment) Regulations 2003 (S.I. 2003/1626), **reg. 47(b)**
- F48** 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)**
- F49** 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**
- F50** 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)**
- F51** 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.

F52 .....

#### Textual Amendments

- F52** S. 66 repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 28, **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

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### *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 [<sup>F53</sup>with the concurrence of the Lord Chief Justice] .
- (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>F54</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 [<sup>F55</sup>Minister], being persons appearing to the [<sup>F55</sup>Minister] 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>F56</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).
- [<sup>F57</sup>(6) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.]
- (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 any proceedings under this Act commenced in that court before the order comes into operation.

#### **Textual Amendments**

- F53** Words in s. 67(1) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15(1), **Sch. 4 para. 87(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(e)
- F54** 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)**
- F55** Words in s. 67(4) substituted (12.10.2007) by The Transfer of Functions (Equality) Order 2007 (S.I. 2007/2914), art. 8, **Sch. para. 10(c)**
- F56** Words substituted by S.I. 1981/1670, **arts. 2(2), 3(5)**
- F57** S. 67(6) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15(1), **Sch. 4 para. 87(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(e)

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**[<sup>F58</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 [<sup>F59</sup>the claimant or 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 [<sup>F60</sup>be a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act), and]
  - (b) if appointed for the purposes of proceedings in Scotland, must be—
    - (i) an advocate; or
    - [<sup>F61</sup>(ii) qualified to practice as a solicitor in Scotland.]
- (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**

- F58** S. 67A inserted (2.4.2001) by 2000 c. 34, s. 8 (with s. 10(5)); S.I. 2001/566, art. 2(1)
- F59** Words in s. 67A(2) substituted (18.4.2006) by Equality Act 2006 (c. 3), s. 90(a) (with s. 92); S.I. 2006/1082, art. 2(j)
- F60** Words in s. 67A(3)(a) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208, 211, Sch. 21 para. 37 (with savings in ss. 29, 192, 193); S.I. 2009/3250, art. 2(h) (with art. 9)
- F61** S. 67A(3)(b)(ii) substituted (18.4.2006) by Equality Act 2006 (c. 3), s. 90(b) (with s. 92); S.I. 2006/1082, art. 2(j)

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*Period within which proceedings to be brought*

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

(1) An [<sup>F62</sup>employment tribunal] shall not consider a complaint under section 54 unless it is presented to the tribunal before the end of [<sup>F63</sup>—

- (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) [<sup>F64</sup>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;

<sup>F65</sup> . . .  
<sup>F65</sup>(b) . . . . .

[<sup>F66</sup>(2A) In relation to an immigration claim 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) <sup>F67</sup> . . . . .

[<sup>F68</sup>(3A) Where in England and Wales—

- (a) proceedings or prospective proceedings by way of a claim under section 57 relate to the act or omission of a qualifying institution,
- (b) the dispute concerned is referred as a complaint under the student complaints scheme before the end of the period of six months mentioned in subsection (2), and
- (c) <sup>F69</sup> . . . . .

the period allowed by subsection (2) for instituting proceedings in respect of the claim shall be extended by [<sup>F70</sup>three months.]

(3B) In subsection (3A)—

“qualifying institution” has the meaning given by section 11 of the Higher Education Act 2004;

“the student complaints scheme” means a scheme for the review of qualifying complaints, as defined by section 12 of that Act, that is provided by the designated operator, as defined by section 13(5)(b) of that Act.]

[<sup>F71</sup>(3C) The period allowed by subsection (2)(a) shall be extended by three months in the case of a dispute which is referred for conciliation in pursuance of arrangements under section 27 of the Equality Act 2006 (unless it is extended under subsection (3A)).]

(4) <sup>F72</sup> . . . . .

(5) <sup>F72</sup> . . . . .

(6) A court or tribunal may nevertheless consider any such [<sup>F73</sup>complaint or claim] 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—

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- (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
- (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

- F62** 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
- F63** 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
- F64** 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)
- F65** 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)
- F66** 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)
- F67** S. 68(3) repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 29(2), Sch. 4 (with s. 92); S.I. 2007/2603, art. 2 (subject to art. 3)
- F68** S. 68(3A)(3B) inserted (1.11.2004) by Higher Education Act 2004 (c. 8), s. 19(2); S.I. 2004/2781, art. 3
- F69** S. 68(3A)(c) repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 29(3)(a), Sch. 4 (with s. 92); S.I. 2007/2603, art. 2 (subject to art. 3)
- F70** Words in s. 68(3A) substituted (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 93, Sch. 3 para. 29(3)(b) (with s. 92); S.I. 2007/2603, art. 2 (subject to art. 3)
- F71** S. 68(3C) inserted (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 93, Sch. 3 para. 29(4) (with s. 92); S.I. 2007/2603, art. 2 (subject to art. 3)
- F72** S. 68(4)(5) repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 29(5), Sch. 4 (with s. 92); S.I. 2007/2603, art. 2 (subject to art. 3)
- F73** Words in s. 68(6) substituted (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 93, Sch. 3 para. 29(6) (with s. 92); S.I. 2007/2603, art. 2 (subject to art. 3)

#### Evidence

#### 69 Evidence.

- (1) Any finding by a court under section 19 or 20 of the <sup>M3</sup>Race Relations Act 1968, or by a court or <sup>F74</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>F75</sup>[or any enactment mentioned in section 19D(5)] a certificate signed by or on behalf of a Minister of the Crown and certifying—

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- (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>F76</sup> . . .

<sup>F76</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.

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**Textual Amendments**

**F74** 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**

**F75** 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**

**F76** 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)**

**C5** 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**

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**Marginal Citations**

**M3** 1968 c. 71.



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