



# Race Relations Act 1976 (Repealed)

## 1976 CHAPTER 74

### PART X

#### SUPPLEMENTAL

#### 76 Government appointments outside s. 4.

- (1) [<sup>F1</sup>Subsection (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.
- [<sup>F2</sup>(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.

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*Status: Point in time view as at 02/05/2007. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the Race Relations Act 1976 (Repealed), Section 76. (See end of Document for details)*

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- (6) Subsections (3) to (5) do not apply in relation to the making of negative recommendations.
- (7) Subsection (9) applies to—
- (a) any negative recommendation made by a Minister of the Crown or government department, or any refusal to make a recommendation by such a Minister or department, in relation to an appointment to an office or post where section 4 does not apply in relation to the appointment; and
  - (b) any approval refused by such a Minister or department in relation to any such appointment.
- (8) Subsection (9) also applies to—
- (a) any negative recommendation made by a Minister of the Crown or government department, or any refusal to make a recommendation by such a Minister or department, in relation to a conferment by the Crown of a dignity or honour; and
  - (b) any approval refused by such a Minister or department in relation to any such conferment.
- (9) In making a negative recommendation or in refusing to make a recommendation or give an approval, and in making the arrangements for determining whether to make such a recommendation or refusal, the Minister of the Crown or government department shall not do an act which would be unlawful under section 4 if the recommendation or refusal were a refusal to offer the person concerned employment and the Crown were the employer for the purposes of this Act.
- (10) [<sup>F3</sup>subsections (11) and (11B) apply] 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.

[ In subsection (11)(c) reference to the termination of the appointment includes, where <sup>F4</sup>(11A) the act is committed on the grounds of race or ethnic or national origins, 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

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terminate the appointment by reason of the conduct of the Minister or the department, as the case may be.

(11B) It is unlawful for a Minister of the Crown or government department to subject to harassment a person who has been appointed, or who is seeking or being considered for, the appointment.]

(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 [<sup>F5</sup> contravened—

- (a) subsection (5);
- (b) subsection (9);
- (c) in relation to an appointment falling within subsection (10)(b), subsection (11); or
- (d) subsection (11B),

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.

[<sup>F6</sup>(14) The provision made by subsection (12) in respect of judicial review does not affect the ability, where an act on grounds of race or ethnic or national origins, or harassment, is alleged, to present a complaint to an employment tribunal under section 54A(1).]

(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 [<sup>F7</sup>Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government ] and any part of the Scottish Administration; and
- (c) references to Ministers of the Crown and government departments so far as they relate to the making of a recommendation or a refusal to make a recommendation, or the giving or refusal of an approval, in relation to a conferment of a peerage for life under section 1 of the <sup>M1</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

- F1** 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)
- F2** 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)
- F3** Words in s. 76(10) substituted (19.7.2003) by The Race Relations Act 1976 (Amendment) Regulations 2003 (S.I. 2003/1626), reg. 50(a)
- F4** S. 76(11A)(11B) inserted (19.7.2003) by The Race Relations Act 1976 (Amendment) Regulations 2003 (S.I. 2003/1626), reg. 50(b)
- F5** Words in s. 76(12) substituted (19.7.2003) by The Race Relations Act 1976 (Amendment) Regulations 2003 (S.I. 2003/1626), reg. 50(c)
- F6** S. 76(14) substituted (19.7.2003) by The Race Relations Act 1976 (Amendment) Regulations 2003 (S.I. 2003/1626), reg. 50(d)
- F7** Words in s. 76(15)(b) substituted (2.5.2007) by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), arts. 1(2)(3), 3, Sch. 1 para. 14

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*Changes to legislation: There are currently no known outstanding effects for the Race Relations Act 1976 (Repealed), Section 76. (See end of Document for details)*

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#### **Marginal Citations**

**M1** 1958 c. 21.

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There are currently no known outstanding effects for the Race Relations Act 1976 (Repealed), Section 76.