

Status: Point in time view as at 25/05/2007.

Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995, Part 4. (See end of Document for details)

SCHEDULES

SCHEDULE 3

SECTIONS [F117A(8)] AND 25(6). ENFORCEMENT AND PROCEDURE

Extent Information

- E1** In its application to Northern Ireland, this Schedule has effect subject to the modifications set out in Sch. 8; see s. 70(6)

Textual Amendments

- F1** Sch. 3: word in side note substituted (E.W.S.) (3.7.2003 for certain purposes and otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **29(2)(a)** and same word substituted (N.I.) (21.2.2004 for certain purposes and otherwise 1.10.2004) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **28(2)(a)**

[F1PART 4

DISCRIMINATION IN FURTHER AND HIGHER EDUCATION INSTITUTIONS]

Textual Amendments

- F1** Sch. 3 Pt. 4 (paras. 12-15) inserted (E.W.S.) (1.9.2002) by [2001 c. 10, s. 30\(2\)](#), **Sch. 3 para. 2** (with s. 43(13)); [S.I. 2002/2217, art. 3](#), **Sch. 1 Pt. 1**

Restriction on proceedings for breach of Part 4, Chapter 2

- F2**12 (1) Except as provided by [F3Chapter 2 of Part 4], no civil or criminal proceedings may be brought against any person in respect of an act merely because the act is unlawful under [F4that Chapter].
- (2) Sub-paragraph (1) does not prevent the making of an application for judicial review.

Textual Amendments

- F2** Sch. 3 Pt. 4 (paras. 12-15) inserted (E.W.S.) (1.9.2002) by [2001 c. 10, s. 30\(2\)](#), (with s. 43(13)); [S.I. 2002/2217, art. 3](#), **Sch. 1 Pt. 1**
- F3** Words in Sch. 3 para. 12(1) substituted (30.6.2006 for certain purposes and otherwise 1.9.2006) by [The Disability Discrimination Act 1995 \(Amendment\) \(Further and Higher Education\) Regulations 2006 \(S.I. 2006/1721\)](#), regs. 1, **19(2)(a)**

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F4 Words in Sch. 3 para. 12(1) substituted (30.6.2006 for certain purposes and otherwise 1.9.2006) by The Disability Discrimination Act 1995 (Amendment) (Further and Higher Education) Regulations 2006 (S.I. 2006/1721), regs. 1, **19(2)(b)**

Period within which proceedings must be brought

^{F5}13 (1) A county court or a sheriff court shall not consider a claim under section 28V unless proceedings in respect of the claim are instituted before the end of the period of six months beginning when the act complained of was done.

[^{F6}(2) If, in relation to proceedings or prospective proceedings under section 28V—

- (a) the dispute concerned is referred for conciliation in pursuance of arrangements under section 31B before the end of the period of six months mentioned in sub-paragraph (1), or
- (b) in England and Wales, in a case not falling within paragraph (a), the dispute concerned relates to the act or omission of a qualifying institution and is referred as a complaint under the student complaints scheme before the end of that period,

the period of six months allowed by sub-paragraph (1) shall be extended by two months.

(2A) In sub-paragraph (2)(b)—

“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.]

(3) A court may consider any claim under section 28V which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.

(4) For the purposes of sub-paragraph (1)—

- (a) if an unlawful act ^{F7}. . . is attributable to a term in a contract, that act is to be treated as extending throughout the duration of the contract;
- (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.

(5) In the absence of evidence establishing the contrary, a person shall be taken for the purposes of this paragraph to decide upon an omission—

- (a) when he does an act inconsistent with doing the omitted act; or
- (b) 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

F5 Sch. 3 Pt. 4 (paras. 12-15) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 30(2), (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

F6 Sch. 3 para. 13(2)(2A) substituted for Sch. 3 para. 13(2) (1.11.2004) by Higher Education Act 2004 (c. 8), ss. 19(3), 52; S.I. 2004/2781, art. 3

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- F7** Words in Sch. 3 para. 13(4)(a) omitted (30.6.2006 for certain purposes and otherwise 1.9.2006) by virtue of The Disability Discrimination Act 1995 (Amendment) (Further and Higher Education) Regulations 2006 (S.I. 2006/1721), regs. 1, **19(3)**

Compensation for injury to feelings

- F8**¹⁴ In any proceedings under section 28V, the amount of any damages awarded as compensation for injury to feelings shall not exceed the prescribed amount.

Textual Amendments

- F8** Sch. 3 Pt. 4 (paras. 12-15) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. **30(2)**, (with s. 43(13)); S.I. 2002/2217, art. 3, **Sch. 1 Pt. I**

Evidence

- F9**¹⁵ (1) In any proceedings under section 28V, a certificate signed by or on behalf of a Minister of the Crown and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by a Minister of the Crown, and
 - (b) were in operation at a time or throughout a time so specified,
- is conclusive evidence of the matters certified.
- [**F10**(1A) In any proceedings under section 28V, a certificate signed by or on behalf of the Scottish Ministers and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by a member of the Scottish Executive, and
 - (b) were in operation at a time or throughout a time so specified,
- is conclusive evidence of the matters certified.]
- (1B) In any proceedings under section 28V, a certificate signed by or on behalf of the [**F11**Welsh Ministers] and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by the [**F12**National Assembly for Wales constituted by the Government of Wales Act 1998, the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government], and
 - (b) were in operation at a time or throughout a time so specified,
- is conclusive evidence of the matters certified.]
- (2) A document purporting to be such a certificate [**F13**as is mentioned in subparagraph (1), (1A) or (1B)] is to be—
- (a) received in evidence; and
 - (b) deemed to be such a certificate unless the contrary is proved.

Textual Amendments

- F9** Sch. 3 Pt. 4 (paras. 12-15) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. **30(2)**, (with s. 43(13)); S.I. 2002/2217, art. 3, **Sch. 1 Pt. I**
- F10** Sch. 3 para. 15(1A)(1B) inserted (30.6.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), **Sch. 1 para. 38(12)**; S.I. 2005/1676, art. **2(1)(c)**

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- F11** Words in [Sch. 3 para. 15\(1B\)](#) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order ([S.I. 2007/1388](#)), arts. 1, 3, {Sch. 1 para. 63(5)(a)}, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see [s. 161\(5\)](#) of the Government of Wales Act 2006.
- F12** Words in [Sch. 3 para. 15\(1B\)\(a\)](#) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order ([S.I. 2007/1388](#)), arts. 1, 3, {Sch. 1 para. 63(5)(b)}, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see [s. 161\(5\)](#) of the Government of Wales Act 2006.
- F13** Words in [Sch. 3 para. 15\(2\)](#) inserted (30.6.2005) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 19(1), 20(3)-(6), [Sch. 1 para. 38\(13\)](#); [S.I. 2005/1676](#), [art. 2\(1\)\(c\)](#)

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