



Race Relations (Amendment) Act 2000

2000 CHAPTER 34

Special cases: procedural and other consequences

5 Criminal investigations and proceedings

(1) After section 57(4) of the 1976 Act (enforcement of Part III of that Act) there is inserted—

“(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

Status: This is the original version (as it was originally enacted).

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 Army Act 1955, the Air Force Act 1955 or the 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.”

(2) After section 65(4) of the 1976 Act (help for aggrieved persons in obtaining information etc.) there is inserted—

“(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.”