



Equality Act 2006

2006 CHAPTER 3

PART 2

DISCRIMINATION ON GROUNDS OF RELIGION OR BELIEF

Enforcement

65 Restriction of proceedings

- (1) Except as provided by this Act, no proceedings, whether criminal or civil, may be brought against a person on the grounds that an act is unlawful by virtue of this Part.
- (2) But subsection (1) does not prevent—
 - (a) an application for judicial review,
 - (b) proceedings under the Immigration Acts,
 - (c) proceedings under the Special Immigration Appeals Commission Act 1997 (c. 68), or
 - (d) in Scotland, the exercise of the jurisdiction of the Court of Session to entertain an application for reduction or suspension of an order or determination or otherwise to consider the validity of an order or determination, or to require reasons for an order or determination to be stated.

66 Claim of unlawful action

- (1) A claim that a person has done anything that is unlawful by virtue of this Part may be brought in a county court (in England and Wales) or in the sheriff court (in Scotland) by way of proceedings in tort (or reparation) for breach of statutory duty.
- (2) Proceedings in England and Wales alleging that any of the following bodies has acted unlawfully by virtue of section 49 or 51 may not be brought unless the claimant has given written notice to the Secretary of State; and those bodies are—
 - (a) a local education authority, and

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- (b) the responsible body of an educational establishment listed in the Table in section 49.
- (3) Proceedings in Scotland alleging that any of the following bodies has acted unlawfully by virtue of section 49 or 51 may not be brought unless the pursuer has given written notice to the Scottish Ministers; and those bodies are—
 - (a) an education authority, and
 - (b) the responsible body of an educational establishment listed in the Table in section 49.
- (4) In subsection (1) the reference to a claim that a person has done an unlawful act includes a reference to a claim that a person is to be treated by virtue of this Part as having done an unlawful act.
- (5) In proceedings under this section, if the claimant (or pursuer) proves facts from which the court could conclude, in the absence of a reasonable alternative explanation, that an act which is unlawful by virtue of this Part has been committed, the court shall assume that the act was unlawful unless the respondent (or defender) proves that it was not.

67 Immigration

- (1) Proceedings may not be brought under section 66 alleging that a person has acted unlawfully by virtue of section 52 if the question of the lawfulness of the act could be raised (and has not been raised) in immigration proceedings (disregarding the possibility of proceedings brought out of time with permission).
- (2) If in immigration proceedings a court or tribunal has found that an act was unlawful by virtue of section 52, a court hearing proceedings under section 66 shall accept that finding.
- (3) In this section “immigration proceedings” means proceedings under or by virtue of—
 - (a) the Immigration Acts, or
 - (b) the Special Immigration Appeals Commission Act 1997 (c. 68).

68 Remedies

- (1) This section applies to proceedings under section 66.
- (2) A court may, in addition to any remedy available to it in proceedings for tort, grant any remedy that the High Court could grant in proceedings for judicial review.
- (3) A court may not award damages in proceedings in respect of an act that is unlawful by virtue of section 45(3) if the respondent proves that there was no intention to treat the claimant unfavourably on grounds of religion or belief.
- (4) A court may award damages by way of compensation for injury to feelings (whether or not other damages are also awarded).
- (5) In the application of this section to proceedings in Scotland—
 - (a) a reference to the High Court shall be taken as a reference to the Court of Session,
 - (b) a reference to tort shall be taken as a reference to reparation,
 - (c) a reference to the respondent shall be taken as a reference to the defender, and
 - (d) a reference to the claimant shall be taken as a reference to the pursuer.

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(6) This section is subject to section 52(5).

69 Timing

- (1) Proceedings under section 66 may be brought only—
 - (a) within the period of six months beginning with the date of the act (or last act) to which the proceedings relate, or
 - (b) with the permission of the court in which the proceedings are brought.
- (2) In relation to immigration proceedings within the meaning of section 67, the period specified in subsection (1)(a) above shall begin with the first date on which proceedings under section 66 may be brought.

70 Information

- (1) In this section—
 - (a) a reference to a claimant is a reference to a person who has brought proceedings under this Part,
 - (b) a reference to a potential claimant is a reference to a person who—
 - (i) thinks he may have been the subject of an act that is unlawful by virtue of this Part, and
 - (ii) wishes to consider whether to bring proceedings under this Part, and
 - (c) a person questioned by a potential claimant for the purpose of considering whether to bring proceedings is referred to as a potential respondent.
- (2) The [F1Minister]F1 shall by order prescribe—
 - (a) forms by which a claimant or potential claimant may question the respondent or a potential respondent about the reasons for an action or about any matter that is or may be relevant, and
 - (b) forms by which a respondent or potential respondent may reply (if he wishes).
- (3) A claimant's or potential claimant's questions, and a respondent or potential respondent's replies, (in each case whether or not put by a prescribed form) shall be admissible as evidence in proceedings in respect of the act to which the questions relate if (and only if) the questions are put—
 - (a) within the period of six months beginning with the date of the act (or last act) to which they relate, and
 - (b) in such manner as the [F1Minister]F1 may prescribe by order.
- (4) A court may draw an inference from—
 - (a) a failure to reply to a claimant's or potential claimant's questions (whether or not put by a prescribed form) within the period of eight weeks beginning with the date of receipt, or
 - (b) an evasive or equivocal reply to a claimant's or potential claimant's questions (whether or not put by a prescribed form).
- (5) The [F1Minister]F1 may by order amend subsection (3)(a) so as to substitute a new period for that specified.
- (6) In the application of this section to Scotland—

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- (a) a reference to a claimant or potential claimant shall be taken as a reference to a pursuer or potential pursuer, and
 - (b) a reference to a respondent or potential respondent shall be taken as a reference to a defender or potential defender.
- (7) An order under this section—
- (a) shall be made by statutory instrument, and
 - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) This section is subject to section 52(6).

Textual Amendments

- F1** [S. 70\(2\)\(3\)\(5\)](#): "Minister" substituted (12.10.2007) for "Secretary of State" in each place by [The Transfer of Functions \(Equality\) Order 2007 \(S.I. 2007/2914\)](#), art. 8, [Sch. para. 16\(m\)](#)

71 National security

- (1) Rules of court may make provision for enabling a county court or sheriff court in which a claim is brought under section 66, where the court 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;
 - (iii) any assessors;
 - (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 the court's 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, proceedings from which the claimant or his representatives are excluded by virtue of subsection (1).
- (3) A person may be appointed under subsection (2) only—
- (a) in relation to proceedings in England and Wales, if he has a general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990 (c. 41)), or
 - (b) in relation to proceedings in Scotland, if he is—
 - (i) an advocate, or
 - (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.

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 Part,

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- (b) it is included in furtherance of an act which is unlawful by virtue of this Part, or
 - (c) it provides for the doing of an act which would be unlawful by virtue of this Part.
- (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 a provision of this Part is unenforceable by a person in whose favour the term would operate apart from this subsection.
- (4) Subsection (3) does not apply to a contract settling a claim under section 66.
- (5) On the application of a person interested in a contract to which subsection (1) applies, a county court or sheriff court may make an order for removing or modifying a term made unenforceable by that subsection; but an order shall not be made unless all persons affected—
- (a) have been given notice of the application (except where notice is dispensed with in accordance with rules of court), and
 - (b) have been afforded an opportunity to make representations to the court.
- (6) An order under subsection (5) may include provision in respect of a period before the making of the order.

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