



# Sex Discrimination Act 1975

## 1975 CHAPTER 65

### PART VII

#### ENFORCEMENT

##### *Non-discrimination notices*

#### **67 Issue of non-discrimination notice,**

- (1) This section applies to—
  - (a) an unlawful discriminatory act, and
  - (b) a contravention of section 37, and
  - (c) a contravention of section 38, 39 or 40, and
  - (d) an act in breach of a term modified or included by virtue of an equality clause, and so applies whether or not proceedings have been brought in respect of the act.
- (2) If in the course of a formal investigation the Commission become satisfied that a person is committing, or has committed, any such acts, the Commission may in the prescribed manner serve on him a notice in the prescribed form (" a non-discrimination notice ") requiring him—
  - (a) not to commit any such acts, and
  - (b) where compliance with paragraph (a) involves changes in any of his practices or other arrangements—
    - (i) to inform the Commission that he has effected those changes and what those changes are, and
    - (ii) to take such steps as may be reasonably required by the notice for the purpose of affording that information to other persons concerned.
- (3) A non-discrimination notice may also require the person on whom it is served to furnish the Commission with such other information as may be reasonably required by the notice in order to verify that the notice has been complied with.

- (4) The notice may specify the time at which, and the manner and form in which, any information is to be furnished to the Commission, but the time at which any information is to be furnished in compliance with the notice shall not be later than five years after the notice has become final.
- (5) The Commission shall not serve a non-discrimination notice in respect of any person unless they have first—
- (a) given him notice that they are minded to issue a non discrimination notice in his case, specifying the grounds on which they contemplate doing so, and
  - (b) offered him an opportunity of making oral or written representations in the matter (or both oral and written representations if he thinks fit) within a period of not less than 28 days specified in the notice, and
  - (c) taken account of any representations so made by him.
- (6) Subsection (2) does not apply to any acts in respect of which the Secretary of State could exercise the powers conferred on him by section 25(2) and (3); but if the Commission become aware of any such acts they shall give notice of them to the Secretary of State.
- (7) Section 59(4) shall apply to requirements under subsection (2)(b), (3) and (4) contained in a non-discrimination notice which has become final as it applies to requirements in a notice served under section 59 (1).

## **68 Appeal against non-discrimination notice**

- (1) Not later than six weeks after a non-discrimination notice is served on any person he may appeal against any requirement of the notice—
- (a) to an industrial tribunal, so far as the requirement relates to acts which are within the jurisdiction of the tribunal;
  - (b) to a county court or to a sheriff court so far as the requirement relates to acts which are within the jurisdiction of the court and are not within the jurisdiction of an industrial tribunal.
- (2) Where the court or tribunal considers a requirement in respect of which an appeal is brought under subsection (1) to be unreasonable because it is based on an incorrect finding of fact or for any other reason, the court or tribunal shall quash the requirement.
- (3) On quashing a requirement under subsection (2) the court or tribunal may direct that the non-discrimination notice shall be treated as if, in place of the requirement quashed, it had contained a requirement in terms specified in the direction.
- (4) Subsection (1) does not apply to a requirement treated as included in a non-discrimination notice by virtue of a direction under subsection (3).

## **69 Investigation as to compliance with non-discrimination notice**

- (1) If—
- (a) the terms of reference of a formal investigation state that its purpose is to determine whether any requirements of a non-discrimination notice are being or have been carried out, but section 59(2)(b) does not apply, and
  - (b) section 58(3) is complied with in relation to the investigation on a date (" the commencement date ") not later than the expiration of the period of five years beginning when the non-discrimination notice became final,

the Commission may within the period referred to in subsection (2) serve notices under section 59(1) for the purposes of the investigation without needing to obtain the consent of the Secretary of State.

- (2) The said period begins on the commencement date and ends on the later of the following dates—
- (a) the date on which the period of five years mentioned in subsection (1)(b) expires;
  - (b) the date two years after the commencement date.

## **70 Register of non-discrimination notices**

- (1) The Commission shall establish and maintain a register ("the register") of non-discrimination notices which have become final.
- (2) Any person shall be entitled, on payment of such fee (if any) as may be determined by the Commission.—
- (a) to inspect the register during ordinary office hours and take copies of any entry, or
  - (b) to obtain from the Commission a copy, certified by the Commission to be correct, of any entry in the register.
- (3) The Commission may, if they think fit, determine that the right conferred by subsection (2)(a) shall be exercisable in relation to a copy of the register instead of, or in addition to, the original.
- (4) The Commission shall give general notice of the place or places where, and the times when, the register or a copy of it may be inspected.