



Race Relations Act 1976 (Repealed)

1976 CHAPTER 74

PART X

SUPPLEMENTAL

[^{F1}71 Specified authorities: general statutory duty.

- (1) Every body or other person specified in Schedule 1A or of a description falling within that Schedule shall, in carrying out its functions, have due regard to the need—
 - (a) to eliminate unlawful racial discrimination; and
 - (b) to promote equality of opportunity and good relations between persons of different racial groups.
- (2) The Secretary of State may by order impose, on such persons falling within Schedule 1A as he considers appropriate, such duties as he considers appropriate for the purpose of ensuring the better performance by those persons of their duties under subsection (1).
- (3) An order under subsection (2)—
 - (a) may be made in relation to a particular person falling within Schedule 1A, any description of persons falling within that Schedule or every person falling within that Schedule;
 - (b) may make different provision for different purposes.
- (4) Before making an order under subsection (2), the Secretary of State shall consult the Commission.
- (5) The Secretary of State may by order amend Schedule 1A; but no such order may extend the application of this section unless the Secretary of State considers that the extension relates to a person who exercises functions of a public nature.
- (6) An order under subsection (2) or (5) may contain such incidental, supplementary or consequential provision as the Secretary of State considers appropriate (including provision amending or repealing provision made by or under this Act or any other enactment).

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- (7) This section is subject to section 71A and 71B and is without prejudice to the obligation of any person to comply with any other provision of this Act.]

Textual Amendments

- F1** Ss. 71-71E substituted for s. 71 (2.4.2001) by 2000 c. 34, s. 2(1) (with s. 10(5)); S.I. 2001/566, art. 2(1)

^{F2}71A General statutory duty: special cases.

- (1) In relation to the carrying out of immigration and nationality functions ^{F3} . . . , section 71(1)(b) has effect with the omission of the words “equality of opportunity and”.

[^{F4}(1A) In subsection (1) “immigration and nationality functions” means functions exercisable by virtue of—

- (a) the Immigration Acts (within the meaning of section 158 of the Nationality, Immigration and Asylum Act 2002) excluding sections 28A to 28K of the Immigration Act 1971 so far as they relate to offences under Part III of that Act;
 - (b) the British Nationality Act 1981;
 - (c) the British Nationality (Falkland Islands) Act 1983 (c. 6);
 - (d) the British Nationality (Hong Kong) Act 1990 (c. 34);
 - (e) the Hong Kong (War Wives and Widows) Act 1996 (c. 41);
 - (f) the British Nationality (Hong Kong) Act 1997 (c. 20);
 - (g) the Special Immigration Appeals Commission Act 1997 (c. 68);
 - (h) provision made under section 2(2) of the European Communities Act 1972 (c. 68) which relates to the subject matter of an enactment within any of paragraphs (a) to (g); or
 - (i) any provision of Community law which relates to the subject matter of an enactment within any of those paragraphs.]
- (2) Where an entry in Schedule 1A is limited to a person in a particular capacity, section 71(1) does not apply to that person in any other capacity.
- (3) Where an entry in Schedule 1A is limited to particular functions of a person, section 71(1) does not apply to that person in relation to any other functions.

Textual Amendments

- F2** Ss. 71-71E substituted for s. 71 (2.4.2001) by 2000 c. 34, s. 2(1) (with s. 10(5)); S.I. 2001/566, art. 2(1)
- F3** Words in s. 71A(1) omitted (7.11.2002) by virtue of 2002 c. 41, s. 6(5)(a) and repealed (1.4.2003) by 2002 c. 41, ss. 161, 162(2), Sch. 9 (with s. 159); S.I. 2003/754, art. 2(1), Sch.
- F4** S. 71A(1A) inserted (7.11.2002) by 2002 c. 41, s. 6(5)(b) (with s. 159)

^{F5}71B General statutory duty: Scotland and Wales.

- (1) For the purposes of the ^{M1}Scotland Act 1998, subsections (2) to (4) of section 71 (and sections 71(6) and 74 so far as they apply to the power conferred by subsection (2) of

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section 71) shall be taken to be pre-commencement enactments within the meaning of that Act.

- (2) Before making an order under section 71(2) in relation to functions exercisable in relation to Wales by a person who is not a Welsh public authority, the Secretary of State shall consult the [^{F6}Welsh Ministers] .
- (3) The Secretary of State shall not make an order under section 71(2) in relation to functions of a Welsh public authority except with the consent of the [^{F7}Welsh Ministers] .
- (4) In this section “Welsh public authority” means any person whose functions are exercisable only in relation to Wales and [^{F8} includes—
 - (a) the National Assembly for Wales Commission;
 - (b) the Welsh Ministers, the First Minister for Wales and the Counsel General to the Welsh Assembly Government.]

Textual Amendments

- F5** Ss. 71-71E substituted for s. 71 (2.4.2001) by 2000 c. 34, s. 2(1) (with s. 10(5)); S.I. 2001/566, art. 2(1)
- F6** Words in s. 71B(2) 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. 12(2)
- F7** Words in s. 71B(3) 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. 12(3)
- F8** Words in s. 71B(4) 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. 12(4)

Marginal Citations

- M1** 1998 c. 46.

^{F9}71C General statutory duty: codes of practice.

- (1) The Commission may issue codes of practice containing such practical guidance as the Commission think fit in relation to the performance by persons of duties imposed on them by virtue of subsections (1) and (2) of section 71.
- (2) When the Commission propose to issue a code of practice under this section, they—
 - (a) shall prepare and publish a draft of the code;
 - (b) shall consider any representations made to them about the draft; and
 - (c) may modify the draft accordingly.
- (3) In the course of preparing any draft code of practice under this section the Commission shall consult such organisations or bodies as appear to the Commission to be appropriate having regard to the content of the draft code.
- (4) If the Commission determine to proceed with a draft code of practice, they shall transmit the draft to the Secretary of State who shall consult the Scottish Ministers and the [^{F10}Welsh Ministers] .

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- (5) After consulting the Scottish Ministers and the [^{F11}Welsh Ministers] , the Secretary of State shall—
- (a) if he approves of the draft code, lay it before both Houses of Parliament; and
 - (b) if he does not approve of it, publish details of his reasons for withholding approval.
- (6) If, within the period of forty days beginning with the day on which a copy of a draft code of practice is laid before each House of Parliament, or, if such copies are laid on different days, with the later of the two days, either House so resolves, no further proceedings shall be taken on the draft code of practice, but without prejudice to the laying before Parliament of a new draft.
- (7) In reckoning the period of forty days referred to in subsection (6), no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (8) If no such resolution is passed as is referred to in subsection (6), the Commission shall issue the code in the form of the draft and the code shall come into effect on such day as the Secretary of State may, after consulting the Scottish Ministers and the [^{F12}Welsh Ministers] , by order appoint.
- (9) Without prejudice to section 74(3), an order under subsection (8) may contain such transitional provisions or savings as appear to the Secretary of State to be necessary or expedient in connection with the code of practice thereby brought into operation.
- (10) The Commission may revoke, or from time to time revise, the whole or any part of a code of practice issued under this section; and, where they revise the whole or any part of such a code, they shall issue the revised code, and subsections (2) to (9) shall apply (with appropriate modifications) to such a revised code as they apply to the first issue of a code.
- (11) A failure on the part of any person to observe any provision of a code of practice shall not of itself render that person liable to any proceedings; but any code of practice issued under this section shall be admissible in evidence in any legal proceedings, and if any provision of such a code appears to the court or tribunal concerned to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.
- (12) Without prejudice to subsection (1), a code of practice issued under this section may include such practical guidance as the Commission think fit as to what steps it is reasonably practicable for persons to take for the purpose of preventing their staff from doing in the course of their duties acts made unlawful by this Act.

Textual Amendments

- F9** Ss. 71-71E substituted for s. 71 (2.4.2001) by 2000 c. 34, s. 2(1) (with s. 10(5)); S.I. 2001/566, art. 2(1)
- F10** Words in s. 71C(4) 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. 13(2)
- F11** Words in s. 71C(5) 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. 13(3)

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F12 Words in s. 71C(8) 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. 13(4)**

F13 71D General statutory duty: compliance notices.

- (1) If the Commission are satisfied that a person has failed to comply with, or is failing to comply with, any duty imposed by an order under section 71(2), the Commission may serve on that person a notice (“a compliance notice”).
- (2) A compliance notice shall require the person concerned—
 - (a) to comply with the duty concerned; and
 - (b) to inform the Commission, within 28 days of the date on which the notice is served, of the steps that the person has taken, or is taking, to comply with the duty.
- (3) A compliance notice may also require the person concerned to furnish the Commission with such other written information as may be reasonably required by the notice in order to verify that the duty has been complied with.
- (4) The notice may specify—
 - (a) the time (no later than three months from the date on which the notice is served) at which any information is to be furnished to the Commission;
 - (b) the manner and form in which any such information is to be so furnished.
- (5) A compliance notice shall not require a person to furnish information which the person could not be compelled to furnish in evidence in civil proceedings before the High Court or the Court of Session.

Textual Amendments

F13 [Ss. 71-71E](#) substituted for s. 71 (2.4.2001) by [2000 c. 34, s. 2\(1\)](#) (with s. 10(5)); [S.I. 2001/566, art. 2\(1\)](#)

F14 71E Enforcement of compliance notices.

- (1) The Commission may apply to a designated county court or, in Scotland, a sheriff court for an order requiring a person falling within Schedule 1A to furnish any information required by a compliance notice if—
 - (a) the person fails to furnish the information to the Commission in accordance with the notice; or
 - (b) the Commission have reasonable cause to believe that the person does not intend to furnish the information.
- (2) If the Commission consider that a person has not, within three months of the date on which a compliance notice was served on that person, complied with any requirement of the notice for that person to comply with a duty imposed by an order under section 71(2), the Commission may apply to a designated county court or, in Scotland, a sheriff court for an order requiring the person to comply with the requirement of the notice.

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- (3) If the court is satisfied that the application is well-founded, it may grant the order in the terms applied for or in more limited terms.
- (4) The sanctions in section 71D and this section shall be the only sanctions for breach of any duty imposed by an order under section 71(2), but without prejudice to the enforcement under section 57 or otherwise of any other provision of this Act (where the breach is also a contravention of that provision).

Textual Amendments

F14 Ss. 71-71E substituted for s. 71 (2.4.2001) by 2000 c. 34, s. 2(1) (with s. 10(5)); S.I. 2001/566, art. 2(1)

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 Act; or
 - (b) it is included in furtherance of an act rendered unlawful by this Act; or
 - (c) it provides for the doing of an act which would be rendered unlawful by this Act.
- (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 [^{F15}or harassment of,] 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 any provision of this Act is unenforceable by any person in whose favour the term would operate apart from this subsection.
- (4) Subsection (3) does not apply—
 - (a) to a contract settling a complaint to which section 54(1) applies where the contract is made with the assistance of a conciliation officer; or
 - [^{F16}(aa) to a contract settling a complaint to which section 54(1) applies if the conditions regulating compromise contracts under this Act are satisfied in relation to the contract;]
 - (b) to a contract settling a claim to which section 57 applies.
- [^{F17}(4A) The conditions regulating compromise contracts under this Act are that—
 - (a) the contract must be in writing;
 - (b) the contract must relate to the particular complaint;
 - (c) the complainant must have received [^{F18}advice from a relevant independent advisor] as to the terms and effect of the proposed contract and in particular its effect on his ability to pursue his complaint before an [^{F19}employment tribunal];
 - (d) there must be in force, when the adviser gives the advice, a [^{F20}contract of insurance, or an indemnity provided for members of a profession or professional body,] covering the risk of a claim by the complainant in respect of loss arising in consequence of the advice;
 - (e) the contract must identify the adviser; and

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- (f) the contract must state that the conditions regulating compromise contracts under this Act are satisfied.

- [A person is a relevant independent adviser for the purposes of subsection (4A)(c)—
- ^{F21}(4B) (a) if he is a qualified lawyer,
 - (b) if he is an officer, official, employee or member of an independent trade union who has been certified in writing by the trade union as competent to give advice and as authorised to do so on behalf of the trade union,
 - (c) if he works at an advice centre (whether as an employee or a volunteer) and has been certified in writing by the centre as competent to give advice and as authorised to do so on behalf of the centre, or
 - (d) if he is a person of a description specified in an order made by the Secretary of State.

- (4BA) But a person is not a relevant independent adviser for the purposes of subsection (4A)(c) in relation to the complainant—
- (a) if he is, is employed by or is acting in the matter for the other party or a person who is connected with the other party,
 - (b) in the case of a person within subsection (4B)(b) or (c), if the trade union or advice centre is the other party or a person who is connected with the other party,
 - (c) in the case of a person within subsection (4B)(c), if the complainant makes a payment for the advice received from him, or
 - (d) in the case of a person of a description specified in an order under subsection (4B)(d), if any condition specified in the order in relation to the giving of advice by persons of that description is not satisfied.

- (4BB) In subsection (4B)(a) “qualified lawyer” means—
- (a) as respects England and Wales, a barrister (whether in practice as such or employed to give legal advice), a solicitor who holds a practising certificate, or a person other than a barrister or solicitor who is an authorised advocate or authorised litigator (within the meaning of the ^{M2}Courts and Legal Services Act 1990), and
 - (b) as respects Scotland, an advocate (whether in practice as such or employed to give legal advice), or a solicitor who holds a practising certificate.

- (4BC) In subsection (4B)(b) “independent trade union” has the same meaning as in the Trade Union and Labour Relations (Consolidation) Act 1992.

- (4C) For the purposes of subsection (4BA) any two persons are to be treated as connected—
- (a) if one is a company of which the other (directly or indirectly) has control, or
 - (b) if both are companies of which a third person (directly or indirectly) has control.]]

- [^{F22}(4D) An agreement under which the parties agree to submit a dispute to arbitration—
- (a) shall be regarded for the purposes of subsection (4)(a) and (aa) as being a contract settling a complaint if—
 - (i) the dispute is covered by a scheme having effect by virtue of an order under section 212A of the ^{M3}Trade Union and Labour Relations (Consolidation) Act 1992, and
 - (ii) the agreement is to submit it to arbitration in accordance with the scheme, but

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- (b) shall be regarded for those purposes as neither being nor including such a contract in any other case.]
- (5) On the application of any person interested in a contract to which subsection (2) applies, a designated county court or a sheriff court may make such order as it thinks just for removing or modifying any term made unenforceable by that subsection; but such an order shall not be made unless all persons affected have been given notice of the application (except where under rules of court notice may be dispensed with) and have been afforded an opportunity to make representations to the court.
- (6) An order under subsection (5) may include provision as respects any period before the making of the order.

Textual Amendments

- F15** Words in s. 72(2) inserted (19.7.2003) by [The Race Relations Act 1976 \(Amendment\) Regulations 2003 \(S.I. 2003/1626\)](#), **reg. 48**
- F16** S. 72(4)(aa) inserted (30.8.1993) by 1993 c. 19, s. 39(2), **Sch. 6 para. 2(a)**; S.I. 1993/1908, art. 2(1), **Sch. 1**.
- F17** S. 72(4A)-(4C) inserted (30.8.1993) by 1993 c. 19, s. 39(2), **Sch. 6 para. 2(b)**; S.I. 1993/1908, art. 2(1), **Sch. 1**.
- F18** Words in s. 72(4A)(c) substituted (1.8.1998) by 1998 c. 8, **ss. 9(1)(2)(b)**; S.I. 1998/1658, art. 2, **Sch. 1**
- F19** Words in s. 72(4A)(c) substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F20** Words in s. 72(4A)(d) substituted (1.8.1998) by 1998 c. 8, **s. 10(1)(2)(b)**; S.I. 1998/1658, art. 2, **Sch. 1**
- F21** S. 72(4B)-(4C) substituted for s. 72(4B)(4C) (1.8.1998) by 1998 c. 8, s. 15, **Sch. 1 para. 3**; S.I. 1998/1658, art. 2(1), **Sch. 1**
- F22** S. 72(4D) inserted (1.8.1998) by 1998 c. 8, **s. 8(2)**; S.I. 1998/1658, art. 2(1), **Sch. 1**

Marginal Citations

- M2** 1990 c. 41.
- M3** 1992 c. 52.

72A Collective agreements and rules of undertakings

- (1) This section applies to—
- (a) any term of a collective agreement, including an agreement which was not intended, or is presumed not to have been intended, to be a legally enforceable contract;
 - (b) any rule made by an employer for application to all or any of the persons who are employed by him or who apply to be, or are, considered by him for employment;
 - (c) any rule made by an organisation to which section 11 (trade organisations) applies, or by a body to which section 12 (qualifying bodies) applies, for application to—
 - (i) all or any of its members or prospective members; or
 - (ii) all or any of the persons on whom it has conferred authorisations or qualifications or who are seeking the authorisations or qualifications which it has power to confer.
- (2) Any term or rule to which this section applies is void where—

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- (a) the making of the collective agreement is, by reason of the inclusion of the term, unlawful on grounds of race or ethnic or national origins, by virtue of a provision referred to in section 1(1B);
 - (b) the term or rule is included or made in furtherance of an act which is unlawful on such grounds by virtue of such a provision; or
 - (c) the term or rule provides for the doing of such an act.
- (3) Subsection (2) applies whether the agreement was entered into, or the rule made, before, on or after 19th July 2003; but in the case of an agreement entered into, or a rule made, before that date, that subsection does not apply in relation to any period before that date.
- (4) In this section, and in section 72B, “collective agreement” means any agreement relating to one or more of the matters mentioned in section 178(2) of the Trade Union and Labour Relations (Consolidation) Act 1992 ^{M4} (meaning of trade dispute), being an agreement made by or on behalf of one or more employers or one or more organisations of employers or associations of such organisations with one or more organisations of workers or associations of such organisations.

Marginal Citations

M4 1992 c. 52

72B

- (1) A person to whom this subsection applies may present a complaint to an employment tribunal that a term or rule is void by virtue of section 72A if he has reason to believe—
- (a) that the term or rule may at some future time have effect in relation to him; and
 - (b) where he alleges that it is void by virtue of section 72A(2)(c), that—
 - (i) an act for the doing of which it provides may at some such time be done in relation to him, and
 - (ii) the act would be rendered unlawful on grounds of race or ethnic or national origins by a provision referred to in section 1(1B) if done in relation to him in present circumstances.
- (2) In the case of a complaint about—
- (a) a term of a collective agreement made by or on behalf of—
 - (i) an employer;
 - (ii) an organisation of employers of which an employer is a member; or
 - (iii) an association of such organisations of one of which an employer is a member; or
 - (b) a rule made by an employer, within the meaning of section 72A(1)(b);
- subsection (1) applies to any person who is, or is genuinely and actively seeking to become, one of his employees.
- (3) In the case of a complaint about a rule made by an organisation or body to which section 72A(1)(c) applies, subsection (1) applies to any person—
- (a) who is, or is genuinely and actively seeking to become, a member of the organisation or body;
 - (b) on whom the organisation or body has conferred an authorisation or qualification; or

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- (c) who is genuinely and actively seeking an authorisation or qualification which the organisation or body has power to confer.
- (4) When an employment tribunal finds that a complaint presented to it under subsection (1) is well-founded the tribunal shall make an order declaring that the term or rule is void.
- (5) An order under subsection (4) may include provision as respects any period before the making of the order (but after 19th July 2003).
- (6) The avoidance by virtue of section 72 A(2) of any term or rule which provides for any person to be discriminated against shall be without prejudice to the following rights (except in so far as they enable any person to require another person to be treated less favourably than himself) namely—
 - (a) such of the rights of the person to be discriminated against, and
 - (b) such of the rights of any person who will be treated more favourably in direct or indirect consequence of the discrimination,
 as are conferred by or in respect of a contract made or modified wholly or partly in pursuance of, or by reference to, that term or rule.

73 Power to amend certain provisions of Act.

- (1) The Secretary of State may by an order the draft of which has been approved by each House of Parliament—
 - (a) amend or repeal section 9 (including that section as amended by a previous order under this subsection);
 - (b) amend Part II, III or IV so as to render lawful an act which, apart from the amendment, would be unlawful by reason of section 4(1) or (2), [F2319B,] 20(1), 21, 24 or 25;
 - (c) amend section 10(1) or 25(1)(a) so as to alter the number of partners or members specified in that provision.
- (2) The Secretary of State shall not lay before Parliament the draft of an order under subsection (1) unless he has consulted the Commission about the contents of the draft.

Textual Amendments

F23 Words in s. 73(1)(b) inserted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 16** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**

74 Orders and regulations.

- (1) Any power of a Minister of the Crown to make orders or regulations under the provisions of this Act (except [F24section] 50(2)(a)) shall be exercisable by statutory instrument.
- (2) An order made by a Minister of the Crown under the preceding provisions of this Act (except sections . . . F2550(2)(a) and 73(1)), and any regulations made under section [F2656(5), (6) or] 75(5)(a) [F27or (9A)], shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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- (3) An order under this Act may make different provision in relation to different cases or classes of case, may exclude certain cases or classes of case, and may contain transitional provisions and savings.
- (4) Any power conferred by this Act to make orders include power (exercisable in the like manner and subject to the like conditions) to vary or revoke any order so made.
- (5) Any document purporting to be an order made by the Secretary of State under section . . . ^{F28}50(2)(a) and to be signed by him or on his behalf shall be received in evidence, and shall, unless the contrary is proved, be deemed to be made by him.

Textual Amendments

- F24** Word substituted by [Employment Act 1989 \(c. 38, SIF 43:1, 106:1\), s. 29\(3\), Sch. 6 para. 16](#)
- F25** “13(2)(d), 37(3)(b),” repealed by [Employment Act 1989 \(c. 38, SIF 43:1\), s. 29\(4\), Sch. 7 Pt. II](#)
- F26** Words in s. 74(2) inserted (3.7.1994) by 1994 c. 10, **ss. 2(2), 3(3)**
- F27** Words in s. 74(2) inserted (1.10.1997) by 1996 c. 46, **s. 23(5)**; S.I. 1997/2164, **arts. 2, 3**
- F28** “13(2)(d), 37(3)(b) or” repealed by [Employment Act 1989 \(c. 38, SIF 43:1\), s. 29\(4\), Sch. 7 Pt. II](#)

75 Application to Crown etc.

- (1) This Act applies—
 - (a) to an act done by or for purposes of a Minister of the Crown or government department; or
 - (b) to an act done on behalf of the Crown by a statutory body, or a person holding a statutory office,as it applies to an act done by a private person.
- (2) Parts II and IV apply to—
 - (a) service for purposes of a Minister of the Crown or government department, other than service of a person holding a statutory office; or
 - (b) service on behalf of the Crown for purposes of a person holding a statutory office or purposes of a statutory body; or
 - (c) service in the armed forces,as they apply to employment by a private person, and shall so apply as if references to a contract of employment included references to the terms of service.

^{F29}(2A) Subsections (1) and (2) do not apply in relation to the provisions mentioned in subsection (2B).

(2B) Sections 19B to 19F, sections 71 to 71E (including Schedule 1A) and section 76 bind the Crown; and the other provisions of this Act so far as they relate to those provisions shall be construed accordingly (including, in particular, references to employment in Part IV.)]

- (3) Subsections (1) [^{F30}to (2B)] have effect subject to [^{F31}sections 76A and 76B].
- (4) Subsection (2) of section 8 and subsection (4) of section 27 shall have effect in relation to any ship, aircraft or hovercraft belonging to or possessed by Her Majesty in right of the Government of the United Kingdom as it has effect in relation to a ship, aircraft or hovercraft such as is mentioned in paragraph (a) or (b) of the subsection in question; and section 8(3) shall apply accordingly.

Status: Point in time view as at 02/05/2007.

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(5) Nothing in this Act shall—

- (a) invalidate any rules (whether made before or after the passing of this Act) restricting employment in the service of the Crown or by any public body prescribed for the purposes of this subsection by regulations made by the Minister for the Civil Service to persons of particular birth, nationality, descent or residence; or
- (b) render unlawful the publication, display or implementation of any such rules, or the publication of advertisements stating the gist of any such rules.

In this subsection “employment” includes service of any kind, and “public body” means a body of persons, whether corporate or unincorporate, carrying on a service or undertaking of a public nature.

(6) The provisions of Parts II to IV of the ^{M5}Crown Proceedings Act 1947 shall apply to proceedings against the Crown under this Act as they apply to proceedings in England and Wales which by virtue of section 23 of that Act are treated for the purposes of Part II of that Act as civil proceedings by or against the Crown, ^{F32}

(7) The provisions of Part V of the Crown Proceedings Act 1947 shall apply to proceedings against the Crown under this Act as they apply to proceedings in Scotland which by virtue of the said Part are treated as civil proceedings by or against the Crown, except that in their application to proceedings under this Act the proviso to section 44 of that Act (removal of proceedings from the sheriff court to the Court of Session) shall not apply.

(8) This subsection applies to any complaint by a person (“the complainant”) that another person—

- (a) has committed an act of discrimination against the complainant which is unlawful by virtue of section 4; or
- (b) is by virtue of section 32 or 33 to be treated as having committed such an act of discrimination against the complainant,

if at the time when the act complained of was done the complainant was serving in the armed forces and the discrimination in question relates to his service in those forces.

[^{F33}(9) No complaint to which subsection (8) applies shall be presented to an [^{F34}employment tribunal] under section 54 unless—

- (a) the complainant has made a complaint to an officer under the service redress procedures applicable to him and has submitted that complaint to the Defence Council under those procedures; and
- (b) the Defence Council have made a determination with respect to the complaint .

(9A) Regulations may make provision enabling a complaint to which subsection (8) applies to be presented to an [^{F34}employment tribunal] under section 54 in such circumstances as may be specified by the regulations, notwithstanding that subsection (9) would otherwise preclude the presentation of the complaint to an [^{F34}employment tribunal].

(9B) Where a complaint is presented to an [^{F34}employment tribunal] under section 54 by virtue of regulations under subsection (9A), the service redress procedures may continue after the complaint is so presented.]

(10) In this section—

- (a) “the armed forces” means any of the naval, military or air forces of the Crown . . . ^{F35},

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- [^{F36}(aa) “regulations” means regulations made by the Secretary of State;
- (ab) “the service redress procedures” means the procedures, excluding those which relate to the making of a report on a complaint to Her Majesty, referred to in section 180 of the ^{M6}Army Act 1955, section 180 of the ^{M7}Air Force Act 1955 and section 130 of the ^{M8}Naval Discipline Act 1957;]
- (b) “statutory body” means a body set up by or in pursuance of an enactment, and “statutory office” means an office so set up; and
- (c) service “for purposes of” a Minister of the Crown or government department does not include service in any office in Schedule 2 (Ministerial offices) to the ^{M9}House of Commons Disqualification Act 1975 as for the time being in force.

Textual Amendments

- F29** S. 75(2A)(2B) inserted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 17** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**
- F30** Words in s. 75(3) substituted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 18(a)** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**
- F31** Words in s. 75(3) substituted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 18(b)** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**
- F32** Words in s. 75(6) repealed (E.W.) (1.10.2005) by The Civil Procedure (Modification of Crown Proceedings Act 1947) Order 2005 (S.I. 2005/2712), art. 3, **Sch. 2 para. 2**
- F33** S. 75(9)(9A)(9B) substituted for s. 75(9) (1.10.1997) by 1996 c. 46, s. 23(2); S.I. 1997/2164, **arts. 2, 3**
- F34** Words in s. 75(9)(9A)(9B) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F35** Words repealed (with saving) by Armed Forces Act 1981 (c. 55, SIF 7:1), s. 28(2), **Sch. 5 Pt. I** note
- F36** S. 75(10)(aa)(ab) inserted (1.10.1997) by 1996 c. 46, s. 23(3); S.I. 1997/2164, **arts. 2, 3**

Modifications etc. (not altering text)

- C1** S. 75(10) amended (women's services) by Armed Forces Act 1981 (c. 55, SIF 7:1), **Sch. 3 para. 1**

Marginal Citations

- M5** 1947 c. 44.
M6 1955 c. 18.
M7 1955 c. 19.
M8 1957 c. 53.
M9 1975 c. 24

[^{F37}75A Application to House of Commons staff.

- (1) Parts II and IV apply to an act done by an employer of a relevant member of the House of Commons staff, and to service as such a member, as they apply to an act done by and to service for the purposes of a Minister of the Crown or government department, and accordingly apply as if references to a contract of employment included references to the terms of service of such a member.
- (2) In this section “relevant member of the House of Commons staff” has the same meaning as in [^{F38}section 195 of the Employment Rights Act 1996]; and [^{F39}subsections (6) to (12)] of that section (person to be treated as employer of House of Commons staff) apply, with any necessary modifications, for the purposes of Parts II and IV as they apply by virtue of this section.]

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Textual Amendments

- F37** S. 75A inserted (16.10.1992) by Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52), ss. 300(2), 302, **Sch. 2 para. 7**.
- F38** Words in s. 75A(2) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 10(2)(a)** (with ss. 191-195, 202)
- F39** Words in s. 75A(2) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 10(2)(b)** (with ss. 191-195, 202)

[^{F40}75B Application to House of Lords staff.

- (1) Parts II and IV apply in relation to employment as a relevant member of the House of Lords staff as they apply in relation to other employment.
- (2) In this section “relevant member of the House of Lords staff” has the same meaning as in [^{F41}section 194 of the Employment Rights Act 1996]; and [^{F41}subsection (7)] of that section applies for the purposes of this section.]

Textual Amendments

- F40** S. 75B inserted (30.11.1993) by 1993 c. 19, s. 49(1), **Sch. 7 para. 10**; S.I. 1993/2503, art. 2(2), **Sch. 2**.
- F41** Words in s. 75B(2) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 3(a)(b)** (with ss. 191-195, 202)

76 Government appointments outside s. 4.

- (1) [^{F42}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.
- [^{F43}(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

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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.

(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) [^{F44}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 ^{F45}(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

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- 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 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 [^{F46} 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.
- [^{F47}(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 [^{F48}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 ^{M10}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

- F42** 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)
- F43** 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)
- F44** 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)
- F45** S. 76(11A)(11B) inserted (19.7.2003) by The Race Relations Act 1976 (Amendment) Regulations 2003 (S.I. 2003/1626), reg. 50(b)
- F46** 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)
- F47** S. 76(14) substituted (19.7.2003) by The Race Relations Act 1976 (Amendment) Regulations 2003 (S.I. 2003/1626), reg. 50(d)

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F48 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**

Marginal Citations

M10 1958 c. 21.

76ZA Other office holders

- (1) It is unlawful for a relevant person, in relation to an appointment to an office or post to which this section applies, to discriminate against a person on the grounds of race or ethnic or national origins—
 - (a) in the arrangements which he makes for the purpose of determining to whom the appointment should be offered;
 - (b) in the terms on which he offers him the appointment; or
 - (c) by refusing or deliberately omitting to offer him the appointment.
- (2) It is unlawful for a relevant person, in relation to a person who has been appointed to an office or post to which this section applies, to discriminate against him on grounds of race or ethnic or national origins—
 - (a) in the terms of the appointment;
 - (b) in the way he affords him access to opportunities for promotion, transfer, training or to any other benefits, facilities or services, or by refusing or deliberately omitting to afford him access to them;
 - (c) by terminating the appointment; or
 - (d) by subjecting him to any other detriment in relation to the appointment.
- (3) It is unlawful for a relevant person, in relation to an office or post to which this section applies, to subject to harassment a person who has been appointed to, or is seeking or being considered for appointment to, such an office or post.
- (4) Subsections (1) and (2) do not apply to any act in relation to an office or post where, if the office or post constituted employment, the act would be lawful by virtue of section 4A (exception for genuine occupational requirement).
- (5) Subsection (2) does not apply to benefits, facilities or services of any description if the relevant person is concerned with the provision (for payment or not) of benefits, facilities or services of that description to the public, or a section of the public to which the person belongs, unless—
 - (a) that provision differs in a material respect from the provision of the benefits, facilities or services to persons appointed to offices or posts which are the same as, or not materially different from, that to which the person has been appointed;
 - (b) the provision of the benefits, facilities or services to the person appointed is regulated by the terms and conditions of his appointment; or
 - (c) the benefits, facilities or services relate to training.
- (6) In subsection (2)(c) reference to the termination of the appointment includes 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

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- 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 terminate the appointment by reason of the conduct of the relevant person.
- (7) This section applies to any office or post, other than a political office or post, where—
- (a) sections 4, 7, 10, 26A, 26B and 76 do not apply in relation to appointment to that office or post;
- (b) it is an office or post to which persons are appointed to discharge functions personally under the direction of another person; and
- (c) it is an office or post in respect of which they are entitled to remuneration.
- (8) For the purposes of subsection (7) the holder of an office or post—
- (a) is to be regarded as discharging his functions under the direction of another person if that other person is entitled to direct him as to when and where he discharges those functions; and
- (b) is not to be regarded as entitled to remuneration merely because he is entitled to payments—
- (i) in respect of expenses incurred by him in carrying out the functions of the office or post, or
- (ii) by way of compensation for the loss of income or benefits he would or might have received from any person had he not been carrying out the functions of the office or post.
- (9) In this section—
- (a) appointment to an office or post does not include election to an office or post;
- (b) “political office or post” means—
- (i) any office of the House of Commons held by a member of it;
- (ii) a life peerage within the meaning of the Life Peerages Act 1958 ^{M11}, or any office held in the House of Lords by a member of it;
- (iii) any office mentioned in Schedule 2 (Ministerial offices) to the House of Commons Disqualification Act 1975 ^{M12};
- (iv) the offices of Leader of the Opposition, Chief Opposition Whip or Assistant Opposition Whip within the meaning of the Ministerial and other Salaries Act 1975 ^{M13};
- (v) any office of the Scottish Parliament held by a member of it;
- (vi) a member of the Scottish Executive within the meaning of section 44 of the Scotland Act 1998 ^{M14}, or a junior Scottish Minister within the meaning of section 49 of that Act;
- (vii) any office of the National Assembly for Wales held by a member of it;
- [^{F49}(viii) a member of the Welsh Assembly Government;]
- (viii) in England, any office of a county council, a London borough council, a district council or a parish council held by a member of it;
- (ix) in Wales, any office of a county council, a county borough council or a community council held by a member of it;
- (x) in relation to a council constituted under section 2 of the Local Government etc (Scotland) Act 1994 ^{M15} or a community council established under section 51 of the Local Government (Scotland) Act 1973 ^{M16}, which is held by a member of it;

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- (xi) any office of the Greater London Authority held by a member of it;
 - (xii) any office of the Common Council of the City of London held by a member of it;
 - (xiii) any office of the Council of the Isles of Scilly held by a member of it; or
 - (xiv) any office of a political party; and
- (c) “relevant person”, in relation to an office or post, means—
- (i) any person with power to make or terminate appointments to the office or post, or to determine the terms of appointment; and
 - (ii) any person with power to determine the working conditions of a person appointed to the office or post in relation to opportunities for promotion, a transfer, training or for receiving any other benefit.

Textual Amendments

- F49** S. 76ZA(9)(b)(viiia) inserted (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. 15**

Marginal Citations

- M11** 1958 c. 21
- M12** 1975 c. 24. Schedule 2 was amended by [S.I. 2002/794](#), article 5(2), **Schedule 2**, and by the [Scotland Act 1998 \(c. 46\)](#), **sections 48(6)**, 87(1) and Schedule 9.
- M13** 1975 c. 27
- M14** 1998 c. 46
- M15** 1994 c. 39. Section 2 was amended by the [Environment Act 1995 \(c. 25\)](#), **Schedule 22**, paragraph 232(1).
- M16** 1973 c. 65. Section 51 was amended by the [Local Government etc. \(Scotland\) Act 1994 \(c. 39\)](#), **Schedule 14**, paragraph 1.

[^{F50} Police]

Textual Amendments

- F50** Ss. 76A, 76B and cross-heading inserted (2.4.2001) by [2000 c. 34](#), **s. 4** (with s. 10(5)); [S.I. 2001/566](#), **art. 2(1)**

^{F51}76A Police forces.

- (1) In this section, “relevant police office” means—
- (a) the office of constable held—
 - (i) as a member of a police force; or
 - (ii) on appointment as a special constable for a police area; or
 - (b) an appointment as police cadet to undergo training with a view to becoming a member of a police force.
- (2) For the purposes of Part II, the holding of a relevant police office shall be treated as employment—

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- (a) by the chief officer of police as respects any act done by him in relation to that office or a holder of it;
 - (b) by the police authority as respects any act done by it in relation to that office or a holder of it.
- (3) For the purposes of section 32—
- (a) the holding of a relevant police office shall be treated as employment by the chief officer of police (and as not being employment by any other person); and
 - (b) anything done by a person holding such an office in the performance, or purported performance, of his functions shall be treated as done in the course of that employment.
- (4) There shall be paid out of the police fund—
- (a) any compensation, costs or expenses awarded against a chief officer of police in any proceedings brought against him under this Act, and any costs or expenses incurred by him in any such proceedings so far as not recovered by him in the proceedings; and
 - (b) any sum required by a chief officer of police for the settlement of any claim made against him under this Act if the settlement is approved by the police authority.
- (5) Any proceedings under this Act which, by virtue of this section, would lie against a chief officer of police shall be brought against—
- (a) the chief officer of police for the time being; or
 - (b) in the case of a vacancy in that office, against the person for the time being performing the functions of that office;
- and references in subsection (4) to the chief officer of police shall be construed accordingly.
- (6) A police authority may, in such cases and to such extent as appear to it to be appropriate, pay out of the police fund—
- (a) any damages or costs awarded in proceedings under this Act against a person under the direction and control of the chief officer of police;
 - (b) any costs incurred and not recovered by such a person in such proceedings; and
 - (c) any sum required in connection with the settlement of a claim that has or might have given rise to such proceedings.

Textual Amendments

F51 Ss. 76A, 76B and cross-heading inserted (2.4.2001) by 2000 c. 34, s. 4 (with s. 10(5)); S.I. 2001/566, art. 2(1)

^{F52}76B Other police bodies etc.

- (1) [^{F53}Section 76A applies in relation to the National Criminal Intelligence Service (“NCIS”) and the National Crime Squad (“the NCS”) as it applies in relation to a police force but as if any reference—
- (a) to the chief officer of police were to the Director General of NCIS or of the NCS, as the case may be;

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- (b) to the police authority were to the Service Authority for the National Criminal Intelligence Service or the Service Authority for the National Crime Squad, as the case may be;
 - (c) to the police fund were to the service fund established under section 16 of the ^{M17}Police Act 1997 (NCIS service fund) or section 61 of that Act (the NCS service fund), as the case may be.]
- (2) Section 76A [^{F54}also] applies in relation to any other body of constables or cadets as it applies in relation to a police force, but as if any reference—
- (a) to the chief officer of police were to the officer or other person who has the direction and control of the body in question;
 - (b) to the police authority were to the authority by whom the members of the body are paid;
 - (c) to the police fund were to money provided by that authority.
- [^{F55}(2A) Constables serving with the Serious Organised Crime Agency do not constitute a body of constables for the purposes of subsection (2).]
- (3) In relation to a member of a police force or a special constable who is not under the direction and control of the chief officer of police for that police force or, as the case may be, for the police area to which he is appointed, references in section 76A to the chief officer of police are references to the chief officer under whose direction and control he is.

Textual Amendments

- F52** Ss. 76A, 76B and cross-heading inserted (2.4.2001) by 2000 c. 34, s. 4 (with s. 10(5)); S.I. 2001/566, art. 2(1)
- F53** S. 76B(1) repealed (E.W.) (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 59, 174(2), Sch. 4 para. 34(2), Sch. 17 Pt. 2; S.I. 2006/378, art. 4, Sch. paras. 10, 13(n)
- F54** Word in s. 76B(2) repealed (E.W.) (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 59, 174(2), Sch. 4 para. 34(3), Sch. 17 Pt. 2; S.I. 2006/378, art. 4, Sch. paras. 10, 13(n)
- F55** S. 76B(2A) inserted (E.W.) (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 59, Sch. 4 para. 34(4); S.I. 2006/378, art. 4, Sch. para. 10

Marginal Citations

- M17** 1997 c. 50.

77 Financial provisions.

There shall be defrayed out of money provided by Parliament—

- (a) sums required by the Secretary of State for making payments under paragraph 5 or 16 of Schedule 1 or paragraph 12 of Schedule 2, and for defraying any other expenditure falling to be made by him under or by virtue of this Act;
- (b) any expenses incurred by the Secretary of State with the consent of the Treasury in undertaking, or financially assisting the undertaking by other persons of, research into any matter connected with relations between persons of different racial groups;
- (c) payments falling to be made under section 67(5) in respect of the remuneration of assessors; and

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- (d) any increase attributable to the provisions of this Act in the sums payable out of money provided by Parliament under any other Act.

78 General interpretation provisions.

- (1) In this Act, unless the context otherwise requires—

“access” shall be construed in accordance with section 40;

“act” includes a deliberate omission;

“advertisement” includes every form of advertisement or notice, whether to the public or not, and whether in a newspaper or other publication, by television or radio, by display of notices, signs, labels, showcards or goods, by distribution of samples, circulars, catalogues, price lists or other material, by exhibition of pictures, models or films, or in any other way, and references to the publishing of advertisements shall be construed accordingly;

[^{F56} “board of management”, in relation to a self-governing school, has the same meaning as in the Education (Scotland) Act 1980;]

[^{F57}[^{F58} “board of management” in relation to a college of further education within the meaning of Part I of the Further and Higher Education (Scotland) Act 1992, has the same meaning as in that Part;]

[^{F59} “body” includes an unincorporated association;

“the Commission” means the Commission for Racial Equality;

“Commissioner” means a member of the Commission;

[^{F60} “criminal investigation” has the meaning given by section 57(4B);]

[^{F61} “criminal proceedings” includes—

- (a) proceedings on dealing summarily with a charge under the ^{M18}Army Act 1955 or the ^{M19}Air Force Act 1955 or on summary trial under the ^{M20}Naval Discipline Act 1957;

- (b) proceedings before a summary appeal court constituted under any of those Acts;

- (c) proceedings before a court-martial constituted under any of those Acts or a disciplinary court constituted under section 52G of the Act of 1957;

- (d) proceedings before the Courts-Martial Appeal Court; and

- (e) proceedings before a Standing Civilian Court;]

“designated county court” has the meaning given by section 67(1);

[^{F62} “detriment” does not include conduct of a nature such as to constitute harassment under section 3A;]

“discrimination” and related terms shall be construed in accordance with section 3(3);

“dispose”, in relation to premises, includes granting a right to occupy the premises, and any reference to acquiring premises shall be construed accordingly;

“education” includes any form of training or instruction;

“education authority” and “educational establishment” have for Scotland the same meaning as they have respectively in [^{F63}section 135(1) of the Education (Scotland) Act 1980];

“employment” means employment under a contract of service or of apprenticeship or a contract personally to execute any work or labour, and related expressions shall be construed accordingly;

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“employment agency” means a person who, for profit or not, provides services for the purpose of finding employment for workers or supplying employers with workers;

[^{F64}“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;

“estate agent” means a person who, by way of profession or trade, provides services for the purpose of finding premises for persons seeking to acquire them or assisting in the disposal of premises;

“final” shall be construed in accordance with subsection (4);

“firm” has the meaning given by section 4 of the ^{M21}Partnership Act 1890;

“formal investigation” means an investigation under section 48;

“further education” has . . . ^{F65}for Scotland the meaning given by [^{F66}section 135(1) of the Education (Scotland) Act 1980];

“general notice”, in relation to any person, means a notice published by him at a time and in a manner appearing to him suitable for securing that the notice is seen within a reasonable time by persons likely to be affected by it;

“genuine occupational qualification” shall be construed in accordance with section 5;

“Great Britain” includes such of the territorial waters of the United Kingdom as are adjacent to Great Britain;

“independent school” has for England and Wales the meaning given by section 114(1) of the ^{M22}Education Act 1944, and for Scotland the meaning given by [^{F67}section 135(1) of the Education (Scotland) Act 1980];

..... ^{F68}
“managers” has for Scotland the same meaning as in [^{F69}s. 135(1) of the Education (Scotland) Act 1980];

“Minister of the Crown” includes the Treasury and the Defence Council;

“nationality” includes citizenship;

“near relative” shall be construed in accordance with subsection (5);

“non-discrimination notice” means a notice under section 58;

“notice” means a notice in writing;

“prescribed” means prescribed by regulations made by the Secretary of State;

“profession” includes any vocation or occupation;

“proprietor”, in relation to a school, has for England and Wales the meaning given by section 114(1) of the ^{M23}Education Act 1944, and for Scotland the meaning given by [^{F69}s. 135(1) of the Education (Scotland) Act 1980].

“pupil” in Scotland includes a student of any age;

“racial grounds” and “racial group” have the meaning given by section 3(1);

“school” has for England and Wales the meaning given by section 114(1) of the ^{M24}Education Act 1944, and for Scotland the meaning given by [^{F69}s. 135(1) of the Education (Scotland) Act 1980];

“school education” has for Scotland the meaning given by [^{F69}s. 135(1) of the Education (Scotland) Act 1980];

[^{F70} “self-governing school” has the same meaning as in the Education (Scotland) Act 1980;]

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[^{F71}“social protection” and “social advantage” have the same meaning as in Article 3 of Council Directive 2000/43/EC;]

“trade” includes any business;

“training” includes any form of education or instruction;

“university” includes a university college and the college, school or hall of a university;

^{F72}
...

- (2) It is hereby declared that in this Act “premises”, unless the context otherwise requires, includes land of any description.
- (3) Any power conferred by this Act to designate establishments or persons may be exercised either by naming them or by identifying them by reference to a class or other description.
- (4) For the purposes of this Act a non-discrimination notice or a finding by a court or tribunal becomes final when an appeal against the notice or finding is dismissed, withdrawn or abandoned or when the time for appealing expires without an appeal having been brought; and for this purpose an appeal against a non-discrimination notice shall be taken to be dismissed if, notwithstanding that a requirement of the notice is quashed on appeal, a direction is given in respect of it under section 59(3).
- (5) For the purposes of this Act a person is a near relative of another if that person is the wife or husband [^{F73}or civil partner], a parent or child, a grandparent or grandchild, or a brother or sister of the other (whether of full blood or half-blood or [^{F74}by marriage or civil partnership]), and “child” includes an illegitimate child and the wife or husband [^{F73}or civil partner] of an illegitimate child.
- (6) Except so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended by or under any other enactment, including this Act.
- (7) In this Act, except where otherwise indicated—
 - (a) a reference to a numbered Part, section or Schedule is a reference to the Part or section of, or the Schedule to, this Act so numbered; and
 - (b) a reference in a section to a numbered subsection is a reference to the subsection of that section so numbered; and
 - (c) a reference in a section, subsection or Schedule to a numbered paragraph is a reference to the paragraph of that section, subsection or Schedule so numbered; and
 - (d) a reference to any provision of an Act (including this Act) includes a Schedule incorporated in the Act by that provision.]]]

Textual Amendments

F56 S. 78(1): definition of “board of management” repealed (S.) (31.12.2004) by 2000 asp 6, ss. 60(2), 61(2), Sch. 3; S.S.I. 2004/528, art. 2(b)

F57 Definition in s. 78(1) inserted (16.5.1992) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(2), Sch. 9 para. 5(5); S.I. 1992/817, art. 3(2), Sch. 1.

F58 S. 78(1): definition of “board of management” repealed (S.) (31.12.2004) by 2000 asp 6, ss. 60(2), 61(2), Sch. 3; S.S.I. 2004/528, art. 2(b)

F59 S. 78(1): definition of “body” inserted (2.4.2001) by 2000 c. 34, s. 9(1), Sch. 2 para. 19 (with s. 10(5)); S.I. 2001/566, art. 2(1)

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- F60** S. 78(1): definition of “criminal investigation” inserted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 19** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**
- F61** S. 78(1): definition of “criminal proceedings” inserted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 19** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**
- F62** S. 78(1): definition of “detriment” inserted (19.7.2003) by The Race Relations Act 1976 (Amendment) Regulations 2003 (S.I. 2003/1626), **reg. 52**
- F63** In s. 78(1) in the definition of “education authority” and “educational establishment” for the respective references to subsections (16) and (17) of section 145 of the Education (Scotland) Act 1962 there are substituted references to section 135(1) of the Education (Scotland) Act 1980 by Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 4 para. 15**
- F64** S. 78(1): definition of “enactment” inserted (27.7.2000) by S.I. 2000/2040, arts. 1(1), 2(1), **Sch. Pt. I para. 9**
- F65** Words repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237, **Sch. 13 Pt. II**
- F66** In s. 78(1) in the definition of “further Education” for the reference to subsection (21) of section 145 of the Education (Scotland) Act 1962 there is substituted a reference to section 135(1) of the Education (Scotland) Act 1980 by Education (Scotland) Act 1980 (c. 44, SIF 41:2), s. 136(2), **Sch. 4 para. 15**
- F67** In s. 78(1) in the definition of “independent school” for the reference to subsection (23) of section 145 of the Education (Scotland) Act 1962 there is substituted a reference to section 135(1) of the Education (Scotland) Act 1980 by Education (Scotland) Act 1980 (c. 44, SIF 41:2), s. 136(2), **Sch. 4 para. 15**
- F68** Definition of “industrial tribunal” repealed by Industrial Training Act 1982 (c. 10, SIF 43:1), **Sch. 4**
- F69** In s. 78(1) in the definitions of “managers”, “proprietor”, “school” and “school education” for the respective references to subsections (26), (37), (42) and (43A) of section 140 of the Education (Scotland) Act 1962 there are substituted references to s. 135(1) of the Education (Scotland) Act 1980 by Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 4 para. 15**
- F70** S. 78(1): definition of “self-governing school” repealed (S.) (31.12.2004) by 2000 asp 6, ss. 60(2), 61(2), Sch. 3; S.S.I. 2004/528, **art. 2(b)**
- F71** S. 78(1): definition of “social protection” and “social advantage” inserted (19.7.2003) by The Race Relations Act 1976 (Amendment) Regulations 2003 (S.I. 2003/1626), **reg. 52**
- F72** S. 78(1): definition of “upper limit of compulsory school age” repealed (1.9.1997) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt. II** (with ss. 1(4), 561, 562, Sch. 39 paras. 5, 6, 8, 30, 39); S.I. 1997/1623, **art. 2(2)**
- F73** Words in s. 78(5) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 261(1), **Sch. 27 para. 55**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F74** Words in s. 78(5) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 261(1), **Sch. 27 para. 55**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

Modifications etc. (not altering text)

- C2** S. 78(1) modified by Estate Agents Act 1979 (c. 38, SIF 124:1), s. 3(1), **Sch. 1 para. 4(2)**
- C3** In s. 78(1) in the definition of “education authority” and “educational establishment” for the respective references to subsections (16) and (17) of section 145 of the Education (Scotland) Act 1962 there are substituted references to section 135(1) of the Education (Scotland) Act 1980 by Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 4 para. 15**
- C4** In s. 78(1) in the definition of “further Education” for the reference to subsection (21) of section 145 of the Education (Scotland) Act 1962 there is substituted a reference to section 135(1) of the Education (Scotland) Act 1980 by Education (Scotland) Act 1980 (c. 44, SIF 41:2), s. 136(2), **Sch. 4 para. 15**
- C5** In s. 78(1) in the definition of “independent school” for the reference to subsection (23) of section 145 of the Education (Scotland) Act 1962 there is substituted a reference to section 135(1) of the Education (Scotland) Act 1980 by Education (Scotland) Act 1980 (c. 44, SIF 41:2), s. 136(2), **Sch. 4 para. 15**

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- C6** In s. 78(1) in the definitions of “managers”, “proprietor”, “school” and “school education” for the respective references to subsections (26), (37), (42) and (43A) of section 140 of the Education (Scotland) Act 1962 there are substituted references to s. 135(1) of the Education (Scotland) Act 1980 by [Education \(Scotland\) Act 1980 \(c. 44, SIF 41:2\)](#), [Sch. 4 para. 15](#)
- C7** [S. 78\(4\)](#) modified by [Estate Agents Act 1979 \(c. 38, SIF 124:4\)](#), s. 3(1), [Sch. 1 para. 4\(2\)](#)

Marginal Citations

- M18** 1955 c. 18.
M19 1955 c. 19.
M20 1957 c. 53.
M21 1890 c. 39.
M22 1944 c. 31.
M23 1944 c. 31.
M24 1944 c. 31.

79 Transitional and commencement provisions, amendments and repeals.

- (1) The provisions of Schedule 2 shall have effect for making transitional provision for the purposes of this Act.
- (2) This Act shall come into operation on such day as the Secretary of State may by order appoint, and different days may be so appointed for different provisions and for different purposes.
- ^{X1}(3) The enactments specified in Schedule 3 shall have effect subject to the amendments specified in that Schedule (being minor amendments or amendments consequential on the preceding provisions of this Act).
- ^{X1}(4) The ^{M25}Sex Discrimination Act 1975 shall have effect subject to the amendments specified in Schedule 4, being amendments for bringing provisions in that Act relating to its administration and enforcement into conformity with the corresponding provisions in this Act.
- (5) Subject to the provisions of Schedule 2, the enactments specified in Schedule 5 are hereby repealed to the extent shown in column 3 of that Schedule.
- (6) ^{F75}
- (7) An order under this section may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into operation, including such adaptations of those provisions, or of any provisions of this Act then in operation, as appear to the Secretary of State necessary or expedient in consequence of the partial operation of this Act.

Subordinate Legislation Made

- P1** [S. 79\(2\)](#): power of appointment fully exercised by S.Is. 1977/680 and 1977/840

Editorial Information

- X1** The text of s. 79(3)(4), Sch. 1 para. 18(1)(2), Sch. 3 para. 1(1)(5), Sch. 4 paras. 1–9, Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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Textual Amendments

F75 S. 79(6) repealed by [Public Order Act 1986 \(c. 64, SIF 39:2\)](#), s. 40(3), [Sch. 3](#)

Marginal Citations

M25 [1975 c. 65](#)

80 Short title and extent.

- (1) This Act may be cited as the Race Relations Act 1976.
- (2) This Act, except so far as it amends or repeals any provision of the ^{M26}House of Commons Disqualification Act 1975 or the ^{M27}Northern Ireland Assembly Disqualification Act 1975, does not extend to Northern Ireland.

Marginal Citations

M26 [1975 c. 24](#).

M27 [1975 c. 25](#).

Status:

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Changes to legislation:

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