

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995, SCHEDULE 3. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 3

#### SECTIONS [F1 17A(8)] AND 25(6)[F2, 31ADA] ENFORCEMENT AND PROCEDURE

##### Extent Information

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

##### Textual Amendments

- F1** Sch. 3: word in side note substituted (E.W.S.) (3.7.2003 for certain purposes and otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **29(2)(a)** and same word substituted (N.I.) (21.2.2004 for certain purposes and otherwise 1.10.2004) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **28(2)(a)**
- F2** Sch. 3: word in sidenote inserted (E.W.S.) (1.9.2007) by [The Disability Discrimination Act 1995 \(Amendment etc.\) \(General Qualifications Bodies\) \(Alteration of Premises and Enforcement\) Regulations \(S.I. 2007/2405\)](#), regs. 1(2), 4(2)

### PART I

#### EMPLOYMENT

##### *Conciliation*

F3<sub>1</sub> .....

##### Textual Amendments

- F3** Sch. 3 para. 1 repealed (E.W.S.)(22.8.1996) by [1996 c. 17, ss. 45, 46, Sch. 3 Pt. I](#) (with s. 38) and (N.I.) (24.9.1996) by [S.I. 1996/1921 \(N.I.18\)](#), art. 28, **Sch. 3** (with Sch. 2)

##### *Restriction on proceedings for breach of Part II*

- 2 [F4(1) Except as provided by Part 2, no civil or criminal proceedings may be brought against any person in respect of an act merely because the act is unlawful under that Part.]
- (2) Sub-paragraph (1) does not prevent the making of an application for judicial review [F5 or the investigation or determination of any matter in accordance with Part 10 (investigations) of the Pension Schemes Act 1993 F6 by the Pensions Ombudsman”][F7 or the investigation or determination of any matter in accordance

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with the Part X (investigations: the Pensions Ombudsman) of the Pension Schemes (Northern Ireland) Act 1993 <sup>F8</sup> by the Pensions Ombudsman].

[<sup>F9</sup>(3) Sub-paragraph (1) does not prevent the bringing of proceedings in respect of an offence under section 16B(2B).]

#### Textual Amendments

- F4** Sch. 3 para. 2(1) substituted (E.W.S.) (3.7.2003 for certain purposes and otherwise 1.10.2004) by The Disability Discrimination Act 1995 (Amendment) Regulations 2003 (S.I. 2003/1673), regs. 1(2)(3), 29(2)(b) and said words substituted (N.I.) (21.2.2004 for certain purposes and otherwise 1.10.2004) by the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004/55), regs. 1(2)(3), 28(2)(b)
- F5** Words in Sch. 3 para. 2(2) inserted (E.W.S.) (1.12.2003 for certain purposes, otherwise 1.10.2004) by The Disability Discrimination Act 1995 (Pensions) Regulations 2003 (S.I. 2003/2770), regs. 1(2)(3), 4(5)
- F6** 1993 c. 48.
- F7** Words in Sch. 3 para. 2(2) added (N.I.) (21.2.2004 for certain purposes and otherwise 1.10.2004) by the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004/55), regs. 1(2)(3), 28(2)(c)
- F8** 1993 c. 49; Part X was amended by Articles 152 to 156 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)), paragraph 70 of Schedule 5 to the Bank of England Act 1998 (c. 11) and sections 49 and 50 of, and Schedule 9 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.))
- F9** Sch. 3 para. 2(3) inserted (E.W.S.) (5.12.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), Sch. 1 para. 38(2); S.I. 2005/2774, art. 3(j) and said sub-paragraph inserted (N.I.) (9.11.2007) by The Disability Discrimination (Northern Ireland) Order 2006 (S.I. 2006/312 (N.I. 1)), arts. 1, 19, Sch. 1 para. 29(2); S.R. 2007/466, art. 2(2)(l)

#### *Period within which proceedings must be brought*

- 3 (1) An [<sup>F10</sup>employment tribunal] shall not consider a complaint under [<sup>F11</sup>section 17A or 25(8)] unless it is presented before the end of the period of three months beginning when the act complained of was done.
- (2) A tribunal may consider any such complaint which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.
- (3) For the purposes of sub-paragraph (1)—
- (a) where an unlawful act <sup>F12</sup>. . . is attributable to a term in a contract, that act is to be treated as extending throughout the duration of the contract;
  - (b) any act extending over a period shall be treated as done at the end of that period; and
  - (c) a deliberate omission shall be treated as done when the person in question decided upon it.
- (4) In the absence of evidence establishing the contrary, a person shall be taken for the purposes of this paragraph to decide upon an omission—
- (a) when he does an act inconsistent with doing the omitted act; or
  - (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.

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### Textual Amendments

- F10** Words in Sch. 3 para. 3 substituted (1.8.1998) by 1998 c. 8, s. 1(2) (with s. 16(2))
- F11** Words in Sch. 3 para. 3(1) substituted (E.W.S.) (3.7.2003 for certain purposes, otherwise 1.10.2004) by The Disability Discrimination Act 1995 (Amendment) Regulations 2003 (S.I. 2003/1673), regs. 1(2)(3), 29(2)(c) and said words substituted (N.I.) (21.2.2004 for certain purposes, otherwise 1.10.2004) by the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004/55), regs. 1(2)(3), 28(2)(d)
- F12** Words in Sch. 3 para. 3(3)(a) omitted (E.W.S.) (3.7.2003 for certain purposes, otherwise 1.10.2004) by virtue of The Disability Discrimination Act 1995 (Amendment) Regulations 2003 (S.I. 2003/1673), regs. 1(2)(3), 29(2)(d) and said words omitted (N.I.) (21.2.2004 for certain purposes, otherwise 1.10.2004) by virtue of the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004/55), regs. 1(2)(3), 28(2)(e)

### Evidence

- 4 (1) In any proceedings under [<sup>F13</sup>section 17A or 25(8)], a certificate signed by or on behalf of a Minister of the Crown and certifying—
- (a) that any conditions or requirements specified in the certificate were imposed by a Minister of the Crown and were in operation at a time or throughout a time so specified, <sup>F14</sup> . . .
- <sup>F14</sup>(b) . . . . .
- shall be conclusive evidence of the matters certified.
- [<sup>F15</sup>(1A) In any proceedings under section 17A or 25(8), a certificate signed by or on behalf of the Scottish Ministers and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by a member of the Scottish Executive, and
- (b) were in operation at a time or throughout a time so specified,
- shall be conclusive evidence of the matters certified.
- (1B) In any proceedings under section 17A or 25(8), a certificate signed by or on behalf of the National Assembly for Wales and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by the Assembly, and
- (b) were in operation at a time or throughout a time so specified,
- shall be conclusive evidence of the matters certified.]
- (2) A document purporting to be such a certificate [<sup>F16</sup>as is mentioned in subparagraph (1), (1A) or (1B)] shall be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

### Extent Information

- E2** In its application to Northern Ireland, this section has effect subject to the modifications set out in Sch. 8; see s. 70(6)

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### Textual Amendments

- F13** Words in Sch. 3 para. 4(1) substituted (E.W.S.) (3.7.2003, otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **29(2)(e)** and said words substituted (N.I.) (21.2.2004 for certain purposes and 1.10.2004 insofar as not yet in force) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **28(2)(f)**
- F14** Sch. 3 para. 4(1)(b) and preceding word repealed (16.7.2001) by 1999 c. 26, ss. 41, 44, Sch. 8 para. 7, **Sch. 9(12)**; S.I. 2001/1187, art. 3, **Sch.** (as amended by S.I. 2001/1461, art. 2)
- F15** Sch. 3 para. 4(1A)(1B) inserted (E.W.S.) (30.6.2005) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 19(1), 20(3)-(6), **Sch. 1 para. 38(3)**; S.I. 2005/1676, art. 2(1)(c)
- F16** Words in Sch. 3 para. 4(2) inserted (E.W.S.) (30.6.2005) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 19(1), 20(3)-(6), **Sch. 1 para. 38(4)**; S.I. 2005/1676, art. 2(1)(c)

## PART II

### DISCRIMINATION IN OTHER AREAS

#### *Restriction on proceedings for breach of Part III*

- 5 (1) Except as provided by section 25 no civil or criminal proceedings may be brought against any person in respect of an act merely because the act is unlawful under Part III.
- (2) Sub-paragraph (1) does not prevent the making of an application for judicial review.

#### *Period within which proceedings must be brought*

- 6 (1) A county court or a sheriff court shall not consider a claim under section 25 unless proceedings in respect of the claim are instituted before the end of the period of six months beginning when the act complained of was done.
- [<sup>F17</sup>(2) Where, in relation to proceedings or prospective proceedings under section 25, the dispute concerned is referred for conciliation in pursuance of arrangements under section 27 of the Equality Act 2006 before the end of the period of six months mentioned in sub-paragraph (1), the period allowed by that sub-paragraph shall be extended by three months.]
- (3) A court may consider any claim under section 25 which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.
- (4) For the purposes of sub-paragraph (1)—
- (a) where an unlawful act of discrimination is attributable to a term in a contract, that act is to be treated as extending throughout the duration of the contract;
  - (b) any act extending over a period shall be treated as done at the end of that period; and
  - (c) a deliberate omission shall be treated as done when the person in question decided upon it.

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- (5) In the absence of evidence establishing the contrary, a person shall be taken for the purposes of this paragraph to decide upon an omission—
- (a) when he does an act inconsistent with doing the omitted act; or
  - (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.

#### Extent Information

- E3** In its application to Northern Ireland, this paragraph has effect subject to the modifications set out in Sch. 8: see s. 70(6)

#### Textual Amendments

- F17** Sch. 3 para. 6(2) substituted (E.W.S.) (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 93, Sch. 3 para. 56(1) (with s. 92); S.I. 2007/2603, art. 2 (subject to art. 3)

*[<sup>F18</sup>Staying or sisting proceedings on section 21B claim affecting criminal matters] [<sup>F19</sup>Staying proceedings on section 21B claim affecting criminal matters]*

#### Textual Amendments

- F18** Sch. 3 paras. 6A, 6B and cross-headings inserted (E.W.S.) (4.12.2006) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), Sch. 1 para. 38(5); S.I. 2005/2774, art. 4
- F19** Sch. 3 paras. 6A, 6B inserted (N.I.) (31.12.2007) by The Disability Discrimination (Northern Ireland) Order 2006 (S.I. 2006/312 (N.I. 1)), arts. 1, 19, Sch. 1 para. 29(3); S.R. 2007/466, art. 2(2)(l)

- <sup>F18</sup>6A (1) Sub-paragraph (2) applies where a party to proceedings under section 25 which have arisen by virtue of section 21B(1) 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.
- (2) The court shall grant the stay or sist unless it is satisfied that the continuance of the proceedings under section 25 would not result in the prejudice alleged.]

*<sup>F19</sup>[<sup>F18</sup>Restriction of remedies for section 21B claim relating to criminal matters]*

- <sup>F18</sup>6B (1) Sub-paragraph (2) applies to a remedy other than—
- (a) damages; or
  - (b) a declaration or, in Scotland, a declarator.
- (2) In proceedings under section 25, the remedy shall be obtainable in respect of a relevant discriminatory act only if the court is satisfied that—
- (a) no criminal investigation,
  - (b) no decision to institute criminal proceedings, and
  - (c) no criminal proceedings,
- would be prejudiced by the remedy.

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- (3) In sub-paragraph (2) “relevant discriminatory act” means an act—
- (a) which is done, or by virtue of section 57 or 58 is treated as done, by a person—
    - (i) in carrying out public investigator functions, or
    - (ii) in carrying out functions as a public prosecutor; and
  - (b) which is unlawful by virtue of section 21B(1).]

*Compensation for injury to feelings*

- 7 In any proceedings under section 25, the amount of any damages awarded as compensation for injury to feelings shall not exceed the prescribed amount.

*Evidence*

- 8 (1) In any proceedings under section 25, a certificate signed by or on behalf of a Minister of the Crown and certifying—
- (a) that any conditions or requirements specified in the certificate were imposed by a Minister of the Crown and were in operation at a time or throughout a time so specified, or
  - (b) that an act specified in the certificate was done for the purpose of safeguarding national security,
- shall be conclusive evidence of the matters certified.
- (2) A document purporting to be such a certificate shall be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.
- [<sup>F20</sup>(3) In any proceedings under section 25, a certificate signed by or on behalf of the Scottish Ministers and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by a member of the Scottish Executive, and
  - (b) were in operation at a time or throughout a time so specified,
- shall be conclusive evidence of the matters certified.
- (4) In any proceedings under section 25, a certificate signed by or on behalf of the [<sup>F21</sup>Welsh Ministers] and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by the [<sup>F22</sup>National Assembly for Wales constituted by the Government of Wales Act 1998, the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government], and
  - (b) were in operation at a time or throughout a time so specified,
- shall be conclusive evidence of the matters certified.
- (5) A document purporting to be such a certificate as is mentioned in sub-paragraph (3) or (4) shall be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.]

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#### Textual Amendments

- F20** Sch. 3 para. 8(3)-(5) inserted (E.W.S.) (30.6.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), Sch. 1 para. 38(6); S.I. 2005/1676, art. 2(1)(c)
- F21** Words in Sch. 3 para. 8(4) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order (S.I. 2007/1388), arts. 1, 3, {Sch. 1 para. 63(3)(a)}, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see s. 161(5) of the Government of Wales Act 2006.
- F22** Words in Sch. 3 para. 8(4)(a) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order (S.I. 2007/1388), arts. 1, 3, {Sch. 1 para. 63(3)(b)}, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see s. 161(5) of the Government of Wales Act 2006.

### [<sup>F23</sup>PART 3

#### DISCRIMINATION IN SCHOOLS]

#### Textual Amendments

- F23** Sch. 3 Pt. 3 (paras. 9-11) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 19(2), Sch. 3 para. 1 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

#### *Restriction on proceedings for breach of Part 4, Chapter 1*

- <sup>F24</sup>9 (1) Except as provided by sections 28I, 28K [<sup>F25</sup>, 28L and 28N], no civil or criminal proceedings may be brought against any person in respect of an act merely because the act is unlawful under Chapter 1 of Part 4.
- (2) Sub-paragraph (1) does not prevent the making of an application for judicial review.
- [<sup>F26</sup>(3) Sub-paragraph (1) does not prevent the bringing of proceedings in respect of an offence under section 28J(9).]

#### Textual Amendments

- F24** Sch. 3 Pt. 3 (paras. 9-11) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 19(2), Sch. 3 para. 1 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. 1
- F25** Words in Sch. 3 para. 9(1) substituted (30.6.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), Sch. 1 para. 38(7); S.I. 2005/1676, art. 2(1)(c)
- F26** Sch. 3 para. 9(3) inserted (30.6.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), Sch. 1 para. 38(8); S.I. 2005/1676, art. 2(1)(c)

#### *Period within which proceedings must be brought*

- <sup>F27</sup>10 (1) The <sup>F28</sup> . . . [<sup>F29</sup>Welsh Tribunal] shall not consider a claim under section 28I unless proceedings in respect of the claim are instituted before the end of the period of six months beginning when the act complained of was done.

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- (2) If, in relation to proceedings or prospective proceedings under section 28I, the dispute concerned is referred for conciliation in pursuance of arrangements under [F30 section 27 of the Equality Act 2006] before the end of the period of six months mentioned in sub-paragraph (1), the period allowed by that sub-paragraph shall be extended by [F31 three months].
- (3) The F28 . . . [F29 Welsh Tribunal] may consider any claim under section 28I which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.
- (4) But sub-paragraph (3) does not permit the F28 . . . [F29 Welsh Tribunal] to decide to consider a claim if a decision not to consider that claim has previously been taken under that sub-paragraph.
- (5) For the purposes of sub-paragraph (1)—
- (a) if an unlawful act of discrimination is attributable to a term in a contract, that act is to be treated as extending throughout the duration of the contract;
  - (b) any act extending over a period shall be treated as done at the end of that period; and
  - (c) a deliberate omission shall be treated as done when the person in question decided upon it.
- (6) In the absence of evidence establishing the contrary, a person shall be taken for the purposes of this paragraph to decide upon an omission—
- (a) when he does an act inconsistent with doing the omitted act; or
  - (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.

#### Textual Amendments

- F27** Sch. 3 Pt. 3 (paras. 9-11) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 19(2), **Sch. 3 para. 1** (with s. 43(13)); S.I. 2002/2217, art. 3, **Sch. 1 Pt. 1**
- F28** Words in Sch. 3 para. 10(1)(3)(4) omitted (3.11.2008) by virtue of The Transfer of Tribunal Functions Order (S.I. 2008/2833), arts. 1(1), 6, {Sch. 3 para. 121}
- F29** Words in Sch. 3 para. 10(1)(3)(4) inserted (1.9.2003) by 2002 c. 32, s. 195, **Sch. 18 para. 12** (with ss. 210(8), 214(4), Sch. 18 para. 17); S.I. 2002/3185, art. 6, **Sch. Pt. III**
- F30** Words in Sch. 3 para. 10(2) substituted (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 93, **Sch. 3 para. 56(2)(a)** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)
- F31** Words in Sch. 3 para. 10(2) substituted (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 93, **Sch. 3 para. 56(2)(b)** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

#### Evidence

- <sup>F32</sup>11 (1) In any proceedings under section 28I, 28K [F33, 28L or 28N], a certificate signed by or on behalf of a Minister of the Crown and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by a Minister of the Crown, and
  - (b) were in operation at a time or throughout a time so specified,
- shall be conclusive evidence of the matters certified.



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- [<sup>F34</sup>(1A) In any proceedings under section 28N, a certificate signed by or on behalf of the Scottish Ministers and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by a member of the Scottish Executive, and
  - (b) were in operation at a time or throughout a time so specified,
- shall be conclusive evidence of the matters certified.
- (1B) In any proceedings under section 28I, 28K or 28L, a certificate signed by or on behalf of the [<sup>F35</sup>Welsh Ministers] and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by the [<sup>F36</sup>National Assembly for Wales constituted by the Government of Wales Act 1998, the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government], and
  - (b) were in operation at a time or throughout a time so specified,
- shall be conclusive evidence of the matters certified.]
- (2) A document purporting to be such a certificate [<sup>F37</sup>as is mentioned in subparagraph (1), (1A) or (1B)] shall be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

#### Textual Amendments

- F32** Sch. 3 Pt. 3 (paras. 9-11) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 19(2), **Sch. 3 para. 1** (with s. 43(13)); S.I. 2002/2217, art. 3, **Sch. 1 Pt. 1**
- F33** Words in Sch. 3 para. 11(1) inserted (30.6.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), **Sch. 1 para. 38(9)**; S.I. 2005/1676, art. 2(1)(c)
- F34** Sch. 3 para. 11(1A)(1B) inserted (30.6.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), **Sch. 1 para. 38(10)**; S.I. 2005/1676, art. 2(1)(c)
- F35** Words in Sch. 3 para. 11(1B) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order (S.I. 2007/1388), arts. 1, 3, {Sch. 1 para. 63(4)(a)}, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see s. 161(5) of the Government of Wales Act 2006.
- F36** Words in Sch. 3 para. 11(1B)(a) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order (S.I. 2007/1388), arts. 1, 3, {Sch. 1 para. 63(4)(b)}, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see s. 161(5) of the Government of Wales Act 2006.
- F37** Words in Sch. 3 para. 11(2) inserted (30.6.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), **Sch. 1 para. 38(11)**; S.I. 2005/1676, art. 2(1)(c)

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## [<sup>F38</sup>PART 4

### DISCRIMINATION IN FURTHER AND HIGHER EDUCATION INSTITUTIONS]

#### Textual Amendments

**F38** Sch. 3 Pt. 4 (paras. 12-15) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 30(2), Sch. 3 para. 2 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

#### *Restriction on proceedings for breach of Part 4, Chapter 2*

<sup>F39</sup>12 (1) Except as provided by [<sup>F40</sup>Chapter 2 of Part 4], no civil or criminal proceedings may be brought against any person in respect of an act merely because the act is unlawful under [<sup>F41</sup>that Chapter].

(2) Sub-paragraph (1) does not prevent the making of an application for judicial review.

#### Textual Amendments

**F39** Sch. 3 Pt. 4 (paras. 12-15) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 30(2), (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

**F40** Words in Sch. 3 para. 12(1) substituted (30.6.2006 for certain purposes and otherwise 1.9.2006) by The Disability Discrimination Act 1995 (Amendment) (Further and Higher Education) Regulations 2006 (S.I. 2006/1721), regs. 1, 19(2)(a)

**F41** Words in Sch. 3 para. 12(1) substituted (30.6.2006 for certain purposes and otherwise 1.9.2006) by The Disability Discrimination Act 1995 (Amendment) (Further and Higher Education) Regulations 2006 (S.I. 2006/1721), regs. 1, 19(2)(b)

#### *Period within which proceedings must be brought*

<sup>F42</sup>13 (1) A county court or a sheriff court shall not consider a claim under section 28V unless proceedings in respect of the claim are instituted before the end of the period of six months beginning when the act complained of was done.

[<sup>F43</sup>(2) If, in relation to proceedings or prospective proceedings under section 28V—

- (a) the dispute concerned is referred for conciliation in pursuance of arrangements under [<sup>F44</sup>section 27 of the Equality Act 2006] before the end of the period of six months mentioned in sub-paragraph (1), or
- (b) in England and Wales, in a case not falling within paragraph (a), the dispute concerned relates to the act or omission of a qualifying institution and is referred as a complaint under the student complaints scheme before the end of that period,

the period of six months allowed by sub-paragraph (1) shall be extended by [<sup>F45</sup>three months].

(2A) In sub-paragraph (2)(b)—

“qualifying institution” has the meaning given by section 11 of the Higher Education Act 2004;

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“the student complaints scheme” means a scheme for the review of qualifying complaints, as defined by section 12 of that Act, that is provided by the designated operator, as defined by section 13(5)(b) of that Act.]

- (3) A court may consider any claim under section 28V which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.
- (4) For the purposes of sub-paragraph (1)—
- (a) if an unlawful act<sup>F46</sup> . . . is attributable to a term in a contract, that act is to be treated as extending throughout the duration of the contract;
  - (b) any act extending over a period shall be treated as done at the end of that period; and
  - (c) a deliberate omission shall be treated as done when the person in question decided upon it.
- (5) In the absence of evidence establishing the contrary, a person shall be taken for the purposes of this paragraph to decide upon an omission—
- (a) when he does an act inconsistent with doing the omitted act; or
  - (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.

#### Textual Amendments

- F42** Sch. 3 Pt. 4 (paras. 12-15) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 30(2), (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. I
- F43** Sch. 3 para. 13(2)(2A) substituted for Sch. 3 para. 13(2) (1.11.2004) by Higher Education Act 2004 (c. 8), ss. 19(3), 52; S.I. 2004/2781, art. 3
- F44** Words in Sch. 3 para. 13(2) substituted (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 93, Sch. 3 para. 56(2)(a) (with s. 92); S.I. 2007/2603, art. 2 (subject to art. 3)
- F45** Words in Sch. 3 para. 13(2) substituted (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 93, Sch. 3 para. 56(2)(b) (with s. 92); S.I. 2007/2603, art. 2 (subject to art. 3)
- F46** Words in Sch. 3 para. 13(4)(a) omitted (30.6.2006 for certain purposes and otherwise 1.9.2006) by virtue of The Disability Discrimination Act 1995 (Amendment) (Further and Higher Education) Regulations 2006 (S.I. 2006/1721), regs. 1, 19(3)

#### Compensation for injury to feelings

- <sup>F47</sup>14 In any proceedings under section 28V, the amount of any damages awarded as compensation for injury to feelings shall not exceed the prescribed amount.

#### Textual Amendments

- F47** Sch. 3 Pt. 4 (paras. 12-15) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 30(2), (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. I

#### Evidence

- <sup>F48</sup>15 (1) In any proceedings under section 28V, a certificate signed by or on behalf of a Minister of the Crown and certifying that any conditions or requirements specified in the certificate—

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- (a) were imposed by a Minister of the Crown, and
  - (b) were in operation at a time or throughout a time so specified,
- is conclusive evidence of the matters certified.

[<sup>F49</sup>(1A) In any proceedings under section 28V, a certificate signed by or on behalf of the Scottish Ministers and certifying that any conditions or requirements specified in the certificate—

- (a) were imposed by a member of the Scottish Executive, and
- (b) were in operation at a time or throughout a time so specified,

is conclusive evidence of the matters certified.

(1B) In any proceedings under section 28V, a certificate signed by or on behalf of the [<sup>F50</sup>Welsh Ministers] and certifying that any conditions or requirements specified in the certificate—

- (a) were imposed by the [<sup>F51</sup>National Assembly for Wales constituted by the Government of Wales Act 1998, the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government], and
- (b) were in operation at a time or throughout a time so specified,

is conclusive evidence of the matters certified.]

(2) A document purporting to be such a certificate [<sup>F52</sup>as is mentioned in subparagraph (1), (1A) or (1B)] is to be—

- (a) received in evidence; and
- (b) deemed to be such a certificate unless the contrary is proved.

#### Textual Amendments

- F48** Sch. 3 Pt. 4 (paras. 12-15) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 30(2), (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. I
- F49** Sch. 3 para. 15(1A)(1B) inserted (30.6.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), Sch. 1 para. 38(12); S.I. 2005/1676, art. 2(1)(c)
- F50** Words in Sch. 3 para. 15(1B) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order (S.I. 2007/1388), arts. 1, 3, {Sch. 1 para. 63(5)(a)}, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see s. 161(5) of the Government of Wales Act 2006.
- F51** Words in Sch. 3 para. 15(1B)(a) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order (S.I. 2007/1388), arts. 1, 3, {Sch. 1 para. 63(5)(b)}, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see s. 161(5) of the Government of Wales Act 2006.
- F52** Words in Sch. 3 para. 15(2) inserted (30.6.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), Sch. 1 para. 38(13); S.I. 2005/1676, art. 2(1)(c)

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*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995, SCHEDULE 3. (See end of Document for details)*

## [<sup>F53</sup>PART 5

### DISCRIMINATION IN GENERAL QUALIFICATIONS BODIES

#### Textual Amendments

**F53** Sch. 3 Pt. 5 (paras. 16-18 and cross-headings) inserted (E.W.S.) (1.9.2007) by The Disability Discrimination Act 1995 (Amendment etc.) (General Qualifications Bodies) (Alteration of Premises and Enforcement) Regulations (S.I. 2007/2405), regs. 1(2), 4(3) (with reg. 14)

#### *Restriction on proceedings for breach of Part 4, Chapter 2A*

- 16 (1) Except as provided by section 31ADA, no civil or criminal proceedings may be brought against any person in respect of an act merely because the act is unlawful under Chapter 2A of Part 4.
- (2) Sub-paragraph (1) does not prevent the making of an application for judicial review.

#### *Period within which proceedings must be brought*

- 17 (1) A county court or a sheriff court shall not consider a claim under section 31ADA unless proceedings in respect of the claim are instituted before the end of the period of six months beginning when the act complained of was done.
- (2) If, in relation to proceedings or prospective proceedings under section 31ADA, the dispute concerned is referred to conciliation in pursuance of arrangements under section 27 of the Equality Act 2006 before the end of the period of six months mentioned in sub-paragraph (1), the period of six months allowed by that sub-paragraph shall be extended by three months.
- (3) A court may consider any claim under section 31ADA which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.
- (4) For the purposes of sub-paragraph (1)—
- (a) if an unlawful act is attributable to a term in a contract, that act is to be treated as extending throughout the duration of the contract;
  - (b) any act extending over a period shall be treated as done at the end of that period; and
  - (c) a deliberate omission shall be treated as done when the person in question decided upon it.
- (5) In the absence of evidence establishing the contrary, a person shall be taken for the purposes of this paragraph to decide upon an omission—
- (a) when he does an act inconsistent with doing the omitted act; or
  - (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.

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*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995, SCHEDULE 3. (See end of Document for details)*

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*Evidence]*

- 18 (1) In any proceedings under section 31ADA, a certificate signed by or on behalf of a Minister of the Crown and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by a Minister of the Crown, and
  - (b) were in operation at a time or throughout a time so specified,
- is conclusive evidence of the matters certified.
- (2) In any proceedings under section 31ADA, a certificate signed by or on behalf of the Scottish Ministers and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by a member of the Scottish Executive, and
  - (b) were in operation at a time or throughout a time so specified,
- is conclusive evidence of the matters certified.
- (3) In any proceedings under section 31ADA, a certificate signed by or on behalf of the Welsh Ministers and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by them, and
  - (b) were in operation at a time or throughout a time so specified,
- is conclusive evidence of the matters certified.
- (4) A document purporting to be such a certificate as is mentioned in sub-paragraph (1), (2) or (3) is to be—
- (a) received in evidence; and
  - (b) deemed to be such a certificate unless the contrary is proved.

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Disability Discrimination Act 1995, SCHEDULE 3.