

SCHEDULES

SCHEDULE 3

FORMAL INVESTIGATIONS AND NON-DISCRIMINATION NOTICES

PART IV

SUPPLEMENTARY

Restriction on disclosure of information

- 22 (1) No information given to the Commission by any person (“the informant”) in connection with—
- (a) a formal investigation; or
 - (b) the exercise of any of its functions in relation to non-discrimination notices, action plans and agreements under section 5,
- shall be disclosed by the Commission or by any person who is or has been a commissioner, an additional commissioner or an employee of the Commission.
- (2) Sub-paragraph (1) does not apply to any disclosure made—
- (a) on the order of a court,
 - (b) with the informant’s consent,
 - (c) in the form of a summary or other general statement published by the Commission which does not identify the informant or any other person to whom the information relates,
 - (d) in a report of the investigation published by the Commission,
 - (e) to a commissioner, an additional commissioner or an employee of the Commission, or, so far as is necessary for the proper performance of the Commission’s functions, to other persons, or
 - (f) for the purpose of any civil proceedings to which the Commission is a party, or of any criminal proceedings.
- (3) A person who discloses information contrary to sub-paragraph (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Enforcement of court orders

- 23 (1) This paragraph applies to any order made by a county court or the sheriff under section 5(8) or under any provision of this Schedule.
- (2) Section 55 of the County Courts Act 1984 (penalty for failure to give evidence) shall have effect in relation to a failure to comply with an order made by a county court to which this paragraph applies with the following modifications—
- (a) for subsection (1) there shall be substituted—

Status: This is the original version (as it was originally enacted).

- “(1) Any person who fails without reasonable excuse to comply with an order made by a county court under section 5(8) of or any provision of Schedule 3 to the Disability Rights Commission Act 1999 shall forfeit such fine as the judge may direct.”;
- (b) subsection (3) shall be omitted (but without prejudice to the operation of paragraph 4(3)(b) of this Schedule); and
- (c) in subsection (4), for the words “the party injured by the refusal or neglect” there shall be substituted the words “the Disability Rights Commission for expenses incurred or wasted in consequence of the failure to comply with the order concerned”.
- (3) Where the sheriff finds a person to be in contempt of court in respect of the failure of a person to comply with an order made by the sheriff to which this paragraph applies—
- (a) notwithstanding section 15 of the Contempt of Court Act 1981, the sheriff shall not commit the person to prison; and
- (b) the sheriff may grant decree in favour of the Commission for such amount of any fine imposed for the contempt as appears to the sheriff to be appropriate in respect of the expense incurred or wasted by the Commission (including the expenses of any proceedings under this Schedule) in consequence of the failure to comply with the order.
- (4) If the Commission applies to a county court or, in Scotland, to the sheriff to enforce an order to which this paragraph applies, the court may modify the order.

Offences

- 24 (1) A person who—
- (a) deliberately alters, suppresses, conceals or destroys a document to which a notice under paragraph 4 or 21, or an order under paragraph 5 or 21(3), relates; or
- (b) in complying with—
- (i) a notice under paragraph 4 or 21;
- (ii) a non-discrimination notice;
- (iii) an agreement under section 5; or
- (iv) an order of a court under section 5(8) or under any provision of this Schedule,
- makes any statement which he knows to be false or misleading in a material particular or recklessly makes a statement which is false or misleading in a material particular,
- is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (2) Proceedings for an offence under this paragraph may (without prejudice to any jurisdiction exercisable apart from this sub-paragraph) be instituted—
- (a) against any person at any place at which he has an office or other place of business;
- (b) against an individual at any place where he resides, or at which he is for the time being.

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

Service of notices

- 25 (1) Any notice required or authorised by any provision of this Schedule to be served on a person may be served by delivering it to him, by leaving it at his proper address or by sending it by post to him at that address.
- (2) Any such notice may—
- (a) in the case of a body corporate, be served on the secretary or clerk of that body;
 - (b) in the case of a partnership, be served on any partner or a person having control or management of the partnership business;
 - (c) in the case of an unincorporated association (other than a partnership), may be served on any member of its governing body.
- (3) For the purposes of this paragraph and section 7 of the Interpretation Act 1978 (service of documents) in its application to this paragraph, the proper address of any person is—
- (a) in the case of a body corporate, its secretary or clerk, the address of its registered or principal office in the United Kingdom;
 - (b) in the case of an unincorporated association (other than a partnership) or a member of its governing body, its principal office in the United Kingdom;
 - (c) in any other case, his usual or last-known address (whether of his residence or of a place where he carries on business or is employed).

Regulations

- 26 The Secretary of State may make regulations making provision—
- (a) supplementing Part I or II of this Schedule in connection with any matter concerned with the conduct of formal investigations or the procedure for issuing non-discrimination notices; or
 - (b) amending Part III of this Schedule in relation to the procedures for finalising action plans.