

# RACE RELATIONS (AMENDMENT) ACT 2000

---

## EXPLANATORY NOTES

### COMMENTARY

#### *Section 5: Criminal Investigations and Proceedings*

47. Section 57 of the 1976 Act contains provisions for enforcement of claims under Part III of the Act.
48. Section 65(1) of the 1976 Act provides for forms ("section 65 questionnaires") to be submitted by the aggrieved person who considers he may have been discriminated against to the respondent, in order to help the person decide whether to institute proceedings and to present more effectively his case. The questions may relate to the respondent's reasons for doing any relevant act or to related matters. Section 65(2)(a) provides for the respondent's reply to be admissible as evidence in the proceedings. Section 65(2)(b) provides that, if it appears to the court that the respondent deliberately, and without reasonable excuse, omitted to reply within a reasonable period or that his reply was evasive or equivocal, adverse inferences may be drawn from that fact, including an inference that the respondent committed the unlawful act.
49. Section 5 amends sections 57 and 65 of the 1976 Act .
50. Section 5(1) of the 2000 Act **inserts new sections 57(4A), (4B), (4C) and (4D) into the 1976 Act**. The new subsections make provision in relation to remedies available to claimants, and to the power of courts hearing cases to grant a stay of the civil proceedings (a sist in Scotland), in particular circumstances.

#### **Section 57(4A)**

51. Section 57(2) of the 1976 Act provides that, when a claim is brought in a designated county court (a sheriff court in Scotland), all remedies are obtainable that would be obtainable in the High Court (the Court of Session in Scotland). New **section 57(4A)** restricts the ability of the court to grant certain remedies to a claimant when the claim is brought under section 19B against a public investigator or public prosecutor. There is no limitation on the court's ability to grant a remedy of damages or a declaration (a declarator in Scotland). But the section limits the power of the court to grant other remedies, for example injunctive relief, unless it is satisfied that such a remedy would not **prejudice a criminal investigation**, a decision to institute criminal proceedings, or any criminal proceedings.

#### **Section 57(4B)**

52. New **section 57(4B)** provides definitions of criminal investigation and public investigator functions for the purposes of section 57.

#### **Sections 57(4C) and (4D)**

53. The Civil Procedure Rules already make it possible for a party to apply for, and for the court hearing a case under the Act to grant a stay of the proceedings (a sist in Scotland)

*These notes refer to the Race Relations (Amendment) Act 2000  
(c.34) which received Royal Assent on 30 November 2000*

including where there is a risk that those proceedings might interfere with a criminal investigation or criminal proceedings. **Sections 57(4C) and (4D)** make provision relating to the circumstances in which the court hearing a case under section 19B **must grant a stay** in cases where a party to the proceedings has applied for a stay of the proceedings on the grounds of prejudice to particular criminal proceedings, a criminal investigation, or a decision to institute criminal proceedings. The court shall grant a stay unless it is satisfied that the continuance of the proceedings under section 57(1) would not result in prejudice to the case.

**Sections 65(4A) to (4C)**

54. Section 5(2) of the 2000 Act **inserts newsections 65(4A), (4B) and (4C)** into the 1976 Act. These enable a respondent to proceedings under new section 19B to decline to answer a **section 65 questionnaire** without the risk of adverse inferences being drawn where:

- at the time of doing the relevant act the respondent was carrying out public investigator or public prosecutor functions; and
- he or she reasonably believes that to respond, or to give a different response, would be likely to prejudice any criminal investigation, any decision to institute criminal proceedings, or any criminal proceedings, or would reveal the reason behind a decision not to institute, or not to continue, criminal proceedings.