



Race Relations Act 1968

1968 CHAPTER 71

PART II

CONCILIATION AND ENFORCEMENT

Consideration of Complaints

14 The Race Relations Board and conciliation committees.

- (1) There shall continue to be a Board known as the Race Relations Board constituted in accordance with this section instead of section 2(1) of the Race Relations Act 1965 and having the function of securing compliance with the provisions of Part I of this Act and the resolution of differences arising out of any of those provisions.
- (2) The Race Relations Board shall consist of a chairman and not more than eleven other members appointed by the Secretary of State.
- (3) The Board shall discharge their functions in accordance with arrangements made by the Board and approved by the Secretary of State.
- (4) The said arrangements may provide for the discharge under the general direction of the Board of the Board's functions in relation to any complaint or other matter falling to be dealt with by them, or in relation to any class of such matters, by a group of members of the Board selected by the chairman of the Board; and where any such functions are in accordance with such arrangements to be discharged by a group of members of the Board, anything done by or in relation to the group in or in connection with the discharge of those functions shall have the same effect as if done by or in relation to the Board.
- (5) The Board shall constitute committees, to be known as conciliation committees, for such areas as the Board consider necessary for the purpose of assisting the Board in the discharge of their functions.
- (6) The provisions of Schedule 1 to this Act shall have effect with respect to the Board and the conciliation committees.

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- (7) A conciliation committee shall make to the Board such periodical reports with respect to the exercise of their functions as the Board may require, and the Board shall, at such times as the Secretary of State may direct, make annual reports to the Secretary of State with respect to the exercise of their functions; and the Secretary of State shall lay before Parliament any report made to him under this subsection.

15 General provision as to investigation of complaints of discrimination.

- (1) This section applies to any complaint made to the Race Relations Board or a conciliation committee that an act has been done which is unlawful by virtue of any provision of Part I of this Act, except an act mentioned in section 16 below, and any reference in the following provisions of this section to a complaint shall be construed accordingly.
- (2) It shall be the duty of the Board or a conciliation committee to receive any complaint which is made to them within two months of the act complained of and also, if the Board think that special circumstances warrant its reception, any complaint made to them or a conciliation committee after the expiration of that period, if in either case the complaint is accompanied by the name and address of the person by whom it is made and, in the case of an act of discrimination against any person, it is made by him or with his written authority, and—
- (a) the Board may refer any complaint received by them to a conciliation committee or may direct such a committee to refer to the Board a particular complaint received by the committee or a complaint of any class so received; and
 - (b) the Board and any conciliation committee shall respectively investigate any complaint received by them and not referred to the other and any complaint referred to them.
- (3) In investigating any complaint the Board or a conciliation committee—
- (a) shall make such inquiries as they think necessary with regard to the facts alleged in the complaint and form an opinion whether any person has done any act which is unlawful by virtue of any provision of Part I of this Act; and
 - (b) in the case of a complaint that the act was one of discrimination against a particular person, shall use their best endeavours by communication with the parties concerned or otherwise to secure a settlement of any difference between them and, where appropriate, a satisfactory written assurance against any repetition of the act considered to be unlawful or the doing of further acts of a similar kind by the party against whom the complaint is made ; and
 - (c) in the case of any other complaint, shall, where appropriate, use their best endeavours to secure such an assurance as aforesaid.
- (4) If on investigating a complaint the Board form the opinion that an act has been done which is unlawful by virtue of any provision of Part I of this Act and either they are unable to secure such a settlement and assurance, or, as the case may be, such an assurance, as aforesaid, or it appears to them that the act was done in breach of a relevant assurance, they shall determine whether or not to bring proceedings under section 19 or 20 of this Act.
- (5) If on investigating a complaint a conciliation committee form the opinion that any such act as aforesaid has been done and either they are unable to secure such a settlement and assurance, or, as the case may be, such an assurance, as aforesaid, or it appears to

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them that the act was done in breach of a relevant assurance, they shall make a report to that effect to the Race Relations Board and the Board shall consider the report and shall either investigate the complaint themselves or, without investigating it, determine whether or not to bring proceedings under section 19 or 20 of this Act.

- (6) Where the Board or a conciliation committee investigate a complaint under subsection (2) or (5) above they shall on completing the investigation give a written notification to the parties stating—
 - (a) whether or not they have been able to form an opinion with respect to the complaint and, if they have, what opinion;
 - (b) whether or not they have secured such a settlement and assurance or, as the case may be, such an assurance as are mentioned in subsection (3) above; and
 - (c) what action, if any, they propose to take in the matter.
- (7) Where the Board come to a determination under subsection (5) above without investigating a complaint, they shall give the parties a written notification of their determination stating what action, if any, they propose to take in the matter.

16 Investigation of complaints relating to employment, trade unions and organisations of employers.

- (1) The provisions of Schedule 2 to this Act shall have effect with respect to any complaint made to the Secretary of State for Employment and Productivity, the Race Relations Board or a conciliation committee that an act has been done which is unlawful by virtue of any provision of Part I of this Act and is an act of discrimination with respect to employment or to membership of, or services or facilities provided by, an organisation of employers or workers or an act of aiding, inducing or inciting the doing of such an act of discrimination.
- (2) A Secretary of State may make regulations amending or repealing any provision of the said Schedule 2, but no regulations shall be made under this subsection unless a draft of the regulations has been laid before Parliament and approved by each House of Parliament.

17 Investigation of unlawful conduct where no complaint made.

- (1) If the Race Relations Board have reason to suspect, in consequence of an allegation made by any person that he has been discriminated against in contravention of any provision of Part I of this Act or for any other cause, that during the two months preceding the day on which the matter first comes to their notice, or such longer period as the Board may in special circumstances allow, an act has been done which is unlawful by virtue of any such provision, but no complaint has been made to them, to the Secretary of State for Employment and Productivity or to a conciliation committee or any complaint so made has been withdrawn, the Board may investigate the matter or refer it for investigation,—
 - (a) in the case of an investigation not relating to an act mentioned in section 16 above, in accordance with Part I of Schedule 3 to this Act; and
 - (b) in the case of an investigation relating to such an act, in accordance with Part II of that Schedule.
- (2) A Secretary of State may make regulations amending or repealing any provision of Part II of that Schedule, but no regulations shall be made under this subsection unless

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a draft of the regulations has been laid before Parliament and approved by each House of Parliament.

18 Assessors.

The Race Relations Board may appoint as assessors to assist the Board or any conciliation committee in their investigation of any complaint or other matter persons appearing to the Board to have special knowledge and experience of the circumstances in which the act to which the investigation relates is alleged to have occurred and of any other circumstances appearing to the Board to be relevant.

Legal proceedings

19 Nature of proceedings in England and Wales.

- (1) Civil proceedings may be brought in England and Wales by the Race Relations Board, in pursuance of a determination of theirs under section 15 of, or Schedule 2 or 3 to, this Act and not otherwise, in respect of any act alleged to be unlawful by virtue of any provision of Part I of this Act, and in those proceedings a claim—
 - (a) may be made for such an injunction as is mentioned in section 21 below ;
 - (b) may be made, on behalf of a person alleged to have suffered loss as a result of that act, for such damages as are mentioned in section 22 below;
 - (c) may be made for such an injunction and such damages ; or
 - (d) may be made for a declaration that that act is unlawful by virtue of that provision or any other provision of the said Part I;

and in those proceedings, whether or not such a claim is made, an application may be made in accordance with section 23 below for revision of any contract or term in a contract alleged to contravene any such provision.
- (2) Notwithstanding anything to the contrary in any enactment or rule of law relating to the jurisdiction of county courts, proceedings under this section in England and Wales may be brought in a county court for the time being appointed to have jurisdiction to entertain such proceedings by an order made by the Lord Chancellor and shall not be brought in any other court.
- (3) An order under subsection (2) above appointing any court to have jurisdiction under this section shall assign to that court as its district for the purposes of this section any county court district or two or more county court districts.
- (4) An order under subsection (2) above may be varied or revoked by a subsequent order made thereunder.
- (5) An order for the discontinuance of the jurisdiction of any county court, whether wholly or within a part of the district assigned to it for the purposes of this section, may include provision with respect to any proceedings under this section commenced in that court before the order comes into operation.
- (6) A county court appointed to have jurisdiction under this section shall have jurisdiction to entertain proceedings under this section with respect to things done on ships or aircraft outside the district assigned to the court for the purposes of this section, including things done on British ships or aircraft outside Great Britain.

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- (7) In any proceedings under this section in England and Wales the judge shall be assisted by two assessors appointed from a list of persons prepared and maintained by the Lord Chancellor, being persons appearing to the Lord Chancellor to have special knowledge and experience of problems connected with race and community relations.
- (8) The remuneration of any assessors appointed under subsection (7) above shall be at such rate as may be determined by the Lord Chancellor with the approval of the Treasury and shall be defrayed out of moneys provided by Parliament.
- (9) Any proceedings brought under this section in England and Wales shall be included among the proceedings mentioned in section 109(2) of the County Courts Act 1959 (appeals on questions of fact).
- (10) Nothing in this Act shall affect the right to bring any proceedings in England and Wales, whether civil or criminal, which might have been brought if this Act had not been passed, but except as provided by subsection (1) above and this subsection no proceedings, whether civil or criminal, shall lie against any person in respect of any act which is unlawful by virtue only of a provision of Part I of this Act.

20 Nature of proceedings in Scotland.

- (1) Civil proceedings may be brought in Scotland by the Race Relations Board, in pursuance of a determination of theirs under section 15 of, or Schedule 2 or 3 to, this Act and not otherwise, in respect of any act alleged to be unlawful by virtue of any provision of Part I of this Act, and in those proceedings an application or claim—
 - (a) may be made for such an order as is mentioned in section 21 below;
 - (b) may be made, on behalf of a person alleged to have suffered loss as a result of that act, for such damages as are mentioned in section 22 below ;
 - (c) may be made for such an order and such damages; or
 - (d) may be made for declarator that that act is unlawful by virtue of that provision or any other provision of the said Part I;and in those proceedings, whether or not such an application or claim is made, an application may be made in accordance with section 23 below for revision of any contract or term in a contract alleged to contravene any such provision.
- (2) Notwithstanding anything to the contrary in any enactment or rule of law relating to the jurisdiction of sheriff courts, proceedings under this section may be brought in a sheriff court for the time being appointed to have jurisdiction to entertain such proceedings by an order made by the Secretary of State and, subject to subsection (9) below, shall not be brought in any other court.
- (3) An order under subsection (2) above appointing any court to have jurisdiction under this section shall assign to that court as its district for the purposes of this section any part or parts of any sheriffdom or two or more sheriffdoms.
- (4) An order under subsection (2) above may be varied or revoked by a subsequent order made thereunder.
- (5) An order for the discontinuance of the jurisdiction of any sheriff court, whether wholly or within a part of the district assigned to it for the purposes of this section, may include provision with respect to any proceedings under this section commenced in that court before the order comes into operation.

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- (6) A sheriff court appointed to have jurisdiction under this section shall have jurisdiction to entertain proceedings under this section with respect to things done on ships or aircraft outside the district assigned to the court for the purposes of this section, including things done on British ships or aircraft outside Great Britain.
- (7) In any proceedings under this section the sheriff shall be assisted by two assessors appointed from a list of persons prepared and maintained by the Secretary of State, being persons appearing to the Secretary of State to have special knowledge and experience of problems connected with race and community relations.
- (8) The remuneration of any assessors appointed under subsection (7) above shall be at such rate as may be determined by the Secretary of State with the approval of the Treasury and shall be defrayed out of moneys provided by Parliament.
- (9) An appeal shall lie to the Court of Session against any decision of the sheriff in proceedings under this section, or imposing on any person any punishment in respect of a breach of such an order as is mentioned in section 21 below, and on any such appeal the decision of the Court of Session shall be final.
- (10) Nothing in this Act shall affect the right to bring any proceedings in Scotland, whether civil or criminal, which might have been brought if this Act had not been passed, but except as provided by subsection (1) above and this subsection no proceedings, whether civil or criminal, shall lie against any person in respect of any act which is unlawful by virtue only of a provision of Part I of this Act.

21 Injunctions and orders.

- (1) In proceedings brought under section 19 above in which an injunction is claimed in respect of an act alleged to be unlawful by virtue of any provision of Part I of this Act the court, if satisfied—
 - (a) that the act was done by the defendant and was unlawful as aforesaid;
 - (b) that the defendant had previously engaged in conduct which was of the same kind as, or a similar kind to, that act and was unlawful as aforesaid; and
 - (c) that he is likely, unless restrained by order of the court, to engage in the future in such conduct;

may grant such injunction as appears to the court to be proper in all the circumstances, being an injunction restraining the defendant from engaging in, or causing or permitting others to engage in, conduct of the same kind as that act, or conduct of any similar kind specified in an order of the court.

- (2) In proceedings brought under section 20 above in which an order is applied for in respect of an act alleged to be unlawful by virtue of any provision of Part I of this Act, the sheriff, if satisfied—
 - (a) that the act was done by any person and was unlawful as aforesaid;
 - (b) that that person had previously engaged in conduct which was of the same kind as, or a similar kind to, that act and was unlawful as aforesaid; and
 - (c) that he is likely, unless prohibited by an order of the court, to engage in the future in such conduct ;

may make such order as appears to the court to be proper in all the circumstances, being an order prohibiting that person from engaging in, or causing or permitting others to engage in, conduct of the same kind as that act, or conduct of any similar kind specified in the order.

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- (3) The court may, in determining for the purposes of any such proceedings as are mentioned in subsection (1) or (2) above whether or not a person has engaged in a course of conduct, take into account not only the act or acts to which the proceedings relate, but also any other act, whether or not the subject of an investigation under section 15 of, or Schedule 2 or 3 to, this Act.

22 Damages.

- (1) In proceedings brought under section 19 or 20 above in which damages are claimed on behalf of any person in respect of an act alleged to be unlawful by virtue of any provision of Part I of this Act the court, if satisfied that the act was done and was unlawful, may award—
- (a) special damages or, in Scotland, damages for any expenses reasonably incurred by him for the purpose of the transaction or activity out of which that act arose ; and
 - (b) such damages as the court thinks just in all the circumstances for loss of opportunity, that is to say, loss of any benefit which that person might reasonably be expected to have had but for that act;
- subject, however, to the application of the same rule concerning the duty of a person to mitigate his loss as applies in relation to damages recoverable under the common law of England and Wales or of Scotland, as the case may be.
- (2) A court shall not award damages under this section for loss of opportunity in respect of any person unless the court is satisfied that at the time of the unlawful act he was in a position to acquire the goods, services, facilities or land constituting or giving rise to the benefit or, as the case may be, had the qualifications necessary for him to obtain or retain the benefit.
- (3) Damages recovered under this section by the Race Relations Board in respect of any person shall be accounted for to him by the Board.

23 Validity and revision of contracts.

- (1) A contract or term in a contract which contravenes any provision of Part I of this Act shall not be void or unenforceable by reason only of the contravention, but may be revised in accordance with the following provisions of this section.
- (2) Any such contract or term in a contract may be revised by the court in proceedings under section 19 or 20 above on an application made by the Race Relations Board on behalf of any party to the contract or by any such party who is the defendant or, in Scotland, the defender, in the proceedings.
- (3) On an application under this section to revise a contract or term in a contract the court may, if it appears to the court feasible to do so without affecting the rights of persons who are not parties to the contract, make such order as it thinks just in all the circumstances revising the contract or term so as to secure that, as from the date of the order, it does not contravene any provision of Part I of this Act, and any party to the contract, whether or not a party to the application, shall be bound by the order accordingly.
- (4) Any reference in this section to a party to a contract shall, where the rights of that party are for the time being vested in any other person, be construed as a reference to that other person.

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24 Privileged communications.

In proceedings under section 19 or 20 above evidence of any communication made, other than an assurance given, to the Secretary of State for Employment and Productivity, the Race Relations Board, a conciliation committee or a body of persons to whom a complaint or other matter is referred under Schedule 2 or 3 to this Act, or any officer or servant of the Secretary of State, the Board or such a committee or body, for the purpose of or in connection with the exercise of their functions under this Part of this Act shall not be admitted except with the consent of the person by whom it was made.