



# Sex Discrimination Act 1975

## 1975 CHAPTER 65

### PART VI

#### EQUAL OPPORTUNITIES COMMISSION

##### *Investigations*

#### **57 Power to conduct formal investigations**

- (1) Without prejudice to their general power to do anything requisite for the performance of their duties under section 53(1), the Commission may if they think fit, and shall if required by the Secretary of State, conduct a formal investigation for any purpose connected with the carrying out of those duties.
- (2) The Commission may, with the approval of the Secretary of State, appoint, on a full-time or part-time basis, one or more individuals as additional Commissioners for the purposes of a formal investigation.
- (3) The Commission may nominate one or more Commissioners, with or without one or more additional Commissioners, to conduct a formal investigation on their behalf, and may delegate any of their functions in relation to the investigation to the persons so nominated.

#### **58 Terms of reference**

- (1) The Commission shall not embark on a formal investigation unless the requirements of this section have been complied with.
- (2) Terms of reference for the investigation shall be drawn up by the Commission or, if the Commission were required by the Secretary of State to conduct the investigation, by the Secretary of State after consulting the Commission.
- (3) It shall be the duty of the Commission to give general notice of the holding of the investigation unless the terms of reference confine it to activities of persons named

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in them, but in such a case the Commission shall in the prescribed manner give those persons notice of the holding of the investigation.

- (4) The Commission or, if the Commission were required by the Secretary of State to conduct the investigation, the Secretary of State after consulting the Commission may from time to time revise the terms of reference; and subsections (1) and (3) shall apply to the revised investigation and terms of reference as they applied to the original.

## **59 Power to obtain information**

- (1) For the purposes of a formal investigation the Commission, by a notice in the prescribed form served on him in the prescribed manner.—
- (a) may require any person to furnish such written information as may be described in the notice, and may specify the time at which, and the manner and form in which, the information is to be furnished;
  - (b) may require any person to attend at such time and place as is specified in the notice and give oral information about, and produce all documents in his possession or control relating to, any matter specified in the notice.
- (2) Except as provided by section 69, a notice shall be served under subsection (1) only where—
- (a) service of the notice was authorised by an order made by or on behalf of the Secretary of State, or
  - (b) the terms of reference of the investigation state that the Commission believe that a person named in them may have done or may be doing acts of all or any of the following descriptions—
    - (i) unlawful discriminatory acts,
    - (ii) contraventions of section 37,
    - (iii) contraventions of sections 38, 39 or 40, and
    - (iv) acts in breach of a term modified or included by virtue of an equality clause,
 and confine the investigation to those acts.
- (3) A notice under subsection (1) shall not require a person—
- (a) to give information, or produce any documents, which he could not be compelled to give in evidence, or produce, in civil proceedings before the High Court or the Court of Session, or
  - (b) to attend at any place unless the necessary expenses of his journey to and from that place are paid or tendered to him.
- (4) If a person fails to comply with a notice served on him under subsection (1) or the Commission has reasonable cause to believe that he intends not to comply with it, the Commission may apply to a county court for an order requiring him to comply with it or with such directions for the like purpose as may be contained in the order; and section 84 (penalty for neglecting witness summons) of the County Courts Act 1959 shall apply to failure without reasonable excuse to comply with any such order as it applies in the cases there provided.
- (5) In the application of subsection (4) to Scotland—
- (a) for the reference to a county court there shall be substituted a reference to a sheriff court, and

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- (b) for the words after " order; and " to the end of the subsection there shall be substituted the words " paragraph 73 of the First Schedule to the Sheriff Courts (Scotland) Act 1907 (power of sheriff to grant second diligence for compelling the attendances of witnesses or havers) shall apply to any such order as it applies in proceedings in the sheriff court ".
- (6) A person commits an offence if he—
- (a) wilfully alters, suppresses, conceals or destroys a document which he has been required by a notice or order under this section to produce, or
  - (b) in complying with such a notice or order, knowingly or recklessly makes any statement which is false in a material particular,
- and shall be liable on summary conviction to a fine not exceeding £400.
- (7) Proceedings for an offence under subsection (6) may (without prejudice to any jurisdiction exercisable apart from this subsection) 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.

## **60 Recommendations and reports on formal investigations**

- (1) If in the light of any of their findings in a formal investigation it appears to the Commission necessary or expedient, whether during the course of the investigation or after its conclusion.—
- (a) to make to any persons, with a view to promoting equality of opportunity between men and women who are affected by any of their activities, recommendations for changes in their policies or procedures, or as to any other matters, or
  - (b) to make to the Secretary of State any recommendations, whether for changes in the law or otherwise,
- the Commission shall make those recommendations accordingly.
- (2) The Commission shall prepare a report of their findings in any formal investigation conducted by them.
- (3) If the formal investigation is one required by the Secretary of State—
- (a) the Commission shall deliver the report to the Secretary of State, and
  - (b) the Secretary of State shall cause the report to be published,
- and unless required by the Secretary of State the Commission shall not publish the report.
- (4) If the formal investigation is not one required by the Secretary of State, the Commission shall either publish the report, or make it available for inspection in accordance with subsection (5).
- (5) Where under subsection (4) a report is to be made available for inspection, any person shall be entitled, on payment of such fee (if any) as may be determined by the Commission—
- (a) to inspect the report during ordinary office hours and take copies of all or any part of the report, or

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- (b) to obtain from the Commission a copy, certified by the Commission to be correct, of the report.
- (6) The Commission may if they think fit determine that the right conferred by subsection (5)(a) shall be exercisable in relation to a copy of the report instead of, or in addition to, the original.
- (7) The Commission shall give general notice of the place or places where, and the times when, reports may be inspected under subsection (5).

## **61 Restriction on disclosure of information**

- (1) No information given to the Commission by any person (" the informant") in connection with a formal investigation shall be disclosed by the Commission, or by any person who is or has been a Commissioner, additional Commissioner or employee of the Commission, except—
  - (a) on the order of any court, or
  - (b) with the informant's consent, or
  - (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, or
  - (d) in a report of the investigation published by the Commission or made available for inspection under section 60(5), or
  - (e) to the Commissioners, additional Commissioners or employees of the Commission, or, so far as may be necessary for the proper performance of the functions of the Commission, to other persons, or
  - (f) for the purpose of any civil proceedings under this Act to which the Commission are a party, or any criminal proceedings.
- (2) Any person who discloses information in contravention of subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding £400.
- (3) In preparing any report for publication or for inspection the Commission shall exclude, so far as is consistent with their duties and the object of the report, any matter which relates to the private affairs of any individual or business interests of any person where the publication of that matter might, in the opinion of the Commission, prejudicially affect that individual or person.