



# Sex Discrimination Act 1975

## 1975 CHAPTER 65

### PART VII

#### ENFORCEMENT

##### *Other enforcement by Commission*

#### **71 Persistent discrimination**

- (1) If, during the period of five years beginning on the date on which either of the following became final in the case of any person, namely.—
- (a) a non-discrimination notice served on him,
  - (b) a finding by a court or tribunal under section 63 or 66, or section 2 of the Equal Pay Act 1970, that he has done an unlawful discriminatory act or an act in breach of a term modified or included by virtue of an equality clause,

it appears to the Commission that unless restrained he is likely to do one or more acts falling within paragraph (b), or contravening section 37, the Commission may apply to a county court for an injunction, or to the sheriff court for an order, restraining him from doing so; and the court, if satisfied that the application is well-founded, may grant the injunction or order in the terms applied for or in more limited terms.

- (2) In proceedings under this section the Commission shall not allege that the person to whom the proceedings relate has done an act which is within the jurisdiction of an industrial tribunal unless a finding by an industrial tribunal that he did that act has become final.

#### **72 Enforcement of ss. 38 to 40**

- (1) Proceedings in respect of a contravention of section 38, 39 or 40 shall be brought only by the Commission in accordance with the following provisions of this section.
- (2) The proceedings shall be—
- (a) an application for a decision whether the alleged contravention occurred, or

- (b) an application under subsection (4) below,  
or both.
- (3) An application under subsection (2)(a) shall be made—
  - (a) in a case based on any provision of Part II, to an industrial tribunal, and
  - (b) in any other case to a county court or sheriff court.
- (4) If it appears to the Commission—
  - (a) that a person has done an act which by virtue of section 38, 39 or 40 was unlawful, and
  - (b) that unless restrained he is likely to do further acts which by virtue of that section are unlawful,

the Commission may apply to a county court for an injunction, or to a sheriff court for an order, restraining him from doing such acts; and the court, if satisfied that the application is well-founded, may grant the injunction or an order in the terms applied for or more limited terms.
- (5) In proceedings under subsection (4) the Commission shall not allege that the person to whom the proceedings relate has done an act which is unlawful under this Act and within the jurisdiction of an industrial tribunal unless a finding by an industrial tribunal that he did that act has become final.

### **73 Preliminary action in employment cases**

- (1) With a view to making an application under section 71(1) or 72(4) in relation to a person the Commission may present to an industrial tribunal a complaint that he has done an act within the jurisdiction of an industrial tribunal, and if the tribunal considers that the complaint is well-founded they shall make a finding to that effect and, if they think it just and equitable to do so in the case of an act contravening any provision of Part II may also (as if the complaint had been presented by the person discriminated against) make an order such as is referred to in section 65(1)(a), or a recommendation such as is referred to in section 65(1)(c), or both.
- (2) Subsection (1) is without prejudice to the jurisdiction conferred by section 72(2).
- (3) Any finding of an industrial tribunal under—
  - (a) this Act, or
  - (b) the Equal Pay Act 1970,

in respect of any act shall, if it has become final, be treated as conclusive—

  - (i) by the county court or sheriff court on an application under section 71(1) or 72(4) or in proceedings on an equality clause,
  - (ii) by an industrial tribunal on a complaint made by the person affected by the act under section 63 or in relation to an equality clause.
- (4) In sections 71 and 72 and this section, the acts " within the jurisdiction of an industrial tribunal" are those in respect of which such jurisdiction is conferred by sections 63 and 72 and by section 2 of the Equal Pay Act 1970.