

# Human Rights Act 1998

## 1998 CHAPTER 42

### *Public authorities*

#### **8 Judicial remedies.**

- (1) In relation to any act (or proposed act) of a public authority which the court finds is (or would be) unlawful, it may grant such relief or remedy, or make such order, within its powers as it considers just and appropriate.
- (2) But damages may be awarded only by a court which has power to award damages, or to order the payment of compensation, in civil proceedings.
- (3) No award of damages is to be made unless, taking account of all the circumstances of the case, including—
  - (a) any other relief or remedy granted, or order made, in relation to the act in question (by that or any other court), and
  - (b) the consequences of any decision (of that or any other court) in respect of that act,the court is satisfied that the award is necessary to afford just satisfaction to the person in whose favour it is made.
- (4) In determining—
  - (a) whether to award damages, or
  - (b) the amount of an award,the court must take into account the principles applied by the European Court of Human Rights in relation to the award of compensation under Article 41 of the Convention.
- (5) A public authority against which damages are awarded is to be treated—
  - (a) in Scotland, for the purposes of section 3 of the <sup>M1</sup>Law Reform (Miscellaneous Provisions) (Scotland) Act 1940 as if the award were made in an action of damages in which the authority has been found liable in respect of loss or damage to the person to whom the award is made;

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(b) for the purposes of the <sup>M2</sup>Civil Liability (Contribution) Act 1978 as liable in respect of damage suffered by the person to whom the award is made.

(6) In this section—

“court” includes a tribunal;

“damages” means damages for an unlawful act of a public authority; and

“unlawful” means unlawful under section 6(1).

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**Marginal Citations**

**M1** 1940 c. 42.

**M2** 1978 c. 47.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act modified by [2018 c. 16 Sch. 8 para. 30](#)