



# Immigration and Asylum Act 1999

## 1999 CHAPTER 33

### PART I

#### IMMIGRATION: GENERAL

#### *Employment: code of practice*

#### **22 Restrictions on employment: code of practice**

In the Asylum and Immigration Act 1996, after section 8, insert—

#### **“8A Code of practice**

- (1) The Secretary of State must issue a code of practice as to the measures which an employer is to be expected to take, or not to take, with a view to securing that, while avoiding the commission of an offence under section 8, he also avoids unlawful discrimination.
- (2) “Unlawful discrimination” means—
  - (a) discrimination in contravention of section 4(1) of the Race Relations Act 1976 (“the 1976 Act”); or
  - (b) in relation to Northern Ireland, discrimination in contravention of Article 6(1) of the Race Relations (Northern Ireland) Order 1997 (“the 1997 Order”).
- (3) Before issuing the code, the Secretary of State must—
  - (a) prepare and publish a draft of the proposed code; and
  - (b) consider any representations about it which are made to him.
- (4) In preparing the draft, the Secretary of State must consult—
  - (a) the Commission for Racial Equality;
  - (b) the Equality Commission for Northern Ireland; and

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*Status: This is the original version (as it was originally enacted).*

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- (c) such organisations and bodies (including organisations or associations of organisations representative of employers or of workers) as he considers appropriate.
- (5) If the Secretary of State decides to proceed with the code, he must lay a draft of the code before both Houses of Parliament.
- (6) The draft code may contain modifications to the original proposals made in the light of representations to the Secretary of State.
- (7) After laying the draft code before Parliament, the Secretary of State may bring the code into operation by an order made by statutory instrument.
- (8) An order under subsection (7)—
  - (a) shall be subject to annulment in pursuance of a resolution of either House of Parliament;
  - (b) may contain such transitional provisions or savings as appear to the Secretary of State to be necessary or expedient in connection with the code.
- (9) A failure on the part of any person to observe a provision of the code does not of itself make him liable to any proceedings.
- (10) But the code is admissible in evidence—
  - (a) in proceedings under the 1976 Act before an employment tribunal;
  - (b) in proceedings under the 1997 Order before an industrial tribunal.
- (11) If any provision of the code appears to the tribunal to be relevant to any question arising in such proceedings, that provision is to be taken into account in determining the question.
- (12) The Secretary of State may from time to time revise the whole or any part of the code and issue the code as revised.
- (13) The provisions of this section also apply (with appropriate modifications) to any revision, or proposed revision, of the code.”