

## SCHEDULES

### SCHEDULE 3

Sections 19(2) and 30(2).

#### AMENDMENT OF SCHEDULE 3 TO THE 1995 ACT

1 The following provisions are inserted in Schedule 3 to the 1995 Act as Part 3.

#### “PART 3

#### DISCRIMINATION IN SCHOOLS

##### **Restriction on proceedings for breach of Part 4, Chapter 1**

- 9 (1) Except as provided by sections 28I, 28K and 28L, no civil or criminal proceedings may be brought against any person in respect of an act merely because the act is unlawful under Chapter 1 of Part 4.
- (2) Sub-paragraph (1) does not prevent the making of an application for judicial review.

##### **Period within which proceedings must be brought**

- 10 (1) The Tribunal shall not consider a claim under section 28I unless proceedings in respect of the claim are instituted before the end of the period of six months beginning when the act complained of was done.
- (2) If, in relation to proceedings or prospective proceedings under section 28I, the dispute concerned is referred for conciliation in pursuance of arrangements under section 31B before the end of the period of six months mentioned in sub-paragraph (1), the period allowed by that sub-paragraph shall be extended by two months.
- (3) The Tribunal may consider any claim under section 28I which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.
- (4) But sub-paragraph (3) does not permit the Tribunal to decide to consider a claim if a decision not to consider that claim has previously been taken under that sub-paragraph.
- (5) For the purposes of sub-paragraph (1)—
- (a) if an unlawful act of discrimination is attributable to a term in a contract, that act is to be treated as extending throughout the duration of the contract;
  - (b) any act extending over a period shall be treated as done at the end of that period; and

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- (c) a deliberate omission shall be treated as done when the person in question decided upon it.
- (6) In the absence of evidence establishing the contrary, a person shall be taken for the purposes of this paragraph to decide upon an omission—
  - (a) when he does an act inconsistent with doing the omitted act; or
  - (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.

### **Evidence**

- 11 (1) In any proceedings under section 28I, 28K or 28L, a certificate signed by or on behalf of a Minister of the Crown and certifying that any conditions or requirements specified in the certificate—
  - (a) were imposed by a Minister of the Crown, and
  - (b) were in operation at a time or throughout a time so specified,
 shall be conclusive evidence of the matters certified.
- (2) A document purporting to be such a certificate shall be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.”

2 The following provisions are inserted in Schedule 3 to the 1995 Act as Part 4.

### **“PART 4**

#### DISCRIMINATION IN FURTHER AND HIGHER EDUCATION INSTITUTIONS

### **Restriction on proceedings for breach of Part 4, Chapter 2**

- 12 (1) Except as provided by section 28V, no civil or criminal proceedings may be brought against any person in respect of an act merely because the act is unlawful under Chapter 2 of Part 4.
- (2) Sub-paragraph (1) does not prevent the making of an application for judicial review.

### **Period within which proceedings must be brought**

- 13 (1) A county court or a sheriff court shall not consider a claim under section 28V unless proceedings in respect of the claim are instituted before the end of the period of six months beginning when the act complained of was done.
- (2) If, in relation to proceedings or prospective proceedings under section 28V, the dispute concerned is referred for conciliation in pursuance of arrangements under section 31B before the end of the period of six months mentioned in sub-paragraph (1), the period allowed by that sub-paragraph shall be extended by two months.

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

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- (3) A court may consider any claim under section 28V which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.
- (4) For the purposes of sub-paragraph (1)—
  - (a) if an unlawful act of discrimination is attributable to a term in a contract, that act is to be treated as extending throughout the duration of the contract;
  - (b) any act extending over a period shall be treated as done at the end of that period; and
  - (c) a deliberate omission shall be treated as done when the person in question decided upon it.
- (5) In the absence of evidence establishing the contrary, a person shall be taken for the purposes of this paragraph to decide upon an omission—
  - (a) when he does an act inconsistent with doing the omitted act; or
  - (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.

#### **Compensation for injury to feelings**

- 14 In any proceedings under section 28V, the amount of any damages awarded as compensation for injury to feelings shall not exceed the prescribed amount.

#### **Evidence**

- 15 (1) In any proceedings under section 28V, a certificate signed by or on behalf of a Minister of the Crown and certifying that any conditions or requirements specified in the certificate—
  - (a) were imposed by a Minister of the Crown, and
  - (b) were in operation at a time or throughout a time so specified,is conclusive evidence of the matters certified.
- (2) A document purporting to be such a certificate is to be—
  - (a) received in evidence; and
  - (b) deemed to be such a certificate unless the contrary is proved.”