



# Equality Act 2006

## 2006 CHAPTER 3

### PART 1

#### THE COMMISSION FOR EQUALITY AND HUMAN RIGHTS

##### *Enforcement powers*

#### **20 Investigations**

- (1) The Commission may investigate whether or not a person—
  - (a) has committed an unlawful act,
  - (b) has complied with a requirement imposed by an unlawful act notice under section 21, or
  - (c) has complied with an undertaking given under section 23.
- (2) The Commission may conduct an investigation under subsection (1)(a) only if it suspects that the person concerned may have committed an unlawful act.
- (3) A suspicion for the purposes of subsection (2) may (but need not) be based on the results of, or a matter arising during the course of, an inquiry under section 16.
- (4) Before settling a report of an investigation recording a finding that a person has committed an unlawful act or has failed to comply with a requirement or undertaking the Commission shall—
  - (a) send a draft of the report to the person,
  - (b) specify a period of at least 28 days during which he may make written representations about the draft, and
  - (c) consider any representations made.
- (5) Schedule 2 makes supplemental provision about investigations.

*Status: Point in time view as at 01/10/2010.*

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## 21 Unlawful act notice

- (1) The Commission may give a person a notice under this section (an “unlawful act notice”) if—
  - (a) he is or has been the subject of an investigation under section 20(1)(a), and
  - (b) the Commission is satisfied that he has committed an unlawful act.
- (2) A notice must specify—
  - (a) the unlawful act, and
  - (b) the provision of the [<sup>F1</sup>Equality Act 2010] by virtue of which the act is unlawful.
- (3) A notice must inform the recipient of the effect of—
  - (a) subsections (5) to (7),
  - (b) section 20(1)(b), and
  - (c) section 24(1).
- (4) A notice may—
  - (a) require the person to whom the notice is given to prepare an action plan for the purpose of avoiding repetition or continuation of the unlawful act;
  - (b) recommend action to be taken by the person for that purpose.
- (5) A person who is given a notice may, within the period of six weeks beginning with the day on which the notice is given, appeal to the appropriate court or tribunal on the grounds—
  - (a) that he has not committed the unlawful act specified in the notice, or
  - (b) that a requirement for the preparation of an action plan imposed under subsection (4)(a) is unreasonable.
- (6) On an appeal under subsection (5) the court or tribunal may—
  - (a) affirm a notice;
  - (b) annul a notice;
  - (c) vary a notice;
  - (d) affirm a requirement;
  - (e) annul a requirement;
  - (f) vary a requirement;
  - (g) make an order for costs or expenses.
- (7) In subsection (5) “the appropriate court or tribunal” means—
  - (a) an employment tribunal, if a claim in respect of the alleged unlawful act could be made to it, or
  - (b) a county court (in England and Wales) or the sheriff (in Scotland), if a claim in respect of the alleged unlawful act could be made to it or to him.

### Textual Amendments

- F1** Words in s. 21(2)(b) substituted (1.10.2010) by [Equality Act 2010 \(c. 15\), s. 216\(3\), Sch. 26 para. 67](#) (with [ss. 6\(4\), 205](#)); [S.I. 2010/2317, art. 2\(15\)\(e\)\(vi\)](#) (as amended (1.10.2010) by [S.I. 2010/2337, art. 2](#))

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**Modifications etc. (not altering text)**

**C1** S. 21(1)(a) applied (with modifications) (1.10.2007) by [The Equality Act 2006 \(Dissolution of Commissions and Consequential and Transitional Provisions\) Order 2007 \(S.I. 2007/2602\)](#), **art. 5(3)**

## 22 Action plans

- (1) This section applies where a person has been given a notice under section 21 which requires him (under section 21(4)(a)) to prepare an action plan.
- (2) The notice must specify a time by which the person must give the Commission a first draft plan.
- (3) After receiving a first draft plan from a person the Commission shall—
  - (a) approve it, or
  - (b) give the person a notice which—
    - (i) states that the draft is not adequate,
    - (ii) requires the person to give the Commission a revised draft by a specified time, and
    - (iii) may make recommendations about the content of the revised draft.
- (4) Subsection (3) shall apply in relation to a revised draft plan as it applies in relation to a first draft plan.
- (5) An action plan comes into force—
  - (a) if the period of six weeks beginning with the date on which a first draft or revised draft is given to the Commission expires without the Commission—
    - (i) giving a notice under subsection (3)(b), or
    - (ii) applying for an order under subsection (6)(b), or
  - (b) upon a court's declining to make an order under subsection (6)(b) in relation to a revised draft of the plan.
- (6) The Commission may apply to a county court (in England and Wales) or to the sheriff (in Scotland)—
  - (a) for an order requiring a person to give the Commission a first draft plan by a time specified in the order,
  - (b) for an order requiring a person who has given the Commission a revised draft plan to prepare and give to the Commission a further revised draft plan—
    - (i) by a time specified in the order, and
    - (ii) in accordance with any directions about the plan's content specified in the order, or
  - (c) during the period of five years beginning with the date on which an action plan prepared by a person comes into force, for an order requiring the person—
    - (i) to act in accordance with the action plan, or
    - (ii) to take specified action for a similar purpose.
- (7) An action plan may be varied by agreement between the Commission and the person who prepared it.
- (8) Paragraphs 10 to 14 of Schedule 2 apply (but omitting references to oral evidence) in relation to consideration by the Commission of the adequacy of a draft action plan as they apply in relation to the conduct of an inquiry.

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- (9) A person commits an offence if without reasonable excuse he fails to comply with an order under subsection (6); and a person guilty of an offence under this subsection shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## 23 Agreements

- (1) The Commission may enter into an agreement with a person under which—
- (a) the person undertakes—
    - (i) not to commit an unlawful act of a specified kind, and
    - (ii) to take, or refrain from taking, other specified action (which may include the preparation of a plan for the purpose of avoiding an unlawful act), and
  - (b) the Commission undertakes not to proceed against the person under section 20 or 21 in respect of any unlawful act of the kind specified under paragraph (a) (i).
- (2) The Commission may enter into an agreement with a person under this section only if it thinks that the person has committed an unlawful act.
- (3) But a person shall not be taken to admit to the commission of an unlawful act by reason only of entering into an agreement under this section.
- (4) An agreement under this section—
- (a) may be entered into whether or not the person is or has been the subject of an investigation under section 20,
  - (b) may include incidental or supplemental provision (which may include provision for termination in specified circumstances), and
  - (c) may be varied or terminated by agreement of the parties.
- (5) This section shall apply in relation to the breach of a duty specified in section 34(2) as it applies in relation to the commission of an unlawful act; and for that purpose the reference in subsection (1)(b) above to section 20 or 21 shall be taken as a reference to section 32.

## 24 Applications to court

- (1) If the Commission thinks that a person is likely to commit an unlawful act, it may apply—
- (a) in England and Wales, to a county court for an injunction restraining the person from committing the act, or
  - (b) in Scotland, to the sheriff for an interdict prohibiting the person from committing the act.
- (2) Subsection (3) applies if the Commission thinks that a party to an agreement under section 23 has failed to comply, or is likely not to comply, with an undertaking under the agreement.
- (3) The Commission may apply to a county court (in England and Wales) or to the sheriff (in Scotland) for an order requiring the person—
- (a) to comply with his undertaking, and
  - (b) to take such other action as the court or the sheriff may specify.

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## **[<sup>F2</sup>24A Enforcement powers: supplemental**

- (1) This section has effect in relation to—
  - (a) an act which is unlawful because, by virtue of any of sections 13 to 18 of the Equality Act 2010, it amounts to a contravention of any of Parts 3, 4, 5, 6 or 7 of that Act,
  - (b) an act which is unlawful because it amounts to a contravention of section 60(1) of that Act (or to a contravention of section 111 or 112 of that Act that relates to a contravention of section 60(1) of that Act) (enquiries about disability and health),
  - (c) an act which is unlawful because it amounts to a contravention of section 106 of that Act (information about diversity in range of election candidates etc.),
  - (d) an act which is unlawful because, by virtue of section 108(1) of that Act, it amounts to a contravention of any of Parts 3, 4, 5, 6 or 7 of that Act, or
  - (e) the application of a provision, criterion or practice which, by virtue of section 19 of that Act, amounts to a contravention of that Act.
- (2) For the purposes of sections 20 to 24 of this Act, it is immaterial whether the Commission knows or suspects that a person has been or may be affected by the unlawful act or application.
- (3) For those purposes, an unlawful act includes making arrangements to act in a particular way which would, if applied to an individual, amount to a contravention mentioned in subsection (1)(a).
- (4) Nothing in this Act affects the entitlement of a person to bring proceedings under the Equality Act 2010 in respect of a contravention mentioned in subsection (1).]

### **Textual Amendments**

- F2** S. 24A inserted (1.10.2010) by Equality Act 2010 (c. 15), s. 216(3), Sch. 26 para. 68 (with ss. 6(4), 205); S.I. 2010/2317, art. 2(15)(e)(vi) (as amended (1.10.2010) by S.I. 2010/2337, art. 2)

## **[<sup>F3</sup>25 Application to restrain unlawful advertising, pressure, &c.**

### **Textual Amendments**

- F3** S. 25 repealed (1.10.2010) by Equality Act 2010 (c. 15), s. 216(3), Sch. 26 para. 69, Sch. 27 Pt. 1 (with ss. 6(4), 205); S.I. 2010/2317, art. 2(15)(e)(vi) (as amended (1.10.2010) by S.I. 2010/2337, art. 2)

## **[<sup>F4</sup>26 Section 25: supplemental**

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### Textual Amendments

- F4** S. 26 repealed (1.10.2010) by Equality Act 2010 (c. 15), s. 216(3), Sch. 26 para. 70, Sch. 27 Pt. 1 (with ss. 6(4), 205); S.I. 2010/2317, art. 2(15)(e)(vi) (as amended (1.10.2010) by S.I. 2010/2337, art. 2)

## 27 Conciliation

- [<sup>F5</sup>(1) The Commission may make arrangements for the provision of conciliation services for disputes in respect of which proceedings have been or could be determined by virtue of section 114 of the Equality Act 2010.]
- [<sup>F6</sup>[<sup>F7</sup>( 1A ) The Commission may make arrangements for the provision of conciliation services for disputes in respect of which proceedings have been or could be brought in England and Wales or Scotland under regulation 9 of the Civil Aviation (Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) Regulations 2007 (civil proceedings).]
- [<sup>F8</sup>(1B) The Commission may make arrangements for the provision of conciliation services for disputes in respect of which proceedings have been or could be brought in England and Wales or Scotland under regulation 11 of the Rail Passengers' Rights and Obligations Regulations 2010 (compensation claims by disabled persons and persons with reduced mobility). ]
- [<sup>F7</sup>(2) The Commission may make arrangements for the provision of conciliation services for disputes about a landlord's reasonableness in relation to consent to the making of an improvement to a dwelling in England or Wales where the improvement would be likely to facilitate the enjoyment of the premises by the tenant or another lawful occupier having regard to a disability.
- (3) The Commission may make arrangements for the provision of conciliation services for disputes about whether—
- (a) it is unreasonable for a landlord of a house (within the meaning of the Housing (Scotland) Act 2006 (asp 01)) in Scotland to withhold consent to the carrying out of work in relation to the house for the purpose of making the house suitable for the accommodation, welfare or employment of any disabled person who occupies, or intends to occupy, the house as a sole or main residence, or
  - (b) any condition imposed by such a landlord on consenting to the carrying out of such work is unreasonable.
- (4) The Commission shall aim to exercise the powers in subsections (1) to (3) so as to ensure that, so far as is reasonably practicable, conciliation services are available to parties who want them.
- (5) Information communicated to a person providing conciliation services in accordance with arrangements under this section may not be adduced in legal proceedings without the consent of the person who communicated the information.
- (6) None of the following shall participate in the provision of conciliation services for which arrangements are made under this section—
- (a) a Commissioner,
  - (b) a member of the Commission's staff,

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- (c) a member of a committee established by the Commission, and
  - (d) an Investigating Commissioner.
- (7) The Commission shall make administrative arrangements designed to secure that information in connection with conciliation services provided in accordance with arrangements made under this section is not disclosed to—
- (a) a Commissioner, or
  - (b) a member of the Commission's staff.
- (8) But subsection (7) shall not apply to a disclosure—
- (a) made with the consent of the parties to the dispute to which it relates,
  - (b) which does not identify individuals or enable them to be identified, or
  - (c) of information without which arrangements under this section cannot be made.
- (9) In this section “conciliation services” means a service which is provided—
- (a) by a person who is not party to a dispute,
  - (b) to the parties to the dispute, and
  - (c) with the aim of enabling the dispute to be settled by agreement and without legal proceedings.
- (10) The [<sup>F9</sup>Secretary of State] may by order amend this section so as to vary the range of disputes in respect of which the Commission may make arrangements for the provision of conciliation services.

#### Textual Amendments

- F5** S. 27(1) substituted (1.10.2010) by Equality Act 2010 (c. 15), s. 216(3), **Sch. 26 para. 71(2)** (with ss. 6(4), 205); S.I. 2010/2317, art. 2(15)(e)(vi) (as amended (1.10.2010) by S.I. 2010/2337, art. 2)
- F6** S. 27(1)(g) and preceding word inserted (1.10.2006) by The Employment Equality (Age) Regulations 2006 (S.I. 2006/1031), reg. 49(1), **Sch. 8 para. 39(3)** (with regs. 44-46)
- F7** S. 27(1A) inserted (1.10.2007) by The Civil Aviation (Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) Regulations 2007 (S.I. 2007/1895), regs. 1(3), **10**
- F8** S. 27(1B) inserted (25.6.2010) by The Rail Passengers’ Rights and Obligations Regulations 2010 (S.I. 2010/1504), regs. 1(2), **12**
- F9** Words in s. 27(10) substituted (18.8.2010) by Transfer of Functions (Equality) Order 2010 (S.I. 2010/1839), art. 1(2), **Sch. para. 7(2)(f)**

## 28 Legal assistance

- (1) The Commission may assist an individual who is or may become party to legal proceedings if—
- (a) the proceedings relate or may relate (wholly or partly) to a provision of the [<sup>F10</sup>Equality Act 2011], and
  - (b) the individual alleges that he has been the victim of behaviour contrary to a provision of the [<sup>F11</sup>that Act].
- (2) The Commission may assist an individual who is or may become party to legal proceedings in England and Wales if and in so far as the proceedings concern or may concern the question of a landlord's reasonableness in relation to consent to the making of an improvement to a dwelling where the improvement would be likely to facilitate

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the enjoyment of the premises by the tenant or another lawful occupier having regard to a disability.

- (3) The Commission may assist an individual who is or may become a party to legal proceedings in Scotland if and in so far as the proceedings concern or may concern the question whether—
  - (a) it is unreasonable for a landlord to withhold consent to the carrying out of work in relation to a house (within the meaning of the Housing (Scotland) Act 2006 (asp 01)) for the purpose of making the house suitable for the accommodation, welfare or employment of any disabled person who occupies, or intends to occupy, the house as a sole or main residence, or
  - (b) any condition imposed by a landlord on consenting to the carrying out of such work is unreasonable.
- (4) In giving assistance under this section the Commission may provide or arrange for the provision of—
  - (a) legal advice;
  - (b) legal representation;
  - (c) facilities for the settlement of a dispute;
  - (d) any other form of assistance.
- (5) Assistance may not be given under subsection (1) in relation to alleged behaviour contrary to a provision of <sup>[F12]</sup>Part 12 of the Equality Act 2010 (disabled persons:] transport).
- (6) Where proceedings relate or may relate partly to a provision of <sup>[F13]</sup>the Equality Act 2010] and partly to other matters—
  - (a) assistance may be given under subsection (1) in respect of any aspect of the proceedings while they relate to a provision of <sup>[F14]</sup>that Act], but
  - (b) if the proceedings cease to relate to a provision of <sup>[F14]</sup>that Act], assistance may not be continued under subsection (1) in respect of the proceedings (except in so far as it is permitted by virtue of subsection (7) or (8)).
- (7) The Lord Chancellor may by order disapply subsection (6)(b), and enable the Commission to give assistance under subsection (1), in respect of legal proceedings which—
  - (a) when instituted, related (wholly or partly) to a provision of the <sup>[F15]</sup>Equality Act 2010],
  - (b) have ceased to relate to the provision of <sup>[F16]</sup>that Act], and
  - (c) relate (wholly or partly) to any of the Convention rights within the meaning given by section 1 of the Human Rights Act 1998 (c. 42).
- (8) The <sup>[F17]</sup>Secretary of State] may by order enable the Commission to give assistance under this section in respect of legal proceedings in the course of which an individual who is or has been a disabled person relies or proposes to rely on a matter relating to his disability; but an order under this subsection may not permit assistance in relation to alleged behaviour contrary to a provision of <sup>[F18]</sup>Part 12 of the Equality Act 2010].
- (9) An order under subsection (7) or (8) may make provision generally or only in relation to proceedings of a specified kind or description (which in the case of an order under subsection (7) may, in particular, refer to specified provisions of the <sup>[F19]</sup>Equality Act 2010]) or in relation to specified circumstances.



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- (10) This section is without prejudice to the effect of any restriction imposed, in respect of representation—
- (a) by virtue of an enactment (including an enactment in or under an Act of the Scottish Parliament), or
  - (b) in accordance with the practice of a court.
- (11) A legislative provision which requires insurance or an indemnity in respect of advice given in connection with a compromise contract or agreement shall not apply to advice provided by the Commission under this section.
- (12) [<sup>F20</sup>This section applies] to a provision of Community law which—
- (a) relates to discrimination on grounds of sex (including reassignment of gender), racial origin, ethnic origin, religion, belief, disability, age or sexual orientation, and
  - (b) confers rights on individuals [<sup>F21</sup>as it applies to the Equality Act 2010.]
- (13) In its application by virtue of subsection (12), subsection (1)(b) shall have effect as if it referred to an allegation by an individual that he is disadvantaged by—
- (a) an enactment (including an enactment in or under an Act of the Scottish Parliament) which is contrary to a provision of Community law, or
  - (b) a failure by the United Kingdom to implement a right as required by Community law.

#### Textual Amendments

- F10** Words in s. 28(1)(a) substituted (1.10.2010) by [Equality Act 2010 \(c. 15\), s. 216\(3\), Sch. 26 para. 72\(2\)\(a\)](#) (with [ss. 6\(4\), 205](#)); [S.I. 2010/2317, art. 2\(15\)\(e\)\(vi\)](#) (as amended (1.10.2010) by [S.I. 2010/2337, art. 2](#))
- F11** Words in s. 28(1)(b) substituted (1.10.2010) by [Equality Act 2010 \(c. 15\), s. 216\(3\), Sch. 26 para. 72\(2\)\(b\)](#) (with [ss. 6\(4\), 205](#)); [S.I. 2010/2317, art. 2\(15\)\(e\)\(vi\)](#) (as amended (1.10.2010) by [S.I. 2010/2337, art. 2](#))
- F12** Words in s. 28(5) substituted (1.10.2010) by [Equality Act 2010 \(c. 15\), s. 216\(3\), Sch. 26 para. 72\(3\)](#) (with [ss. 6\(4\), 205](#)); [S.I. 2010/2317, art. 2\(15\)\(e\)\(vi\)](#) (as amended (1.10.2010) by [S.I. 2010/2337, art. 2](#))
- F13** Words in s. 28(6) substituted (1.10.2010) by [Equality Act 2010 \(c. 15\), s. 216\(3\), Sch. 26 para. 72\(4\)\(a\)](#) (with [ss. 6\(4\), 205](#)); [S.I. 2010/2317, art. 2\(15\)\(e\)\(vi\)](#) (as amended (1.10.2010) by [S.I. 2010/2337, art. 2](#))
- F14** Words in s. 28(6) substituted (1.10.2010) by [Equality Act 2010 \(c. 15\), s. 216\(3\), Sch. 26 para. 72\(4\)\(b\)](#) (with [ss. 6\(4\), 205](#)); [S.I. 2010/2317, art. 2\(15\)\(e\)\(vi\)](#) (as amended (1.10.2010) by [S.I. 2010/2337, art. 2](#))
- F15** Words in s. 28(7)(a) substituted (1.10.2010) by [Equality Act 2010 \(c. 15\), s. 216\(3\), Sch. 26 para. 72\(5\)\(a\)](#) (with [ss. 6\(4\), 205](#)); [S.I. 2010/2317, art. 2\(15\)\(e\)\(vi\)](#) (as amended (1.10.2010) by [S.I. 2010/2337, art. 2](#))
- F16** Words in s. 28(7)(b) substituted (1.10.2010) by [Equality Act 2010 \(c. 15\), s. 216\(3\), Sch. 26 para. 72\(5\)\(b\)](#) (with [ss. 6\(4\), 205](#)); [S.I. 2010/2317, art. 2\(15\)\(e\)\(vi\)](#) (as amended (1.10.2010) by [S.I. 2010/2337, art. 2](#))
- F17** Words in s. 28(8) substituted (18.8.2010) by [Transfer of Functions \(Equality\) Order 2010 \(S.I. 2010/1839\), art. 1\(2\), Sch. para. 7\(2\)\(g\)](#)
- F18** Words in s. 28(8) substituted (1.10.2010) by [Equality Act 2010 \(c. 15\), s. 216\(3\), Sch. 26 para. 72\(6\)](#) (with [ss. 6\(4\), 205](#)); [S.I. 2010/2317, art. 2\(15\)\(e\)\(vi\)](#) (as amended (1.10.2010) by [S.I. 2010/2337, art. 2](#))

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- F19** Words in s. 28(9) substituted (1.10.2010) by [Equality Act 2010 \(c. 15\), s. 216\(3\), Sch. 26 para. 72\(7\)](#) (with ss. 6(4), 205); [S.I. 2010/2317, art. 2\(15\)\(e\)\(vi\)](#) (as amended (1.10.2010) by [S.I. 2010/2337, art. 2](#))
- F20** Words in s. 28(12) substituted (1.10.2010) by [Equality Act 2010 \(c. 15\), s. 216\(3\), Sch. 26 para. 72\(8\)\(a\)](#) (with ss. 6(4), 205); [S.I. 2010/2317, art. 2\(15\)\(e\)\(vi\)](#) (as amended (1.10.2010) by [S.I. 2010/2337, art. 2](#))
- F21** Words in s. 28(12) added (1.10.2010) by [Equality Act 2010 \(c. 15\), s. 216\(3\), Sch. 26 para. 72\(8\)\(b\)](#) (with ss. 6(4), 205); [S.I. 2010/2317, art. 2\(15\)\(e\)\(vi\)](#) (as amended (1.10.2010) by [S.I. 2010/2337, art. 2](#))

## 29 Legal assistance: costs

- (1) This section applies where—
  - (a) the Commission has assisted an individual under section 28 in relation to proceedings, and
  - (b) the individual becomes entitled to some or all of his costs in the proceedings (whether by virtue of an award or by virtue of an agreement).
- (2) The Commission's expenses in providing the assistance—
  - (a) shall be charged on sums paid to the individual by way of costs, and
  - (b) may be enforced as a debt due to the Commission.
- (3) A requirement to pay money to the Commission under subsection (2) ranks, in England and Wales, after a requirement imposed by virtue of section 11(4)(f) of the Access to Justice Act 1999 (c. 22) (recovery of costs in funded cases).
- (4) Subsection (2), in its application to Scotland, shall not affect the operation of section 17(2A) of the Legal Aid (Scotland) Act 1986 (c. 47) (requirement in certain cases to pay to the Scottish Legal Aid Board sums recovered under awards of, or agreements as to, expenses).
- (5) For the purposes of subsection (2) the Commission's expenses shall be calculated in accordance with such provision (if any) as the [<sup>F22</sup>Secretary of State] makes for the purpose by regulations; and regulations may, in particular, provide for the apportionment of expenditure incurred by the Commission—
  - (a) partly for one purpose and partly for another, or
  - (b) for general purposes.
- (6) In the application of this section to Scotland a reference to costs shall be taken as a reference to expenses.

### Textual Amendments

- F22** Words in s. 29(5) substituted (18.8.2010) by [Transfer of Functions \(Equality\) Order 2010 \(S.I. 2010/1839\), art. 1\(2\), Sch. para. 7\(2\)\(h\)](#)

## 30 Judicial review and other legal proceedings

- (1) The Commission shall have capacity to institute or intervene in legal proceedings, whether for judicial review or otherwise, if it appears to the Commission that the proceedings are relevant to a matter in connection with which the Commission has a function.

*Status: Point in time view as at 01/10/2010.*

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- (2) The Commission shall be taken to have title and interest in relation to the subject matter of any legal proceedings in Scotland which it has capacity to institute, or in which it has capacity to intervene, by virtue of subsection (1).
- (3) The Commission may, in the course of legal proceedings for judicial review which it institutes (or in which it intervenes), rely on section 7(1)(b) of the Human Rights Act 1998 (c. 42) (breach of Convention rights); and for that purpose—
  - (a) the Commission need not be a victim or potential victim of the unlawful act to which the proceedings relate,
  - (b) the Commission may act only if there is or would be one or more victims of the unlawful act,
  - (c) section 7(3) and (4) of that Act shall not apply, and
  - (d) no award of damages may be made to the Commission (whether or not the exception in section 8(3) of that Act applies);and an expression used in this subsection and in section 7 of the Human Rights Act 1998 has the same meaning in this subsection as in that section.
- (4) Subsections (1) and (2)—
  - (a) do not create a cause of action, and
  - (b) are, except as provided by subsection (3), subject to any limitation or restriction imposed by virtue of an enactment (including an enactment in or under an Act of the Scottish Parliament) or in accordance with the practice of a court.

### **31 Public sector duties: assessment**

- (1) The Commission may assess the extent to which or the manner in which a person has complied with a duty under or by virtue of—
  - (a) section 76A, 76B or 76C of the Sex Discrimination Act 1975 (c. 65) (public authorities: duty to eliminate discrimination, &c.),
  - (b) section 71 of the Race Relations Act 1976 (c. 74) (public authorities: duty to eliminate discrimination, &c.), or
  - (c) section 49A or 49D of the Disability Discrimination Act 1995 (c. 50) (public authorities: duty to eliminate discrimination, &c.).
- (2) Schedule 2 makes supplemental provision about assessments.
- (3) This section is without prejudice to the generality of sections 16 and 20.

### **32 Public sector duties: compliance notice**

- (1) This section applies where the Commission thinks that a person has failed to comply with a duty under or by virtue of—
  - (a) section 76A, 76B or 76C of the Sex Discrimination Act 1975 (public authorities: duty to eliminate discrimination, &c.),
  - (b) section 71 of the Race Relations Act 1976 (public authorities: duty to eliminate discrimination, &c.), or
  - (c) section 49A or 49D of the Disability Discrimination Act 1995 (public authorities: duty to eliminate discrimination, &c.).
- (2) The Commission may give the person a notice requiring him—

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- (a) to comply with the duty, and
  - (b) to give the Commission, within the period of 28 days beginning with the date on which he receives the notice, written information of steps taken or proposed for the purpose of complying with the duty.
- (3) A notice under this section may require a person to give the Commission information required by the Commission for the purposes of assessing compliance with the duty; in which case the notice shall specify—
- (a) the period within which the information is to be given (which shall begin with the date on which the notice is received and shall not exceed three months), and
  - (b) the manner and form in which the information is to be given.
- (4) The Commission may not give a notice under this section in respect of a duty under section 76A of the Sex Discrimination Act 1975, section 71(1) of the Race Relations Act 1976 or section 49A of the Disability Discrimination Act 1995 unless—
- (a) the Commission has carried out an assessment under section 31 above, and
  - (b) the notice relates to the results of the assessment.
- (5) A person who receives a notice under this section shall comply with it.
- (6) But a notice under this section shall not oblige a person to give information—
- (a) that he is prohibited from disclosing by virtue of an enactment, or
  - (b) that he could not be compelled to give in proceedings before the High Court or the Court of Session.
- (7) Paragraphs 11 and 14 of Schedule 2 shall have effect (with any necessary modifications) in relation to a requirement imposed by a notice under this section as they have effect in relation to a requirement imposed by a notice under paragraph 9 of that Schedule.
- (8) If the Commission thinks that a person, to whom a notice under this section has been given, has failed to comply with a requirement of the notice, the Commission may apply to the court for an order requiring the person to comply.
- (9) In subsection (8) “the court” means—
- (a) where the notice related to a duty under section 76A of the Sex Discrimination Act 1975 (c. 65), section 71(1) of the Race Relations Act 1976 (c. 74) or section 49A of the Disability Discrimination Act 1995 (c. 50), the High Court (in England and Wales) or (in Scotland) the Court of Session, and
  - (b) in any other case, a county court (in England and Wales) or the sheriff (in Scotland).
- (10) A notice under this section shall specify a time before which the Commission may not make an application under subsection (8) in respect of the notice.
- (11) Legal proceedings in relation to a duty by virtue of section 76B or 76C of the Sex Discrimination Act 1975, section 71(2) of the Race Relations Act 1976 or section 49D of the Disability Discrimination Act 1995—
- (a) may be brought by the Commission in accordance with subsection (8) above, and
  - (b) may not be brought in any other way.

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**Modifications etc. (not altering text)**

- C2** S. 32(8) applied (with modifications) (1.10.2007) by [The Equality Act 2006 \(Dissolution of Commissions and Consequential and Transitional Provisions\) Order 2007 \(S.I. 2007/2602\)](#), **art. 5(4)**

**Status:**

Point in time view as at 01/10/2010.

**Changes to legislation:**

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