



# Equality Act 2010

## 2010 CHAPTER 15

### PART 9

#### ENFORCEMENT

### CHAPTER 2

#### CIVIL COURTS

#### 114 Jurisdiction

- (1) A county court or, in Scotland, the sheriff has jurisdiction to determine a claim relating to—
  - (a) a contravention of Part 3 (services and public functions);
  - (b) a contravention of Part 4 (premises);
  - (c) a contravention of Part 6 (education);
  - (d) a contravention of Part 7 (associations);
  - (e) a contravention of section 108, 111 or 112 that relates to Part 3, 4, 6 or 7.
- (2) Subsection (1)(a) does not apply to a claim within section 115.
- (3) Subsection (1)(c) does not apply to a claim within section 116.
- (4) Subsection (1)(d) does not apply to a contravention of section 106.
- (5) For the purposes of proceedings on a claim within subsection (1)(a)—
  - (a) a decision in proceedings on a claim mentioned in section 115(1) that an act is a contravention of Part 3 is binding;
  - (b) it does not matter whether the act occurs outside the United Kingdom.
- (6) The county court or sheriff—
  - (a) must not grant an interim injunction or interdict unless satisfied that no criminal matter would be prejudiced by doing so;

*Status: Point in time view as at 16/01/2012.*

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- (b) must grant an application to stay or sist proceedings under subsection (1) on grounds of prejudice to a criminal matter unless satisfied the matter will not be prejudiced.
- (7) In proceedings in England and Wales on a claim within subsection (1), the power under section 63(1) of the County Courts Act 1984 (appointment of assessors) must be exercised unless the judge is satisfied that there are good reasons for not doing so.
- (8) In proceedings in Scotland on a claim within subsection (1), the power under rule 44.3 of Schedule 1 to the Sheriff Court (Scotland) Act 1907 (appointment of assessors) must be exercised unless the sheriff is satisfied that there are good reasons for not doing so.
- (9) The remuneration of an assessor appointed by virtue of subsection (8) is to be at a rate determined by the Lord President of the Court of Session.

#### Commencement Information

- II** S. 114 wholly in force; s. 114 not in force at Royal Assent see s. 216; s. 114 in force at 1.10.2010 by S.I. 2010/2317, art. 2(1)(9)(a) (with art. 15, and subject to transitional provision in art. 7)

## 115 Immigration cases

- (1) A claim is within this section if it relates to the act of an immigration authority in taking a relevant decision and—
  - (a) the question whether the act is a contravention of Part 3 has been or could be raised on an appeal which is pending, or could be brought, under the immigration provisions, or
  - (b) it has been decided on an appeal under those provisions that the act is not a contravention of Part 3.
- (2) The relevant decision is not—
  - (a) subject to challenge in proceedings on a claim within section 114(1)(a), or
  - (b) affected by the decision of a court in such proceedings.
- (3) For the purposes of subsection (1)(a) a power to grant permission to appeal out of time must be ignored.
- (4) Each of the following is an immigration authority—
  - (a) the Secretary of State;
  - (b) an immigration officer;
  - (c) a person responsible for the grant or refusal of entry clearance (within the meaning of section 33(1) of the Immigration Act 1971).
- (5) The immigration provisions are—
  - (a) the Special Immigration Appeals Commission Act 1997, or
  - (b) Part 5 of the Nationality, Immigration and Asylum Act 2002.
- (6) A relevant decision is—
  - (a) a decision under the Immigration Acts relating to the entitlement of a person to enter or remain in the United Kingdom;
  - (b) a decision on an appeal under the immigration provisions relating to a decision within paragraph (a).

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- (7) An appeal is pending if it is pending for the purposes of section 104 of the Nationality, Immigration and Asylum Act 2002 or (as the case may be) for the purposes of that section as it is applied by section 2(2)(j) of the Special Immigration Appeals Commission Act 1997.

#### Commencement Information

- I2** S. 115 wholly in force; s. 115 not in force at Royal Assent see s. 216; s. 115 in force at 1.10.2010 by S.I. 2010/2317, **art. 2(1)(9)(a)** (with **art. 15**, and subject to transitional provision in **art. 7**)

### 116 Education cases

- (1) A claim is within this section if it may be made to—
- the First-tier Tribunal in accordance with Part 2 of Schedule 17,
  - the Special Educational Needs Tribunal for Wales in accordance with Part 2 of that Schedule, or
  - an Additional Support Needs Tribunal for Scotland in accordance with Part 3 of that Schedule.
- (2) A claim is also within this section if it must be made in accordance with appeal arrangements within the meaning of Part 4 of that Schedule.
- (3) Schedule 17 (disabled pupils: enforcement) has effect.

#### Commencement Information

- I3** S. 116 wholly in force; s. 116 not in force at Royal Assent see s. 216; s. 116(3) in force for certain purposes at 4.8.2010 by S.I. 2010/1966, **art. 2**; s. 116(1)(a)(b)(2) wholly in force and s. 116(1)(c)(3) in force for certain purposes at 1.10.2010 by S.I. 2010/2317, **art. 2(1)(9)(b)-(d)** (with **art. 15**, and subject to transitional provision in **art. 7**); s. 116(1)(c)(3) in force at 18.3.2011 in so far as not already in force by S.I. 2010/2317, **art. 3(a)(b)** (with **art. 15**, and subject to transitional provision in **art. 7**)

### 117 National security

- (1) Rules of court may, in relation to proceedings on a claim within section 114, confer power as mentioned in subsections (2) to (4); but a power so conferred is exercisable only if the court thinks it expedient to do so in the interests of national security.
- (2) The rules may confer power to exclude from all or part of the proceedings—
- the claimant or pursuer;
  - a representative of the claimant or pursuer;
  - an assessor.
- (3) The rules may confer power to permit a claimant, pursuer or representative who has been excluded to make a statement to the court before the commencement of the proceedings, or part of the proceedings, to which the exclusion relates.
- (4) The rules may confer power to take steps to keep secret all or part of the reasons for the court's decision.

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- (5) The Attorney General or, in Scotland, the Advocate General for Scotland may appoint a person to represent the interests of a claimant or pursuer in, or in any part of, proceedings to which an exclusion by virtue of subsection (2)(a) or (b) relates.
- (6) A person (P) may be appointed under subsection (5) only if—
  - (a) in relation to proceedings in England and Wales, P is a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation;
  - (b) in relation to proceedings in Scotland, P is an advocate or qualified to practice as a solicitor in Scotland.
- (7) P is not responsible to the person whose interests P is appointed to represent.

#### Commencement Information

- I4** S. 117 wholly in force; s. 117 not in force at Royal Assent see s. 216; s. 117(1)-(4) in force for certain purposes at 6.7.2010 by S.I. 2010/1736, art. 2, Sch.; s. 117 in force at 1.10.2010 in so far as not already in force by S.I. 2010/2317, art. 2(1)(9)(e) (with art. 15, and subject to transitional provision in art. 7)

## 118 Time limits

- (1) <sup>[F1]</sup>Subject to section 140A] proceedings on a claim within section 114 may not be brought after the end of—
  - (a) the period of 6 months starting with the date of the act to which the claim relates, or
  - (b) such other period as the county court or sheriff thinks just and equitable.
- (2) If subsection (3) or (4) applies, subsection (1)(a) has effect as if for “6 months” there were substituted “9 months”.
- (3) This subsection applies if—
  - (a) the claim relates to the act of a qualifying institution, and
  - (b) a complaint relating to the act is referred under the student complaints scheme before the end of the period of 6 months starting with the date of the act.
- (4) This subsection applies if—
  - (a) the claim relates to a dispute referred for conciliation in pursuance of arrangements under section 27 of the Equality Act 2006, and
  - (b) subsection (3) does not apply.
- (5) If it has been decided under the immigration provisions that the act of an immigration authority in taking a relevant decision is a contravention of Part 3 (services and public functions), subsection (1) has effect as if for paragraph (a) there were substituted—
 

“(a) the period of 6 months starting with the day after the expiry of the period during which, as a result of section 114(2), proceedings could not be brought in reliance on section 114(1)(a);”.
- (6) For the purposes of this section—
  - (a) conduct extending over a period is to be treated as done at the end of the period;

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- (b) failure to do something is to be treated as occurring when the person in question decided on it.
- (7) In the absence of evidence to the contrary, a person (P) is to be taken to decide on failure to do something—
  - (a) when P does an act inconsistent with doing it, or
  - (b) if P does no inconsistent act, on the expiry of the period in which P might reasonably have been expected to do it.
- (8) In this section—
  - “immigration authority”, “immigration provisions” and “relevant decision” each have the meaning given in section 115;
  - “qualifying institution” has the meaning given in section 11 of the Higher Education Act 2004;
  - “the student complaints scheme” means a scheme for the review of qualifying complaints (within the meaning of section 12 of that Act) that is provided by the designated operator (within the meaning of section 13(5)(b) of that Act).

#### Textual Amendments

- F1** Words in [s. 118\(1\)](#) inserted (20.5.2011 with application as mentioned in regs. 3, 4 of the amending S.I.) by [The Cross-Border Mediation \(EU Directive\) Regulations 2011 \(S.I. 2011/1133\)](#), [reg. 55](#)

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

- C1** [S. 118\(6\)](#) applied (1.10.2010) by [S.I. 2010/2317](#), [art. 4\(3\)](#) (with [art. 15](#))

#### Commencement Information

- I5** [S. 118](#) wholly in force; [s. 118](#) not in force at Royal Assent see [s. 216](#); [s. 118](#) in force at 1.10.2010 by [S.I. 2010/2317](#), [art. 2\(1\)\(9\)\(f\)](#) (with [art. 15](#), and subject to transitional provision in [art. 7](#))

## 119 Remedies

- (1) This section applies if a county court or the sheriff finds that there has been a contravention of a provision referred to in section 114(1).
- (2) The county court has power to grant any remedy which could be granted by the High Court—
  - (a) in proceedings in tort;
  - (b) on a claim for judicial review.
- (3) The sheriff has power to make any order which could be made by the Court of Session—
  - (a) in proceedings for reparation;
  - (b) on a petition for judicial review.
- (4) An award of damages may include compensation for injured feelings (whether or not it includes compensation on any other basis).
- (5) Subsection (6) applies if the county court or sheriff—
  - (a) finds that a contravention of a provision referred to in section 114(1) is established by virtue of section 19, but

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- (b) is satisfied that the provision, criterion or practice was not applied with the intention of discriminating against the claimant or pursuer.
- (6) The county court or sheriff must not make an award of damages unless it first considers whether to make any other disposal.
- (7) The county court or sheriff must not grant a remedy other than an award of damages or the making of a declaration unless satisfied that no criminal matter would be prejudiced by doing so.

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**Commencement Information**

- 16** S. 119 wholly in force; s. 119 not in force at Royal Assent see s. 216; s. 119 in force at 1.10.2010 by S.I. 2010/2317, art. 2(1)(9)(f) (with art. 15, and subject to transitional provision in art. 7)

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