



Procurement Act 2023

2023 CHAPTER 54

PART 9

REMEDIES FOR BREACH OF STATUTORY DUTY

100 Duties under this Act enforceable in civil proceedings

- (1) A contracting authority's duty to comply with Parts 1 to 5, 7 and 8 is enforceable in civil proceedings under this Part.
- (2) For the purposes of this Part, the duty is owed to any supplier that is—
 - (a) a United Kingdom supplier, or
 - (b) a treaty state supplier.
- (3) Proceedings under this Part may be brought in the court by a supplier that—
 - (a) is a United Kingdom or treaty state supplier, and
 - (b) has suffered, or is at risk of suffering, loss or damage in consequence of a breach of the duty.
- (4) See section 106 for time limits applicable in respect of claims under this Part.
- (5) A contracting authority's duty to comply with section 12(4) (requirement to have regard to barriers facing SMEs), or section 13(9) or 14(8) (requirement to have regard to procurement policy statements), is not enforceable in civil proceedings under this Part.
- (6) A contracting authority's duty to comply with section 90 (treaty state suppliers: non-discrimination) in relation to a procurement is not enforceable in civil proceedings under this Part, except in relation to a covered procurement.
- (7) A supplier may not bring proceedings under this Part on the grounds that one or more of the following decisions of a Minister of the Crown was unlawful—
 - (a) a decision to enter a supplier's name on the debarment list;
 - (b) a decision relating to the information included in an entry on the debarment list;

Status: This is the original version (as it was originally enacted).

- (c) a decision not to remove an entry from the debarment list, or revise information included in such an entry,
(see section 65 (debarment decisions: appeals)).
- (8) This Part applies irrespective of section 2(2) and 21 of the Crown Proceedings Act 1947.
- (9) In this Part—
 - “claimant”—
 - (a) in relation to a claim in Northern Ireland, means plaintiff;
 - (b) in relation to a claim in Scotland, means pursuer;
 - “the court” means—
 - (a) in England and Wales, the High Court,
 - (b) in Northern Ireland, the High Court, and
 - (c) in Scotland, the Court of Session.