



Race Relations Act 1968

1968 CHAPTER 71

PART II

CONCILIATION AND ENFORCEMENT

Legal proceedings

19 Nature of proceedings in England and Wales.

- (1) Civil proceedings may be brought in England and Wales by the Race Relations Board, in pursuance of a determination of theirs under section 15 of, or Schedule 2 or 3 to, this Act and not otherwise, in respect of any act alleged to be unlawful by virtue of any provision of Part I of this Act, and in those proceedings a claim—
 - (a) may be made for such an injunction as is mentioned in section 21 below ;
 - (b) may be made, on behalf of a person alleged to have suffered loss as a result of that act, for such damages as are mentioned in section 22 below;
 - (c) may be made for such an injunction and such damages ; or
 - (d) may be made for a declaration that that act is unlawful by virtue of that provision or any other provision of the said Part I;and in those proceedings, whether or not such a claim is made, an application may be made in accordance with section 23 below for revision of any contract or term in a contract alleged to contravene any such provision.
- (2) Notwithstanding anything to the contrary in any enactment or rule of law relating to the jurisdiction of county courts, proceedings under this section in England and Wales may be brought in a county court for the time being appointed to have jurisdiction to entertain such proceedings by an order made by the Lord Chancellor and shall not be brought in any other court.
- (3) An order under subsection (2) above appointing any court to have jurisdiction under this section shall assign to that court as its district for the purposes of this section any county court district or two or more county court districts.

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- (4) An order under subsection (2) above may be varied or revoked by a subsequent order made thereunder.
- (5) An order for the discontinuance of the jurisdiction of any county court, whether wholly or within a part of the district assigned to it for the purposes of this section, may include provision with respect to any proceedings under this section commenced in that court before the order comes into operation.
- (6) A county court appointed to have jurisdiction under this section shall have jurisdiction to entertain proceedings under this section with respect to things done on ships or aircraft outside the district assigned to the court for the purposes of this section, including things done on British ships or aircraft outside Great Britain.
- (7) In any proceedings under this section in England and Wales the judge shall be assisted by two assessors appointed from a list of persons prepared and maintained by the Lord Chancellor, being persons appearing to the Lord Chancellor to have special knowledge and experience of problems connected with race and community relations.
- (8) The remuneration of any assessors appointed under subsection (7) above shall be at such rate as may be determined by the Lord Chancellor with the approval of the Treasury and shall be defrayed out of moneys provided by Parliament.
- (9) Any proceedings brought under this section in England and Wales shall be included among the proceedings mentioned in section 109(2) of the County Courts Act 1959 (appeals on questions of fact).
- (10) Nothing in this Act shall affect the right to bring any proceedings in England and Wales, whether civil or criminal, which might have been brought if this Act had not been passed, but except as provided by subsection (1) above and this subsection no proceedings, whether civil or criminal, shall lie against any person in respect of any act which is unlawful by virtue only of a provision of Part I of this Act.

20 Nature of proceedings in Scotland.

- (1) Civil proceedings may be brought in Scotland by the Race Relations Board, in pursuance of a determination of theirs under section 15 of, or Schedule 2 or 3 to, this Act and not otherwise, in respect of any act alleged to be unlawful by virtue of any provision of Part I of this Act, and in those proceedings an application or claim—
 - (a) may be made for such an order as is mentioned in section 21 below;
 - (b) may be made, on behalf of a person alleged to have suffered loss as a result of that act, for such damages as are mentioned in section 22 below ;
 - (c) may be made for such an order and such damages; or
 - (d) may be made for declarator that that act is unlawful by virtue of that provision or any other provision of the said Part I;

and in those proceedings, whether or not such an application or claim is made, an application may be made in accordance with section 23 below for revision of any contract or term in a contract alleged to contravene any such provision.
- (2) Notwithstanding anything to the contrary in any enactment or rule of law relating to the jurisdiction of sheriff courts, proceedings under this section may be brought in a sheriff court for the time being appointed to have jurisdiction to entertain such proceedings by an order made by the Secretary of State and, subject to subsection (9) below, shall not be brought in any other court.

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- (3) An order under subsection (2) above appointing any court to have jurisdiction under this section shall assign to that court as its district for the purposes of this section any part or parts of any sheriffdom or two or more sheriffdoms.
- (4) An order under subsection (2) above may be varied or revoked by a subsequent order made thereunder.
- (5) An order for the discontinuance of the jurisdiction of any sheriff court, whether wholly or within a part of the district assigned to it for the purposes of this section, may include provision with respect to any proceedings under this section commenced in that court before the order comes into operation.
- (6) A sheriff court appointed to have jurisdiction under this section shall have jurisdiction to entertain proceedings under this section with respect to things done on ships or aircraft outside the district assigned to the court for the purposes of this section, including things done on British ships or aircraft outside Great Britain.
- (7) In any proceedings under this section the sheriff shall be assisted by two assessors appointed from a list of persons prepared and maintained by the Secretary of State, being persons appearing to the Secretary of State to have special knowledge and experience of problems connected with race and community relations.
- (8) The remuneration of any assessors appointed under subsection (7) above shall be at such rate as may be determined by the Secretary of State with the approval of the Treasury and shall be defrayed out of moneys provided by Parliament.
- (9) An appeal shall lie to the Court of Session against any decision of the sheriff in proceedings under this section, or imposing on any person any punishment in respect of a breach of such an order as is mentioned in section 21 below, and on any such appeal the decision of the Court of Session shall be final.
- (10) Nothing in this Act shall affect the right to bring any proceedings in Scotland, whether civil or criminal, which might have been brought if this Act had not been passed, but except as provided by subsection (1) above and this subsection no proceedings, whether civil or criminal, shall lie against any person in respect of any act which is unlawful by virtue only of a provision of Part I of this Act.

21 Injunctions and orders.

- (1) In proceedings brought under section 19 above in which an injunction is claimed in respect of an act alleged to be unlawful by virtue of any provision of Part I of this Act the court, if satisfied—
 - (a) that the act was done by the defendant and was unlawful as aforesaid;
 - (b) that the defendant had previously engaged in conduct which was of the same kind as, or a similar kind to, that act and was unlawful as aforesaid; and
 - (c) that he is likely, unless restrained by order of the court, to engage in the future in such conduct;

may grant such injunction as appears to the court to be proper in all the circumstances, being an injunction restraining the defendant from engaging in, or causing or permitting others to engage in, conduct of the same kind as that act, or conduct of any similar kind specified in an order of the court.

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- (2) In proceedings brought under section 20 above in which an order is applied for in respect of an act alleged to be unlawful by virtue of any provision of Part I of this Act, the sheriff, if satisfied—
- (a) that the act was done by any person and was unlawful as aforesaid;
 - (b) that that person had previously engaged in conduct which was of the same kind as, or a similar kind to, that act and was unlawful as aforesaid; and
 - (c) that he is likely, unless prohibited by an order of the court, to engage in the future in such conduct ;
- may make such order as appears to the court to be proper in all the circumstances, being an order prohibiting that person from engaging in, or causing or permitting others to engage in, conduct of the same kind as that act, or conduct of any similar kind specified in the order.
- (3) The court may, in determining for the purposes of any such proceedings as are mentioned in subsection (1) or (2) above whether or not a person has engaged in a course of conduct, take into account not only the act or acts to which the proceedings relate, but also any other act, whether or not the subject of an investigation under section 15 of, or Schedule 2 or 3 to, this Act.

22 Damages.

- (1) In proceedings brought under section 19 or 20 above in which damages are claimed on behalf of any person in respect of an act alleged to be unlawful by virtue of any provision of Part I of this Act the court, if satisfied that the act was done and was unlawful, may award—
- (a) special damages or, in Scotland, damages for any expenses reasonably incurred by him for the purpose of the transaction or activity out of which that act arose ; and
 - (b) such damages as the court thinks just in all the circumstances for loss of opportunity, that is to say, loss of any benefit which that person might reasonably be expected to have had but for that act;
- subject, however, to the application of the same rule concerning the duty of a person to mitigate his loss as applies in relation to damages recoverable under the common law of England and Wales or of Scotland, as the case may be.
- (2) A court shall not award damages under this section for loss of opportunity in respect of any person unless the court is satisfied that at the time of the unlawful act he was in a position to acquire the goods, services, facilities or land constituting or giving rise to the benefit or, as the case may be, had the qualifications necessary for him to obtain or retain the benefit.
- (3) Damages recovered under this section by the Race Relations Board in respect of any person shall be accounted for to him by the Board.

23 Validity and revision of contracts.

- (1) A contract or term in a contract which contravenes any provision of Part I of this Act shall not be void or unenforceable by reason only of the contravention, but may be revised in accordance with the following provisions of this section.
- (2) Any such contract or term in a contract may be revised by the court in proceedings under section 19 or 20 above on an application made by the Race Relations Board on

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behalf of any party to the contract or by any such party who is the defendant or, in Scotland, the defender, in the proceedings.

- (3) On an application under this section to revise a contract or term in a contract the court may, if it appears to the court feasible to do so without affecting the rights of persons who are not parties to the contract, make such order as it thinks just in all the circumstances revising the contract or term so as to secure that, as from the date of the order, it does not contravene any provision of Part I of this Act, and any party to the contract, whether or not a party to the application, shall be bound by the order accordingly.
- (4) Any reference in this section to a party to a contract shall, where the rights of that party are for the time being vested in any other person, be construed as a reference to that other person.

24 Privileged communications.

In proceedings under section 19 or 20 above evidence of any communication made, other than an assurance given, to the Secretary of State for Employment and Productivity, the Race Relations Board, a conciliation committee or a body of persons to whom a complaint or other matter is referred under Schedule 2 or 3 to this Act, or any officer or servant of the Secretary of State, the Board or such a committee or body, for the purpose of or in connection with the exercise of their functions under this Part of this Act shall not be admitted except with the consent of the person by whom it was made.