
Changes to legislation: Equality Act 2006, Cross Heading: Evidence is up to date with all changes known to be in force on or before 14 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 2

INQUIRIES, INVESTIGATIONS AND ASSESSMENTS

Evidence

- 9 In the course of an inquiry, investigation or assessment the Commission may give a notice under this paragraph to any person.
- 10 (1) A notice given to a person under paragraph 9 may require him—
- (a) to provide information in his possession,
 - (b) to produce documents in his possession, or
 - (c) to give oral evidence.
- (2) A notice under paragraph 9 may include provision about—
- (a) the form of information, documents or evidence;
 - (b) timing.
- (3) A notice under paragraph 9—
- (a) may not require a person to provide information that he is prohibited from disclosing by virtue of an enactment,
 - (b) may not require a person to do anything that he could not be compelled to do in proceedings before the High Court or the Court of Session, and
 - (c) may not require a person to attend at a place unless the Commission undertakes to pay the expenses of his journey.
- 11 The recipient of a notice under paragraph 9 may apply to [^{F1}the county court] (in England and Wales) or to the sheriff (in Scotland) to have the notice cancelled on the grounds that the requirement imposed by the notice is—
- (a) unnecessary having regard to the purpose of the inquiry, investigation or assessment to which the notice relates, or
 - (b) otherwise unreasonable.

Textual Amendments

- F1** Words in [Sch. 2 para. 11](#) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 52](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

- 12 (1) Sub-paragraph (2) applies where the Commission thinks that a person—
- (a) has failed without reasonable excuse to comply with a notice under paragraph 9, or
 - (b) is likely to fail without reasonable excuse to comply with a notice under paragraph 9.

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- (2) The Commission may apply to [^{F2}the county court] (in England and Wales) or to the sheriff (in Scotland) for an order requiring a person to take such steps as may be specified in the order to comply with the notice.

Textual Amendments

F2 Words in Sch. 2 para. 12(2) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 9 para. 52; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 13 (1) A person commits an offence if without reasonable excuse he—
- (a) fails to comply with a notice under paragraph 9 or an order under paragraph 12(2),
 - (b) falsifies anything provided or produced in accordance with a notice under paragraph 9 or an order under paragraph 12(2), or
 - (c) makes a false statement in giving oral evidence in accordance with a notice under paragraph 9.
- (2) A person who is guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- 14 (1) Where a person is given a notice under paragraph 9 he shall disregard it, and notify the Commission that he is disregarding it, in so far as he thinks it would require him—
- (a) to disclose sensitive information within the meaning of [^{F3}paragraph 5 of Schedule 1 to the Justice and Security Act 2013] (Intelligence and Security Committee[^{F4}of Parliament]),
 - (b) to disclose information which might lead to the identification of an employee or agent of an intelligence service (other than one whose identity is already known to the Commission),
 - (c) to disclose information which might provide details of processes used in recruiting, selecting or training employees or agents of an intelligence service,
 - (d) to disclose information which might provide details of, or cannot practicably be separated from, information falling within any of paragraphs (a) to (c), or
 - (e) to make a disclosure of information relating to an intelligence service which would prejudice the interests of national security.
- (2) In sub-paragraph (1) “intelligence service” means—
- (a) the Security Service,
 - (b) the Secret Intelligence Service, and
 - (c) the Government Communications Headquarters.
- (3) Where in response to a notice under paragraph 9 a person gives a notice to the Commission under sub-paragraph (1) above—
- (a) paragraphs 12 and 13 shall not apply in relation to that part of the notice under paragraph 9 to which the notice under sub-paragraph (1) above relates,
 - (b) the Commission may apply to the tribunal established by section 65 of the Regulation of Investigatory Powers Act 2000 (c. 23) for an order requiring the person to take such steps as may be specified in the order to comply with the notice,

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- (c) the following provisions of that Act shall apply in relation to proceedings under this paragraph as they apply in relation to proceedings under that Act (with any necessary modifications)—
 - (i) section 67(7), (8) and (10) to (12) (determination),
 - (ii) section 68 (procedure), and
 - (iii) section 69 (rules), and
 - (d) the tribunal shall determine proceedings under this paragraph by considering the opinion of the person who gave the notice under sub-paragraph (1) above in accordance with the principles that would be applied by a court on an application for judicial review of the giving of the notice.
- (4) Where the Commission receives information or documents from or relating to an intelligence service in response to a notice under paragraph 9, the Commission shall store and use the information or documents in accordance with any arrangements specified by the Secretary of State.
- (5) The recipient of a notice under paragraph 9 may apply to the High Court (in England and Wales) or the Court of Session (in Scotland) to have the notice cancelled on the grounds that the requirement imposed by the notice is undesirable for reasons of national security, other than for the reason that it would require a disclosure of a kind to which sub-paragraph (1) above applies.

Textual Amendments

- F3** Words in Sch. 2 para. 14(1)(a) substituted (25.6.2013) by [Justice and Security Act 2013 \(c. 18\), s. 20\(1\), Sch. 2 para. 6\(a\)](#); S.I. 2013/1482, art. 2 (with arts. 3, 4)
- F4** Words in Sch. 2 para. 14(1)(a) inserted (25.6.2013) by [Justice and Security Act 2013 \(c. 18\), s. 20\(1\), Sch. 2 para. 6\(b\)](#); S.I. 2013/1482, art. 2 (with arts. 3, 4)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 21(8) inserted by [2023 c. 51 s. 4\(2\)](#)
- s. 24A(1)(aa) inserted by [2023 c. 51 s. 4\(3\)](#)