

*Status: Point in time view as at 25/05/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995, Part II. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 3

#### SECTIONS [F117A(8)] AND 25(6). ENFORCEMENT AND PROCEDURE

##### Extent Information

- E1** In its application to Northern Ireland, this Schedule has effect subject to the modifications set out in Sch. 8; see s. 70(6)

##### Textual Amendments

- F1** Sch. 3: word in side note substituted (E.W.S.) (3.7.2003 for certain purposes and otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **29(2)(a)** and same word substituted (N.I.) (21.2.2004 for certain purposes and otherwise 1.10.2004) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **28(2)(a)**

## PART II

### DISCRIMINATION IN OTHER AREAS

#### *Restriction on proceedings for breach of Part III*

- 5 (1) Except as provided by section 25 no civil or criminal proceedings may be brought against any person in respect of an act merely because the act is unlawful under Part III.
- (2) Sub-paragraph (1) does not prevent the making of an application for judicial review.

#### *Period within which proceedings must be brought*

- 6 (1) A county court or a sheriff court shall not consider a claim under section 25 unless proceedings in respect of the claim are instituted before the end of the period of six months beginning when the act complained of was done.
- (2) Where, in relation to proceedings or prospective proceedings under section 25, [F1the dispute concerned is referred for conciliation in pursuance of arrangements under section 28] before the end of the period of six months mentioned in sub-paragraph (1), the period allowed by that sub-paragraph shall be extended by two months.
- (3) A court may consider any claim under section 25 which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.

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- (4) For the purposes of sub-paragraph (1)—
- (a) where an unlawful act of discrimination is attributable to a term in a contract, that act is to be treated as extending throughout the duration of the contract;
  - (b) any act extending over a period shall be treated as done at the end of that period; and
  - (c) a deliberate omission shall be treated as done when the person in question decided upon it.
- (5) In the absence of evidence establishing the contrary, a person shall be taken for the purposes of this paragraph to decide upon an omission—
- (a) when he does an act inconsistent with doing the omitted act; or
  - (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.

**Extent Information**

- E1** In its application to Northern Ireland, this paragraph has effect subject to the modifications set out in Sch. 8: see s. 70(6)

**Textual Amendments**

- F1** Words in Sch. 3 para. 6(2) substituted (25.4.2000) by 1999 c. 17, s. 14(1), Sch. 4 para. 3(3) (with s. 15); S.I. 2000/880, art. 2, Sch. 2 (subject to transitional provision in art. 3); S.I. 2000/1110 (N.I. 2), art. 15(3); S.R. 2000/140, art. 2, Sch.

*<sup>F2</sup>Staying or sisting proceedings on section 21B claim affecting criminal matters*

**Textual Amendments**

- F2** Sch. 3 paras. 6A, 6B and cross-headings inserted (E.W.S.) (4.12.2006) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), Sch. 1 para. 38(5); S.I. 2005/2774, art. 4

- 6A (1) Sub-paragraph (2) applies where a party to proceedings under section 25 which have arisen by virtue of section 21B(1) has applied for a stay or sist of those proceedings on the grounds of prejudice to—
- (a) particular criminal proceedings;
  - (b) a criminal investigation; or
  - (c) a decision to institute criminal proceedings.
- (2) The court shall grant the stay or sist unless it is satisfied that the continuance of the proceedings under section 25 would not result in the prejudice alleged.

*Restriction of remedies for section 21B claim relating to criminal matters*

- 6B (1) Sub-paragraph (2) applies to a remedy other than—
- (a) damages; or
  - (b) a declaration or, in Scotland, a declarator.

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- (2) In proceedings under section 25, the remedy shall be obtainable in respect of a relevant discriminatory act only if the court is satisfied that—
- (a) no criminal investigation,
  - (b) no decision to institute criminal proceedings, and
  - (c) no criminal proceedings,
- would be prejudiced by the remedy.
- (3) In sub-paragraph (2) “relevant discriminatory act” means an act—
- (a) which is done, or by virtue of section 57 or 58 is treated as done, by a person—
    - (i) in carrying out public investigator functions, or
    - (ii) in carrying out functions as a public prosecutor; and
  - (b) which is unlawful by virtue of section 21B(1).]

#### *Compensation for injury to feelings*

- 7 In any proceedings under section 25, the amount of any damages awarded as compensation for injury to feelings shall not exceed the prescribed amount.

#### *Evidence*

- 8 (1) In any proceedings under section 25, a certificate signed by or on behalf of a Minister of the Crown and certifying—
- (a) that any conditions or requirements specified in the certificate were imposed by a Minister of the Crown and were in operation at a time or throughout a time so specified, or
  - (b) that an act specified in the certificate was done for the purpose of safeguarding national security,
- shall be conclusive evidence of the matters certified.
- (2) A document purporting to be such a certificate shall be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.
- [<sup>F3</sup>(3) In any proceedings under section 25, a certificate signed by or on behalf of the Scottish Ministers and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by a member of the Scottish Executive, and
  - (b) were in operation at a time or throughout a time so specified,
- shall be conclusive evidence of the matters certified.
- (4) In any proceedings under section 25, a certificate signed by or on behalf of the [<sup>F4</sup>Welsh Ministers] and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by the [<sup>F5</sup>National Assembly for Wales constituted by the Government of Wales Act 1998, the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government], and
  - (b) were in operation at a time or throughout a time so specified,

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shall be conclusive evidence of the matters certified.

- (5) A document purporting to be such a certificate as is mentioned in sub-paragraph (3) or (4) shall be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.]

#### Textual Amendments

- F3** Sch. 3 para. 8(3)-(5) inserted (E.W.S.) (30.6.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), **Sch. 1 para. 38(6)**; S.I. 2005/1676, **art. 2(1)(c)**
- F4** Words in Sch. 3 para. 8(4) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order (S.I. 2007/1388), arts. 1, 3, {Sch. 1 para. 63(3)(a)}, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see **s. 161(5)** of the Government of Wales Act 2006.
- F5** Words in Sch. 3 para. 8(4)(a) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order (S.I. 2007/1388), arts. 1, 3, {Sch. 1 para. 63(3)(b)}, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see **s. 161(5)** of the Government of Wales Act 2006.

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