

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 9: Enforcement

Chapter 2: Civil courts

Section 118: Time limits

Effect

385. A person must bring a claim under the Act in the county and sheriff courts within six months of the alleged unlawful act taking place. If a person wants to make a claim after that period it is at the court's discretion whether it grants permission to allow this. The test applied by the court is what is "just and equitable" in the circumstances.
386. The exception to this rule is for claims which have been referred to a student complaints scheme within six months or to the Equality and Human Rights Commission for conciliation. In these instances the time limit for bringing a claim is increased to nine months. The six month period will only begin, in a claim involving a decision of an immigration body, when that body has ruled that there is a breach of Part 3 and that ruling can no longer be appealed.
387. Where the conduct in respect of which a claim under the Act might arise continues over a period of time, the time limit starts to run at the end of that period. Where it consists of a failure to do something, the time limit starts to run when the person decides not to do the thing in question. In the absence of evidence to the contrary, this is either when the person does something which conflicts with doing the act in question; or at the end of the time when it would have been reasonable for them to do the thing.

Background

388. This section is designed to replicate the effect of provisions in the previous legislation, except that the provision allowing a longer time limit in respect of complaints referred to the student complaints scheme and for conciliation by the Equality and Human Rights Commission is new.