



Race Relations (Amendment) Act 2000

CHAPTER 34

ARRANGEMENT OF SECTIONS

Further extension of 1976 Act to police and other public authorities

Section

1. Discrimination by police and other public authorities.
2. Specified authorities: general statutory duty.
3. Certain appointment functions outside the employment field.
4. Police: extension of liability of chief officers etc.

Special cases: procedural and other consequences

5. Criminal investigations and proceedings.
6. Immigration and asylum appeals.

National security

7. National security.
8. National security: procedure.

Supplementary and final provisions

9. Consequential amendments and repeals.
10. Short title, commencement and extent.

SCHEDULES:

Schedule 1—Bodies and other persons subject to general statutory duty.

Schedule 2—Consequential amendments.

Schedule 3—Repeals.

ELIZABETH II

c. 34



Race Relations (Amendment) Act 2000

2000 CHAPTER 34

An Act to extend further the application of the Race Relations Act 1976 to the police and other public authorities; to amend the exemption under that Act for acts done for the purpose of safeguarding national security; and for connected purposes.

[30th November 2000]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Further extension of 1976 Act to police and other public authorities

1. After section 19A of the Race Relations Act 1976 (in this Act referred to as “the 1976 Act”) there is inserted—

Discrimination by police and other public authorities. 1976 c. 74.

“Public authorities

Discrimination by public authorities.

19B.—(1) It is unlawful for a public authority in carrying out any functions of the authority to do any act which constitutes discrimination.

(2) In this section “public authority”—

- (a) includes any person certain of whose functions are functions of a public nature; but
- (b) does not include any person mentioned in subsection (3).

(3) The persons mentioned in this subsection are—

- (a) either House of Parliament;
- (b) a person exercising functions in connection with proceedings in Parliament;
- (c) the Security Service;

Race Relations (Amendment) Act 2000

- (d) the Secret Intelligence Service;
- (e) the Government Communications Headquarters; and
- (f) any unit or part of a unit of any of the naval, military or air forces of the Crown which is for the time being required by the Secretary of State to assist the Government Communications Headquarters in carrying out its functions.

(4) In relation to a particular act, a person is not a public authority by virtue only of subsection (2)(a) if the nature of the act is private.

(5) This section is subject to sections 19C to 19F.

(6) Nothing in this section makes unlawful any act of discrimination which—

- (a) is made unlawful by virtue of any other provision of this Act; or
- (b) would be so made but for any provision made by or under this Act.

Exceptions or further exceptions from section 19B for judicial and legislative acts etc.

19C.—(1) Section 19B does not apply to—

- (a) any judicial act (whether done by a court, tribunal or other person); or
- (b) any act done on the instructions, or on behalf, of a person acting in a judicial capacity.

(2) Section 19B does not apply to any act of, or relating to, making, confirming or approving any enactment or Order in Council or any instrument made by a Minister of the Crown under an enactment.

(3) Section 19B does not apply to any act of, or relating to, making or approving arrangements, or imposing requirements or conditions, of a kind falling within section 41.

(4) Section 19B does not apply to any act of, or relating to, imposing a requirement, or giving an express authorisation, of a kind mentioned in section 19D(3) in relation to the carrying out of immigration and nationality functions.

(5) In this section—

“immigration and nationality functions” has the meaning given in section 19D; and

“Minister of the Crown” includes the National Assembly for Wales and a member of the Scottish Executive.

Exception from section 19B for certain acts in immigration and nationality cases.

19D.—(1) Section 19B does not make it unlawful for a relevant person to discriminate against another person on grounds of nationality or ethnic or national origins in carrying out immigration and nationality functions.

(2) For the purposes of subsection (1), “relevant person” means—

- (a) a Minister of the Crown acting personally; or
- (b) any other person acting in accordance with a relevant authorisation.

(3) In subsection (2), “relevant authorisation” means a requirement imposed or express authorisation given—

- (a) with respect to a particular case or class of case, by a Minister of the Crown acting personally;
- (b) with respect to a particular class of case—
 - (i) by any of the enactments mentioned in subsection (5); or
 - (ii) by any instrument made under or by virtue of any of those enactments.

(4) For the purposes of subsection (1), “immigration and nationality functions” means functions exercisable by virtue of any of the enactments mentioned in subsection (5).

(5) Those enactments are—

- (a) the Immigration Acts (within the meaning of the Immigration and Asylum Act 1999 but excluding sections 28A to 28K of the Immigration Act 1971 so far as they relate to offences under Part III of that Act); 1999 c. 33. 1971 c. 77.
- (b) the British Nationality Act 1981; 1981 c. 61.
- (c) the British Nationality (Falkland Islands) Act 1983; 1983 c. 6.
- (d) the British Nationality (Hong Kong) Act 1990; 1990 c. 34.
- (e) the Hong Kong (War Wives and Widows) Act 1996; 1996 c. 41.
- (f) the British Nationality (Hong Kong) Act 1997; 1997 c. 20. and
- (g) the Special Immigration Appeals Commission Act 1997; 1997 c. 68.

and include any provision made under section 2(2) of the European Communities Act 1972, or any provision of Community law, which relates to the subject-matter of any of the enactments mentioned above. 1972 c. 68.

Monitoring of exception in relation to immigration and nationality cases.

19E.—(1) The Secretary of State shall appoint a person who is not a member of his staff to act as a monitor.

(2) Before appointing any such person, the Secretary of State shall consult the Commission.

(3) The person so appointed shall monitor, in such manner as the Secretary of State may determine—

- (a) the likely effect on the operation of the exception in section 19D of any relevant authorisation relating to the carrying out of immigration and nationality functions which has been given by a Minister of the Crown acting personally; and

c. 34 *Race Relations (Amendment) Act 2000*

(b) the operation of that exception in relation to acts which have been done by a person acting in accordance with such an authorisation.

(4) The monitor shall make an annual report on the discharge of his functions to the Secretary of State.

(5) The Secretary of State shall lay a copy of any report made to him under subsection (4) before each House of Parliament.

(6) The Secretary of State shall pay to the monitor such fees and allowances (if any) as he may determine.

(7) In this section “immigration and nationality functions” and “relevant authorisation” have the meanings given to them in section 19D.

Exceptions from section 19B for decisions not to prosecute etc.

19F. Section 19B does not apply to—

(a) a decision not to institute criminal proceedings and, where such a decision has been made, any act done for the purpose of enabling the decision whether to institute criminal proceedings to be made;

(b) where criminal proceedings are not continued as a result of a decision not to continue them, the decision and, where such a decision has been made—

(i) any act done for the purpose of enabling the decision whether to continue the proceedings to be made; and

(ii) any act done for the purpose of securing that the proceedings are not continued.”

Specified authorities: general statutory duty.

2.—(1) For section 71 of the 1976 Act (local authorities: general statutory duty) there is substituted—

“Specified authorities: general statutory duty.

71.—(1) Every body or other person specified in Schedule 1A or of a description falling within that Schedule shall, in carrying out its functions, have due regard to the need—

(a) to eliminate unlawful racial discrimination; and

(b) to promote equality of opportunity and good relations between persons of different racial groups.

(2) The Secretary of State may by order impose, on such persons falling within Schedule 1A as he considers appropriate, such duties as he considers appropriate for the purpose of ensuring the better performance by those persons of their duties under subsection (1).

(3) An order under subsection (2)—

(a) may be made in relation to a particular person falling within Schedule 1A, any description of persons falling within that Schedule or every person falling within that Schedule;

(b) may make different provision for different purposes.

(4) Before making an order under subsection (2), the Secretary of State shall consult the Commission.

(5) The Secretary of State may by order amend Schedule 1A; but no such order may extend the application of this section unless the Secretary of State considers that the extension relates to a person who exercises functions of a public nature.

(6) An order under subsection (2) or (5) may contain such incidental, supplementary or consequential provision as the Secretary of State considers appropriate (including provision amending or repealing provision made by or under this Act or any other enactment).

(7) This section is subject to section 71A and 71B and is without prejudice to the obligation of any person to comply with any other provision of this Act.

General
statutory duty:
special cases.

71A.—(1) In relation to the carrying out of immigration and nationality functions (within the meaning of section 19D(1)), section 71(1)(b) has effect with the omission of the words “equality of opportunity and”.

(2) Where an entry in Schedule 1A is limited to a person in a particular capacity, section 71(1) does not apply to that person in any other capacity.

(3) Where an entry in Schedule 1A is limited to particular functions of a person, section 71(1) does not apply to that person in relation to any other functions.

General
statutory duty:
Scotland and
Wales.

71B.—(1) For the purposes of the Scotland Act 1998, subsections (2) to (4) of section 71 (and sections 71(6) and 74 so far as they apply to the power conferred by subsection (2) of section 71) shall be taken to be pre-commencement enactments within the meaning of that Act.

1998 c. 46.

(2) Before making an order under section 71(2) in relation to functions exercisable in relation to Wales by a person who is not a Welsh public authority, the Secretary of State shall consult the National Assembly for Wales.

(3) The Secretary of State shall not make an order under section 71(2) in relation to functions of a Welsh public authority except with the consent of the National Assembly for Wales.

(4) In this section “Welsh public authority” means any person whose functions are exercisable only in relation to Wales and includes the National Assembly for Wales.

General
statutory duty:
codes of
practice.

71C.—(1) The Commission may issue codes of practice containing such practical guidance as the Commission think fit in relation to the performance by persons of duties imposed on them by virtue of subsections (1) and (2) of section 71.

Race Relations (Amendment) Act 2000

(2) When the Commission propose to issue a code of practice under this section, they—

- (a) shall prepare and publish a draft of the code;
- (b) shall consider any representations made to them about the draft; and
- (c) may modify the draft accordingly.

(3) In the course of preparing any draft code of practice under this section the Commission shall consult such organisations or bodies as appear to the Commission to be appropriate having regard to the content of the draft code.

(4) If the Commission determine to proceed with a draft code of practice, they shall transmit the draft to the Secretary of State who shall consult the Scottish Ministers and the National Assembly for Wales.

(5) After consulting the Scottish Ministers and the National Assembly for Wales, the Secretary of State shall—

- (a) if he approves of the draft code, lay it before both Houses of Parliament; and
- (b) if he does not approve of it, publish details of his reasons for withholding approval.

(6) If, within the period of forty days beginning with the day on which a copy of a draft code of practice is laid before each House of Parliament, or, if such copies are laid on different days, with the later of the two days, either House so resolves, no further proceedings shall be taken on the draft code of practice, but without prejudice to the laying before Parliament of a new draft.

(7) In reckoning the period of forty days referred to in subsection (6), no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(8) If no such resolution is passed as is referred to in subsection (6), the Commission shall issue the code in the form of the draft and the code shall come into effect on such day as the Secretary of State may, after consulting the Scottish Ministers and the National Assembly for Wales, by order appoint.

(9) Without prejudice to section 74(3), an order under subsection (8) may contain such transitional provisions or savings as appear to the Secretary of State to be necessary or expedient in connection with the code of practice thereby brought into operation.

(10) The Commission may revoke, or from time to time revise, the whole or any part of a code of practice issued under this section; and, where they revise the whole or any part of such a code, they shall issue the revised

Race Relations (Amendment) Act 2000

c. 34

7

code, and subsections (2) to (9) shall apply (with appropriate modifications) to such a revised code as they apply to the first issue of a code.

(11) A failure on the part of any person to observe any provision of a code of practice shall not of itself render that person liable to any proceedings; but any code of practice issued under this section shall be admissible in evidence in any legal proceedings, and if any provision of such a code appears to the court or tribunal concerned to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.

(12) Without prejudice to subsection (1), a code of practice issued under this section may include such practical guidance as the Commission think fit as to what steps it is reasonably practicable for persons to take for the purpose of preventing their staff from doing in the course of their duties acts made unlawful by this Act.

General
statutory duty:
compliance
notices.

71D.—(1) If the Commission are satisfied that a person has failed to comply with, or is failing to comply with, any duty imposed by an order under section 71(2), the Commission may serve on that person a notice (“a compliance notice”).

(2) A compliance notice shall require the person concerned—

- (a) to comply with the duty concerned; and
- (b) to inform the Commission, within 28 days of the date on which the notice is served, of the steps that the person has taken, or is taking, to comply with the duty.

(3) A compliance notice may also require the person concerned to furnish the Commission with such other written information as may be reasonably required by the notice in order to verify that the duty has been complied with.

(4) The notice may specify—

- (a) the time (no later than three months from the date on which the notice is served) at which any information is to be furnished to the Commission;
- (b) the manner and form in which any such information is to be so furnished.

(5) A compliance notice shall not require a person to furnish information which the person could not be compelled to furnish in evidence in civil proceedings before the High Court or the Court of Session.

Enforcement of
compliance
notices.

71E.—(1) The Commission may apply to a designated county court or, in Scotland, a sheriff court for an order requiring a person falling within Schedule 1A to furnish any information required by a compliance notice if—

c. 34 *Race Relations (Amendment) Act 2000*

- (a) the person fails to furnish the information to the Commission in accordance with the notice; or
- (b) the Commission have reasonable cause to believe that the person does not intend to furnish the information.

(2) If the Commission consider that a person has not, within three months of the date on which a compliance notice was served on that person, complied with any requirement of the notice for that person to comply with a duty imposed by an order under section 71(2), the Commission may apply to a designated county court or, in Scotland, a sheriff court for an order requiring the person to comply with the requirement of the notice.

(3) If the court is satisfied that the application is well-founded, it may grant the order in the terms applied for or in more limited terms.

(4) The sanctions in section 71D and this section shall be the only sanctions for breach of any duty imposed by an order under section 71(2), but without prejudice to the enforcement under section 57 or otherwise of any other provision of this Act (where the breach is also a contravention of that provision)."

(2) Schedule 1 (which inserts Schedule 1A into the 1976 Act) is to have effect.

Certain
appointment
functions outside
the employment
field.

3.—(1) Section 76 of the 1976 Act (government appointments outside the employment field) is amended as follows.

(2) In subsection (1) for "This section" there is substituted "Subsection (2)".

(3) After subsection (2) there is added—

“(3) Subsection (5) applies to—

- (a) any recommendation made by a Minister of the Crown or government department in relation to an appointment to an office or post where section 4 does not apply in relation to the appointment; and
- (b) any approval given by such a Minister or department in relation to any such appointment.

(4) Subsection (5) also applies to—

- (a) any recommendation made by a Minister of the Crown or government department in relation to a conferment by the Crown of a dignity or honour; and
- (b) any approval given by such a Minister or department in relation to any such conferment.

(5) In making the recommendation, or giving the approval, and in making the arrangements for determining who should be recommended or approved, the Minister of the Crown or government department shall not do an act which would be

unlawful under section 4 if the recommendation or approval were an offer of employment and the Crown were the employer for the purposes of this Act.

(6) Subsections (3) to (5) do not apply in relation to the making of negative recommendations.

(7) Subsection (9) applies to—

- (a) any negative recommendation made by a Minister of the Crown or government department, or any refusal to make a recommendation by such a Minister or department, in relation to an appointment to an office or post where section 4 does not apply in relation to the appointment; and
- (b) any approval refused by such a Minister or department in relation to any such appointment.

(8) Subsection (9) also applies to—

- (a) any negative recommendation made by a Minister of the Crown or government department, or any refusal to make a recommendation by such a Minister or department, in relation to a conferment by the Crown of a dignity or honour; and
- (b) any approval refused by such a Minister or department in relation to any such conferment.

(9) In making a negative recommendation or in refusing to make a recommendation or give an approval, and in making the arrangements for determining whether to make such a recommendation or refusal, the Minister of the Crown or government department shall not do an act which would be unlawful under section 4 if the recommendation or refusal were a refusal to offer the person concerned employment and the Crown were the employer for the purposes of this Act.

(10) Subsection (11) applies in relation to any appointment to an office or post where section 4 does not apply and—

- (a) the appointment is made by a Minister of the Crown or government department; or
- (b) the office or post is an office or post in relation to which a Minister of the Crown or government department has made a recommendation (other than a negative recommendation) or given an approval.

(11) A Minister of the Crown or government department shall not do an act in connection with—

- (a) the terms of the appointment;
- (b) access for the person appointed to opportunities for promotion, transfer or training, or to any other benefits, facilities or services; or
- (c) the termination of the appointment, or subjecting the person appointed to any other detriment;

which would be unlawful under section 4 if the Crown were the employer for the purposes of this Act.

(12) The High Court may, on an application for judicial review, make a declaration to the effect that a Minister of the Crown or government department has contravened subsection (5), subsection (9) or, in relation to an appointment falling within subsection (10)(b), subsection (11), and may award damages in respect of the contravention.

(13) In Scotland, the Court of Session may, in a petition for judicial review, grant declarator to the like effect and may award damages in respect of the contravention.

(14) The sanctions provided by virtue of the operation of section 53(2) to (4) in relation to this section shall be the only sanctions under this Act in relation to appointments, conferments and other acts to which this section applies.

(15) In this section—

- (a) references to refusal include references to deliberate omission;
- (b) references to Ministers of the Crown and government departments include references to the National Assembly for Wales and any part of the Scottish Administration; and
- (c) references to Ministers of the Crown and government departments so far as they relate to the making of a recommendation or a refusal to make a recommendation, or the giving or refusal of an approval, in relation to a conferment of a peerage for life under section 1 of the Life Peerages Act 1958 include references to any body established by a Minister of the Crown to make such a recommendation to the Prime Minister or to determine whether to give such an approval.”

1958 c. 21.

Police: extension of liability of chief officers etc.

4. After section 76 of the 1976 Act there is inserted—

“Police

Police forces. 76A.—(1) In this section, “relevant police office” means—

- (a) the office of constable held—
 - (i) as a member of a police force; or
 - (ii) on appointment as a special constable for a police area; or
- (b) an appointment as police cadet to undergo training with a view to becoming a member of a police force.

(2) For the purposes of Part II, the holding of a relevant police office shall be treated as employment—

- (a) by the chief officer of police as respects any act done by him in relation to that office or a holder of it;
- (b) by the police authority as respects any act done by it in relation to that office or a holder of it.

(3) For the purposes of section 32—

- (a) the holding of a relevant police office shall be treated as employment by the chief officer of police (and as not being employment by any other person); and
 - (b) anything done by a person holding such an office in the performance, or purported performance, of his functions shall be treated as done in the course of that employment.
- (4) There shall be paid out of the police fund—
- (a) any compensation, costs or expenses awarded against a chief officer of police in any proceedings brought against him under this Act, and any costs or expenses incurred by him in any such proceedings so far as not recovered by him in the proceedings; and
 - (b) any sum required by a chief officer of police for the settlement of any claim made against him under this Act if the settlement is approved by the police authority.
- (5) Any proceedings under this Act which, by virtue of this section, would lie against a chief officer of police shall be brought against—
- (a) the chief officer of police for the time being; or
 - (b) in the case of a vacancy in that office, against the person for the time being performing the functions of that office;
- and references in subsection (4) to the chief officer of police shall be construed accordingly.
- (6) A police authority may, in such cases and to such extent as appear to it to be appropriate, pay out of the police fund—
- (a) any damages or costs awarded in proceedings under this Act against a person under the direction and control of the chief officer of police;
 - (b) any costs incurred and not recovered by such a person in such proceedings; and
 - (c) any sum required in connection with the settlement of a claim that has or might have given rise to such proceedings.

Other police bodies etc.

76B.—(1) Section 76A applies in relation to the National Criminal Intelligence Service (“NCIS”) and the National Crime Squad (“the NCS”) as it applies in relation to a police force but as if any reference—

- (a) to the chief officer of police were to the Director General of NCIS or of the NCS, as the case may be;

12

c. 34

Race Relations (Amendment) Act 2000

1997 c. 50.

(b) to the police authority were to the Service Authority for the National Criminal Intelligence Service or the Service Authority for the National Crime Squad, as the case may be;

(c) to the police fund were to the service fund established under section 16 of the Police Act 1997 (NCIS service fund) or section 61 of that Act (the NCS service fund), as the case may be.

(2) Section 76A also applies in relation to any other body of constables or cadets as it applies in relation to a police force, but as if any reference—

(a) to the chief officer of police were to the officer or other person who has the direction and control of the body in question;

(b) to the police authority were to the authority by whom the members of the body are paid;

(c) to the police fund were to money provided by that authority.

(3) In relation to a member of a police force or a special constable who is not under the direction and control of the chief officer of police for that police force or, as the case may be, for the police area to which he is appointed, references in section 76A to the chief officer of police are references to the chief officer under whose direction and control he is.”

Special cases: procedural and other consequences

Criminal investigations and proceedings.

5.—(1) After section 57(4) of the 1976 Act (enforcement of Part III of that Act) there is inserted—

“(4A) As respects an act which is done, or by virtue of section 32 or 33 is treated as done, by a person in carrying out public investigator functions or functions as a public prosecutor and which is unlawful by virtue of section 19B, no remedy other than—

(a) damages; or

(b) a declaration or, in Scotland, a declarator;

shall be obtainable unless the court is satisfied that the remedy concerned would not prejudice a criminal investigation, a decision to institute criminal proceedings or any criminal proceedings.

(4B) In this section—

“criminal investigation” means—

(a) any investigation which a person in carrying out functions to which section 19B applies has a duty to conduct with a view to it being ascertained whether a person should be charged with, or in Scotland prosecuted for, an offence, or whether a person charged with or prosecuted for an offence is guilty of it;

(b) any investigation which is conducted by a person in carrying out functions to which section 19B applies and which in the circumstances may lead to a decision by that person to institute criminal proceedings which the person has power to conduct; or

(c) any investigation which is conducted by a person in carrying out functions to which section 19B applies and which in the circumstances may lead to a decision by that person to make a report to the procurator fiscal for the purpose of enabling him to determine whether criminal proceedings should be instituted; and

“public investigator functions” means functions of conducting criminal investigations or charging offenders;

and in this subsection “offence” includes any offence under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 (and “offender” shall be construed accordingly).

1955 c. 18.

1955 c. 19.

1957 c. 53.

(4C) Subsection (4D) applies where a party to proceedings under subsection (1) which have arisen by virtue of section 19B 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.

(4D) The court shall grant the stay or sist unless it is satisfied that the continuance of the proceedings under subsection (1) would not result in the prejudice alleged.”

(2) After section 65(4) of the 1976 Act (help for aggrieved persons in obtaining information etc.) there is inserted—

“(4A) In section 19B proceedings, subsection (2)(b) does not apply in relation to a failure to reply, or a particular reply, if the conditions specified in subsection (4B) are satisfied.

(4B) Those conditions are that—

- (a) at the time of doing any relevant act, the respondent was carrying out public investigator functions or was a public prosecutor; and
- (b) he reasonably believes that a reply or (as the case may be) a different reply would be likely to prejudice any criminal investigation, any decision to institute criminal proceedings or any criminal proceedings or would reveal the reasons behind a decision not to institute, or a decision not to continue, criminal proceedings.

(4C) For the purposes of subsections (4A) and (4B)—

“public investigator functions” has the same meaning as in section 57;

“section 19B proceedings” means proceedings in respect of a claim under section 57 which has arisen by virtue of section 19B.”

14

c. 34 *Race Relations (Amendment) Act 2000*Immigration and
asylum appeals.

6.—(1) After section 57(6) of the 1976 Act (enforcement of Part III of that Act) there is added—

“(7) This section has effect subject to section 57A.”

(2) After section 57 of that Act there is inserted—

“Claims under
section 19B in
immigration
cases.

57A.—(1) No proceedings may be brought by a claimant under section 57(1) in respect of an immigration claim if—

- (a) the act to which the claim relates was done in the taking by an immigration authority of a relevant decision and the question whether that act was unlawful by virtue of section 19B has been or could be raised in proceedings on an appeal which is pending, or could be brought, under the 1997 Act or Part IV of the 1999 Act; or
- (b) it has been decided in relevant immigration proceedings that that act was not unlawful by virtue of that section.

(2) For the purposes of this section an immigration claim is a claim that a person—

- (a) has committed a relevant act of discrimination against the claimant which is unlawful by virtue of section 19B; or
- (b) is by virtue of section 32 or 33 to be treated as having committed such an act of discrimination against the claimant.

(3) Where it has been decided in relevant immigration proceedings that an act to which an immigration claim relates was unlawful by virtue of section 19B, any court hearing that claim under section 57 shall treat that act as an act which is unlawful by virtue of section 19B for the purposes of the proceedings before it.

(4) No relevant decision of an immigration authority involving an act to which an immigration claim relates and no relevant decision of an immigration appellate body in relation to such a decision shall be subject to challenge or otherwise affected by virtue of a decision of a court hearing the immigration claim under section 57.

(5) In this section—

“the Immigration Acts” has the same meaning as in the 1999 Act;

“immigration appellate body” means an adjudicator appointed for the purposes of the 1999 Act, the Immigration Appeal Tribunal, the Special Immigration Appeals Commission, the Court of Appeal, the Court of Session or the House of Lords;

“immigration authority” means an authority within the meaning of section 65 of the 1999 Act (human rights and racial discrimination cases);

Race Relations (Amendment) Act 2000

c. 34

15

“immigration claim” has the meaning given by subsection (2) above;

“pending” has the same meaning as in the 1997 Act or, as the case may be, Part IV of the 1999 Act;

“relevant act of discrimination” means an act of discrimination done by an immigration authority in taking any relevant decision;

“relevant decision” means—

(a) in relation to an immigration authority, any decision under the Immigration Acts relating to the entitlement of the claimant to enter or remain in the United Kingdom; and

(b) in relation to an immigration appellate body, any decision on an appeal under the 1997 Act or Part IV of the 1999 Act in relation to a decision falling within paragraph (a);

“relevant immigration proceedings” means proceedings on an appeal under the 1997 Act or Part IV of the 1999 Act;

“the 1997 Act” means the Special Immigration Appeals Commission Act 1997; 1997 c. 68.

“the 1999 Act” means the Immigration and Asylum Act 1999; 1999 c. 33.

and, for the purposes of subsection (1)(a), any power to grant leave to appeal out of time shall be disregarded.”

(3) In section 65(1) of the Immigration and Asylum Act 1999 (acts made unlawful by section 6(1) of the Human Rights Act 1998) after “United Kingdom,” there is inserted “racially discriminated against him or”. 1998 c. 42.

(4) In section 65(2) of that Act, after “Part” there is inserted “—

(a) an authority racially discriminates against a person if he acts, or fails to act, in relation to that other person in a way which is unlawful by virtue of section 19B of the Race Relations Act 1976; and 1976 c. 74.

(b)”.

National security

7.—(1) In section 42 of the 1976 Act (exclusion for acts safeguarding national security), at the end there is added “if the doing of the act was justified by that purpose”. National security.

(2) Section 69(2)(b) of that Act (provision for national security certificates) is omitted.

16

c. 34 *Race Relations (Amendment) Act 2000*National security:
procedure.**8.** After section 67 of the 1976 Act there is inserted—“National
security:
procedure.

67A.—(1) Rules may make provision for enabling a court in which relevant proceedings have been brought, where it considers it expedient in the interests of national security—

- (a) to exclude from all or part of the proceedings—
 - (i) the claimant;
 - (ii) the claimant’s representatives; or
 - (iii) the assessors (if any) appointed by virtue of section 67(4);
- (b) to permit a claimant or representative who has been excluded to make a statement to the court before the commencement of the proceedings, or the part of the proceedings, from which he is excluded;
- (c) to take steps to keep secret all or part of the reasons for its decision in the proceedings.

(2) The Attorney General or, in Scotland, the Advocate General for Scotland, may appoint a person to represent the interests of a claimant in, or in any part of, any proceedings from which the claimant and his representatives are excluded by virtue of subsection (1).

(3) A person appointed under subsection (2)—

- (a) if appointed for the purposes of proceedings in England and Wales, must have a general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990); and
- (b) if appointed for the purposes of proceedings in Scotland, must be—
 - (i) an advocate; or
 - (ii) a solicitor who has by virtue of section 25A of the Solicitors (Scotland) Act 1980 rights of audience in the Court of Session or the High Court of Justiciary.

1990 c. 41.

1980 c. 46.

(4) A person appointed under subsection (2) shall not be responsible to the person whose interests he is appointed to represent.

(5) In this section—

“relevant proceedings” means proceedings brought under this Act—

- (a) in England and Wales, in a designated county court; or
- (b) in Scotland, in a sheriff court; and

“rules” has the same meaning as in section 65.”

Race Relations (Amendment) Act 2000

c. 34

17

Supplementary and final provisions

- 9.**—(1) Schedule 2 (which makes further consequential amendments of enactments) is to have effect. Consequential amendments and repeals.
- (2) The enactments mentioned in Schedule 3 are repealed to the extent specified there.
- 10.**—(1) This Act may be cited as the Race Relations (Amendment) Act 2000. Short title, commencement and extent.
- (2) Sections 1 to 9 (including Schedules 1 to 3) shall come into force on such day as the Secretary of State may by order appoint; and different days may be appointed for different purposes.
- (3) An order under this section—
- (a) shall be made by statutory instrument; and
 - (b) may make such transitory, transitional or saving provision as the Secretary of State considers appropriate.
- (4) Transitory provision made in exercise of the power conferred by subsection (3)(b) may, in particular, include provision made in consequence of any provision of any other Act passed before, or in the same session as, this Act not having come into force.
- (5) No amendment by this Act of an enactment shall be taken, for the purposes of the Scotland Act 1998, to be a pre-commencement enactment within the meaning of that Act unless the amendment so provides. 1998 c. 46.
- (6) Any amendment or repeal by this Act of an enactment has the same extent as the enactment amended or repealed.

18

c. 34 *Race Relations (Amendment) Act 2000*

SCHEDULES

Section 2(2).

SCHEDULE 1

BODIES AND OTHER PERSONS SUBJECT TO GENERAL STATUTORY DUTY.

The following Schedule is inserted into the 1976 Act after Schedule 1—

“SCHEDULE 1A

BODIES AND OTHER PERSONS SUBJECT TO GENERAL STATUTORY DUTY

Ministers of the Crown and government departments

1.—(1) A Minister of the Crown or government department.

(2) Sub-paragraph (1) does not include the Security Service, the Intelligence Service or the Government Communications Headquarters.

Scottish Administration

1998 c. 46.

2.—(1) An office-holder in the Scottish Administration within the meaning given by section 126(7)(a) of the Scotland Act 1998.

(2) Members of the staff of the Scottish Administration within the meaning given by section 126(7)(b) of that Act.

National Assembly for Wales

1998 c. 38.

3.—(1) The National Assembly for Wales.

(2) An Assembly subsidiary as defined by section 99(4) of the Government of Wales Act 1998.

Armed forces

4. Any of the naval, military or air forces of the Crown.

National Health Service: England and Wales

1977 c. 49.

5. A Health Authority established under section 8 of the National Health Service Act 1977.

6. A special health authority established under section 11 of that Act.

7. A primary care trust established under section 16A of that Act.

1990 c. 19.

8. A National Health Service trust established under section 5 of the National Health Service and Community Care Act 1990.

National Health Service: Scotland

1978 c. 29.

9. A Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978.

10. A Special Health Board constituted under section 2 of that Act.

11. A National Health Service Trust established under section 12A of that Act.

Local government

1972 c. 70.

12. A local authority within the meaning of the Local Government Act 1972, namely—

(a) in England, a county council, a London borough council, a district council or a parish council;

Race Relations (Amendment) Act 2000

c. 34

19

SCH. 1

- (b) in Wales, a county council, a county borough council or a community council.
13. A council constituted under section 2 of the Local Government etc. (Scotland) Act 1994. 1994 c. 39.
14. A community council established under section 51 of the Local Government (Scotland) Act 1973. 1973 c. 65.
15. The Greater London Authority.
16. The Common Council of the City of London in its capacity as a local authority or port health authority.
17. The Sub-Treasurer of the Inner Temple or the Under-Treasurer of the Middle Temple, in his capacity as a local authority.
18. The Council of the Isles of Scilly.
19. A parish meeting constituted under section 13 of the Local Government Act 1972. 1972 c. 70.
20. Any charter trustees constituted under section 246 of that Act.
21. A fire authority constituted by a combination scheme under section 5 or 6 of the Fire Services Act 1947. 1947 c. 41.
22. A waste disposal authority established by virtue of an order under section 10(1) of the Local Government Act 1985. 1985 c. 51.
23. A water or sewerage authority constituted under section 62 of the Local Government etc. (Scotland) Act 1994.
24. A port health authority constituted by an order under section 2 of the Public Health (Control of Disease) Act 1984. 1984 c. 22.
25. A licensing planning committee constituted under section 119 of the Licensing Act 1964. 1964 c. 26.
26. A licensing board constituted under section 1 of the Licensing (Scotland) Act 1976. 1976 c. 66.
27. An internal drainage board which is continued in being by virtue of section 1 of the Land Drainage Act 1991. 1991 c. 59.
28. A probation committee constituted under section 3 of the Probation Service Act 1993. 1993 c. 47.
29. A joint authority established under Part IV of the Local Government Act 1985 (fire services, civil defence and transport).
30. A joint board within the meaning of section 235(1) of the Local Government (Scotland) Act 1973.
31. The London Fire and Emergency Planning Authority.
32. A body corporate established pursuant to an order under section 67 of the Local Government Act 1985 (transfer of functions to successors of residuary bodies, etc.).
33. A body corporate established pursuant to an order under section 22 of the Local Government Act 1992 (residuary bodies). 1992 c. 19.
34. The Broads Authority established by section 1 of the Norfolk and Suffolk Broads Act 1988. 1988 c. 4.
35. A joint committee constituted in accordance with section 102(1)(b) of the Local Government Act 1972.
36. A joint board which is continued in being by virtue of section 263(1) of that Act.

20

c. 34 *Race Relations (Amendment) Act 2000*

SCH. 1

- 1992 c. 19. 37. A joint authority established under section 21 of the Local Government Act 1992.
- 1968 c. 73. 38. A Passenger Transport Executive for a passenger transport area within the meaning of Part II of the Transport Act 1968.
39. Transport for London.
40. The London Development Agency.
- 1998 c. 45. 41. A regional development agency established under the Regional Development Agencies Act 1998 (other than the London Development Agency).
- 1990 c. 35. 42. Scottish Enterprise and Highland and Islands Enterprise, established under the Enterprise and New Towns (Scotland) Act 1990.
- 1995 c. 25. 43. A National Park authority established by an order under section 63 of the Environment Act 1995.
- 1990 c. 8. 44. A joint planning board constituted for an area in Wales outside a National Park by an order under section 2(1B) of the Town and Country Planning Act 1990.
- 1997 c. 25. 45. A magistrates' courts committee established under section 27 of the Justices of the Peace Act 1997.

Other educational bodies

46. Governing bodies of—
- (a) educational establishments maintained by local education authorities;
- 1992 c. 13. (b) institutions within the further education sector (within the meaning of section 91(3) of the Further and Higher Education Act 1992); or
- (c) institutions within the higher education sector (within the meaning of section 91(5) of the Act of 1992).
- 1980 c. 44. 47. The managers of a grant-aided school (within the meaning of section 135 of the Education (Scotland) Act 1980).
48. The managers of a central institution (within the meaning of section 135 of the Act of 1980).
- 1989 c. 39. 49. The board of management of a self-governing school (within the meaning of the Self-Governing Schools etc. (Scotland) Act 1989).
- 1992 c. 37. 50. The board of management of a college of further education (within the meaning of section 36(1) of the Further and Higher Education (Scotland) Act 1992).
51. The governing body of an institution within the higher education sector (within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992).

Other housing bodies

52. The Housing Corporation.
53. Scottish Homes.
- 1988 c. 50. 54. A housing action trust established under Part III of the Housing Act 1988.

Police

- 1996 c. 16. 55. A police authority established under section 3 of the Police Act 1996.

Race Relations (Amendment) Act 2000

c. 34

21

SCH. 1

56. A police authority established under section 2 of the Police (Scotland) Act 1967.

1967 c. 77.

57. The Metropolitan Police Authority established under section 5B of the Police Act 1996.

1996 c. 16.

58. The Common Council of the City of London in its capacity as a police authority.

59. The Service Authority for the National Criminal Intelligence Service.

60. The Service Authority for the National Crime Squad.”

SCHEDULE 2

Section 9(1).

CONSEQUENTIAL AMENDMENTS

Race Relations Act 1976 (c.74)

1. In section 17 of the 1976 Act (prohibition on discrimination by certain education bodies), in the Table—

(a) in paragraph 7 for “73(c) or (d)” there is substituted “73(d)”; and

(b) after paragraph 7 there is inserted—

“7AA. A grant-aided school, The managers of the school.”
within the meaning of
section 135 of the
Education (Scotland) Act
1980.

1980 c. 44.

2. In section 27(1) of the 1976 Act (extent of Part III), for “19” there is substituted “18D”.

3. After section 27(1) of that Act, there is inserted—

“(1A) In its application in relation to granting entry clearance (within the meaning of the Immigration Act 1971) section 19B applies in relation to acts done outside the United Kingdom, as well as those done within Great Britain.”

1971 c. 77.

4. In section 53(1) of that Act (restriction of proceedings for breach of Act), after first “Act” there is inserted “or the Special Immigration Appeals Commission Act 1997 or Part IV of the Immigration and Asylum Act 1999”.

1997 c. 68.

1999 c. 33.

5. After section 53(3) of that Act (judicial review to be available for government appointments outside the employment field), there is added—

“(4) Subsections (2) and (3) do not, except so far as provided by section 76, apply to any act which is unlawful by virtue of section 76(5) or (9) or by virtue of section 76(10)(b) and (11).”

6. In section 57(5) of that Act (claims under Part III in relation to certain educational bodies)—

(a) for the words “section 19(1)” there is substituted “subsection (5A)”; and

(b) the words from “and” to the end of the subsection are omitted.

7. After section 57(5) of that Act, there is inserted—

“(5A) This subsection applies to—

22

c. 34 *Race Relations (Amendment) Act 2000*

SCH. 2

- (a) local education authorities in England and Wales;
- (b) education authorities in Scotland; and
- (c) any body which is a responsible body in relation to an establishment falling within paragraph 3, 3B or 7B of the table in section 17.”

8. In section 59(1)(b) of that Act (appeal against non-discrimination notice), after “the court” there is inserted “(ignoring section 57A)”.

9. In section 62(1) of that Act (persistent discrimination), after “or” at the end of paragraph (b) there is inserted—

1997 c. 68.
1999 c. 33.

- “(ba) a finding under the Special Immigration Appeals Commission Act 1997 or Part IV of the Immigration and Asylum Act 1999 that he has done an act which was unlawful by virtue of section 19B; or”.

10. After section 65(6) of that Act (help for aggrieved persons in obtaining information etc.), there is added—

- “(7) This section does not apply in relation to any proceedings under—
- (a) the Special Immigration Appeals Commission Act 1997; or
 - (b) Part IV of the Immigration and Asylum Act 1999.”

11. After section 66(7) of that Act (assistance by Commission), there is added—

“(8) This section (except for subsection (4)) applies to proceedings or prospective proceedings under the Special Immigration Appeals Commission Act 1997 or Part IV of the Immigration and Asylum Act 1999 so far as they relate to acts which may be unlawful by virtue of section 19B as it applies to proceedings or prospective proceedings under this Act.

(9) In this section as it applies by virtue of subsection (8) “rules and regulations” means—

- (a) in relation to proceedings under the Act of 1997, rules under section 5 or 8 of that Act;
- (b) in relation to proceedings under Part IV of the Act of 1999, rules under paragraph 3 or 4 of Schedule 4 to that Act.”

12. After section 67(3) of that Act (extension of jurisdiction of county courts and sheriff courts), there is inserted—

“(3A) A designated county court or a sheriff court shall have jurisdiction to entertain proceedings under this Act with respect to an act done outside the United Kingdom where section 19B applies in relation to such an act by virtue of section 27(1A).”

13. In section 68(2) of that Act (period within which proceedings to be brought), at the beginning there is inserted “Subject to subsection (2A)”.

14. After section 68(2) of that Act, there is inserted—

“(2A) In relation to an immigration claim within the meaning of section 57A, the period of six months mentioned in subsection (2)(a) begins on the expiry of the period during which, by virtue of section 57A(1)(a), no proceedings may be brought under section 57(1) in respect of the claim.”

Race Relations (Amendment) Act 2000

c. 34

23

SCH. 2

15. In section 69(2) of that Act (evidence), after “Act” there is inserted “or any enactment mentioned in section 19D(5)”.

16. In section 73(1)(b) of that Act (power to amend certain provisions of Act), after “or (2),” there is inserted “19B,”.

17. After section 75(2) of that Act (application to Crown etc.), there is inserted—

“(2A) Subsections (1) and (2) do not apply in relation to the provisions mentioned in subsection (2B).

(2B) Sections 19B to 19F, sections 71 to 71E (including Schedule 1A) and section 76 bind the Crown; and the other provisions of this Act so far as they relate to those provisions shall be construed accordingly (including, in particular, references to employment in Part IV).”

18. In section 75(3) of that Act—

(a) for “and (2)” there is substituted “to (2B)”; and

(b) for “section 16” there is substituted “sections 76A and 76B”.

19. In section 78(1) of that Act (general interpretation provisions), at the appropriate places, there are inserted—

““body” includes an unincorporated association;”

““criminal investigation” has the meaning given by section 57(4B);”
and

““criminal proceedings” includes—

(a) proceedings on dealing summarily with a charge under the Army Act 1955 or the Air Force Act 1955 or on summary trial under the Naval Discipline Act 1957; 1955 c. 18.
1955 c. 19.

(b) proceedings before a summary appeal court constituted under any of those Acts; 1957 c. 53.

(c) proceedings before a court-martial constituted under any of those Acts or a disciplinary court constituted under section 52G of the Act of 1957;

(d) proceedings before the Courts-Martial Appeal Court; and

(e) proceedings before a Standing Civilian Court;”.

Local Government Act 1988 (c.9)

20. In section 18(1) of the Local Government Act 1988 (race relations matters)—

(a) for the words from “71” to “regard to” there is substituted “71(1) of the Race Relations Act 1976 and any duty imposed by an order under section 71(2) of that Act (duties relating to the”); and 1976 c. 74.

(b) for “local authority” there is substituted “public authority to which section 17 above applies”.

21. In section 18(2) of that Act—

(a) for “local authority” there is substituted “public authority to which that section applies”; and

(b) for “71” there is substituted “71(1) or any duty imposed by an order under the said section 71(2)”.

22. Section 18(7A) of that Act is omitted.

24

c. 34 *Race Relations (Amendment) Act 2000*

SCH. 2

Special Immigration Appeals Commission Act 1997 (c.68)

23. In section 2A(1) of the Special Immigration Appeals Commission Act 1997 (jurisdiction: human rights), after “appealable decision,” there is inserted “racially discriminated against him or”.

24. In section 2A(2) of that Act, after “this section,” there is inserted “—

(a) an authority racially discriminates against a person if he acts, or fails to act, in relation to that other person in a way which is unlawful by virtue of section 19B of the Race Relations Act 1976; and

(b)”.

25. In section 2A(3) of that Act, after “the proceedings,” there is inserted “racially discriminated against the appellant or”.

26. In section 2A(5) of that Act—

(a) after “concerned” there is inserted “—

(a) racially discriminated against the appellant; or

(b)”; and

(b) for “that ground” there is substituted “the ground in question”.

27. In the side note to section 2A of that Act, after “Jurisdiction:” there is inserted “racial discrimination and”.

28. In section 5 of that Act (procedure in relation to jurisdiction under section 2 of that Act etc.)—

(a) in subsection (1)(a) after “2” there is inserted “or 2A”;

(b) in subsection (1)(b) for “that section” there is substituted “section 2 or 2A above”; and

(c) in subsection (2) after “2” there is inserted “or 2A”.

29. In Schedule 2 to that Act (appeals: supplementary)—

(a) in paragraph 4 after “2” there is inserted “or 2A”; and

(b) in paragraphs 6 and 7 after “2” there is inserted “and 2A”.

School Standards and Framework Act 1998 (c.31)

30. In paragraph 8(b) of Schedule 4 to the School Standards and Framework Act 1998 (school organisation committees to have regard to certain obligations owed by local education authorities and governing bodies under the Race Relations Act 1976), after “Part III” there shall be inserted “or section 71”.

31. In paragraph 6(b) of Schedule 5 to the Act of 1998 (adjudicators to have regard to certain obligations owed by local education authorities and governing bodies under the Race Relations Act 1976), after “Part III” there shall be inserted “or section 71”.

Immigration and Asylum Act 1999 (c.33)

32. In section 65(3) of the Immigration and Asylum Act 1999 (acts made unlawful by section 6(1) of the Human Rights Act 1998), after “Kingdom,” there is inserted “racially discriminated against the appellant or”.

33. In section 65(5) of the Act of 1999—

(a) after “concerned” there is inserted “—

1976 c. 74.

1998 c. 42.

Race Relations (Amendment) Act 2000

c. 34

25

SCH. 2

- (a) racially discriminated against the appellant; or
- (b)”; and
- (b) for “that ground” there is substituted “the ground in question”.

34. For the side-note to section 65 of that Act, there is substituted “Racial discrimination and breach of human rights.”

35. In section 72(2)(a) of that Act (miscellaneous limitations on rights of appeal), after “rights” there is inserted “or racially discriminated against him”.

36. In section 73(2) of that Act (limitation on further appeals), after “a claim that” there is inserted “in taking a decision, a decision-maker racially discriminated against the appellant or that”.

37. In section 74(7) of that Act (duty to disclose grounds for appeal etc.), after paragraph (a) there is inserted—

“(aa) if he claims that he was racially discriminated against, include notice of that claim;”.

38. In section 76(3)(a) of that Act (result of failure to give statement of additional grounds for appeal), for “breached the applicant’s” there is substituted “racially discriminated against the applicant or breached his”.

39. In Schedule 4 to that Act (appeals), in paragraph 9(2) for the words “that the claim is one to which this paragraph applies” there is substituted “with the opinion expressed in the Secretary of State’s certificate”.

40. In that Schedule to that Act, after paragraph 9 there is inserted—

“Racial discrimination

9A.—(1) This paragraph applies to an appeal under Part IV of this Act by a person who claims that he has been racially discriminated against, if the Secretary of State has certified that, in his opinion, the claim is manifestly unfounded.

(2) If, on an appeal to which this paragraph applies, the adjudicator agrees with the opinion expressed in the Secretary of State’s certificate, paragraph 22 does not confer on the appellant any right to appeal to the Immigration Appeal Tribunal.”

SCHEDULE 3

Section 9(2).

REPEALS

Chapter	Short title	Extent of repeal
1976 c. 74.	Race Relations Act 1976.	Section 16. Section 19. Section 19ZA. In section 57(5), the words from “and” to the end of the subsection. Section 58(6).

Race Relations (Amendment) Act 2000

c. 34

27

SCH. 3

Chapter	Short title	Extent of repeal
1996 c. 56.	Education Act 1996.	In Schedule 37, paragraph 42 and, in paragraph 117(4), paragraph (b) and the word “and” immediately preceding it.
1997 c. 50.	Police Act 1997.	In Schedule 9, paragraphs 35 and 36.
1998 c. 38.	Government of Wales Act 1998.	In Schedule 16, paragraph 30.
1999 c. 26.	Employment Relations Act 1999.	In Schedule 8, paragraph 6.
1999 c. 29.	Greater London Authority Act 1999.	Section 391.
2000 c. 21.	Learning and Skills Act 2000.	In Schedule 9, paragraph 10.