

## PRACTICE DIRECTION

# PROCEEDINGS UNDER ENACTMENTS RELATING TO DISCRIMINATION

## Scope and Interpretation

- 1.1** This Practice Direction applies to certain county court proceedings under the enactments defined in paragraph 1.2.
- 1.2** In this Practice Direction –
- (1) ‘the 1975 Act’ means the Sex Discrimination Act 1975;
  - (2) ‘the 1976 Act’ means the Race Relations Act 1976;
  - (3) ‘the 1995 Act’ means the Disability Discrimination Act 1995;
  - (4) ‘the 1999 Act’ means the Disability Rights Commission Act 1999;
  - (5) ‘the 2006 Act’ means the Equality Act 2006;
  - (6) ‘the Age Regulations’ means the Employment Equality (Age) Regulations 2006;
  - (7) ‘the Religion or Belief Regulations’ means the Employment Equality (Religion or Belief) Regulations 2003;
  - (8) ‘the Sexual Orientation Regulations’ means the Employment Equality (Sexual Orientation) Regulations 2003.
- 1.3** In this Practice Direction –
- (1) a reference to ‘the Commission’, in relation to proceedings under a particular Act is a reference to the Commission as defined in that Act;
  - (2) where it applies to proceedings under the 1976 Act, ‘court’ means a designated county court under section 67(1) of that Act.

## Commission to be given notice of claims

- 2.1** This paragraph applies to claims under –
- (a) section 66 of the 1975 Act;
  - (b) section 57 of the 1976 Act; or
  - (c) section 25 of the 1995 Act.
- 2.2** When a claim to which this paragraph applies is commenced, the claimant must –
- (a) give notice of the commencement of the proceedings to the Commission;
  - (b) file a copy of that notice.

## Assessors

- 3.** Rule 35.15 shall have effect in relation to an assessor who is to be appointed in proceedings under section 66 (1) of the Act of 1975.

## Admissibility of Evidence

- 4.1** This paragraph applies where a claimant in a claim alleging discrimination has questioned the defendant under –
- (a) section 74 of the 1975 Act;
  - (b) section 65 of the 1976 Act;
  - (c) section 56 of the 1995 Act;

- (d) regulation 41 of the Age Regulations;
- (e) regulation 33 of the Religion or Belief Regulations; or
- (f) regulation 33 of the Sexual Orientation Regulations.

**4.2** Either party may apply to the court to determine whether the question or any reply is admissible under that section.

(Part 23 contains general rules about making applications).

**4.3** Rule 3.4 (power to strike out a statement of case) applies to the question and any answer as it applies to a statement of case.

### **Exclusion of persons from certain proceedings**

**5.1** In a claim –

- (1) brought under section 66(1) of the 1975 Act;
  - (2) brought under section 57(1) of the 1976 Act;
  - (3) alleging discrimination under the 1995 Act; or
  - (4) brought under section 66 of the 2006 Act,
- the court may, where it considers it expedient in the interests of national security –
- (a) exclude from all or part of the proceedings –
    - (i) the claimant;
    - (ii) the claimant's representatives; or
    - (iii) any assessors

(Section 67(4) of the Race Relations Act 1975 allows an assessor to be appointed in proceedings under that Act);

- (b) permit a claimant or representative to make a statement to the court before the start of the proceedings (or the part of the proceedings) from which he is excluded; or
- (c) take steps to keep secret all or part of the reasons for its decision in the claim.

**5.2** In this paragraph, a 'special advocate' means a person appointed under –

- (1) section 66B(2) of the 1975 Act;
- (2) section 67A(2) of the 1976 Act;
- (3) section 59A(2) of the 1995 Act; or
- (4) section 71(2) of the 2006 Act to represent the claimant.

**5.3** In proceedings to which this paragraph refers, where the claimant or his representatives have been excluded from all or part of the proceedings –

- (a) the court will inform the Attorney-General of the proceedings; and
- (b) the Attorney-General may appoint a special advocate to represent the claimant in respect of those parts of the proceedings from which he or his representative have been excluded.

**5.4** In exercise of its powers under paragraph 5.1(c), the court may order the special advocate not to communicate (directly or indirectly) with any persons (including the excluded claimant) –

- (a) on any matter discussed or referred to; or
  - (b) with regard to any material disclosed,
- during or with reference to any part of the proceedings from which the claimant or his representative are excluded.

**5.5** Where the court makes an order referred to in paragraph 5.4 (or any similar order), the special advocate may apply to the court for directions enabling him to seek instructions from, or otherwise to communicate with an excluded person.

## **Expenses of Commission**

- 6.1** This paragraph applies where the Commission have, in respect of a claim, provided a claimant with assistance under –
- (a) section 75 of the 1975 Act;
  - (b) section 66 of the 1976 Act; or
  - (c) section 7 of the 1999 Act.
- 6.2** If the Commission claim a charge for expenses incurred by it in providing such assistance, it shall give notice of the claim to –
- (a) the court; and
  - (b) the claimant,
- within 14 days of determination of the proceedings.
- 6.3** If notice is given to the court under paragraph 6.2 –
- (a) money paid into court for the benefit of the claimant that relates to costs and expenses shall not be paid out unless this is permitted by an order of the court; and
  - (b) the court may order the expenses incurred by the Commission to be assessed as if they were costs payable by the claimant to his own solicitor for work done in connection with the proceedings.
- 6.4** The court may either –
- (a) make a summary assessment of the expenses; or
  - (b) order detailed assessment of the expenses by a costs officer.

## **Applications to vary terms of certain agreements**

- 7.1** This paragraph applies to an application to remove or modify a term of a contract to which any of the following apply –
- (a) section 77(2) of the 1975 Act;
  - (b) section 72(2) of the 1976 Act;
  - (c) section 26 of or Schedule 3A to the 1995 Act;
  - (d) section 72(5) of the 2006 Act;
  - (e) paragraph 1(1) or (2) of Schedule 5 to the Age Regulations;
  - (f) paragraph 1(1) or (2) of Schedule 4 to the Religion or Belief Regulations;
  - (g) paragraph 1(1) or (2) of Schedule 4 to the Sexual Orientation Regulations.
- 7.2** A person affected by the proposed variation must be made a respondent to the application unless the court orders otherwise.

