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## STATUTORY INSTRUMENTS

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# 1997 No. 869

## The Race Relations (Northern Ireland) Order 1997

### PART I

#### INTRODUCTORY

##### **Title and commencement**

1.—(1) This Order may be cited as the Race Relations (Northern Ireland) Order 1997.

(2) This Order shall come into operation on such day or days as the Department may by order appoint<sup>F1</sup>.

(3) An order under paragraph (2) may make such transitional provision as appears to the Department to be necessary or expedient in connection with the provisions brought into operation by the order.

**F1** fully exercised by SR 1999/273

##### **Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“access” shall be construed in accordance with Article 39;

“act” includes a deliberate omission;

“advertisement” includes every form of advertisement or notice, whether to the public or not;

“the Commission” means<sup>F2</sup> the Equality Commission for Northern Ireland];

“Commissioner” means a member of the Commission;

“the Department” means the Department of Economic Development;

“discrimination” and related terms shall be construed in accordance with paragraph (4);

“education” includes any form of training or instruction;

“employment” means employment under a contract of service or of apprenticeship or a contract personally to execute any work or labour, and related expressions shall be construed accordingly;

“employment agency” means a person who, for profit or not, provides services for the purpose of finding employment for workers or supplying employers with workers;

“final” shall be construed in accordance with paragraph (3);

“formal investigation” means an investigation under Article 46;

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“general notice”, in relation to any person, means a notice published by him at a time and in a manner appearing to him suitable for securing that the notice is seen within a reasonable time by persons likely to be affected by it;

“genuine occupational qualification” shall be construed in accordance with Article 8;

“government department” means a Northern Ireland department or a department of the Government of the United Kingdom;

“nationality” includes citizenship;

“non-discrimination notice” means a notice under Article 55;

“Northern Ireland” includes such of the territorial waters of the United Kingdom as are adjacent to Northern Ireland;

“notice” means a notice in writing;

“premises” includes land of any description;

“prescribed” means prescribed by regulations made by the Department;

“profession” includes any vocation or occupation;

“racial grounds” and “racial group” have the meaning given by Article 5;

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

“trade” includes any business;

“training” includes any form of education or instruction.

(3) For the purposes of this Order a non-discrimination notice or a finding by a court or tribunal becomes final when—

- (a) an appeal against the notice or finding is dismissed, withdrawn or abandoned; or
- (b) the time for appealing expires without an appeal having been brought;

and for the purposes of sub-paragraph (a) an appeal against a non-discrimination notice shall be taken to be dismissed if, notwithstanding that a requirement of the notice is quashed on appeal, a direction is given in respect of it under Article 56(3).

(4) In this Order—

- (a) references to discrimination are to any discrimination falling within Article 3 or 4; and
- (b) references to racial discrimination are to any discrimination falling within Article 3;

and related expressions shall be construed accordingly.

**F2** 1998 c.47

## **Racial discrimination**

**3.—(1)** A person discriminates against another in any circumstances relevant for the purposes of any provision of this Order if—

- (a) on racial grounds he treats that other less favourably than he treats or would treat other persons; or
- (b) he applies to that other a requirement or condition which he applies or would apply equally to persons not of the same racial group as that other but—
  - (i) which is such that the proportion of persons of the same racial group as that other who can comply with it is considerably smaller than the proportion of persons not of that racial group who can comply with it; and

- (ii) which he cannot show to be justifiable irrespective of the colour, race, nationality or ethnic or national origins of the person to whom it is applied; and
- (iii) which is to the detriment of that other because he cannot comply with it.

[<sup>F3</sup>(1A) A person also discriminates against another if, in any circumstances relevant for the purposes of any provision referred to in paragraph (1B), he applies to that other a provision, criterion or practice which he applies or would apply equally to persons not of the same race or ethnic or national origins as that other, but—

- (a) which puts or would put persons of the same race or ethnic or national origins as that other at a particular disadvantage when compared with other persons;
- (b) which puts [<sup>F4</sup>or would put] that other at that disadvantage; and
- (c) which he cannot show to be a proportionate means of achieving a legitimate aim.

(1B) The provisions mentioned in paragraph (1A) are—

- (a) Part II;
- (b) Articles 18 and 19;
- (c) Article 20A;
- (d) Articles 21 to 24;
- (e) Article 26;
- (f) Article 72 ZA; and
- (g) Part IV in its application to the provisions referred to in sub-paragraphs (a) to (f).

(1C) Where, by virtue of paragraph (1A), a person discriminates against another, paragraph (1)(b) does not apply to him.]

(2) For the purposes of this Order segregating a person from other persons on racial grounds is treating him less favourably than they are treated.

(3) A comparison of the case of a person of a particular racial group with that of a person not of that group under paragraph (1)[<sup>F3</sup> or (1A)] must be such that the relevant circumstances in the one case are the same, or not materially different, in the other.

**F3** SR 2003/341

**F4** Words in art. 3(1A)(b) inserted (11.1.2010) by [Race Relations Order \(Amendment\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/410\)](#), **reg. 2**

### **Discrimination by way of victimisation**

**4.—(1)** A person (“A”) discriminates against another person (“B”) in any circumstances relevant for the purposes of any provision of this Order if—

- (a) he treats B less favourably than he treats or would treat other persons in those circumstances; and
- (b) he does so for a reason mentioned in paragraph (2).

(2) The reasons are that—

- (a) B has—
  - (i) brought proceedings against A or any other person under this Order; or
  - (ii) given evidence or information in connection with such proceedings brought by any person; or
  - (iii) otherwise done anything under this Order in relation to A or any other person; or

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- (iv) alleged that A or any other person has (whether or not the allegation so states) contravened this Order; or
  - (b) A knows that B intends to do any of those things or suspects that B has done, or intends to do, any of those things.
- (3) Paragraph (1) does not apply to treatment of a person by reason of any allegation made by him if the allegation was false and not made in good faith.

#### [<sup>F5</sup>Harassment

**4A.**—(1) A person ("A") subjects another person ("B") to harassment in any circumstances relevant for the purposes of any provision referred to in Article 3(1B) where, on grounds of race or ethnic or national origins, A engages in unwanted conduct which has the purpose or effect of—

- (a) violating B's dignity, or
- (b) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

(2) Conduct shall be regarded as having the effect specified in sub-paragraphs (a) and (b) of paragraph (1) only if, having regard to all the circumstances, including, in particular, the perception of B, it should reasonably be considered as having that effect.]

<b>F5</b> SR 2003/341
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#### Meaning of “racial grounds” “racial group” etc.

- 5.**—(1) Subject to paragraphs (2) and (3), in this Order—
- “racial grounds” means any of the following grounds, namely colour, race, nationality or ethnic or national origins;
- “racial group” means a group of persons defined by reference to colour, race, nationality or ethnic or national origins, and references to a person's racial group refer to any racial group into which he falls.
- (2) In this Order “racial grounds”
- (a) includes the grounds of belonging to the Irish Traveller community, that is to say the community of people commonly so called who are identified (both by themselves and by others) as people with a shared history, culture and traditions including, historically, a nomadic way of life on the island of Ireland; and
  - (b) does not include the grounds of religious belief or political opinion.
- (3) In this Order “racial group”
- (a) includes the Irish Traveller community;
  - (b) does not include a group of persons defined by reference to religious belief or political opinion.

[<sup>F6</sup>(3A) In this Order "race or ethnic or national origins" includes origins within the Irish Traveller community.]

(4) The fact that a racial group comprises two or more distinct racial groups does not prevent it from constituting a particular racial group for the purposes of this Order.

(5) In this Article references to religious belief or political opinion shall be construed in accordance with [<sup>F7</sup> Article 2(2) and (3) of the Fair Employment and Treatment (Northern Ireland) Order 1998].

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**F6** SR 2003/341

**F7** [1998 NI 21](#)

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**Changes and effects yet to be applied to :**

- Instrument am. (prosp.) by [1998 c. 17 s.50 Sch.4 para.41](#)
- Instrument am. (prosp.) by [1998 c. 32 s.74\(1\)Sch.4 para.24](#)