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*Status: Point in time view as at 01/04/2015.*

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## STATUTORY INSTRUMENTS

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# 1997 No. 869

## The Race Relations (Northern Ireland) Order 1997

### PART VIII

### ENFORCEMENT

#### *Help for persons suffering discrimination*

#### **Help for aggrieved persons in obtaining information etc.**

**63.**—(1) With a view to helping a person (“the person aggrieved”) who considers he may have been discriminated against<sup>F1</sup> or subjected to harassment] in contravention of this Order to decide whether to institute proceedings and, if he does so, to formulate and present his case in the most effective manner, the Department shall by order prescribe—

- (a) forms by which the person aggrieved may question the respondent on his reasons for doing any relevant act, or on any other matter which is or may be relevant; and
- (b) forms by which the respondent may if he so wishes reply to any questions.

(2) Where the person aggrieved questions the respondent (whether in accordance with an order under paragraph (1) or not)—

- (a) the question, and any reply by the respondent (whether in accordance with such an order or not) shall, subject to the following provisions of this Article, be admissible as evidence in the proceedings;
- (b) if it appears to the court or tribunal that the respondent deliberately, and without reasonable excuse, omitted to reply within a reasonable period<sup>F1</sup> or, where the question relates to discrimination on grounds of race or ethnic or national origins, or to harassment, the period of eight weeks beginning with the day on which the question was served on him] or that his reply is evasive or equivocal, the court or tribunal may draw any inference from that fact that it considers it just and equitable to draw, including an inference that he committed an unlawful act.

(3) The Department may by order—

- (a) prescribe the period within which questions must be duly served in order to be admissible under paragraph (2)(a); and
- (b) prescribe the manner in which a question, and any reply by the respondent, may be duly served.

(4) County court rules may enable the court entertaining a claim under Article 54 to determine, before the date fixed for the hearing of the claim, whether a question or reply is admissible under this Article or not.

(5) This Article is without prejudice to any other statutory provision or rule of law regulating interlocutory and preliminary matters in proceedings before a county court or industrial tribunal, and has effect subject to any statutory provision or rule of law regulating the admissibility of evidence in such proceedings.

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(6) In this Article “respondent” includes a prospective respondent.

F1 SR 2003/341

### Assistance by Commission

**64.**—(1) Where, in relation to proceedings or prospective proceedings under this Order, an individual who is an actual or prospective complainant or claimant applies to the Commission for assistance under this Article, the Commission shall consider the application and may grant it if it thinks fit to do so—

- (a) on the ground that the case raises a question of principle; or
- (b) on the ground that it is unreasonable, having regard to the complexity of the case, or to the applicant's position in relation to the respondent or another person involved, or to any other matter, to expect the applicant to deal with the case unaided; or
- (c) by reason of any other special consideration.

(2) Assistance by the Commission under this Article may include—

- (a) giving advice;
- (b) procuring or attempting to procure the settlement of any matter in dispute;
- (c) arranging for the giving of advice or assistance by a solicitor or counsel;
- (d) arranging for representation by any person, including all such assistance as is usually given by a solicitor or counsel in the steps preliminary or incidental to any proceedings, or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings;
- (e) any other form of assistance which the Commission may consider appropriate,

but sub-paragraph (d) shall not affect the law and practice regulating the descriptions of persons who may appear in, conduct, defend, and address the court in, any proceedings.

(3) Where under paragraph (1) an application for assistance under this Article is made in writing, the Commission shall, within the period of 2 months beginning when the application is received—

- (a) consider the application after making such enquiries as it thinks fit;
- (b) decide whether or not to grant it; and
- (c) inform the applicant of its decision, stating whether or not assistance under this Article is to be provided by the Commission and, if so, what form it will take.

(4) If, in a case where paragraph (3) applies, the Commission within the period of 2 months there mentioned gives notice to the applicant that, in relation to his application—

- (a) the period of 2 months allowed it by that paragraph is by virtue of the notice extended to 3 months; and
- (b) the reference to 2 months in Article 65(3) is by virtue of the notice to be read as a reference to 3 months,

paragraph (3) and Article 65(3) shall have effect accordingly.

(5) In so far as expenses are incurred by the Commission in providing the applicant with assistance under this Article, the recovery of those expenses (as taxed or assessed in such manner as may be prescribed by rules or regulations) shall constitute a first charge for the benefit of the Commission—

- (a) on any costs which (whether by virtue of a judgment or order of a court or tribunal or an agreement or otherwise) are payable to the applicant by any other person in respect of the matter in connection with which the assistance is given; and

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(b) so far as relates to any costs, on his rights under any compromise or settlement arrived at in connection with that matter to avoid or bring to an end any proceedings.

(6) The charge conferred by paragraph (5) is subject to any charge [<sup>F2</sup>imposed by Article 17 of the Access to Justice (Northern Ireland) Order 2003] and is subject to any provision in [<sup>F3</sup>, or made under] that Order for payment of any sum [<sup>F4</sup>to the Department of Justice].

(7) In this Article “respondent” includes a prospective respondent and “rules or regulations”

(a) in relation to county court proceedings, means county court rules;

(b) in relation to industrial tribunal proceedings, means industrial tribunal procedure regulations under the Industrial Tribunals (Northern Ireland) Order 1996.

[<sup>F5</sup>(8) This Article (except for paragraph (4)) applies to proceedings or prospective proceedings under the Special Immigration Appeals Commission Act 1997 or Part 5 of the Nationality, Immigration and Asylum Act 2002 so far as they relate to acts which may be unlawful by virtue of Article 20A as it applies to proceedings or prospective proceedings under this Order.

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

(a) in relation to proceedings under the Act of 1997, rules under that Act;

(b) in relation to proceedings under Part 5 of the Act of 2002, rules under that Act.]

**F2** Words in art. 64(6) substituted (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)), art. 1(2), **Sch. 4 para. 13(a)**; S.R. 2015/194, art. 2, **Sch.** (with art. 3)

**F3** Words in art. 64(6) inserted (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)), art. 1(2), **Sch. 4 para. 13(b)**; S.R. 2015/194, art. 2, **Sch.** (with art. 3)

**F4** Words in art. 64(6) substituted (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)), art. 1(2), **Sch. 4 para. 13(c)**; S.R. 2015/194, art. 2, **Sch.** (with art. 3) (as amended (18.11.2014) by Legal Aid and Coroners’ Courts Act (Northern Ireland) 2014 c. 11 (N.I.), **Sch. 2 para. 6(43)(a)(x)**)

**F5** SR 2003/341

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