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STATUTORY INSTRUMENTS

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**1997 No. 869**

**The Race Relations (Northern Ireland) Order 1997**

**PART IX**

**SUPPLEMENTAL**

**Validity and revision of contracts**

**68.**—(1) A term of a contract is void where—

- (a) its inclusion renders the making of the contract unlawful by virtue of this Order; or
- (b) it is included in furtherance of an act rendered unlawful by this Order; or
- (c) it provides for the doing of an act which would be rendered unlawful by this Order.

(2) Paragraph (1) does not apply to a term the inclusion of which constitutes, or is in furtherance of, or provides for, unlawful discrimination against<sup>[F1]</sup> or harassment of,] a party to the contract, but the term shall be unenforceable against that party.

(3) On the application of any person interested in a contract to which paragraph (2) applies, a county court may make such order as it thinks just for removing or modifying any term made unenforceable by that paragraph; but such an order shall not be made unless all persons affected have been given notice of the application (except where under county court rules notice may be dispensed with) and have been afforded an opportunity to make representations to the court.

(4) An order under paragraph (3) may include provision as respects any period before the making of the order.

(5) A term in a contract which purports to exclude or limit any provision of this Order is unenforceable by any person in whose favour the term would operate apart from this paragraph.

(6) Paragraph (5) does not apply—

- (a) to a contract settling a complaint to which Article 52(1) applies where the contract is made with the assistance of the Labour Relations Agency; or
- (b) to a contract settling a complaint to which Article 52(1) applies if the conditions regulating compromise contracts under this Order are satisfied in relation to the contract; or
- (c) to a contract settling a claim to which Article 54 applies.

(7) The conditions regulating compromise contracts under this Order are that—

- (a) the contract must be in writing;
- (b) the contract must relate to the particular complaint;
- (c) the complainant must have received<sup>[F2]</sup> advice from a relevant independent adviser] as to the terms and effect of the proposed contract and in particular its effect on his ability to pursue his complaint before an industrial tribunal;
- (d) there must be in force, when the adviser gives the advice, a<sup>[F3]</sup> contract of insurance, or an indemnity provided for members of a profession or professional body,] covering the risk of a claim by the complainant in respect of loss arising in consequence of the advice;

**Changes to legislation:** *The Race Relations (Northern Ireland) Order 1997, Section 68 is up to date with all changes known to be in force on or before 20 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (e) the contract must identify the adviser; and
- (f) the contract must state that the conditions regulating compromise contracts under this Order are satisfied.

[<sup>F4</sup>(8) A person is a relevant independent adviser for the purposes of paragraph (7)(c)—

- (a) if he is a qualified lawyer,
- (b) if he is an officer, official, employee or member of an independent trade union who has been certified in writing by the trade union as competent to give advice and as authorised to do so on behalf of the trade union,
- (c) if he works at an advice centre (whether as an employee or a volunteer) and has been certified in writing by the centre as competent to give advice and as authorised to do so on behalf of the centre, or
- (d) <sup>F5</sup> if he is a person of a description specified in an order made by the Department.

(8A) But a person is not a relevant independent adviser for the purposes of paragraph (7)(c) in relation to the complainant—

- (a) if he is, is employed by or is acting in the matter for the other party or for a person who is connected with the other party,
- (b) in the case of a person within paragraph (8)(b) or (c), if the trade union or advice centre is the other party or a person who is connected with the other party,
- (c) in the case of a person within paragraph (8)(c), if the complainant makes a payment for the advice received from him, or
- (d) in the case of a person of a description specified in an order under paragraph (8)(d), if any condition specified in the order in relation to the giving of advice by persons of that description is not satisfied.

(8B) In paragraph (8)(a) “qualified lawyer” means a barrister (whether in practice as such or employed to give legal advice), or a solicitor who holds a practising certificate.

(8C) In paragraph (8)(b) “independent trade union” has the same meaning as in the Industrial Relations (Northern Ireland) Order 1992.

(9) For the purposes of paragraph (8A) any two persons are to be treated as connected—

- (a) if one is a company of which the other (directly or indirectly) has control, or
- (b) if both are companies of which a third person (directly or indirectly) has control.]

[<sup>F6</sup>(10) An agreement under which the parties agree to submit a dispute to arbitration—

- (a) shall be regarded for the purposes of paragraph (6)(a) and
- (b) as being a contract settling a complaint if—
  - (i) the dispute is covered by a scheme having effect by virtue of an order under Article 84A of the Industrial Relations (Northern Ireland) Order 1992; and
  - (ii) the agreement is to submit it to arbitration in accordance with the scheme, but
- (b) shall be regarded for those purposes as neither being nor including such a contract in any other case.]

**F1** SR 2003/341

**F2** [1998 NI 8](#)

**F3** [1998 NI 8](#)

**F4** [1998 NI 8](#)

**F5** functions transf. by SR 1999/481

**F6** 1998 NI 8

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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](#)