

Status: Point in time view as at 01/04/2015.

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STATUTORY INSTRUMENTS

1997 No. 869

The Race Relations (Northern Ireland) Order 1997

PART III

DISCRIMINATION IN OTHER FIELDS

Education

^{F1} . . . bodies in charge of educational establishments

18.—(1) It is unlawful, in relation to an educational establishment falling within column 1 of the following table, for a person indicated in relation to the establishment in column 2 (the “responsible body”) to discriminate against a person—

- (a) in the terms on which it offers to admit him to the establishment as a pupil; or
- (b) by refusing or deliberately omitting to accept an application for his admission to the establishment as a pupil; or
- (c) where he is a pupil of the establishment—
 - (i) in the way it affords him access to any benefits, facilities or services, or by refusing or deliberately omitting to afford him access to them; or
 - (ii) by excluding him from the establishment or subjecting him to any other detriment.

TABLE

<i>Establishment</i>	<i>Responsible body</i>
1. Educational establishment which is grant-aided.	[^{F2} Education Authority] or managers or governing body according to which of them has the function in question.
2. Independent school.	Proprietor.
3. University.	Governing body.
[^{F3} 4. An establishment providing further education in respect of which grants are paid under Article 5(1)(b) of the Further Education (Northern Ireland) Order 1997]	[^{F3} Governing body.]
[^{F4} 5.College of education]	[^{F4} The managers]

[^{F1}(1A) It is unlawful for a responsible body, in relation to an establishment falling within column 1 of the table in paragraph (1), to subject to harassment—

- (a) a person who applies for admission to the establishment as a pupil; or
- (b) a pupil at the establishment.]

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(2) Subject to paragraph (3), words and expressions used in this Article, Article 19 or Article 20 to which a meaning is assigned by Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986 have the same meaning as in the 1986 Order.

(3) In this Article “pupil” includes any person who receives education at an establishment to which this Article applies.

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|-----------|---|
| F1 | SR 2003/341 |
| F2 | Words in art. 18(1) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12) , Sch. 3 para. 17(1) (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b) |
| F3 | 1997 NI 15 |
| F4 | 2005 NI 13 |

Other discrimination^[F5] etc.] by ^[F6]the Education Authority]

19. It is unlawful for—

- (a) ^[F7]the Education Authority] , in carrying out such of its functions under the Education Orders as do not fall under Article 18; and
- (b) the Council for Catholic Maintained Schools, in carrying out its functions under the Education Orders,

to do any act which constitutes racial discrimination^[F5] or harassment].

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|-----------|---|
| F5 | SR 2003/341 |
| F6 | Words in art. 19 heading substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12) , Sch. 3 para. 17(2)(a) (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b) |
| F7 | Words in art. 19(a) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12) , Sch. 3 para. 17(2)(b) (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b) |

General duty in public sector of education

20.—(1) Without prejudice to its obligation to comply with any other provision of this Order, a body to which this paragraph applies shall be under a general duty to secure that facilities for education provided by it, and any ancillary benefits or services, are provided without racial discrimination.

(2) Article 101 of the Education and Libraries (Northern Ireland) Order 1986 (power of Department of Education to give directions) shall apply to the performance by a body to which paragraph (1) applies of the duties imposed by Articles 18 and 19 and shall also apply to the performance of the general duty imposed by paragraph (1), as it applies to the performance by ^[F8]the Education Authority] of a duty imposed by the Education Orders.

(3) The sanctions in paragraph (2) shall be the only sanctions for breach of the general duty in paragraph (1), but without prejudice to the enforcement of Articles 18 and 19 under Article 54 or otherwise (where the breach is also a contravention of either of those Articles).

(4) Paragraph (1) applies to—

- (a) ^[F9]the Education Authority] ; and
- (b) any other body which is a responsible body in relation to an establishment falling within paragraph 1, 4 or 5(b) of the table in Article 18(1).

- F8** Words in art. 20(2) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 17(3) (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
- F9** Words in art. 20(4)(a) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), Sch. 3 para. 17(3) (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)

[^{F10}Public authorities

20A.—(1) It is unlawful for a public authority—

- (a) to discriminate against a person on the grounds of race or ethnic or national origins, or
- (b) to subject a person to harassment

in the course of carrying out any functions of the authority which consist of the provision of:

- (i) any form of social security;
- (ii) healthcare;
- (iii) any other form of social protection, or
- (iv) any form of social advantage,

which does not fall within Article 21.

(2) In this Article “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 paragraph (3).

(3) The persons mentioned in this paragraph are—

- (a) either House of Parliament;
- (b) a person exercising functions in connection with proceedings in Parliament;
- (c) the Assembly;
- (d) a person exercising functions in connection with proceedings in the Assembly;
- (e) the Security Service;
- (f) the Secret Intelligence Service;
- (g) the Government Communications Headquarters; and
- (h) 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 paragraph (2)

(a) if the nature of the act is private.

(5) This Article is subject to Articles 20B to 20D.

(6) Nothing in this Article makes unlawful any act of discrimination on the grounds of race or ethnic or national origins, or harassment, which—

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

F10 SR 2003/341

[^{F11}Exceptions or further exceptions from Article 20A for judicial and legislative acts etc

20B.—(1) Article 20A does not apply to—

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- (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) Article 20A does not apply to any act of, or relating to, making, confirming or approving any statutory provision.
- (3) Article 20A does not apply to any act of, or relating to, making or approving arrangements or imposing requirements or conditions, of a kind excepted by Article 40.
- (4) Article 20A does not apply to any act of, or relating to, imposing a requirement, or giving an express authorisation, of a kind mentioned in Article 20C(3) in relation to the carrying out of immigration functions.
- (5) In this Article “immigration functions” has the meaning given in Article 20C.]

F11 SR 2003/341

[^{F12}Exception from Article 20A for certain acts in immigration cases

20C.—(1) Article 20A does not make it unlawful for a relevant person to discriminate against another person on grounds of ethnic or national origins in carrying out immigration functions.

- (2) For the purposes of paragraph (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 paragraph (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 by any of the statutory provisions mentioned in paragraph (5).
- (4) In paragraph (1), “immigration functions” means functions exercisable by virtue of any of the statutory provisions mentioned in paragraph (5).
- (5) Those statutory provisions are—
 - (a) the Immigration Acts (within the meaning of section 158 of the Nationality, Immigration and Asylum Act 2002 but excluding sections 28A to 28K of the Immigration Act 1971 so far as they relate to offences under Part III of that Act);
 - (b) the Special Immigration Appeals Commission Act 1997;
 - (c) provision made under section 2(2) of the European Communities Act 1972 which relates to immigration or asylum; and
 - (d) any provision of Community law which relates to immigration or asylum.]

F12 SR 2003/341

[^{F13}Exceptions from Article 20A for decisions not to prosecute etc

- 20D.** Article 20A 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.]

F13 SR 2003/341

Goods, facilities, services and premises

F14 . . . provision of goods, facilities or services

21.—(1) It is unlawful for any person concerned with the provision (for payment or not) of goods, facilities or services to the public or a section of the public to discriminate against a person who seeks to obtain or use those goods, facilities or services—

- (a) by refusing or deliberately omitting to provide him with any of them; or
- (b) by refusing or deliberately omitting to provide him with goods, facilities or services of the same quality, in the same manner and on the same terms as are normal in his case in relation to other members of the public or (where the person so seeking belongs to a section of the public) to other members of that section.

[^{F14}(1A) It is unlawful for any person concerned with the provision of goods, facilities or services as mentioned in paragraph (1), in relation to such provision, to subject to harassment—

- (a) a person who seeks to obtain or use those goods, facilities or services, or
- (b) a person to whom he provides those goods, facilities or services.]
- (2) The following are examples of the facilities and services mentioned in paragraph (1)—
 - (a) access to and use of any place which members of the public are permitted to enter;
 - (b) accommodation in a hotel, boarding house or other similar establishment;
 - (c) facilities by way of banking or insurance or for grants, loans, credit or finance;
 - (d) facilities for education;
 - (e) facilities for entertainment, recreation or refreshment;
 - (f) facilities for transport or travel;
 - (g) the services of any profession or trade, or any local or other public authority.

F14 SR 2003/341

F15 . . . disposal or management of premises

22.—(1) It is unlawful for a person with power to dispose of any premises to discriminate against another—

- (a) in the terms on which he offers him those premises; or
- (b) by refusing his application for those premises; or
- (c) in his treatment of him in relation to any list of persons in need of premises of that description.

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(2) Paragraph (1) does not apply to^[F15] discrimination, on grounds other than those of race or ethnic or national origins, by] a person who owns an estate in the premises and wholly occupies them unless, for the purpose of disposing of the premises, he—

- (a) uses the services of an estate agent; or
- (b) publishes an advertisement or causes an advertisement to be published.

(3) It is unlawful for a person managing any premises to discriminate against a person occupying those premises—

- (a) in the way he affords him access to any benefits or facilities, or by refusing or deliberately omitting to afford him access to them; or
- (b) by evicting him, or subjecting him to any other detriment.

^[F15](3A) It is unlawful for a person, in relation to such premises as are referred to in paragraph (1) or (3), to subject to harassment a person who applies for or, as the case may be, occupies such premises.]

(4) It is unlawful for any person whose licence or consent is required for the disposal of any premises comprised in a tenancy

- ^[F15](a) discriminate against a person by withholding the licence or consent for the disposal of the premises to him, or
- (b) in relation to such a licence or consent, to subject to harassment a person who applies for such a licence or consent, or from whom the licence or consent is withheld.]

(5) Paragraph (4) applies to tenancies created before as well as after the coming into operation of this Article.

(6) In this Article—

“dispose”, in relation to premises, includes granting a right to occupy the premises, and, in relation to premises comprised in a tenancy, includes—

- (a) assigning the tenancy, and
 - (b) sub-letting or parting with possession of the premises or any part of the premises;
- and “disposal” shall be construed accordingly;

“estate agent” means a person who, by way of profession or trade, provides services for the purpose of finding premises for persons seeking to acquire them or assisting in the disposal of premises; and

“tenancy” means a tenancy created—

- (a) by a lease or sub-lease,
- (b) by an agreement for a lease or sub-lease,
- (c) by a tenancy agreement, or
- (d) in pursuance of any statutory provision.

(7) This Article applies only in relation to premises in Northern Ireland.

F15 SR 2003/341

Exception from Articles 21(1) and 22: small dwellings

23.—(1) ^[F16]In relation to discrimination on grounds other than those of race or ethnic or national origins] Where the conditions mentioned in paragraph (2) are satisfied—

- (a) Article 21(1) does not apply to the provision by a person of accommodation in any premises;
 - (b) Article 22(1) does not apply to the disposal by a person of any premises;
 - (c) Article 22(4) does not apply to the withholding of any consent or licence.
- (2) The conditions are that—
- (a) the relevant occupier resides, and intends to continue to reside, on the premises;
 - (b) the relevant occupier shares accommodation on the premises with persons who reside on the premises and are not members of his household;
 - (c) the shared accommodation is not storage accommodation or a means of access; and
 - (d) the premises are small premises.
- (3) For the purposes of this Article, premises are “small premises” if they fall within paragraph (4) or (5).
- (4) Premises fall within this paragraph if—
- (a) only the relevant occupier and members of his household reside in the accommodation occupied by him;
 - (b) the premises comprise, in addition to the accommodation occupied by the relevant occupier, residential accommodation for at least one other household;
 - (c) the residential accommodation for each other household is let, or available for letting, on a separate tenancy or similar agreement; and
 - (d) there are not normally more than two such other households.
- (5) Premises fall within this paragraph if there is not normally residential accommodation on the premises for more than 6 persons in addition to the relevant occupier and any members of his household.
- (6) For the purposes of this Article “the relevant occupier” means—
- (a) in a case falling within Article 21(1), the person providing the accommodation or a near relative of his;
 - (b) in a case falling within Article 22(1), the person with power to dispose of the premises, or a near relative of his;
 - (c) in a case falling within Article 22(4) the person whose licence or consent is required for the disposal of the premises, or a near relative of his.
- (7) For the purposes of this Article “near relative” means a person's spouse^{F17} or civil partner], parent, child, grandparent, grandchild, or brother or sister (whether of full or half blood or^{F17} by marriage or civil partnership)].

F16 SR 2003/341

F17 2004 c.33

Further exceptions from Articles^{F18} 21] and 22

- 24.**—(1) Articles^{F18} 21] and 22 do not apply—
- (a) to discrimination^{F18} or harassment] which is rendered unlawful by any provision of Part II or Article 18 or 19; or

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- (b) to discrimination which would be rendered unlawful by any provision of Part II but for any of the following provisions, namely Articles 6(3) and (5)^{F18} 7A(1)(b)], 8(1)(b), 9(4), 11 and 16(3).

(2) Article 21(1) does not apply to anything done by a person as a participant in arrangements under which he (for reward or not) takes into his home, and treats as if they were members of his family, children, elderly persons, or persons requiring a special degree of care and attention.

F18 SR 2003/341

Discrimination: associations not within Article 13

25.—(1) This Article applies to any association of persons (however described, whether corporate or unincorporate, and whether or not its activities are carried on for profit) if—

- (a) it has 25 or more members; and
- (b) admission to membership is regulated by its constitution and is so conducted that the members do not constitute a section of the public within the meaning of Article 21(1); and
- (c) it is not an organisation to which Article 13 applies.

(2) It is unlawful for an association to which this Article applies, in the case of a person who is not a member of the association, to discriminate against him—

- (a) in the terms on which it is prepared to admit him to membership; or
- (b) by refusing or deliberately omitting to accept his application for membership.

(3) It is unlawful for an association to which this Article applies, in the case of a person who is a member or associate of the association, to discriminate against him—

- (a) in the way it affords him access to any benefits, facilities or services, or by refusing or deliberately omitting to afford him access to them; or
- (b) in the case of a member, by depriving him of membership, or varying the terms on which he is a member; or
- (c) in the case of an associate, by depriving him of his rights as an associate, or varying those rights; or
- (d) in either case, by subjecting him to any other detriment.

(4) For the purposes of this Article—

- (a) a person is a member of an association if he belongs to it by virtue of his admission to any sort of membership provided for by its constitution (and is not merely a person with certain rights under its constitution by virtue of his membership of some other association), and references to membership of an association shall be construed accordingly;
- (b) a person is an associate of an association to which this Article applies if, not being a member of it, he has under its constitution some or all of the rights enjoyed by members (or would have apart from any provision in its constitution authorising the refusal of those rights in particular cases).

(5) Nothing in this Article shall render unlawful any act not involving discrimination on the ground of colour done by an association to which paragraph (6) applies.

(6) This paragraph applies to an association if the main object of the association is to enable the benefits of membership (whatever they may be) to be enjoyed by persons of a particular racial group defined otherwise than by reference to colour.

(7) In determining whether that is the main object of an association regard shall be had to the essential character of the association and to all relevant circumstances including, in particular, the

extent to which the affairs of the association are so conducted that the persons primarily enjoying the benefits of membership are of the racial group in question.

Barristers

^{F19} . . . barristers

26.—(1) It is unlawful for a barrister, in relation to taking any person as his pupil, to discriminate against a person—

- (a) in the arrangements which he makes for the purpose of determining whom he will take as his pupil;
- (b) in respect of any terms on which he offers to take any person as his pupil; or
- (c) by refusing, or deliberately omitting, to take a person as his pupil.

(2) It is unlawful for a barrister, in relation to a person who is a pupil, to discriminate against him—

- (a) in respect of any terms applicable to him as a pupil;
- (b) in the opportunities for training, or gaining experience, which are afforded or denied to him;
- (c) in the benefits, facilities or services which are afforded or denied to him; or
- (d) by terminating the relationship or by subjecting him to any pressure to terminate the relationship or other detriment.

(3) It is unlawful for any person, in relation to the giving, withholding or acceptance of instructions to a barrister, to discriminate against any person^{F19} or to subject any person to harassment].

^{F19}(3A) It is unlawful for a barrister to subject to harassment a person who is, or has applied to be, his pupil.]

(4) In this Article “pupil” has the meaning commonly associated with its use in the context of a person training as a barrister.

F19 SR 2003/341

Extent

Extent of Part III

27.—(1) Articles 18 to 20 do not apply to benefits, facilities or services outside Northern Ireland except—

- (a) travel on a ship registered at a port of registry in Northern Ireland; and
- (b) benefits, facilities or services provided on a ship so registered.

^{F20}(1A) In its application in relation to granting entry clearance (within the meaning of the Immigration Act 1971) Article 20A applies in relation to acts done outside the United Kingdom, as well as those done within Northern Ireland.]

(2) Article 21(1)—

- (a) does not apply to goods, facilities or services outside Northern Ireland except as provided in paragraphs (3) and (4); and

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(b) does not apply to facilities by way of banking or insurance or for grants, loans, credit or finance, where the facilities are for a purpose to be carried out, or in connection with risks wholly or mainly arising, outside Northern Ireland.

(3) Article 21(1) applies to the provision of facilities for travel outside Northern Ireland where the refusal or omission occurs in Northern Ireland or on a ship, aircraft or hovercraft within paragraph (4).

(4) Article 21(1) applies on and in relation to—

(a) any ship registered at a port of registry in Northern Ireland; and

(b) any aircraft or hovercraft registered in the United Kingdom and operated by a person who has his principal place of business, or is ordinarily resident, in Northern Ireland,

even if the ship, aircraft or hovercraft is outside Northern Ireland.

(5) This Article shall not render unlawful an act done in or over a country outside the United Kingdom, or in or over that country's territorial waters, for the purpose of complying with the laws of that country.

F20 SR 2003/341

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