STATUTORY INSTRUMENTS

1997 No. 869

The Race Relations (Northern Ireland) Order 1997

PART VII

THE COMMISSION FOR RACIAL EQUALITY FOR NORTHERN IRELAND

Investigations

Power to conduct formal investigations

46.—(1) Without prejudice to its general power to do anything requisite for the performance of its duties under Article 42(2), the Commission may if it thinks fit, and shall if required by the Department, conduct a formal investigation for any purpose connected with the carrying out of those duties.

(2) The Commission may, with the approval of the Department, appoint, on a full-time or part-time basis, one or more individuals as additional Commissioners for the purposes of a formal investigation.

(3) The Commission may nominate one or more Commissioners, with or without one or more additional Commissioners, to conduct a formal investigation on its behalf, and may delegate any of its functions in relation to the investigation to the persons so nominated.

Terms of reference

47.—(1) The Commission shall not embark on a formal investigation unless the requirements of this Article have been complied with.

(2) Terms of reference for the investigation shall be drawn up by the Commission or, if the Commission was required by the Department to conduct the investigation, by the Department after consulting the Commission.

(3) It shall be the duty of the Commission to give general notice of the holding of the investigation unless the terms of reference confine it to activities of persons named in them, but in such a case the Commission shall in the prescribed manner give those persons notice of the holding of the investigation.

(4) Where the terms of reference of the investigation confine it to activities of persons named in them and the Commission in the course of it proposes to investigate any act made unlawful by this Order which it believes that a person so named may have done, the Commission shall—

(a) inform that person of its belief and of its proposal to investigate the act in question; and

(b) offer him an opportunity of making oral or written representations with regard to it (or both oral and written representations if he thinks fit).

(5) A person who avails himself of an opportunity under paragraph (4) of making oral representations may be represented—

(a) by counsel or a solicitor; or

(b) by some other person of his choice, not being a person to whom the Commission objects on the ground that he is unsuitable.

(6) The Commission or, if the Commission was required by the Department to conduct the investigation, the Department after consulting the Commission may from time to time revise the terms of reference; and paragraphs (1) and (3) to (5) shall apply to the revised investigation and terms of reference as they applied to the original.

Power to obtain information

48.—(1) For the purposes of a formal investigation the Commission, by a notice in the prescribed form served on him in the prescribed manner—

(a) may require any person to furnish such written information as may be described in the notice, and may specify the time at which, and the manner and form in which, the information is to be furnished;

(b) may require any person to attend at such time and place as is specified in the notice and give oral information about, and produce all documents in his possession or control relating to, any matter specified in the notice.

(2) Except as provided by Article 57, a notice shall be served under paragraph (1) only where—

(a) service of the notice was authorised by an order made by the Department; or

(b) the terms of reference of the investigation state that the Commission believes that a person named in them may have done or may be doing acts of all or any of the following descriptions—

(i) unlawful[F1 acts of discrimination or harassment];

(ii) contraventions of Article 28; and

(iii) contraventions of Articles 29,30 or 31, and confine the investigation to those acts.

(3) A notice under paragraph (1) shall not require a person—

(a) to give information, or produce any documents, which he could not be compelled to give in evidence, or produce, in civil proceedings before the High Court; or

(b) to attend at any place unless the necessary expenses of his journey to and from that place are paid or tendered to him.

(4) If a person fails to comply with a notice served on him under paragraph (1) or the Commission has reasonable cause to believe that he intends not to comply with it, the Commission may apply to a county court for an order requiring him to comply with it or with such directions for the like purpose as may be contained in the order.

(5) If a person fails, without reasonable excuse, to comply with an order made by the county court under paragraph (4), he may be dealt with by the county court as if he had failed to comply with a witness summons issued in accordance with county court rules.

(6) A person who—

(a) wilfully alters, suppresses, conceals or destroys a document which he has been required by a notice or order under this Article to produce; or

(b) in complying with such a notice or order, knowingly or recklessly makes any statement which is false in a material particular,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(7) Proceedings for an offence under paragraph (6) may (without prejudice to any jurisdiction exercisable apart from this paragraph) be instituted—

(a) against any person at any place at which he has an office or other place of business;

(b) against an individual at any place where he resides, or at which he is for the time being.

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Recommendations and reports on formal investigations

49.—(1) If in the light of any of its findings in a formal investigation it appears to the Commission necessary or expedient, whether during the course of the investigation or after its conclusion—

(a) to make to any person, with a view to promoting equality of opportunity between persons of different racial groups who are affected by any of his activities, recommendations for changes in his policies or procedures, or as to any other matters; or

(b) to make to the Department any recommendations, whether for changes in the law or otherwise,

the Commission shall make those recommendations accordingly.

(2) The Commission shall prepare a report of its findings in any formal investigation conducted by it.

(3) If the formal investigation is one required by the Department—

(a) the Commission shall deliver the report to the Department; and

(b) the Department shall cause the report to be published,

and, unless required by the Department, the Commission shall not publish the report.

(4) If the formal investigation is not one required by the Department, the Commission shall either publish the report, or make it available for inspection in accordance with paragraph (5).

(5) Where under paragraph (4) a report is to be made available for inspection, any person shall be entitled, on payment of such fee (if any) as may be determined by the Commission—

(a) to inspect the report during ordinary office hours and take copies of all or any part of the report; or

(b) to obtain from the Commission a copy, certified by the Commission to be correct, of the report.

(6) The Commission may, if it thinks fit, determine that the right conferred by paragraph (5)(a) shall be exercisable in relation to a copy of the report instead of, or in addition to, the original.

(7) The Commission shall give general notice of the place or places where, and the times when, reports may be inspected under paragraph (5).

Restriction on disclosure of information

50.—(1) No information given to the Commission by any person (“the informant”) in connection with a formal investigation shall be disclosed by the Commission, or by any person who is or has been a Commissioner, additional Commissioner or employee of the Commission, except—

(a) on the order of any court; or

(b) with the informant's consent; or

(c) in the form of a summary or other general statement published by the Commission which does not identify the informant or any other person to whom the information relates; or

(d) in a report of the investigation published by the Commission or made available for inspection under Article 49(5); or

(e) to the Commissioners, additional Commissioners or employees of the Commission, or, so far as may be necessary for the proper performance of the functions of the Commission, to other persons; or

(f) for the purpose of any civil proceedings under this Order to which the Commission is a party, or any criminal proceedings.

(2) Any person who discloses information in contravention of paragraph (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) In preparing any report for publication or for inspection the Commission shall exclude, so far as is consistent with its duties and the object of the report, any matter which relates to the private affairs of any individual or the business interests of any person where the publication of that matter might, in the opinion of the Commission, prejudicially affect that individual or person.

Changes to legislation:
The Race Relations (Northern Ireland) Order 1997, Cross Heading: Investigations is up to date with all changes known to be in force on or before 13 August 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.
View outstanding changes

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