

SCHEDULES

SCHEDULE 1

Article 42.

THE COMMISSION FOR RACIAL EQUALITY FOR NORTHERN IRELAND

Incorporation and status

1. On the appointment of the first members of the Commission, the Commission shall come into existence as a body corporate to which, subject to the provisions of this Schedule, section 19 of the Interpretation Act (Northern Ireland) 1954 shall apply.

2.—(1) The Commission is not an emanation of the Crown, and shall not act or be treated as the servant or agent of the Crown.

(2) Accordingly—

- (a) neither the Commission nor any of its members or members of its staff as such is entitled to any status, immunity, privilege or exemption enjoyed by the Crown;
- (b) the members of the Commission and members of its staff as such are not civil servants; and
- (c) the Commission's property is not property of, or held on behalf of, the Crown.

Tenure of office of chairman, deputy chairmen and Commissioners

3.—(1) A person shall hold and vacate his office as chairman, deputy chairman or other member of the Commission in accordance with the terms of his appointment; but no such appointment shall be for a period exceeding 5 years in the case of the chairman and 3 years in the case of another member.

(2) With the consent of the Commissioner concerned, the Head of the Department may alter the terms of an appointment so as to make a full-time Commissioner into a part-time Commissioner or vice versa, or for any other purpose.

(3) A person may at any time resign office as chairman, deputy chairman or other member of the Commission by notice to the Head of the Department.

(4) Past service as chairman, deputy chairman or other member of the Commission is no bar to re-appointment.

Remuneration

4. The Department may pay, or make such payments towards the provision of, such remuneration, allowances (including allowances for expenses), pensions or gratuities to or in respect of the chairman, deputy chairmen and other members of the Commission, or any of them, as, with the approval of the Department of Finance and Personnel, it may determine.

Additional Commissioners

5.—(1) Paragraphs 2(2) and 3(1) and (4) shall apply to additional Commissioners appointed under Article 46(2) as they apply to Commissioners.

Status: This is the original version (as it was originally made).

(2) The Commission may pay, or make such payments towards the provision of, such remuneration, allowances (including allowances for expenses), pensions or gratuities to or in respect of an additional Commissioner as the Department, with the consent of the Department of Finance and Personnel, may determine.

(3) With the approval of the Department and the consent of the additional Commissioner concerned, the Commission may alter the terms of appointment of an additional Commissioner so as to make a full-time additional Commissioner into a part-time additional Commissioner or vice versa, or for any other purpose.

(4) An additional Commissioner may resign by notice to the Commission.

(5) The appointment of an additional Commissioner shall terminate at the conclusion of the investigation for which he was appointed, if not sooner.

Staff

6.—(1) The Commission may with the approval of the Department and the Department of Finance and Personnel as to numbers and as to remuneration and other terms and conditions of employment—

- (a) employ such officers and servants as the Commission considers necessary;
- (b) employ the services of such other persons as the Commission considers expedient for any particular purpose.

(2) The Commission may, in the case of such persons employed by it as may be determined by the Commission with the approval of the Department and the Department of Finance and Personnel, pay to or in respect of them such allowances (including allowances for expenses), pensions or gratuities, or provide and maintain for them such pension schemes (whether contributory or not), or contributory or other pension arrangements, as may be so determined.

Proceedings

7.—(1) The Commission may regulate its own procedure and business including the formalities for affixing its common seal to any document and, subject to sub-paragraph (2), its quorum.

(2) The quorum for meetings of the Commission shall, in the first instance, be determined by a meeting of the Commission attended by not less than 4 members.

8. The validity of any proceedings of the Commission shall not be affected by any vacancy in the office of chairman, deputy chairman or other member of the Commission or by any defect in the appointment of the chairman, deputy chairman or any other member.

Instruments

9. A document purporting to be duly executed under the common seal of the Commission shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

10. Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal may be entered into or executed on behalf of the Commission by any person generally or specially authorised by the Commission to act for that purpose, and any document purporting to be such a contract or instrument shall be deemed to be such a contract or instrument until the contrary is proved.

Discharge of functions

11.—(1) The functions of the Commission—

- (a) under Article 43(1); and
- (b) in relation to matters connected with the giving of such financial or other assistance as is mentioned in Article 43(1),

shall be discharged under the general direction of the Commission by a group of members of the Commission selected by the chairman and consisting of at least 3 but not more than 5 Commissioners, of whom one shall be the deputy chairman or one of the deputy chairmen of the Commission.

(2) Without prejudice to Article 46(3), the Commission may authorise the discharge, under the general direction of the Commission, of any of its other functions by either a member or a group of members of the Commission selected by the chairman.

(3) Anything done by or in relation to a member or group of members in or in connection with the discharge of functions he or they are authorised to discharge under sub-paragraph (1) or (2) shall have the same effect as if done by or in relation to the Commission.

(4) A group of members authorised to discharge any functions under sub-paragraph (1) or (2) may regulate their own procedure and business, including their quorum.

(5) The validity of any proceedings of a member or group of members so authorised shall not be affected by any defect in his appointment or any of their appointments; and the validity of the proceedings of any such group shall not be affected by any vacancy in their number.

(6) The chairman may select himself as the member, or as one of the group of members, mentioned in this paragraph.

Expenses

12. All expenditure incurred by or on behalf of the Commission—

- (a) within the terms of any general authorisation in writing given by the Department and the Department of Finance and Personnel; or
- (b) with the approval of those Departments;

may be defrayed as expenses of the Department.

Annual report and accounts

13.—(1) The Commission shall prepare in respect of the period ending on 31st March 1998 and in respect of each subsequent financial year a report on the Commission's activities during that period or year ("the annual report").

(2) The annual report shall include a general survey of developments, during the period to which it relates, in respect of matters falling within the scope of the Commission's functions.

14.—(1) The Commission shall keep proper accounts in such form as may be approved by the Department, and proper records in relation to the accounts, and shall prepare in respect of the period ending on 31st March 1998 and in respect of each subsequent financial year a statement of accounts in such form as the Department, with the approval of the Department of Finance and Personnel, may direct.

(2) The accounts of the Commission shall be audited by auditors appointed by the Commission with the approval of the Department and shall be vouched to the satisfaction of the auditors.

15.—(1) The Commission shall, before 31st May in each year, transmit to the Department and the Comptroller and Auditor-General a document (referred to below as "the annual report and accounts of the Commission") containing—

- (a) a copy of the annual report prepared under paragraph 13; and 0

Status: This is the original version (as it was originally made).

- (b) a copy, certified by the auditors, of the annual statement of accounts prepared under paragraph 14.
- (2) The Comptroller and Auditor-General—
 - (a) shall examine the copy of the annual statement of accounts of the Commission;
 - (b) may, in connection with such examination, examine any accounts kept by the Commission and any records relating to the accounts; and
 - (c) shall make a report on the copy of the annual statement of accounts and send the report to the Department.
- (3) Subject to sub-paragraph (4), a copy of—
 - (a) the annual report and accounts of the Commission; and
 - (b) the report of the Comptroller and Auditor-General under sub-paragraph (2)(c),shall be laid by the Department before the Assembly.
- (4) During the interim period (as defined in section 1(4) of the Northern Ireland Act 1974) the copies mentioned in sub-paragraph (3) shall, instead, be sent by the Department to the Secretary of State and laid by him before Parliament.
- (5) The Department, or where sub-paragraph (4) applies, the Secretary of State shall cause the annual report and accounts of the Commission to be published.

SCHEDULE 2

Article 73

AMENDMENTS

The Northern Ireland Assembly Disqualification Act 1975 (c. 25)

1.—(1) In Part II of Schedule 1 (bodies of which all members are disqualified), insert at the appropriate place in alphabetical order—

“The Commission for Racial Equality for Northern Ireland”.

(2) In Part III of Schedule 1 (other disqualifying offices) insert at the appropriate place in alphabetical order—

“Additional Commissioner of the Commission for Racial Equality for Northern Ireland.”.

The Estate Agents Act 1979 (c. 38)

2.—(1) In section 5(3) (provisions not affecting power of Director to make orders) after “Order 1976” insert “or Article 51 of the Race Relations (Northern Ireland) Order 1997” and for “that Order” substitute “those Orders”.

(2) In Schedule I in paragraph 5 for the words from “and there shall he” to the end substitute—

“6. In the application of paragraphs 2 to 4 above to Northern Ireland references to the 1976 Act shall be construed as references to the Race Relations (Northern Ireland) Order 1997, and in particular the references to sections 29, 30, 31, 57, 62, 63(2)(a) and (4) and 78(1) and (4) of the 1976 Act shall be construed as references to Articles 29, 30, 31, 54, 59, 60(2)(a) and (4) and 2(2) and (3) respectively of that Order.”.

The Fair Employment (Northern Ireland) Act 1989 (c. 32)

3.—(1) In section 6(1) (matters relating to unfair dismissal or sex discrimination to be heard and determined by the Fair Employment Tribunal)—

(a) in paragraph (a) after sub-paragraph (ii) add—

“(iii) a person has committed an act of discrimination against the complainant which is unlawful by virtue of Part II of the Race Relations (Northern Ireland) Order 1997; or”;

(b) in paragraph (b) after “Order 1976” insert “or the Race Relations (Northern Ireland) Order 1997”.

(2) In section 6(3)(b) for the words from the beginning to “shall apply” substitute “none of the following, namely—

(i) Article 63(3) of the Sex Discrimination (Northern Ireland) Order 1976;

(ii) Article 11(5) of the Industrial Tribunals (Northern Ireland) Order 1996;

(iii) Article 52(3) of the Race Relations (Northern Ireland) Order 1997,
shall apply”.

The Broadcasting Act 1990 (c. 42)

4. In section 108(2) (requirement of national licence as to promotion of equality of opportunity in employment) at the end add “or, in Northern Ireland, the Race Relations (Northern Ireland) Order 1997”.

The Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990 (NI 2)

5. After Article 13 (exemption of Sikhs from requirements as to wearing of safety helmets on construction sites) insert—

“Protection of Sikhs from racial discrimination in connection with requirements as to wearing of safety helmets

13A.—(1) Where—

(a) any person applies to a Sikh any requirement or condition relating to the wearing by him of a safety helmet while he is on a construction site; and

(b) at the time when he so applies the requirement or condition that person has no reasonable grounds for believing that the Sikh would not wear a turban at all times when on such a site,

then, for the purpose of determining whether the application of the requirement or condition to the Sikh constitutes an act of discrimination falling within Article 3(1)(b) of the Race Relations (Northern Ireland) Order 1997 (indirect racial discrimination), the requirement or condition shall be taken to be one which cannot be shown to be justifiable as mentioned in Article 3(1)(b)(ii) of that Order.

(2) Any special treatment afforded to a Sikh in consequence of Article 13(1) or (2) shall not be regarded for the purposes of the Race Relations (Northern Ireland) Order 1997 as giving rise, in relation to any other person, to any discrimination falling within Article 3 of that Order.

(3) Paragraphs (7) and (8) of Article 13 shall apply for the purposes of this Article as they apply for the purposes of that Article.”.

The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992 (NI 6)

- 6.—(1) In Article 19(1) after “Article 20” insert “, 20A”.
(2) After Article 20 insert—

“Race relations matters

20A.—(1) Except to the extent permitted by paragraph (2) Article 67 of the Race Relations (Northern Ireland) Order 1997 (councils to have regard to need to eliminate unlawful racial discrimination and promote equality of opportunity, and good relations, between persons of different racial groups) shall not require or authorise a council to exercise any function regulated by Article 19 by reference to a non-commercial matter.

- (2) Subject to paragraph (3), nothing in Article 19 shall preclude a council from—
(a) asking approved questions seeking information or undertakings relating to workforce matters and considering the responses to them, or
(b) including in a draft contract or draft tender for a contract terms or provisions relating to workforce matters and considering the responses to them,

if, as the case may be, consideration of the information, the giving of the undertaking or the inclusion of the term is reasonably necessary to secure compliance with Article 67 of the 1997 Order.

(3) Paragraph (2) does not apply to the function of terminating a subsisting contract and, in relation to functions as respects approved lists or proposed contracts, does not authorise questions in other than written form.

(4) Where it is permissible under paragraph (2) to ask a question it is also permissible to make, if it is in writing, an approved request for evidence in support of an answer to the question.

- (5) The Department may specify—
(a) questions which are to be approved questions for the purposes of this Article; and
(b) descriptions of evidence which, in relation to approved questions, are to be approved descriptions of evidence for those purposes.

- (6) Any specification under paragraph (5)—
(a) shall be in writing; and
(b) may include such transitional and consequential provisions as appear to the Department to be necessary or expedient.

- (7) In this Article—
“approved question” means a question for the time being specified by the Department under paragraph (5);
“approved request for evidence” means a request for evidence of a description for the time being specified by the Department under paragraph (5) in relation to an approved question;
“workforce matters” means matters falling within sub-paragraph (a), but no other sub-paragraph, of Article 19(4).”.

The Commissioner for Complaints (Northern Ireland) Order 1996 (NI 7)

7. In Schedule 2 (bodies subject to investigation) at the appropriate place in alphabetical order insert—

“The Commission for Racial Equality for Northern Ireland”.

The Employment Rights (Northern Ireland) Order 1996 (NI 16)

8.—(1) In Article 15(3) (reinstatement or re-engagement of dismissed employee) at the end add “or

(d) a complaint under Article 52 of the Race Relations (Northern Ireland) Order 1997 arising out of a dismissal.”.

(2) In Article 15(4)(a) (relevant compromise contracts) at the end of head (i) insert “or” and after head (iii) add—

“(iv) Article 68(6)(b) of the Race Relations (Northern Ireland) Order 1997, or”.

(3) In Article 151(6) (cases where employer may incur higher additional award) at the end add “and

(c) a dismissal which is an act of discrimination within the meaning of the Race Relations (Northern Ireland) Order 1997 which is unlawful by virtue of that Order.”.

(4) In Article 160 (acts which are both unfair dismissal and discrimination) for paragraph (1) substitute—

“(1) Where compensation falls to be awarded in respect of any act both under—

(a) the provisions of this Order relating to unfair dismissal, and

(b) either or both of the Sex Discrimination (Northern Ireland) Order 1976 and the Race Relations (Northern Ireland) Order 1997,

an industrial tribunal shall not award compensation under any one of those two or three Orders in respect of any loss or other matter which is or has been taken into account under the other, or any of the others, by the tribunal (or another industrial tribunal) in awarding compensation on the same or another complaint in respect of that act.”.

The Broadcasting Act 1996 (c. 55)

9. In section 34(2) (requirement of certain licences as to promotion of equality of opportunity in employment) after “1976” insert “or, in Northern Ireland, the Race Relations (Northern Ireland) Order 1997”.

The Industrial Tribunals (Northern Ireland) Order 1996 (NI 18)

10. In Article 20(1)(a) (conciliation) at the end add

“or

(iv) Article 52 of the Race Relations (Northern Ireland) Order 1997;”.