
DRAFT STATUTORY INSTRUMENTS

1998 No. (N.I.)

NORTHERN IRELAND

**The Fair Employment and Treatment
(Northern Ireland) Order 1998**

*Made - - - - 1998
Coming into operation on days to be appointed
under Article 1(2)*

**THE FAIR EMPLOYMENT AND TREATMENT
(NORTHERN IRELAND) ORDER 1998**

PART I

INTRODUCTORY

Title and commencement

1. Title and commencement

Interpretation

2. General interpretation
3. "Discrimination" and "unlawful discrimination"
4. "Affirmative action"
5. "Equality of opportunity"
6. "Employment in Northern Ireland" and "occupation in Northern Ireland"

PART II

FUNCTIONS OF THE EQUALITY COMMISSION

Principal functions of Commission

7. General duty of Commission
8. Educational and advisory functions
9. Codes of practice
10. Identification of patterns and trends of employment, etc.
11. Investigation of practices

Undertakings or directions for promoting equality of opportunity

12. Undertaking following investigation under Article 11
13. Voluntary undertakings
14. Directions under Articles 12 and 13

Appeals and legal proceedings in relation to undertakings and directions

15. Appeal to Tribunal against directions under Article 12 or 13
16. Order of Tribunal to enforce undertaking or directions
17. Failure to comply with order of Tribunal

Restriction on disclosure of information

18. Restriction on disclosure of information

PART III

DISCRIMINATION IN THE EMPLOYMENT FIELD

Discrimination in the employment field

19. Discrimination against applicants and employees
20. Discrimination against contract workers
21. Discrimination by persons with statutory power to select employees for others
22. Discrimination by employment agencies
23. Discrimination by vocational organisations
24. Discrimination by persons providing training services
25. Discrimination by persons with power to confer qualifications

Discrimination by partnerships

26. Discrimination by partnerships

PART IV

DISCRIMINATION IN OTHER FIELDS

Further and higher education

27. Discrimination by bodies in charge of further and higher educational establishments

Goods, facilities, services and premises

28. Discrimination in provision of goods, facilities or services
29. Discrimination in disposal or management of premises
30. Exception from Articles 28(1) and 29; small dwellings
31. Further exceptions from Articles 28(1) and 29

Barristers

32. Discrimination by, or in relation to, barristers

Extent

33. Extent of Part IV

PART V
OTHER UNLAWFUL ACTS

34. Discriminatory advertisements
35. Accessories and incitement
36. Liability of employers and principals

PART VI
ENFORCEMENT OF PARTS III TO V

General

37. Restriction on proceedings for breach of this Order

Enforcement of Part III

38. Complaint to Tribunal
39. Remedies on complaint under Article 38

Enforcement of Part IV

40. Claims under Part IV

Other enforcement by Commission

41. Persistent discrimination
42. Enforcement of Article 34
43. Undertakings by persons contravening Part IV

Help for persons suffering discrimination

44. Help for aggrieved persons in obtaining information, etc.
45. Advice and assistance from Commission

Period within which proceedings must be brought

46. Period within which proceedings must be brought

PART VII
DUTIES OF EMPLOYERS IN RESPECT OF THEIR WORKFORCES

Registration

47. The register of concerns in which people are employed
48. Employers to apply for registration
49. Rectification of the register

Public authorities

50. Power to specify public authorities by order
51. Certain public authorities to be treated as employers

Monitoring the workforce

52. Monitoring returns
53. Regulations as to monitoring
54. Monitoring applicants

Review of recruitment, training and promotion practices

55. Periodic reviews by employers

Enquiries, undertakings and directions

56. Enquiries by the Commission
57. Undertakings in connection with monitoring and reviews
58. Directions
59. Application of Articles 15 to 17

Goals and timetables

60. Notices about goals and timetables
61. Power to secure further undertakings or issue further directions

Employers in default and connected persons: restrictions on dealing with them or giving them financial assistance

62. Employers in default: notice stating they are not qualified
63. Notice stating that connected and other persons are not qualified
64. Restriction on execution of works, etc. by unqualified persons
65. Enforcement at instance of Commission and actions for breach of duty
66. Denial of financial assistance to unqualified persons

General

67. Additional powers of Commission to obtain information
68. Procedure in case of default by Crown bodies
69. Interpretation of this Part

PART VIII

EXCEPTIONS

70. Excepted employments, etc.
71. School teachers
72. Provision of training in pursuance of affirmative action
73. Redundancy
74. Measures to encourage applications, etc. from under-represented community
75. Selection of unemployed persons
76. Religion specific training
77. Charities
78. Acts done under statutory authority
79. Acts safeguarding national security, etc.
80. Effect of certificates by Secretary of State

PART IX

THE FAIR EMPLOYMENT TRIBUNAL

Constitution

81. The Fair Employment Tribunal
82. President, Vice-President and Chairmen
83. Remuneration and allowances

Procedure

- 84. Tribunal procedure
- 85. Procedure for matters within jurisdiction of industrial tribunal
- 86. Interest on awards of compensation
- 87. Enforcement

Other methods of dispute resolution

- 88. Conciliation
- 89. Labour Relations Agency arbitration scheme

Appeals

- 90. Appeals from Tribunal

PART X

APPLICATION TO THE CROWN, THE POLICE AND PUBLIC AUTHORITIES

- 91. Application to the Crown
- 92. Proceedings against the Crown
- 93. Disclosure of information by Crown for purposes of investigation or proceedings
- 94. Application to the police
- 95. Procedure following investigation under Article 11 in relation to certain public authorities

PART XI

MISCELLANEOUS AMENDMENTS

Amendment of the Sex Discrimination (Northern Ireland) Order 1976

- 96. Acts safeguarding national security, etc.

Amendment of the Race Relations (Northern Ireland) Order 1997

- 97. Selection of unemployed persons
- 98. Acts safeguarding national security, etc.

PART XII

SUPPLEMENTARY

- 99. Power of High Court to revise contracts
 - 100. Restrictions on contracting out
 - 101. Power to amend this Order
 - 102. Offences by bodies corporate and partnerships
 - 103. Service of documents
 - 104. Regulations and orders
 - 105. Amendments, transitional provisions, savings and repeals
- Signature

SCHEDULES

SCHEDULE 1 — CODES OF PRACTICE

PART I — ISSUE OF CODE OF PRACTICE UNDER ARTICLE 9(3)

1. (1) Where the Commission proposes to issue a code of...

PART II — CODES OF PRACTICE — GENERAL

Revision of a code of practice

2. (1) The Commission may from time to time revise the...

Publication

3. The Commission shall— (a) publish a code of practice under...

Effect of code of practice

4. The Commission and the Department shall each take such steps...
5. A failure on the part of any person to observe...

SCHEDULE 2 — CONDUCT OF INVESTIGATIONS BY THE COMMISSION

Preliminary

1. In this Schedule “the investigation” means an investigation under Article...

Notices

2. Before holding the investigation, the Commission shall—

Procedure

3. The Commission shall afford to every person such as is...
4. The investigation shall be conducted in private.
5. Subject to paragraphs 3 and 4, the procedure for conducting...

Information and evidence

6. For the purposes of the investigation, the Commission may obtain...
7. (1) For the purposes of the investigation the Commission may...
8. For the purposes of the investigation the Commission may also...

Obstruction and contempt

9. (1) If any person, without lawful authority or reasonable excuse,...

Expenses

10. Without prejudice to paragraph 7(3)(c), the Commission may, if it...

SCHEDULE 3 — AMENDMENTS

The Parliamentary Commissioner Act 1967 (c. 13)

The Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969 (c. 7 (N.I.))

The Sex Discrimination (Northern Ireland) Order 1976 (NI 15)

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

The Judicial Pensions and Retirement Act 1993 (c. 8)

The Education and Libraries (Northern Ireland) Order 1993 (NI 12)

The Ombudsman (Northern Ireland) Order 1996 (NI 8)

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

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

The Race Relations (Northern Ireland) Order 1997 (NI 6)

The Northern Ireland Act

SCHEDULE 4 — TRANSITIONAL PROVISIONS AND SAVINGS

Article 26 and Part IV

1. (1) Article 26 of this Order shall not apply in...

National security certificates

2. In relation to any act done before the coming into...
3. In relation to any act done before the coming into...
4. In relation to any act done before the coming into...

Devolution order under section 3 of the Northern Ireland Act 1998

5. If provisions of this Order come into operation before the...

The Commission

6. (1) If provisions of this Order come into operation before...

The Police (Northern Ireland) Act 1998 (1998 c. 32)

7. If Article 94 comes into operation before the day appointed...

SCHEDULE 5 — REPEALS

Explanatory Note