
DRAFT STATUTORY INSTRUMENTS

1998 No.

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

PART IV

DISCRIMINATION IN OTHER FIELDS

Further and higher education

Discrimination by bodies in charge of further and higher educational establishments

27.—(1) It is unlawful, in relation to an educational establishment falling within paragraph (2), for the governing body of that establishment to discriminate against a person—

- (a) in the terms in which it offers to admit him to the establishment as a student; or
- (b) by refusing or deliberately omitting to accept an application for his admission to the establishment as a student; or
- (c) where he is a student of the establishment—
 - (i) in the way it affords him access to any benefits 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.

(2) The educational establishments falling within this paragraph are—

- (a) a university;
- (b) an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997 or an institution providing further education in respect of which grants are paid under Article 5(1) of that Order.

(3) In this Article “student” includes any person who receives education at an establishment falling within paragraph (2).

Goods, facilities, services and premises

Discrimination in provision of goods, facilities or services

28.—(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.

- (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 training;
 - (e) facilities for entertainment, recreation or refreshment;
 - (f) facilities for transport or travel;
 - (g) the services of any profession, trade or business, or any local or other public authority.

Discrimination in disposal or management of premises

29.—(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.

(2) Paragraph (1) does not apply to 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 by refusing or deliberately omitting to afford him access to them; or
- (b) by evicting him, or subjecting him to any other detriment.

(4) It is unlawful for any person whose licence or consent is required for the disposal of any premises comprised in a tenancy to discriminate against a person by withholding his licence or consent for the disposal of the premises to that person.

(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.

Exception from Articles 28(1) and 29; small dwellings

- 30.**—(1) Where the conditions mentioned in paragraph (2) are satisfied—
- (a) Article 28(1) does not apply to the provision by a person of accommodation in any premises;
 - (b) Article 29(1) does not apply to the disposal by a person of any premises;
 - (c) Article 29(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 28(1), the person providing the accommodation or a near relative of his;
 - (b) in a case falling within Article 29(1), the person with power to dispose of the premises, or a near relative of his;
 - (c) in a case falling within Article 29(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, parent, child, grandparent, grandchild, or brother or sister (whether of full or half blood or by affinity).

Further exceptions from Articles 28(1) and 29

- 31.**—(1) Articles 28(1) and 29 do not apply—
- (a) to discrimination which is rendered unlawful by any provision of Part III or Article 27; or

- (b) to discrimination which would be rendered unlawful by any provision of Part III but for Article 22(3) or 70(1)(b).
- (2) Article 28(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.
- (3) So far as it relates to discrimination on the grounds of religious belief, Article 28(1) does not apply to goods, facilities or services provided by, or on behalf of, a religious denomination where the essential nature of the goods, facilities or services requires them to be provided—
- (a) only to persons holding or not holding a particular religious belief; or
 - (b) in a manner or on terms which, apart from this paragraph, would be unlawful by virtue of this Order.
- (4) So far as it relates to discrimination on the grounds of political opinion, Article 28(1) does not apply to goods, facilities or services provided by, or on behalf of, a party registered under the Registration of Political Parties Act 1998 where the essential nature of the goods, facilities or services requires them to be provided—
- (a) only to persons holding or not holding a particular political opinion; or
 - (b) in a manner or on terms which, apart from this paragraph, would be unlawful by virtue of this Order.
- (5) Article 28(1) does not apply to any goods, facilities or services provided by—
- (a) the Board of Governors or proprietor of a school;
 - (b) the governing body of a college of education; or
 - (c) a person providing training in connection with any employment or occupation as a clergyman or minister of religion.
- (6) Where premises fall within paragraph (7)—
- (a) Article 29(2) does not apply to the disposal by a person of those premises;
 - (b) Article 29(4) does not apply to the withholding of any consent or licence in relation to those premises.
- (7) Premises fall within this paragraph if the premises are—
- (a) a school;
 - (b) a college of education; or
 - (c) premises comprising an establishment providing training in connection with any employment or occupation as a clergyman or minister of religion.

Barristers

Discrimination by, or in relation to, barristers

- 32.—**(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 his pupil, to discriminate against him—

- (a) in respect of any terms applicable to him as his pupil;
 - (b) in the opportunities for training, or gaining experience, which are afforded or denied to him;
 - (c) in the benefits 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.
- (4) In this Article “pupil” has the meaning commonly associated with its use in the context of a person training as a barrister.

Extent

Extent of Part IV

- 33.**—(1) Article 27 does not apply to benefits outside Northern Ireland except—
- (a) travel on a ship registered at a port of registry in Northern Ireland; and
 - (b) benefits provided on a ship so registered.
- (2) Article 28(1)—
- (a) does not apply to goods, facilities or services outside Northern Ireland except as provided in paragraphs (3) and (4); and
 - (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 28(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 28(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 other than an aircraft or hovercraft while operated in pursuance of a contract with a person who has his principal place of business, or is ordinarily resident, outside the United Kingdom,
- 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.