



# Fair Employment (Northern Ireland) Act 1976

## 1976 CHAPTER 25

### PART V

#### EXCEPTIONS

#### 37 Excepted employments, etc.

- (1) Parts II to IV shall not apply to or in relation to—
  - (a) any employment or occupation as a clergyman or minister of a religious denomination ;
  - (b) employment for the purposes of a private household; or
  - (c) employment as a teacher in a school.
- (2) Part II shall not apply to or in relation to any employment or occupation, other than one mentioned in subsection (1), where the essential nature of the job requires it to be done by a person holding, or not holding, a particular religious belief.
- (3) Parts III and IV, so far as they relate to discrimination on the ground of religious belief, shall not apply to or in relation to any employment or occupation, other than one mentioned in subsection (1), where the essential nature of the job requires it to be done by a person holding, or not holding, a particular religious belief; nor, so far as they relate to discrimination on the ground of political opinion, shall they apply to or in relation to an employment or occupation where the essential nature of the job requires it to be done by a person holding, or not holding, a particular political opinion.
- (4) No provision of Parts II to IV shall apply—
  - (a) during the two years beginning with the commencement of this Act, to, or to employment by, an employer who employs not more than 25 persons in addition to any employed for the purposes of his private household; and
  - (b) during the year following those two years, to, or to employment by, an employer who employs not more than 10 persons in addition to any employed for the purposes of his private household.

- (5) Subsection (1) is subject to the power conferred by section 39 to remove or limit the exception made by paragraph (c) of that subsection.

### **38 Review of exception of school-teachers**

- (1) The Agency shall keep under review the exception contained in section 37(1)(c) relating to the employment of teachers in schools, with a view to considering whether, in the Agency's opinion, it is appropriate that any steps should be taken to further equality of opportunity in the employment of such teachers.
- (2) For the purpose of assisting it in the discharge of its duty under subsection (1), the Agency may conduct investigations—
- (a) into the composition, by reference to religious beliefs, of the staff employed as teachers, or teachers of any class, in schools generally, schools of any class or particular schools; and
  - (b) into practices—
    - (i) affecting the recruitment or access to benefits of, or the terms of employment applicable to, such staff, or
    - (ii) involving any detriment to such staff, including practices discontinued before the time of the investigation so far as relevant for explaining the composition of the staff at that time.
- (3) The Agency may from time to time, and shall whenever the Secretary of State so directs, report to the Secretary of State upon the exercise of its functions under this section; and a report under this subsection may make recommendations as to any action which the Agency considers ought to be taken to further equality of opportunity in the employment of teachers, or teachers of any class, in schools, or in schools of any class (including action by way of the exercise of the power conferred by section 39 to remove or limit the exception contained in section 37(1)(c)).
- (4) Schedule 5 shall have effect with respect to the conduct of investigations under this section.

### **39 Power to remove or limit exception of school-teachers**

- (1) The Secretary of State may by order provide that section 37(1)(c)—
- (a) shall cease to have effect; or
  - (b) shall, on and after such day or days as may be specified in the order, have effect only in relation to particular classes of teachers or particular classes of schools or for particular purposes of this Act.
- (2) An order under subsection (1) may make all or any of the provisions mentioned in paragraph (b) of that subsection, and may do so by way of exception or otherwise.
- (3) An order under subsection (1) may include transitional provisions.
- (4) The power to make an order under subsection (1)(b) includes power to vary or revoke the order.
- (5) The Secretary of State shall not make an order under subsection (1) unless a draft of the order has been laid before, and has been approved by, both Houses of Parliament.

#### **40 Charities**

- (1) Nothing in this Act shall—
  - (a) be construed as affecting a provision to which this subsection applies, or
  - (b) render unlawful an act which is done in order to give effect to such a provision.
- (2) Subsection (1) applies to a provision for conferring benefits on persons of a particular religious belief or a particular political opinion (disregarding any benefits to persons not of that belief or opinion which are exceptional or are relatively insignificant), being a provision—
  - (a) which is contained in an enactment or instrument, and
  - (b) which has been enacted or made for purposes which are exclusively charitable according to the law of Northern Ireland.
- (3) In subsection (2) "enactment" includes an enactment contained in a local or personal Act (including an Act of the Parliament of Northern Ireland).

#### **41 Acts done under statutory authority**

- (1) Nothing in this Act shall render unlawful anything done in order to comply with a requirement—
  - (a) of an enactment enacted before the passing of this Act; or
  - (b) of an instrument made or approved (whether before or after the passing of this Act) under an enactment enacted before the passing of this Act.
- (2) Where an enactment enacted after the passing of this Act re-enacts (with or without modification) a provision of an enactment enacted before the passing of this Act, subsection (1) shall apply to that provision as re-enacted as if it continued to be contained in an enactment enacted before the passing of this Act.

#### **42 Acts done to safeguard national security, etc.**

- (1) This Act shall not apply to an act done for the purpose of safeguarding national security or of protecting public safety or public order.
- (2) A certificate signed by or on behalf of the Secretary of State and certifying that an act specified in the certificate was done for a purpose mentioned in subsection (1) shall be conclusive evidence that it was done for that purpose.
- (3) A document purporting to be a certificate such as is mentioned in subsection (2) shall be received in evidence and, unless the contrary is proved, shall be deemed to be such a certificate.