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STATUTORY INSTRUMENTS

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**1997 No. 869**

**The Race Relations (Northern Ireland) Order 1997**

**PART IV**

**OTHER UNLAWFUL ACTS**

**Discriminatory practices**

**28.**—(1) In this Article “discriminatory practice” means the application of a requirement or condition which—

- (a) results in an act of discrimination which is unlawful by virtue of any provision of Part II or III taken with Article 3(1)(b); or
  - (b) would be likely to result in such an act of discrimination if the persons to whom it is applied included persons of any particular racial group as regards which there has been no occasion for applying it.
- (2) A person acts in contravention of this Article if and so long as—
- (a) he applies a discriminatory practice; or
  - (b) he operates practices or other arrangements which in any circumstances would call for the application by him of a discriminatory practice.

(3) Proceedings in respect of a contravention of this Article shall be brought only by the Commission in accordance with Articles 55 to 59.

**Discriminatory advertisements**

**29.**—(1) It is unlawful to publish or to cause to be published an advertisement which indicates, or might reasonably be understood as indicating, an intention by a person to do an act of discrimination, whether the doing of that act by him would be lawful or, by virtue of Part II or III, unlawful.

(2) Paragraph (1) does not apply to an advertisement—

- (a) if the intended act would be lawful by virtue of any of Articles 6(5), 8, 9(3) and (4), 12(3), 25(5), 34(3)(b), 35 to 38 and 40; or
- (b) if the advertisement relates to the services of an employment agency (within the meaning of Article 16(1)) and the intended act only concerns employment which the employer could by virtue of Article 6(5), 8 or 9(3) or (4) lawfully refuse to offer to persons against whom the advertisement indicates an intention to discriminate.

(3) Paragraph (1) does not apply to an advertisement which indicates that persons of any class defined otherwise than by reference to colour, race or ethnic or national origins are required for employment outside Northern Ireland.

(4) The publisher of an advertisement made unlawful by paragraph (1) shall not be subject to any liability under that paragraph in respect of the publication of the advertisement if he proves—

- (a) that the advertisement was published in reliance on a statement made to him by the person who caused it to be published to the effect that, by reason of the operation of paragraph (2) or (3), the publication would not be unlawful; and
- (b) that it was reasonable for him to rely on the statement.

(5) A person who knowingly or recklessly makes a statement such as is mentioned in paragraph (4)(a) which in a material respect is false or misleading shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Instructions to discriminate**

**30.** It is unlawful for a person—

- (a) who has authority over another person; or
- (b) in accordance with whose wishes that other person is accustomed to act,

to instruct him to do any act which is unlawful by virtue of Part II or III, or procure or attempt to procure the doing by him of any such act.

### **Pressure to discriminate**

**31.—**(1) It is unlawful to induce, or attempt to induce, a person to do any act which contravenes Part II or III.

(2) An attempted inducement is not prevented from falling within paragraph (1) because it is not made directly to the person in question, if it is made in such a way that he is likely to hear of it.

### **Liability of employers and principals**

**32.—**(1) Anything done by a person in the course of his employment shall be treated for the purposes of this Order as done by his employer as well as by him, whether or not it was done with the employer's knowledge or approval.

(2) Anything done by a person as agent for another person with the authority of that other person shall be treated for the purposes of this Order as done by that other person as well as by him.

(3) Paragraph (2) applies whether the authority was—

- (a) express or implied; or
- (b) given before or after the act in question was done.

(4) Paragraphs (1) and (2) do not apply in relation to offences under this Order.

(5) In proceedings brought under this Order against any person in respect of an act alleged to have been done by an employee of his it shall be a defence for that person to prove that he took such steps as were reasonably practicable to prevent the employee from—

- (a) doing that act, or
- (b) doing, in the course of his employment, acts of that description.

### **Aiding unlawful acts**

**33.—**(1) A person who knowingly aids another person to do an act made unlawful by this Order shall be treated for the purposes of this Order as himself doing the same kind of unlawful act.

(2) For the purposes of paragraph (1) an employee or agent for whose act the employer or principal is liable under Article 32 (or would be so liable but for Article 32(5)) shall be taken to have aided the employer or principal to do the act.

(3) For the purposes of this Article, a person does not knowingly aid another to do an unlawful act if—

- (a) he acts in reliance on a statement made to him by that other person that, by reason of any provision of this Order, the act which he aids would not be unlawful; and
- (b) it is reasonable for him to rely on the statement.

(4) A person who knowingly or recklessly makes a statement such as is mentioned in paragraph (3)(a) which in a material respect is false or misleading shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.