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STATUTORY INSTRUMENTS

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**1997 No. 869**

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

**PART IX  
SUPPLEMENTAL**

**Application to Crown etc.**

**71.—**(1) This Order applies—

- (a) to an act done by or for purposes of a Minister of the Crown or government department; or
- (b) to an act done on behalf of the Crown by a statutory body, or a person holding a statutory office,

as it applies to an act done by a private person.

(2) Parts II and IV apply to—

- (a) service for purposes of a Minister of the Crown or government department, other than service of a person holding a statutory office; or
- (b) service on behalf of the Crown for purposes of a person holding a statutory office or purposes of a statutory body; or
- (c) service in the armed forces,

as they apply to employment by a private person, and shall so apply as if references to a contract of employment included references to the terms of service.

(3) Paragraphs (1) and (2) have effect subject to Article 17.

(4) Paragraph (2) of Article 10 and paragraph (4) of Article 27 shall have effect in relation to any ship, aircraft or hovercraft belonging to or possessed by Her Majesty in right of the Government of the United Kingdom as it has effect in relation to a ship, aircraft or hovercraft such as is mentioned in sub-paragraph (a) or (b) of the paragraph in question; and Article 10(3) shall apply accordingly.

(5) Nothing in this Order shall—

- (a) invalidate any rules (whether made before or after the making of this Order) restricting employment in the service of the Crown or by any public body prescribed for the purposes of this paragraph by regulations made by the Department of Finance and Personnel to persons of particular birth, nationality, descent or residence; or
- (b) render unlawful the publication, display or implementation of any such rules, or the publication of advertisements stating the gist of any such rules.

In this paragraph “employment” includes service of any kind, and “public body” means a body of persons, whether corporate or unincorporate, carrying on a service or undertaking of a public nature.

(6) The provisions of Parts II to IV of the Crown Proceedings Act 1947 shall apply to proceedings against the Crown under this Order as they apply to proceedings in Northern Ireland which by virtue of section 23 of that Act are treated for the purposes of Part II of that Act as civil proceedings by or against the Crown, except that in their application to proceedings under this Order section 20 of that Act (removal of proceedings from county court to High Court) shall not apply.

(7) This paragraph applies to any complaint by a person (“the complainant”) that another person—

- (a) has committed an act of discrimination against the complainant which is unlawful by virtue of Article 6; or
- (b) is by virtue of Article 32 or 33 to be treated as having committed such an act of discrimination against the complainant,

if at the time when the act complained of was done the complainant was serving in the armed forces and the discrimination in question relates to his service in those forces.

(8) No complaint to which paragraph (7) applies shall be presented to an industrial tribunal under Article 52 unless—

- (a) the complainant has made a complaint to an officer under the service redress procedures applicable to him and has submitted that complaint to the Defence Council under those procedures; and
- (b) the Defence Council has made a determination with respect to the complaint.

(9) The Secretary of State may by regulations make provision enabling a complaint to which paragraph (7) applies to be presented to an industrial tribunal under Article 52 in such circumstances as may be prescribed by the regulations, notwithstanding that paragraph (8) would otherwise preclude the presentation of the complaint to an industrial tribunal.

(10) Where a complaint is presented to an industrial tribunal under Article 52 by virtue of regulations under paragraph (9), the service redress procedures may continue after the complaint is so presented.

(11) Regulations under paragraph (9) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

(12) In this Article—

“armed forces” means any of the naval, military or air forces of the Crown;

“service for purposes of a Minister of the Crown or government department” does not include service in any office for the time being mentioned in Schedule 2 (Ministerial offices) to the House of Commons Disqualification Act 1975;

“the service redress procedures” means the procedures, excluding those which relate to the making of a report on a complaint to Her Majesty, referred to in section 180 of the Army Act 1955, section 180 of the Air Force Act 1955 and section 130 of the Naval Discipline Act 1957; and

“statutory body” means a body set up by or in pursuance of a statutory provision and “statutory office” means an office so set up.