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STATUTORY INSTRUMENTS

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**1997 No. 869**

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

**PART III**

**DISCRIMINATION IN OTHER FIELDS**

*Education*

**Discrimination by bodies in charge of educational establishments**

**18.**—(1) It is unlawful, in relation to an educational establishment falling within column 1 of the following table, for a person indicated in relation to the establishment in column 2 (the “responsible body”) to discriminate against a person—

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

TABLE

<i>Establishment</i>	<i>Responsible body</i>
<b>1.</b> Educational establishment which is grant-aided.	Education and library board or managers or governing body according to which of them has the function in question.
<b>2.</b> Independent school.	Proprietor.
<b>3.</b> University.	Governing body.
<b>4.</b> An establishment providing facilities for further education in respect of which contributions are paid to a body other than an education and library board under Article 100(8)(b) of the Education Reform (Northern Ireland) Order 1989.	Governing body.
<b>5.</b> A college of education— <ul style="list-style-type: none"><li>(a) maintained in pursuance of arrangements made by the Department of Education under Article 66(1) of the Education</li></ul>	<ul style="list-style-type: none"><li>(a) (a) The Department of Education.</li><li>(b) The managers.</li></ul>

<i>Establishment</i>	<i>Responsible body</i>
and Libraries (Northern Ireland) Order 1986;	
(b) in respect of which grants are paid by the Department of Education under Article 66(2) or (3) of that Order.	

(2) Subject to paragraph (3), words and expressions used in this Article, Article 19 or Article 20 to which a meaning is assigned by Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986 have the same meaning as in the 1986 Order.

(3) In this Article “pupil” includes any person who receives education at an establishment to which this Article applies.

### **Other discrimination by education and library boards**

19. It is unlawful for—

- (a) an education and library board, in carrying out such of its functions under the Education Orders as do not fall under Article 18; and
- (b) the Council for Catholic Maintained Schools, in carrying out its functions under the Education Orders,

to do any act which constitutes racial discrimination.

### **General duty in public sector of education**

20.—(1) Without prejudice to its obligation to comply with any other provision of this Order, a body to which this paragraph applies shall be under a general duty to secure that facilities for education provided by it, and any ancillary benefits or services, are provided without racial discrimination.

(2) Article 101 of the Education and Libraries (Northern Ireland) Order 1986 (power of Department of Education to give directions) shall apply to the performance by a body to which paragraph (1) applies of the duties imposed by Articles 18 and 19 and shall also apply to the performance of the general duty imposed by paragraph (1), as it applies to the performance by an education and library board of a duty imposed by the Education Orders.

(3) The sanctions in paragraph (2) shall be the only sanctions for breach of the general duty in paragraph (1), but without prejudice to the enforcement of Articles 18 and 19 under Article 54 or otherwise (where the breach is also a contravention of either of those Articles).

(4) Paragraph (1) applies to—

- (a) an education and library board; and
- (b) any other body which is a responsible body in relation to an establishment falling within paragraph 1, 4 or 5(b) of the table in Article 18(1).

### *Goods, facilities, services and premises*

### **Discrimination in provision of goods, facilities or services**

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

### **Discrimination in disposal or management of premises**

**22.**—(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 facilities, 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 21(1) and 22: small dwellings**

23.—(1) Where the conditions mentioned in paragraph (2) are satisfied—

- (a) Article 21(1) does not apply to the provision by a person of accommodation in any premises;
- (b) Article 22(1) does not apply to the disposal by a person of any premises;
- (c) Article 22(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 21(1), the person providing the accommodation or a near relative of his;
- (b) in a case falling within Article 22(1), the person with power to dispose of the premises, or a near relative of his;
- (c) in a case falling within Article 22(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 21(1) and 22**

**24.**—(1) Articles 21(1) and 22 do not apply—

- (a) to discrimination which is rendered unlawful by any provision of Part II or Article 18 or 19; or
- (b) to discrimination which would be rendered unlawful by any provision of Part II but for any of the following provisions, namely Articles 6(3) and (5), 8(1)(b), 9(4), 11 and 16(3).

(2) Article 21(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.

#### **Discrimination: associations not within Article 13**

**25.**—(1) This Article applies to any association of persons (however described, whether corporate or unincorporate, and whether or not its activities are carried on for profit) if—

- (a) it has 25 or more members; and
- (b) admission to membership is regulated by its constitution and is so conducted that the members do not constitute a section of the public within the meaning of Article 21(1); and
- (c) it is not an organisation to which Article 13 applies.

(2) It is unlawful for an association to which this Article applies, in the case of a person who is not a member of the association, to discriminate against him—

- (a) in the terms on which it is prepared to admit him to membership; or
- (b) by refusing or deliberately omitting to accept his application for membership.

(3) It is unlawful for an association to which this Article applies, in the case of a person who is a member or associate of the association, to discriminate against him—

- (a) in the way it affords him access to any benefits, facilities or services, or by refusing or deliberately omitting to afford him access to them; or
- (b) in the case of a member, by depriving him of membership, or varying the terms on which he is a member; or
- (c) in the case of an associate, by depriving him of his rights as an associate, or varying those rights; or
- (d) in either case, by subjecting him to any other detriment.

(4) For the purposes of this Article—

- (a) a person is a member of an association if he belongs to it by virtue of his admission to any sort of membership provided for by its constitution (and is not merely a person with certain rights under its constitution by virtue of his membership of some other association), and references to membership of an association shall be construed accordingly;
- (b) a person is an associate of an association to which this Article applies if, not being a member of it, he has under its constitution some or all of the rights enjoyed by members (or would have apart from any provision in its constitution authorising the refusal of those rights in particular cases).

(5) Nothing in this Article shall render unlawful any act not involving discrimination on the ground of colour done by an association to which paragraph (6) applies.

(6) This paragraph applies to an association if the main object of the association is to enable the benefits of membership (whatever they may be) to be enjoyed by persons of a particular racial group defined otherwise than by reference to colour.

(7) In determining whether that is the main object of an association regard shall be had to the essential character of the association and to all relevant circumstances including, in particular, the extent to which the affairs of the association are so conducted that the persons primarily enjoying the benefits of membership are of the racial group in question.

### *Barristers*

#### **Discrimination by, or in relation to, barristers**

**26.**—(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 a pupil, to discriminate against him—

- (a) in respect of any terms applicable to him as a pupil;
- (b) in the opportunities for training, or gaining experience, which are afforded or denied to him;
- (c) in the benefits, facilities or services 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 III**

**27.**—(1) Articles 18 to 20 do not apply to benefits, facilities or services outside Northern Ireland except—

- (a) travel on a ship registered at a port of registry in Northern Ireland; and
- (b) benefits, facilities or services provided on a ship so registered.

(2) Article 21(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 21(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 21(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,

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.