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## STATUTORY INSTRUMENTS

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# 1997 No. 869

## The Race Relations (Northern Ireland) Order 1997

### PART VIII

#### ENFORCEMENT

##### *Enforcement of Part III*

#### **Claims under Part III<sup>F1</sup> etc]**

**54.**—(1) A claim by any person (“the claimant”) that another person (“the respondent”)—

- (a) has committed an act<sup>F1</sup> . . . against the claimant which is unlawful by virtue of Part III<sup>F1</sup> other than, (in relation to discrimination on grounds of race or ethnic or national origins, or harassment), Article 26]; or
- (b) is by virtue of Article 32 or 33 to be treated as having committed such an act<sup>F1</sup> . . . against the claimant,

may be made the subject of civil proceedings in like manner as any other claim in tort for breach of statutory duty.

(2) Proceedings under paragraph (1) shall be brought only in a county court; but all such remedies shall be obtainable in such proceedings as, apart from this paragraph and Article 51(1), would be obtainable in the High Court.

(3) As respects an unlawful act of discrimination falling within Article 3(1)(b), no award of damages shall be made if the respondent proves that the requirement or condition in question was not applied with the intention of treating the claimant unfavourably on racial grounds.

(4) Damages in respect of an unlawful act of discrimination may include compensation for injury to feelings whether or not they include compensation under any other head.

(5) Civil proceedings in respect of a claim by any person that he has been discriminated against in contravention of Article 18 or 19 by a body to which Article 20(1) applies shall not be instituted unless—

- (a) the claimant has given notice of the claim to the Department of Education; and
- (b) [<sup>F1</sup>in relation to a claim on grounds of colour or nationality] either—
  - (i) the Department of Education has by notice informed the claimant that it does not require further time to consider the matter; or
  - (ii) the period of 2 months has elapsed since the claimant gave notice to the Department of Education.

(6) Nothing in paragraph (5) applies—

- (a) to a claim against the Department of Education; or
- (b) to a counterclaim.

(7) For the purposes of proceedings under paragraph (1)—

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*Changes to legislation: The Race Relations (Northern Ireland) Order 1997, Cross Heading: Enforcement of Part III is up to date with all changes known to be in force on or before 16 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (a) Article 33(1) (power of judge to appoint assessors) of the County Courts (Northern Ireland) Order 1980 shall apply with the omission of the words “on the application of any party”, and
- (b) the remuneration of assessors appointed under that Article shall be at such rate as may be determined by the Lord Chancellor with the approval of the Treasury and may be defrayed as part of the expenses of the Lord Chancellor.

(8) A county court shall have jurisdiction to entertain proceedings under paragraph (1) with respect to an act done on a ship, aircraft or hovercraft <sup>F2</sup>..., including such an act done outside Northern Ireland.

[<sup>F1</sup>(9) A county court shall have jurisdiction to entertain proceedings under this Order with respect to an act done outside the United Kingdom where Article 20A applies in relation to such an act by virtue of Article 27(1A).

(10) This Article has effect subject to Article 54A.]

**F1** SR 2003/341

**F2** Words in art. 54(8) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 113, Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

### [<sup>F3</sup>Claims under Article 20A in immigration cases

**54A.**—(1) No proceedings may be brought by a claimant under Article 54(1) in respect of an immigration claim if—

- (a) the act to which the claim relates was done in the taking by an immigration authority of a relevant decision and the question whether that act was unlawful by virtue of Article 20A has been or could be raised in proceedings on an appeal which is pending, or could be brought, under the 1997 Act or Part 5 of the 2002 Act; or
- (b) it has been decided in relevant immigration proceedings that that act was not unlawful by virtue of that Article.

(2) For the purposes of this Article an immigration claim is a claim that a person—

- (a) has committed a relevant act of discrimination against the claimant which is unlawful by virtue of Article 20A; or
- (b) is by virtue of Article 32 or 33 to be treated as having committed such an act of discrimination against the claimant.

(3) Where it has been decided in relevant immigration proceedings that an act to which an immigration claim relates was unlawful by virtue of Article 20A, any court hearing that claim under Article 54 shall treat that act as an act which is unlawful by virtue of Article 20A for the purposes of the proceedings before it.

(4) No relevant decision of an immigration authority involving an act to which an immigration claim relates and no relevant decision of an immigration appellate body in relation to such a decision shall be subject to challenge or otherwise affected by virtue of a decision of a court hearing the immigration claim under Article 54.

(5) In this Article—

“the Immigration Acts” has the meaning given by section 158 of the 2002 Act;

“immigration appellate body” means an adjudicator appointed for the purposes of Part 5 of the 2002 Act, the Immigration Appeal Tribunal, the Special Immigration Appeals Commission, the Court of Appeal, the Court of Session or the House of Lords;

“immigration authority” means the Secretary of State, an immigration officer or a person responsible for the grant or refusal of entry clearance (within the meaning of section 33(1) of the Immigration Act 1971;

“immigration claim” has the meaning given by paragraph (2);

“pending” has the same meaning as in the 1997 Act or, as the case may be, Part 5 of the 2002 Act;

“relevant act of discrimination” means an act of discrimination on the grounds of race or ethnic or national origins, or harassment done by an immigration authority in taking any relevant decision;

“relevant decision” means—

- (a) in relation to an immigration authority, any decision under the Immigration Acts relating to the entitlement of the claimant to enter or remain in the United Kingdom; and
- (b) in relation to an immigration appellate body, any decision on an appeal under the 1997 Act or Part 5 of the 2002 Act in relation to a decision falling within sub-paragraph (a);

“relevant immigration proceedings” means proceedings on an appeal under the 1997 Act or Part 5 of the 2002 Act;

“the 1997 Act” means the Special Immigration Appeals Commission Act 1997;

“the 2002 Act” means the Nationality, Immigration and Asylum Act 2002;

and for the purposes of paragraph (1)(a), any power to grant leave to appeal out of time shall be disregarded.

[  
<sup>F4</sup>(6) This Article applies in relation to reviews under section 2D of the 1997 Act as it applies in relation to appeals under that Act.]]

**F3** SR 2003/341

**F4** Art. 54A(6) inserted (25.6.2013) by [Justice and Security Act 2013 \(c. 18\)](#), s. 20(1), [Sch. 2 para. 10](#); [S.I. 2013/1482](#), art. 2 (with arts. 3, 4)

#### [<sup>F5</sup>**Burden of proof: county court**

**54B.**—(1) This Article applies where a claim is brought under Article 54 and the claim is that the respondent—

- (a) has committed an act of discrimination, on grounds of race or ethnic or national origins which is unlawful by virtue of any provision referred to in Article 3(1B)(b) to (d), or Part IV in its application to those provisions, or
- (b) has committed an act of harassment.

(2) Where, on the hearing of the claim, the claimant proves facts from which the court could, apart from this Article, conclude in the absence of an adequate explanation that the respondent—

- (a) has committed such an act of discrimination or harassment against the claimant, or
- (b) is by virtue of Article 32 or 33 to be treated as having committed such an act of discrimination or harassment against the claimant,

the court shall uphold the claim unless the respondent proves that he did not commit or, as the case may be, is not to be treated as having committed that act.]

**F5** SR 2003/341

**Changes to legislation:**

The Race Relations (Northern Ireland) Order 1997, Cross Heading: Enforcement of Part III is up to date with all changes known to be in force on or before 16 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- Instrument am. (prosp.) by [1998 c. 17 s.50 Sch.4 para.41](#)
- Instrument am. (prosp.) by [1998 c. 32 s.74\(1\)Sch.4 para.24](#)