
STATUTORY RULES OF NORTHERN IRELAND

2003 No. 341

**Race Relations Order (Amendment)
Regulations (Northern Ireland) 2003**

Collective agreements and rules of undertaking

53. After Article 68 of the Race Relations Order insert –

“Collective agreements and rules of undertakings

68A.—(1) This Article applies to –

- (a) any term of a collective agreement, including an agreement which was not intended, or is presumed not to have been intended, to be a legally enforceable contract;
- (b) any rule made by an employer for application to all or any of the persons who are employed by him or who apply to be, or are, considered by him for employment;
- (c) any rule made by an organisation to which Article 13 (trade organisations) applies, or by a body to which Article 14 (qualifying bodies) applies, for application to –
 - (i) all or any of its members or prospective members; or
 - (ii) all or any of the persons on whom it has conferred authorisations or qualifications or who are seeking the authorisations or qualifications which it has power to confer.

(2) Any term or rule to which this Article applies is void where –

- (a) the making of the collective agreement is, by reason of the inclusion of the term, unlawful on grounds of race or ethnic or national origins, by virtue of a provision referred to in Article 3(1B);
- (b) the term or rule is included or made in furtherance of an act which is unlawful on such grounds by virtue of such a provision; or
- (c) the term or rule provides for the doing of such an act.

(3) Paragraph (2) applies whether the agreement was entered into, or the rule made, before, on or after 19th July 2003; but in the case of an agreement entered into, or a rule made, before that date, that paragraph does not apply in relation to any period before that date.

(4) In this Article, and in Article 68B, “collective agreement” means any agreement relating to one or more of the matters mentioned in Article 96(1) of the Industrial Relations (Northern Ireland) Order 1992(1) (meaning of trade dispute), being an agreement made by or on behalf of one or more employers or one or more organisations of employers or associations of such organisations with one or more organisations of workers or associations of such organisations.

68B.—(1) A person to whom this paragraph applies may present a complaint to an industrial tribunal that a term or rule is void by virtue of Article 68A if he has reason to believe –

- (a) that the term or rule may at some future time have effect in relation to him; and
- (b) where he alleges that it is void by virtue of Article 68(2)(c), that –
 - (i) an act for the doing of which it provides may at some such time be done in relation to him, and
 - (ii) the act would be rendered unlawful on grounds of race or ethnic or national origins by a provision referred to in Article 3(1B) if done in relation to him in present circumstances.

(2) In the case of a complaint about –

- (a) a term of a collective agreement made by or on behalf of –
 - (i) an employer;
 - (ii) an organisation of employers of which an employer is a member; or
 - (iii) an association of such organisations of one of which an employer is a member; or
- (b) a rule made by an employer, within the meaning of Article 68A(1)(b);

paragraph (1) applies to any person who is, or is genuinely and actively seeking to become, one of his employees.

(3) In the case of a complaint about a rule made by an organisation or body to which Article 68A(1)(c) applies, paragraph (1) applies to any person –

- (a) who is, or is genuinely and actively seeking to become, a member of the organisation, or body;
- (b) on whom the organisation, or body has conferred an authorisation or qualification, or
- (c) who is genuinely and actively seeking an authorisation or qualification which the organisation, or body has power to confer.

(4) When an industrial tribunal finds that a complaint presented to it under paragraph (1) is well-founded the tribunal shall make an order declaring that the term or rule is void.

(5) An order under paragraph (4) may include provision as respects any period before the making of the order (but after 19th July 2003).

(6) The avoidance by virtue of Article 68A(2) of any term or rule which provides for any person to be discriminated against shall be without prejudice to the following rights (except in so far as they enable any person to require another person to be treated less favourably than himself) namely –

- (a) such of the rights of the person to be discriminated against, and
- (b) such of the rights of any person who will be treated more favourably in direct or indirect consequence of the discrimination,

as are conferred by or in respect of a contract made or modified wholly or partly in pursuance of, or by reference to, that term or rule.”.