



# Northern Ireland Act 1998

## 1998 CHAPTER 47

### PART VII

#### HUMAN RIGHTS AND EQUAL OPPORTUNITIES

##### *Human rights*

#### **68 The Northern Ireland Human Rights Commission.**

- (1) There shall be a body corporate to be known as the Northern Ireland Human Rights Commission.
- (2) The Commission shall consist of a Chief Commissioner and other Commissioners appointed by the Secretary of State.
- (3) In making appointments under this section, the Secretary of State shall as far as practicable secure that the Commissioners, as a group, are representative of the community in Northern Ireland.
- (4) Schedule 7 (which makes supplementary provision about the Commission) shall have effect.

#### **Commencement Information**

- II** S. 68 wholly in force at 1.3.1999; s. 68 not in force at Royal Assent see s. 101(3); s. 68 in force for certain purposes at 15.2.1999 and for all other purposes at 1.3.1999 by S.I. 1999/340, art. 2(1), **Sch. Pt. 1**

#### **69 The Commission's functions.**

- (1) The Commission shall keep under review the adequacy and effectiveness in Northern Ireland of law and practice relating to the protection of human rights.

*Status: Point in time view as at 01/08/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Act 1998, Part VII. (See end of Document for details)*

- (2) The Commission shall, before the end of the period of two years beginning with the commencement of this section, make to the Secretary of State such recommendations as it thinks fit for improving—
- (a) its effectiveness;
  - (b) the adequacy and effectiveness of the functions conferred on it by this Part; and
  - (c) the adequacy and effectiveness of the provisions of this Part relating to it.
- (3) The Commission shall advise the Secretary of State and the Executive Committee of the Assembly of legislative and other measures which ought to be taken to protect human rights—
- (a) as soon as reasonably practicable after receipt of a general or specific request for advice; and
  - (b) on such other occasions as the Commission thinks appropriate.
- (4) The Commission shall advise the Assembly whether a Bill is compatible with human rights—
- (a) as soon as reasonably practicable after receipt of a request for advice; and
  - (b) on such other occasions as the Commission thinks appropriate.
- (5) The Commission may—
- (a) give assistance to individuals in accordance with section 70; and
  - (b) bring proceedings involving law or practice relating to the protection of human rights.
- (6) The Commission shall promote understanding and awareness of the importance of human rights in Northern Ireland; and for this purpose it may undertake, commission or provide financial or other assistance for—
- (a) research; and
  - (b) educational activities.
- (7) The Secretary of State shall request the Commission to provide advice of the kind referred to in paragraph 4 of the Human Rights section of the Belfast Agreement.
- [<sup>F1</sup>(8A) The Commission shall publish a report of its findings on an investigation.]
- (8) For the purpose of exercising its functions under this section the Commission may conduct such investigations as it considers necessary or expedient.
- (9) The Commission may decide to publish its advice and the outcome of its research  
<sup>F2</sup> . . . .
- (10) The Commission shall do all that it can to ensure the establishment of the committee referred to in paragraph 10 of that section of that Agreement.
- (11) In this section—
- (a) a reference to the Assembly includes a reference to a committee of the Assembly;
  - (b) “human rights” includes the Convention rights.

*Status: Point in time view as at 01/08/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Act 1998, Part VII. (See end of Document for details)*

#### Textual Amendments

- F1** S. 69(8A) inserted (1.8.2007) by Justice and Security (Northern Ireland) Act 2007 (c. 6), ss. 18(1), 53; S.I. 2007/2045, art. 2(2)(3)(j) (with art. 3)
- F2** Words in s. 69(9) omitted (1.8.2007) and repealed (prosp.) by virtue of Justice and Security (Northern Ireland) Act 2007 (c. 6), ss. 18(2), 50, 53, Sch. 7; S.I. 2007/2045, art. 2(2)(3)(j) (with art. 3)

#### Modifications etc. (not altering text)

- C1** S. 69(2) modified (1.8.2007) by Justice and Security (Northern Ireland) Act 2007 (c. 6), ss. 19, 53; S.I. 2007/2045, art. 2(2)(3)(j) (with art. 3)

#### Commencement Information

- I2** S. 69 wholly in force at 2.12.1999; s. 69 not in force at Royal Assent see s. 101(3); s. 69(1)-(3) in force for specified purposes and 69(6)-(11) in force at 1.3.1999 by S.I. 1999/340, art. 2(3), Sch. Pt. 3; s. 69(5) in force at 1.6.1999 by S.I. 1999/340, art. 2(5), Sch. Pt. 4; s. 69(4) in force and s. 69(3) in force insofar as not already in force at 2.12.1999 by S.I. 1999/3209, art. 2, Sch.

### [<sup>F3</sup> 69A Investigations: evidence

- (1) For the purpose of an investigation under section 69(8) the Commission may by notice in writing require a person—
  - (a) to provide information in his possession,
  - (b) to produce documents in his possession, or
  - (c) to give oral evidence.
- (2) A notice may include provision about—
  - (a) the form of information, documents or evidence;
  - (b) timing.
- (3) A notice—
  - (a) may not require a person to provide information that he is prohibited from disclosing by virtue of an enactment,
  - (b) may not require a person to do anything that he could not be compelled to do in proceedings before the High Court, and
  - (c) may not require a person to attend at a place unless the Commission undertakes to pay the expenses of his journey.
- (4) The Commission may issue a notice under subsection (1) only if it has—
  - (a) considered whether the matter to which the notice relates has already been sufficiently investigated by another person, and
  - (b) concluded that it has not.
- (5) The recipient of a notice may apply to a county court to have the notice cancelled on the grounds that the requirement imposed by the notice—
  - (a) is unnecessary having regard to the purpose of the investigation to which the notice relates,
  - (b) contravenes subsection (4) or section 69D, or
  - (c) is otherwise unreasonable.
- (6) Subsection (7) applies where the Commission thinks that a person—
  - (a) has failed without reasonable excuse to comply with a notice, or

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- (b) is likely to fail without reasonable excuse to comply with a notice.
- (7) The Commission may apply to a county court for an order requiring a person to take such steps as may be specified in the order to comply with the notice.
- (8) A person commits an offence if without reasonable excuse he—
- (a) fails to comply with a notice,
  - (b) fails to comply with an order under subsection (7),
  - (c) falsifies anything provided or produced in accordance with a notice or order, or
  - (d) makes a false statement in giving oral evidence in accordance with a notice.
- (9) A person who is guilty of an offence under subsection (8) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (10) A notice under this section may not require the Public Prosecution Service for Northern Ireland to supply documents or evidence about a decision whether or not to institute or continue criminal proceedings.

#### Textual Amendments

**F3** Ss. 69A, 69B inserted (1.8.2007) by [Justice and Security \(Northern Ireland\) Act 2007 \(c. 6\)](#), **ss. 15, 53** (with s. 20); [S.I. 2007/2045](#), **art. 2(2)(3)(j)** (with art. 3)

### 69B Investigations: national security

- (1) Where a person is given a notice under section 69A(1) he shall disregard it, and notify the Commission that he is disregarding it, in so far as he thinks it would require him—
- (a) to disclose sensitive information within the meaning of paragraph 4 of Schedule 3 to the Intelligence Services Act 1994 (c. 13) (Intelligence and Security Committee),
  - (b) to disclose information which might lead to the identification of an employee or agent of an intelligence service (other than one whose identity is already known to the Commission),
  - (c) to disclose information which might provide details of processes used in recruiting, selecting or training employees or agents of an intelligence service,
  - (d) to disclose information which might provide details of, or cannot practicably be separated from, information falling within any of paragraphs (a) to (c),
  - (e) to make a disclosure of information relating to an intelligence service which would prejudice the interests of national security, or
  - (f) to make a disclosure of information relating to the Police Service of Northern Ireland which would prejudice the interests of national security.
- (2) Where in response to a notice under section 69A(1) a person gives a notice to the Commission under subsection (1) above—
- (a) section 69A(7) and (8) shall not apply in relation to that part of the notice under section 69A(1) to which the notice under subsection (1) above relates,
  - (b) the Commission may apply to the tribunal established by section 65 of the Regulation of Investigatory Powers Act 2000 (c. 23) for an order requiring the person to take such steps as may be specified in the order to comply with the notice,

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- (c) the following provisions of that Act shall apply in relation to proceedings under this subsection as they apply in relation to proceedings under that Act (with any necessary modifications)—
    - (i) section 67(7), (8) and (10) to (12) (determination),
    - (ii) section 68 (procedure), and
    - (iii) section 69 (rules), and
  - (d) the tribunal shall determine proceedings under this subsection by considering the opinion of the person who gave the notice under subsection (1) above in accordance with the principles that would be applied by a court on an application for judicial review of the giving of the notice.
- (3) Where the Commission receives information or documents from or relating to an intelligence service in response to a notice under section 69A(1), the Commission shall store and use the information or documents in accordance with any arrangements specified by the Secretary of State.
- (4) The recipient of a notice under section 69A(1) may apply to the High Court to have the notice cancelled on the grounds that the requirement imposed by the notice is undesirable for reasons of national security, other than for the reason that it would require a disclosure of a kind to which subsection (1) above applies.
- (5) An investigation under section 69(8) may not consider—
- (a) whether an intelligence service has acted (or is acting) in a way which is incompatible with a person's human rights, or
  - (b) other matters concerning human rights in relation to an intelligence service.
- (6) In this section “intelligence service” means—
- (a) the Security Service,
  - (b) the Secret Intelligence Service, and
  - (c) the Government Communications Headquarters.]

#### Textual Amendments

**F3** Ss. 69A, 69B inserted (1.8.2007) by [Justice and Security \(Northern Ireland\) Act 2007 \(c. 6\)](#), **ss. 15, 53** (with s. 20); [S.I. 2007/2045](#), **art. 2(2)(3)(j)** (with art. 3)

#### [<sup>F4</sup>69C Investigations: places of detention

- (1) For the purpose of an investigation under section 69(8) a person authorised in writing by the Commission may enter a specified place of detention in Northern Ireland on one or more occasions during a specified period.
- (2) In subsection (1) “specified” means specified in the terms of reference of the investigation.
- (3) In subsection (1) “place of detention” means—
  - (a) a prison specified in the Schedule to the Prisons and Young Offenders Centres Rules (Northern Ireland) 1995,
  - (b) a place used for the purpose of detaining arrested persons in a police station designated under Article 36 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)),

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- (c) a place designated under paragraph 1 of Schedule 8 to the Terrorism Act 2000 (c. 11) (detention),
  - (d) in a building where a court sits, a place used for the purpose of detaining arrested persons,
  - (e) a juvenile justice centre provided under Article 51 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)),
  - (f) the secure accommodation in Bangor provided and used in accordance with Article 44 of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)),
  - (g) a removal centre or short-term holding facility within the meaning of section 147 of the Immigration and Asylum Act 1999 (c. 33), and
  - (h) any accommodation (including accommodation in a hospital) provided for the purpose of detention under the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)).
- (4) The Commission may specify a place of detention in the terms of reference of an investigation only if it has—
- (a) considered whether the matter in respect of which the place is specified has already been sufficiently investigated by another person, and
  - (b) concluded that it has not.
- (5) The power under subsection (1) may not be exercised—
- (a) during the period of 15 days beginning with that on which copies of the terms of reference of the investigation are provided in accordance with section 69D(1)(b), or
  - (b) while an application under subsection (6), made during that period, has not yet been determined.
- (6) A county court may, on the application of a person who appears to the court to be responsible for a place of detention specified in terms of reference—
- (a) order that the power under subsection (1) may not be used to enter the place of detention;
  - (b) impose restrictions on the exercise of the power in relation to the place of detention;
  - (c) require the Commission to amend the terms of reference.
- (7) An order may be made under subsection (6) only if the court thinks that—
- (a) access to the place of detention is unnecessary having regard to the purpose of the investigation,
  - (b) it would be unreasonable to allow the Commission access to the place of detention, or
  - (c) the Commission has failed to comply with subsection (4) or section 69D.
- (8) In considering whether to make an order under subsection (6), and in considering the terms of an order under subsection (6)(b), the court shall have regard, in particular, to the likely impact of the use of the power under subsection (1) on the operation of the place of detention.
- (9) If a person obstructs the Commission in the exercise of the power under subsection (1) the Commission may apply to a county court for an order requiring the person not to obstruct the Commission.

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- (10) A person commits an offence if without reasonable excuse he fails to comply with an order under subsection (9).
- (11) A person who is guilty of an offence under subsection (10) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (12) The Secretary of State may by order amend subsection (3).]

#### Textual Amendments

**F4** S. 69C inserted (1.8.2007) by [Justice and Security \(Northern Ireland\) Act 2007 \(c. 6\)](#), [ss. 16\(1\)](#), 53 (with s. 20); [S.I. 2007/2045](#), [art. 2\(2\)\(3\)\(j\)](#) (with art. 3)

#### [<sup>F5</sup>69D Investigations: terms of reference

- (1) A power under section 69A(1) or 69C(1) may be used in relation to an investigation only if the Commission has—
  - (a) prepared terms of reference for the investigation in advance, and
  - (b) sent a copy of the terms of reference to—
    - (i) any person identified in them,
    - (ii) a person responsible for any place of detention specified in them, and
    - (iii) any other person whom the Commission thinks may be affected by the investigation.
- (2) Terms of reference must specify a period within which the investigation must be concluded.
- (3) Subsection (2) does not prevent the Commission from commencing (in accordance with this Part) a new investigation of matters arising out of, or incompletely considered in, an earlier investigation.]

#### Textual Amendments

**F5** S. 69D inserted (1.8.2007) by [Justice and Security \(Northern Ireland\) Act 2007 \(c. 6\)](#), [ss. 17\(1\)](#), 53; [S.I. 2007/2045](#), [art. 2\(2\)\(3\)\(j\)](#) (with art. 3)

#### 70 Assistance by Commission.

- (1) This section applies to—
  - (a) proceedings involving law or practice relating to the protection of human rights which a person in Northern Ireland has commenced, or wishes to commence; or
  - (b) proceedings in the course of which such a person relies, or wishes to rely, on such law or practice.
- (2) Where the person applies to the Northern Ireland Human Rights Commission for assistance in relation to proceedings to which this section applies, the Commission may grant the application on any of the following grounds—
  - (a) that the case raises a question of principle;

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- (b) that it would be unreasonable to expect the person to deal with the case without assistance because of its complexity, or because of the person's position in relation to another person involved, or for some other reason;
  - (c) that there are other special circumstances which make it appropriate for the Commission to provide assistance.
- (3) Where the Commission grants an application under subsection (2) it may—
- (a) provide, or arrange for the provision of, legal advice;
  - (b) arrange for the provision of legal representation;
  - (c) provide any other assistance which it thinks appropriate.
- (4) Arrangements made by the Commission for the provision of assistance to a person may include provision for recovery of expenses from the person in certain circumstances.

## 71 Restrictions on application of rights.

- (1) Nothing in [F<sup>6</sup>section 6(2)(c) or 24(1)(a)] shall enable a person—
- (a) to bring any proceedings in a court or tribunal on the ground that any legislation or act is incompatible with the Convention rights; or
  - (b) to rely on any of the Convention rights in any such proceedings,
- unless he would be a victim for the purposes of article 34 of the Convention if proceedings in respect of the legislation or act were brought in the European Court of Human Rights.
- (2) Subsection (1) does not apply to the Attorney General, the Attorney General for Northern Ireland, the Advocate General for Scotland or the Lord Advocate.

[F<sup>7</sup>(2A) Subsection (1) does not apply to the Commission.

- (2B) In relation to the Commission's instituting, or intervening in, human rights proceedings—
- (a) the Commission need not be a victim or potential victim of the unlawful act to which the proceedings relate,
  - (b) section 7(3) and (4) of the Human Rights Act 1998 (c. 42) (breach of Convention rights: sufficient interest, &c.) shall not apply,
  - (c) the Commission may act only if there is or would be one or more victims of the unlawful act, and
  - (d) no award of damages may be made to the Commission (whether or not the exception in section 8(3) of that Act applies).
- (2C) For the purposes of subsection (2B)—
- (a) “human rights proceedings” means proceedings which rely (wholly or partly) on—
    - (i) section 7(1)(b) of the Human Rights Act 1998, or
    - (ii) section 69(5)(b) of this Act, and
  - (b) an expression used in subsection (2B) and in section 7 of the Human Rights Act 1998 has the same meaning in subsection (2B) as in section 7.]
- (3) Section 6(2)(c)—
- (a) does not apply to a provision of an Act of the Assembly if the passing of the Act is, by virtue of subsection (2) of section 6 of the <sup>MI</sup>Human Rights Act 1998, not unlawful under subsection (1) of that section; and



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- (b) does not enable a court or tribunal to award in respect of the passing of an Act of the Assembly any damages which it could not award on finding the passing of the Act unlawful under that subsection.
- (4) Section 24(1)(a)—
  - (a) does not apply to an act which, by virtue of subsection (2) of section 6 of the Human Rights Act 1998, is not unlawful under subsection (1) of that section; and
  - (b) does not enable a court or tribunal to award in respect of an act any damages which it could not award on finding the act unlawful under that subsection.
- (5) In this section “the Convention” has the same meaning as in the Human Rights Act 1998.

**Textual Amendments**

- F6** Words in s. 71(1) substituted (1.8.2007) by Justice and Security (Northern Ireland) Act 2007 (c. 6), ss. 14(1), 53; S.I. 2007/2045, art. 2(2)(3)(j) (with art. 3)
- F7** S. 71(2A)-(2C) inserted (1.8.2007) by Justice and Security (Northern Ireland) Act 2007 (c. 6), ss. 14(2), 53; S.I. 2007/2045, art. 2(2)(3)(j) (with art. 3)

**Commencement Information**

- I3** S. 71 fully in force; s. 71 not in force at Royal Assent see s. 101(3); s. 71(1) in force for specified purposes at 1.6.1999 by S.I. 1999/340, art. 2(5), Sch. Pt. 4; s. 71(2)(5) in force at 1.6.1999 by S.I. 1999/340, art. 2(5), Sch. Pt. 4; s. 71(3)(4) in force and s. 71(1) in force insofar as not already in force at 2.12.1999 by S.I. 1999/3209, art. 2, Sch.

**Marginal Citations**

- M1** 1998 c.42.

**72 Standing Advisory Commission on Human Rights: dissolution.**

**F8** .....

**Textual Amendments**

- F8** S. 72 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), s. 1, {Sch. 1 Pt. 5 Group 11}

*Equality of opportunity*

**73 The Equality Commission for Northern Ireland.**

- (1) There shall be a body corporate to be known as the Equality Commission for Northern Ireland.
- (2) The Commission shall consist of not less than 14 nor more than 20 Commissioners appointed by the Secretary of State.
- (3) The Secretary of State shall appoint—
  - (a) one Commissioner as Chief Commissioner; and
  - (b) at least one Commissioner as Deputy Chief Commissioner.

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*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Act 1998, Part VII. (See end of Document for details)*

- (4) In making appointments under this section, the Secretary of State shall as far as practicable secure that the Commissioners, as a group, are representative of the community in Northern Ireland.
- (5) Schedule 8 (which makes supplementary provision about the Commission) shall have effect.

#### **Modifications etc. (not altering text)**

**C2** S. 73(5): transfer of certain functions (1.12.1999) by S.R. 1999/481, arts. 1, 4, **Sch. 2 Pt. I**

#### **Commencement Information**

**I4** S. 73 partly in force; s. 73 not in force at Royal Assent see s. 101(3); s. 73 in force for specified purposes at 15.2.1999 by S.I. 1999/340, art. 2(2), **Sch. Pt. 2**; s. 73(1) in force for further specified purposes and s. 73(2)-(5) in force at 2.8.1999 and s. 73(1) in force for further specified purposes at 1.10.1999 by S.I. 1999/2204, **arts. 2, 3**

## **74 The Commission's principal functions.**

- (1) The functions exercisable by the bodies listed in subsection (2) shall instead be exercisable by the Equality Commission; and the bodies listed are hereby dissolved.
- (2) Those bodies are—
- (a) the Fair Employment Commission for Northern Ireland;
  - (b) the Equal Opportunities Commission for Northern Ireland;
  - (c) the Commission for Racial Equality for Northern Ireland;
  - (d) the Northern Ireland Disability Council.
- (3) In exercising its functions the Equality Commission shall—
- (a) aim to secure an appropriate division of resources between the functions previously exercisable by each of the bodies listed in subsection (2); and
  - (b) have regard to advice offered by a consultative council.
- (4) In subsection (3) “consultative council” means a group of persons selected by the Commission to advise in relation to the functions previously exercisable by one of the bodies listed in subsection (2) or in relation to the Commission's functions under Schedule 9.
- (5) The Secretary of State may by order make such supplemental, incidental or consequential provision as appears to him to be appropriate as a result of subsections (1) and (2).
- (6) In particular, an order may include provision—
- (a) amending an enactment;
  - (b) for the transfer of rights and liabilities;
  - (c) for payments into the Consolidated Fund or to a specified person.

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*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Act 1998, Part VII. (See end of Document for details)*

#### Commencement Information

- I5** S. 74 wholly in force at 1.10.1999; s. 74 not in force at Royal Assent see s. 101(3); s. 74 in force at 21.6.1999 for specified purposes by S.I. 1999/1753, art. 2; s. 74 in force at 1.10.1999 insofar as not in force already by S.I. 1999/2204, art. 3

### 75 Statutory duty on public authorities.

- (1) A public authority shall in carrying out its functions relating to Northern Ireland have due regard to the need to promote equality of opportunity—
- (a) between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
  - (b) between men and women generally;
  - (c) between persons with a disability and persons without;
- and
- (d) between persons with dependants and persons without.
- (2) Without prejudice to its obligations under subsection (1), a public authority shall in carrying out its functions relating to Northern Ireland have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.
- (3) In this section “public authority” means—
- (a) any department, corporation or body listed in Schedule 2 to the <sup>M2</sup>Parliamentary Commissioner Act 1967 (departments, corporations and bodies subject to investigation) and designated for the purposes of this section by order made by the Secretary of State;
  - (b) any body (other than the Equality Commission) listed in Schedule 2 to the <sup>M3</sup>Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation);
  - (c) any department or other authority listed in Schedule 2 to the <sup>M4</sup>Ombudsman (Northern Ireland) Order 1996 (departments and other authorities subject to investigation);
  - [<sup>F9</sup>(cc) the Northern Ireland Policing Board, the Chief Constable of the Police Service of Northern Ireland and the Police Ombudsman for Northern Ireland;]
  - [<sup>F10</sup>(cd) the Director of Public Prosecutions for Northern Ireland;]
  - [<sup>F11</sup>(ce) the Chief Inspector of Criminal Justice in Northern Ireland;
  - (cf) the Northern Ireland Law Commission;]
  - (d) any other person designated for the purposes of this section by order made by the Secretary of State.
- (4) Schedule 9 (which makes provision for the enforcement of the duties under this section) shall have effect.
- [<sup>F12</sup>(4A) The references in subsections (1) and (2) and Schedule 9 to the functions of the Director of Public Prosecutions for Northern Ireland do not include any of his functions relating to the prosecution of offences.]
- (5) In this section—

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“disability” has the same meaning as in the <sup>M5</sup>Disability Discrimination Act 1995; and

“racial group” has the same meaning as in the <sup>M6</sup>Race Relations (Northern Ireland) Order 1997.

#### Textual Amendments

- F9** S. 75(3)(cc) inserted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 24(2)**; S.R. 2001/396, **art. 2 Sch.**
- F10** S. 75(3)(cd) inserted (1.6.2006) by 2002 c. 26, ss. 38(2), 87(1); S.R. 2005/281, **art. 5**
- F11** S. 75(3)(ce)(cf) inserted (1.1.2005 for certain purposes and otherwise 16.4.2007) by 2002 c. 26, ss. 85, 87(1), **Sch. 12 para. 63**; S.R. 2004/502, **art. 2(b)**; S.R. 2007/237, **art. 2**, Sch. para. 6(c)
- F12** S. 75(4A) inserted (1.6.2006) by 2002 c. 26, ss. 38(3), 87(1); S.R. 2005/281, **art. 5**

#### Commencement Information

- I6** S. 75 wholly in force at 1.1.2000; s. 75 not in force at Royal Assent see s. 101(3); s. 75(3)(a)(d) in force for specified purposes at 1.3.1999 by S.I. 1999/340, **art. 2(4)**; s. 75(4) in force for further specified purposes at 1.10.1999 by S.I. 1999/2204, **art. 3**; s. 75 in force at 1.1.2000 insofar as not already in force by S.I. 1999/2204, **art. 4**

#### Marginal Citations

- M2** 1967 c.13.
- M3** S.I. 1996/1297 (N.I.7).
- M4** S.I. 1996/1298 (N.I.8).
- M5** 1995 c.50.
- M6** S.I. 1997/869 (N.I.6).

## 76 Discrimination by public authorities.

- (1) It shall be unlawful for a public authority carrying out functions relating to Northern Ireland to discriminate, or to aid or incite another person to discriminate, against a person or class of person on the ground of religious belief or political opinion.
- (2) An act which contravenes this section is actionable in Northern Ireland at the instance of any person adversely affected by it; and the court may—
  - (a) grant damages;
  - (b) subject to subsection (3), grant an injunction restraining the defendant from committing, causing or permitting further contraventions of this section.
- (3) Without prejudice to any other power to grant an injunction, a court may grant an injunction under subsection (2) only if satisfied that the defendant—
  - (a) contravened this section on the occasion complained of and on more than one previous occasion; and
  - (b) is likely to contravene this section again unless restrained by an injunction.
- (4) This section does not apply in relation to any act or omission which is unlawful by virtue of the [<sup>F13</sup>Fair Employment and Treatment (Northern Ireland) Order 1998], or would be unlawful but for some exception made by virtue of [<sup>F13</sup>Part VIII of that Order].
- (5) Subsection (1) applies to the making, confirmation or approval of subordinate legislation only if—

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- (a) the legislation contains a provision which discriminates against a person or class of person on the ground of religious belief or political opinion; and
  - (b) the provision extends only to the whole or any part of Northern Ireland.
- (6) Where it is alleged that subsection (1) applies to the making, confirmation or approval of subordinate legislation, subsection (2) shall not apply but the contravention may be relied upon in legal proceedings relating to the validity of the subordinate legislation.
- (7) The following are public authorities for the purposes of this section—
- (a) a Minister of the Crown;
  - (b) any department, corporation or body listed in Schedule 2 to the <sup>M7</sup>Parliamentary Commissioner Act 1967 (departments, corporations and bodies subject to investigation);
  - (c) any body listed in Schedule 2 to the <sup>M8</sup>Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation);
  - (d) any authority (other than a Northern Ireland department) listed in Schedule 2 to the <sup>M9</sup>Ombudsman (Northern Ireland) Order 1996 (departments and other authorities subject to investigation);
  - [<sup>F14</sup>(e) the Police Service of Northern Ireland, the Police Service of Northern Ireland Reserve and the Police Ombudsman for Northern Ireland;]
  - [<sup>F15</sup>(ea) the Director of Public Prosecutions for Northern Ireland;]
  - (f) the Probation Board for Northern Ireland; and
  - [<sup>F16</sup>(fa) the Chief Inspector of Criminal Justice in Northern Ireland;
  - (fb) the Northern Ireland Law Commission;]
  - (g) [<sup>F17</sup>a universal service provider (within the meaning of the Postal Services Act 2000) so far as carrying out functions in connection with the provision of a universal postal service (within the meaning of that Act)].
- [<sup>F18</sup>(8) This section does not apply to a decision of the Director of Public Prosecutions for Northern Ireland not to institute, or to discontinue, criminal proceedings or, where such a decision has been made, to any act done for the purpose of enabling the decision whether to institute or continue the proceedings to be made or for securing that the proceedings are discontinued.
- (9) No injunction may be granted in respect of a contravention of this section by the Director of Public Prosecutions for Northern Ireland unless the court is satisfied that it would not prejudice any decision to institute criminal proceedings or any criminal proceedings.
- (10) Where a party to proceedings for a contravention of this section applies for a stay of those proceedings on the ground of prejudice to a decision to institute criminal proceedings, or of prejudice to particular criminal proceedings, the court must grant the stay unless it is satisfied that continuance of the proceedings for the contravention would not result in the prejudice alleged.]

#### Textual Amendments

- F13** Words in s. 76(4) substituted (1.3.1999) by [S.I. 1998/3162 \(N.I. 21\)](#), art. 105(1), [Sch. 3](#); [S.R. 1999/81](#), [art. 3\(1\)](#)
- F14** S. 76(7)(e) substituted (30.3.2001) by [2000 c. 32](#), s. 78(1), [Sch. 6 para. 24\(3\)](#); [S.R. 2001/132](#), art. 2, [Sch.](#)
- F15** S. 76(7)(ea) inserted (1.6.2006) by [2002 c. 26](#), ss. 38(4), 87(1); [S.R. 2005/281](#), [art. 5](#)

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- F16** S. 76(7)(fa)(fb) inserted (1.1.2005 for certain purposes and otherwise 16.4.2007) by 2002 c. 26, ss. 85, 87(1), Sch. 12 para. 64; S.R. 2004/502, **art. 2(b)**; S.R. 2007/237, **art. 2**, Sch. para. 6(c)
- F17** Words in s. 76(7)(g) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 121**
- F18** S. 76(8)(9)(10) inserted (1.6.2006) by 2002 c. 26, ss. 38(5), 87(1); S.R. 2005/281, **art. 5**

#### Marginal Citations

- M7** 1967 c.13.
- M8** S.I. 1996/1297 (N.I.7).
- M9** S.I. 1996/1298 (N.I.8).

## 77 Unlawful oaths etc.

- (1) Subject to subsections (2) and (3), an authority or body to which this section applies may not require a person to take an oath or make a declaration as a condition of—
- being appointed to the authority or body;
  - acting as a member of the authority or body; or
  - servicing with or being employed by the authority or body.
- (2) Subsection (1) shall not prevent a person being required to take an oath, or make a declaration, which is expressly required or authorised by the law in force immediately before this section comes into force.
- (3) Subsection (1) shall not prevent a person being required to make a declaration—
- of acceptance of office;
  - that he is qualified to act, serve or be employed in a capacity; or
  - that he is not disqualified from acting, serving or being employed in a capacity.
- (4) This section applies to—
- the Assembly;
  - the Northern Ireland Assembly Commission;
  - any body listed in Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation);
  - any authority (other than a Northern Ireland department) listed in Schedule 2 to the <sup>M10</sup>Ombudsman (Northern Ireland) Order 1996 (departments and other authorities subject to investigation); and
  - the Probation Board for Northern Ireland.
- (5) Subsections (1) to (3) apply with the necessary modifications to a Minister and a Northern Ireland department.
- (6) An act which contravenes this section is actionable in Northern Ireland at the instance of any person adversely affected by it; and the court may—
- grant damages;
  - subject to subsection (7), grant an injunction restraining the defendant from committing, causing or permitting further contraventions of this section.
- (7) Without prejudice to any other power to grant an injunction, a court may grant an injunction under subsection (6) only if satisfied that the defendant—
- contravened this section on the occasion complained of and on more than one previous occasion; and
  - is likely to contravene this section again unless restrained by an injunction.

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- (8) In this section a reference to a declaration includes a reference to any kind of undertaking or affirmation, by whatever name.

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**Marginal Citations**

**M10** [S.I. 1996/1298 \(N.I.8\)](#).

**78 Removal of restrictions on investigation into maladministration.**

- (1) The provisions mentioned in subsection (2) (which preclude an investigation when the person aggrieved has or had a remedy by way of proceedings in a court of law) shall not apply to an investigation of a complaint alleging maladministration involving—
- (a) discrimination, or aiding or inciting any person to discriminate, on the ground of religious belief or political opinion; or
  - (b) a requirement in contravention of section 77 to take an oath or make a declaration (within the meaning of that section).
- (2) The provisions are—
- (a) section 5(2)(b) of the <sup>M11</sup>Parliamentary Commissioner Act 1967;
  - (b) Article 9(3)(b) of the <sup>M12</sup>Commissioner for Complaints (Northern Ireland) Order 1996; and
  - (c) Article 10(3)(b) of the Ombudsman (Northern Ireland) Order 1996.

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**Marginal Citations**

**M11** [1967 c.13](#).

**M12** [S.I. 1996/1297 \(N.I.7\)](#).

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**Changes to legislation:**

There are currently no known outstanding effects for the Northern Ireland Act 1998, Part VII.