



# Northern Ireland Act 1998

## 1998 CHAPTER 47

### PART VII

#### HUMAN RIGHTS AND EQUAL OPPORTUNITIES

##### *Equality of opportunity*

#### **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 [F1Fair Employment and Treatment (Northern Ireland) Order 1998], or would be unlawful but for some exception made by virtue of [F1Part VIII of that Order].
- (5) Subsection (1) applies to the making, confirmation or approval of subordinate legislation only if—
  - (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.

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*Status: Point in time view as at 01/10/2011. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Act 1998, Section 76. (See end of Document for details)*

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- (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>M1</sup>Parliamentary Commissioner Act 1967 (departments, corporations and bodies subject to investigation);
  - (c) any body listed in Schedule 2 to the <sup>M2</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>M3</sup>Ombudsman (Northern Ireland) Order 1996 (departments and other authorities subject to investigation);
  - [<sup>F2</sup>(e) the Police Service of Northern Ireland, the Police Service of Northern Ireland Reserve and the Police Ombudsman for Northern Ireland;]
  - [<sup>F3</sup>(ea) the Director of Public Prosecutions for Northern Ireland;]
  - (f) the Probation Board for Northern Ireland; and
  - [<sup>F4</sup>(fa) the Chief Inspector of Criminal Justice in Northern Ireland;
  - (fb) the Northern Ireland Law Commission;]
  - (g) [<sup>F5</sup>a universal service provider (within the meaning of [<sup>F6</sup>Part 3 of the Postal Services Act 2011] ) so far as carrying out functions in connection with the provision of a universal postal service (within the meaning of [<sup>F7</sup>that Part] )].
- [<sup>F8</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.]
- [<sup>F9</sup>(11) The reference in subsection (1) to the functions of the Director of Public Prosecutions for Northern Ireland does not include any of the functions conferred on him by, or in relation to, Part 5 or 8 of the Proceeds of Crime Act 2002 (c. 29) (civil recovery of the proceeds etc. of unlawful conduct, civil recovery investigations and disclosure orders in relation to confiscation investigations).]

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#### Textual Amendments

- F1** 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\(1\)](#)

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- F2** 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.**
- F3** S. 76(7)(ea) inserted (1.6.2006) by 2002 c. 26, ss. 38(4), 87(1); S.R. 2005/281, **art. 5**
- F4** 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)**
- F5** Words in s. 76(7)(g) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 121**
- F6** Words in s. 76(7)(g) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 153(a)**; S.I. 2011/2329, art. 3
- F7** Words in s. 76(7)(g) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 153(b)**; S.I. 2011/2329, art. 3
- F8** S. 76(8)(9)(10) inserted (1.6.2006) by 2002 c. 26, ss. 38(5), 87(1); S.R. 2005/281, **art. 5**
- F9** S. 76(11) inserted (1.4.2008) by Serious Crime Act 2007 (c. 27), ss. 74(2), 94, **Sch. 8 para. 158(2)**; S.I. 2008/755, **art. 2(1)(a)** (subject to arts. 3-14))

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

- C1** S. 76(1) excluded (6.4.2008) by Serious Crime Act 2007 (c. 27), ss. 37, 94, **Sch. 2 para. 19**; S.I. 2008/755, **art. 15(h)**

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**Marginal Citations**

- M1** 1967 c.13.
- M2** S.I. 1996/1297 (N.I.7).
- M3** S.I. 1996/1298 (N.I.8).

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Northern Ireland Act 1998, Section 76.