

## SCHEDULES

### SCHEDULE 2

Article 73

#### AMENDMENTS

##### *The Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

**1.—**(1) In Part II of Schedule 1 (bodies of which all members are disqualified), insert at the appropriate place in alphabetical order—

“The Commission for Racial Equality for Northern Ireland”.

(2) In Part III of Schedule 1 (other disqualifying offices) insert at the appropriate place in alphabetical order—

“Additional Commissioner of the Commission for Racial Equality for Northern Ireland.”.

##### *The Estate Agents Act 1979 (c. 38)*

**2.—**(1) In section 5(3) (provisions not affecting power of Director to make orders) after “Order 1976” insert “or Article 51 of the Race Relations (Northern Ireland) Order 1997” and for “that Order” substitute “those Orders”.

(2) In Schedule I in paragraph 5 for the words from “and there shall he” to the end substitute—

“**6.** In the application of paragraphs 2 to 4 above to Northern Ireland references to the 1976 Act shall be construed as references to the Race Relations (Northern Ireland) Order 1997, and in particular the references to sections 29, 30, 31, 57, 62, 63(2)(a) and (4) and 78(1) and (4) of the 1976 Act shall be construed as references to Articles 29, 30, 31, 54, 59, 60(2)(a) and (4) and 2(2) and (3) respectively of that Order.”.

##### *The Fair Employment (Northern Ireland) Act 1989 (c. 32)*

**3.—**(1) In section 6(1) (matters relating to unfair dismissal or sex discrimination to be heard and determined by the Fair Employment Tribunal)—

(a) in paragraph (a) after sub-paragraph (ii) add—

“(iii) a person has committed an act of discrimination against the complainant which is unlawful by virtue of Part II of the Race Relations (Northern Ireland) Order 1997; or”;

(b) in paragraph (b) after “Order 1976” insert “or the Race Relations (Northern Ireland) Order 1997”.

(2) In section 6(3)(b) for the words from the beginning to “shall apply” substitute “none of the following, namely—

- (i) Article 63(3) of the Sex Discrimination (Northern Ireland) Order 1976;
- (ii) Article 11(5) of the Industrial Tribunals (Northern Ireland) Order 1996;
- (iii) Article 52(3) of the Race Relations (Northern Ireland) Order 1997,

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shall apply”.

*The Broadcasting Act 1990 (c. 42)*

4. In section 108(2) (requirement of national licence as to promotion of equality of opportunity in employment) at the end add “or, in Northern Ireland, the Race Relations (Northern Ireland) Order 1997”.

*The Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990 (NI 2)*

5. After Article 13 (exemption of Sikhs from requirements as to wearing of safety helmets on construction sites) insert—

**“Protection of Sikhs from racial discrimination in connection with requirements as to wearing of safety helmets**

13A.—(1) Where—

- (a) any person applies to a Sikh any requirement or condition relating to the wearing by him of a safety helmet while he is on a construction site; and
- (b) at the time when he so applies the requirement or condition that person has no reasonable grounds for believing that the Sikh would not wear a turban at all times when on such a site,

then, for the purpose of determining whether the application of the requirement or condition to the Sikh constitutes an act of discrimination falling within Article 3(1)(b) of the Race Relations (Northern Ireland) Order 1997 (indirect racial discrimination), the requirement or condition shall be taken to be one which cannot be shown to be justifiable as mentioned in Article 3(1)(b)(ii) of that Order.

(2) Any special treatment afforded to a Sikh in consequence of Article 13(1) or (2) shall not be regarded for the purposes of the Race Relations (Northern Ireland) Order 1997 as giving rise, in relation to any other person, to any discrimination falling within Article 3 of that Order.

(3) Paragraphs (7) and (8) of Article 13 shall apply for the purposes of this Article as they apply for the purposes of that Article.”.

*The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992 (NI 6)*

6.—(1) In Article 19(1) after “Article 20” insert “, 20A”.

(2) After Article 20 insert—

**“Race relations matters**

20A.—(1) Except to the extent permitted by paragraph (2) Article 67 of the Race Relations (Northern Ireland) Order 1997 (councils to have regard to need to eliminate unlawful racial discrimination and promote equality of opportunity, and good relations, between persons of different racial groups) shall not require or authorise a council to exercise any function regulated by Article 19 by reference to a non-commercial matter.

(2) Subject to paragraph (3), nothing in Article 19 shall preclude a council from—

- (a) asking approved questions seeking information or undertakings relating to workforce matters and considering the responses to them, or

(b) including in a draft contract or draft tender for a contract terms or provisions relating to workforce matters and considering the responses to them, if, as the case may be, consideration of the information, the giving of the undertaking or the inclusion of the term is reasonably necessary to secure compliance with Article 67 of the 1997 Order.

(3) Paragraph (2) does not apply to the function of terminating a subsisting contract and, in relation to functions as respects approved lists or proposed contracts, does not authorise questions in other than written form.

(4) Where it is permissible under paragraph (2) to ask a question it is also permissible to make, if it is in writing, an approved request for evidence in support of an answer to the question.

(5) The Department may specify—

- (a) questions which are to be approved questions for the purposes of this Article; and
- (b) descriptions of evidence which, in relation to approved questions, are to be approved descriptions of evidence for those purposes.

(6) Any specification under paragraph (5)—

- (a) shall be in writing; and
- (b) may include such transitional and consequential provisions as appear to the Department to be necessary or expedient.

(7) In this Article—

“approved question” means a question for the time being specified by the Department under paragraph (5);

“approved request for evidence” means a request for evidence of a description for the time being specified by the Department under paragraph (5) in relation to an approved question;

“workforce matters” means matters falling within sub-paragraph (a), but no other sub-paragraph, of Article 19(4).”.

#### *The Commissioner for Complaints (Northern Ireland) Order 1996 (NI 7)*

7. In Schedule 2 (bodies subject to investigation) at the appropriate place in alphabetical order insert—

“The Commission for Racial Equality for Northern Ireland”.

#### *The Employment Rights (Northern Ireland) Order 1996 (NI 16)*

8.—(1) In Article 15(3) (reinstatement or re-engagement of dismissed employee) at the end add “or

- (d) a complaint under Article 52 of the Race Relations (Northern Ireland) Order 1997 arising out of a dismissal.”.

(2) In Article 15(4)(a) (relevant compromise contracts) at the end of head (i) insert “or” and after head (iii) add—

“(iv) Article 68(6)(b) of the Race Relations (Northern Ireland) Order 1997, or”.

(3) In Article 151(6) (cases where employer may incur higher additional award) at the end add “and

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(c) a dismissal which is an act of discrimination within the meaning of the Race Relations (Northern Ireland) Order 1997 which is unlawful by virtue of that Order.”.

(4) In Article 160 (acts which are both unfair dismissal and discrimination) for paragraph (1) substitute—

“(1) Where compensation falls to be awarded in respect of any act both under—

(a) the provisions of this Order relating to unfair dismissal, and

(b) either or both of the Sex Discrimination (Northern Ireland) Order 1976 and the Race Relations (Northern Ireland) Order 1997,

an industrial tribunal shall not award compensation under any one of those two or three Orders in respect of any loss or other matter which is or has been taken into account under the other, or any of the others, by the tribunal (or another industrial tribunal) in awarding compensation on the same or another complaint in respect of that act.”.

*The Broadcasting Act 1996 (c. 55)*

9. In section 34(2) (requirement of certain licences as to promotion of equality of opportunity in employment) after “1976” insert “or, in Northern Ireland, the Race Relations (Northern Ireland) Order 1997”.

*The Industrial Tribunals (Northern Ireland) Order 1996 (NI 18)*

10. In Article 20(1)(a) (conciliation) at the end add

“or

(iv) Article 52 of the Race Relations (Northern Ireland) Order 1997;”.