
STATUTORY INSTRUMENTS

1997 No. 869

The Race Relations (Northern Ireland) Order 1997

PART IX

SUPPLEMENTAL

Application to Crown etc.

71.—(1) This Order applies—

- (a) to an act done by or for purposes of a Minister of the Crown or government department; or
- (b) to an act done on behalf of the Crown by a statutory body, or a person holding a statutory office,

as it applies to an act done by a private person.

(2) Parts II and IV apply to—

- (a) service for purposes of a Minister of the Crown or government department, other than service of a person holding a statutory office; or
- (b) service on behalf of the Crown for purposes of a person holding a statutory office or purposes of a statutory body; or
- (c) service in the armed forces,

as they apply to employment by a private person, and shall so apply as if references to a contract of employment included references to the terms of service.

[^{F1}(2A) Paragraphs (1) and (2) do not apply in relation to the provisions mentioned in paragraph (2B).

(2B) Articles 20A to 20D bind the Crown and the other provisions of this Order so far as they relate to those provisions shall be construed accordingly (including, in particular, references to employment in Part IV).]

(3) Paragraphs (1)[^{F1} to (2B)] have effect subject to[^{F2} Articles 72A and 72B].

[^{F3}(4) Paragraph (2) of Article 10 shall have effect in relation to any aircraft belonging to or possessed by Her Majesty in right of the Government of the United Kingdom as it has effect in relation to an aircraft such as is mentioned in that paragraph.

(4A) Article 11 shall have effect in relation to any ship or hovercraft belonging to or possessed by Her Majesty in right of the Government of the United Kingdom as it has effect in relation to a ship or hovercraft such as is mentioned in that Article.

(4B) Paragraph (4) of Article 27 shall have effect in relation to any ship, aircraft or hovercraft belonging to or possessed by Her Majesty in right of the Government of the United Kingdom as it has effect in relation to a ship, aircraft or hovercraft such as is mentioned in that paragraph.]

(5) Nothing in this Order shall—

- (a) invalidate any rules (whether made before or after the making of this Order) restricting employment in the service of the Crown or by any public body prescribed for the purposes

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of this paragraph by regulations made by the Department of Finance and Personnel to persons of particular birth, nationality, descent or residence; or

- (b) render unlawful the publication, display or implementation of any such rules, or the publication of advertisements stating the gist of any such rules.

In this paragraph “employment” includes service of any kind, and “public body” means a body of persons, whether corporate or unincorporate, carrying on a service or undertaking of a public nature.

(6) The provisions of Parts II to IV of the Crown Proceedings Act 1947 shall apply to proceedings against the Crown under this Order as they apply to proceedings in Northern Ireland which by virtue of section 23 of that Act are treated for the purposes of Part II of that Act as civil proceedings by or against the Crown, except that in their application to proceedings under this Order section 20 of that Act (removal of proceedings from county court to High Court) shall not apply.

(7) This paragraph applies to any complaint by a person (“the complainant”) that another person—

- (a) has committed an act of discrimination against the complainant which is unlawful by virtue of Article 6; or
- (b) is by virtue of Article 32 or 33 to be treated as having committed such an act of discrimination against the complainant,

if at the time when the act complained of was done the complainant was serving in the armed forces and the discrimination in question relates to his service in those forces.

(8) No complaint to which paragraph (7) applies shall be presented to an industrial tribunal under Article 52 unless—

- (a) the complainant has made [^{F4}a service complaint in respect of the act complained of] ; and
- [^{F5}(b) the complaint has not been withdrawn.]

[^{F6}(8A) Where the service complaint is dealt with by a person or panel appointed by the Defence Council by virtue of section 340C(1)(a) of the Armed Forces Act 2006, it is to be treated for the purposes of paragraph (8)(b) as withdrawn if—

- (a) the period allowed in accordance with service complaints regulations for bringing an appeal against the person's or panel's decision expires, ^{F7}...

[there are grounds (of which the complainant is aware) on which the complainant is entitled ^{F8}(aa) to bring such an appeal, and]

- (b) either—
 - (i) the complainant does not apply to the Service Complaints Ombudsman for a review by virtue of section [^{F9}340D(6)(a)] of that Act (review of decision that appeal brought out of time cannot proceed), or
 - (ii) the complainant does apply for such a review and the Ombudsman decides that an appeal against the person's or panel's decision cannot be proceeded with.]

^{F10}(9)

[^{F11}(10) The presentation of a complaint to an industrial tribunal in reliance on paragraph (8) does not affect the continuation of the procedures set out in service complaints regulations.]

^{F12}(11)

(12) In this Article—

“armed forces” means any of the naval, military or air forces of the Crown;

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“service for purposes of a Minister of the Crown or government department” does not include service in any office for the time being mentioned in Schedule 2 (Ministerial offices) to the House of Commons Disqualification Act 1975;

[^{F13} “ service complaint ” means a complaint under [^{F14}section 340A] of the Armed Forces Act 2006;]

[^{F15}“service complaints regulations” means regulations made under section 340B(1) of that Act;]

^{F16} ...

“statutory body” means a body set up by or in pursuance of a statutory provision and “statutory office” means an office so set up.

- F1** SR 2003/341
- F2** 2000 c.32
- F3** Art. 71(4)(4A)(4B) substituted for art. 71(4) (9.7.2012) by [The Race Relations Order 1997 \(Amendment\) Order \(Northern Ireland\) 2012 \(S.R. 2012/263\)](#), arts. 1(3), **8**
- F4** Words in art. 71(8)(a) substituted (1.1.2008) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383(2), **Sch. 16 para. 150(2)(a)**; S.I. 2007/2913, **art. 3**
- F5** Art. 71(8)(b) substituted (1.1.2016) by [Armed Forces \(Service Complaints and Financial Assistance\) Act 2015 \(c. 19\)](#), s. 7(1), **Sch. para. 8(2)**; S.I. 2015/1957, reg. 2 (with savings and transitional provisions in S.I. 2015/1969)
- F6** Art. 71(8A) inserted (1.1.2016) by [Armed Forces \(Service Complaints and Financial Assistance\) Act 2015 \(c. 19\)](#), s. 7(1), **Sch. para. 8(3)**; S.I. 2015/1957, reg. 2 (with savings and transitional provisions in S.I. 2015/1969)
- F7** Word in art. 71(8A)(a) omitted (1.5.2022 for specified purposes, 15.6.2022 in so far as not already in operation) by virtue of [Armed Forces Act 2021 \(c. 35\)](#), s. 24(1), **Sch. 3 para. 3(a)**; S.I. 2022/471, reg. 2(d); S.I. 2022/625, reg. 2
- F8** Art. 71(8A)(aa) inserted (1.5.2022 for specified purposes, 15.6.2022 in so far as not already in operation) by [Armed Forces Act 2021 \(c. 35\)](#), s. 24(1), **Sch. 3 para. 3(b)**; S.I. 2022/471, reg. 2(d); S.I. 2022/625, reg. 2
- F9** Word in art. 71(8A)(b)(i) substituted (1.5.2022 for specified purposes, 15.6.2022 in so far as not already in operation) by [Armed Forces Act 2021 \(c. 35\)](#), s. 24(1), **Sch. 3 para. 3(c)**; S.I. 2022/471, reg. 2(d); S.I. 2022/625, reg. 2
- F10** Art. 71(9) omitted (1.1.2016) by virtue of [Armed Forces \(Service Complaints and Financial Assistance\) Act 2015 \(c. 19\)](#), s. 7(1), **Sch. para. 8(4)**; S.I. 2015/1957, reg. 2 (with savings and transitional provisions in S.I. 2015/1969)
- F11** Art. 71(10) substituted (1.1.2016) by [Armed Forces \(Service Complaints and Financial Assistance\) Act 2015 \(c. 19\)](#), s. 7(1), **Sch. para. 8(5)**; S.I. 2015/1957, reg. 2 (with savings and transitional provisions in S.I. 2015/1969)
- F12** Art. 71(11) omitted (1.1.2016) by virtue of [Armed Forces \(Service Complaints and Financial Assistance\) Act 2015 \(c. 19\)](#), s. 7(1), **Sch. para. 8(6)**; S.I. 2015/1957, reg. 2 (with savings and transitional provisions in S.I. 2015/1969)
- F13** In art. 71(12) definitions of "service complaint" and "the service complaint procedures" substituted (1.1.2008) for the definition of "the service redress procedures" by [Armed Forces Act 2006 \(c.52\)](#), ss. 378(1), 383(2), **Sch. 16 para. 150(4)**; S.I. 2007/2913, **art. 3**
- F14** Words in art. 71(12) substituted (1.1.2016) by [Armed Forces \(Service Complaints and Financial Assistance\) Act 2015 \(c. 19\)](#), s. 7(1), **Sch. para. 8(7)(a)**; S.I. 2015/1957, reg. 2 (with savings and transitional provisions in S.I. 2015/1969)
- F15** Words in art. 71(12) inserted (1.1.2016) by [Armed Forces \(Service Complaints and Financial Assistance\) Act 2015 \(c. 19\)](#), s. 7(1), **Sch. para. 8(7)(b)**; S.I. 2015/1957, reg. 2 (with savings and transitional provisions in S.I. 2015/1969)

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F16 Words in art. 71(12) omitted (1.1.2016) by virtue of [Armed Forces \(Service Complaints and Financial Assistance\) Act 2015 \(c. 19\), s. 7\(1\), Sch. para. 8\(7\)\(c\)](#); S.I. 2015/1957, reg. 2 (with savings and transitional provisions in S.I. 2015/1969)

Modifications etc. (not altering text)

- C1** Art. 71(8) modified (24.4.2009) by [Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\), arts. 1\(2\)\(b\), 196\(1\)\(g\)](#)
- C2** Art. 71(10) modified (24.4.2009) by [Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\), arts. 1\(2\)\(b\), 196\(2\)\(g\)](#)

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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](#)