
STATUTORY INSTRUMENTS

1997 No. 869

The Race Relations (Northern Ireland) Order 1997

PART III

DISCRIMINATION IN OTHER FIELDS

Education

^{F1} . . . bodies in charge of educational establishments

18.—(1) It is unlawful, in relation to an educational establishment falling within column 1 of the following table, for a person indicated in relation to the establishment in column 2 (the “responsible body”) to discriminate against a person—

- (a) in the terms on which it offers to admit him to the establishment as a pupil; or
- (b) by refusing or deliberately omitting to accept an application for his admission to the establishment as a pupil; or
- (c) where he is a pupil of the establishment—
 - (i) in the way it affords him access to any benefits, facilities or services, or by refusing or deliberately omitting to afford him access to them; or
 - (ii) by excluding him from the establishment or subjecting him to any other detriment.

TABLE

<i>Establishment</i>	<i>Responsible body</i>
1. Educational establishment which is grant-aided.	[^{F2} Education Authority] or managers or governing body according to which of them has the function in question.
2. Independent school.	Proprietor.
3. University.	Governing body.
[^{F3} 4. An establishment providing further education in respect of which grants are paid under Article 5(1)(b) of the Further Education (Northern Ireland) Order 1997]	[^{F3} Governing body.]
[^{F4} 5.College of education]	[^{F4} The managers]

[^{F1}(1A) It is unlawful for a responsible body, in relation to an establishment falling within column 1 of the table in paragraph (1), to subject to harassment—

- (a) a person who applies for admission to the establishment as a pupil; or
- (b) a pupil at the establishment.]

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(2) Subject to paragraph (3), words and expressions used in this Article, Article 19 or Article 20 to which a meaning is assigned by Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986 have the same meaning as in the 1986 Order.

(3) In this Article “pupil” includes any person who receives education at an establishment to which this Article applies.

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|-----------|---|
| F1 | SR 2003/341 |
| F2 | Words in art. 18(1) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12) , Sch. 3 para. 17(1) (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b) |
| F3 | 1997 NI 15 |
| F4 | 2005 NI 13 |

Other discrimination^[F5] etc.] by ^[F6]the Education Authority]

19. It is unlawful for—

- (a) ^[F7]the Education Authority] , in carrying out such of its functions under the Education Orders as do not fall under Article 18; and
- (b) the Council for Catholic Maintained Schools, in carrying out its functions under the Education Orders,

to do any act which constitutes racial discrimination^[F5] or harassment].

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|-----------|---|
| F5 | SR 2003/341 |
| F6 | Words in art. 19 heading substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12) , Sch. 3 para. 17(2)(a) (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b) |
| F7 | Words in art. 19(a) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12) , Sch. 3 para. 17(2)(b) (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b) |

General duty in public sector of education

20.—(1) Without prejudice to its obligation to comply with any other provision of this Order, a body to which this paragraph applies shall be under a general duty to secure that facilities for education provided by it, and any ancillary benefits or services, are provided without racial discrimination.

(2) Article 101 of the Education and Libraries (Northern Ireland) Order 1986 (power of Department of Education to give directions) shall apply to the performance by a body to which paragraph (1) applies of the duties imposed by Articles 18 and 19 and shall also apply to the performance of the general duty imposed by paragraph (1), as it applies to the performance by ^[F8]the Education Authority] of a duty imposed by the Education Orders.

(3) The sanctions in paragraph (2) shall be the only sanctions for breach of the general duty in paragraph (1), but without prejudice to the enforcement of Articles 18 and 19 under Article 54 or otherwise (where the breach is also a contravention of either of those Articles).

(4) Paragraph (1) applies to—

- (a) ^[F9]the Education Authority] ; and
- (b) any other body which is a responsible body in relation to an establishment falling within paragraph 1, 4 or 5(b) of the table in Article 18(1).

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- F8** Words in [art. 20\(2\)](#) substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\), Sch. 3 para. 17\(3\)](#) (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)
- F9** Words in [art. 20\(4\)\(a\)](#) substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\), Sch. 3 para. 17\(3\)](#) (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

[^{F10}Public authorities

20A.—(1) It is unlawful for a public authority—

- (a) to discriminate against a person on the grounds of race or ethnic or national origins, or
- (b) to subject a person to harassment

in the course of carrying out any functions of the authority which consist of the provision of:

- (i) any form of social security;
- (ii) healthcare;
- (iii) any other form of social protection, or
- (iv) any form of social advantage,

which does not fall within Article 21.

(2) In this Article “public authority”:

- (a) includes any person certain of whose functions are functions of a public nature; but
- (b) does not include any person mentioned in paragraph (3).

(3) The persons mentioned in this paragraph are—

- (a) either House of Parliament;
- (b) a person exercising functions in connection with proceedings in Parliament;
- (c) the Assembly;
- (d) a person exercising functions in connection with proceedings in the Assembly;
- (e) the Security Service;
- (f) the Secret Intelligence Service;
- (g) the Government Communications Headquarters; and
- (h) any unit or part of a unit of any of the naval, military or air forces of the Crown which is for the time being required by the Secretary of State to assist the Government Communications Headquarters in carrying out its functions.

(4) In relation to a particular act, a person is not a public authority by virtue only of paragraph (2)

(a) if the nature of the act is private.

(5) This Article is subject to Articles 20B to 20D.

(6) Nothing in this Article makes unlawful any act of discrimination on the grounds of race or ethnic or national origins, or harassment, which—

- (a) is made unlawful by virtue of any other provision of this Order; or
- (b) would be so made but for any provision made by or under this Order.]

F10 SR 2003/341

[^{F11}Exceptions or further exceptions from Article 20A for judicial and legislative acts etc

20B.—(1) Article 20A does not apply to—

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- (a) any judicial act, whether done by a court, tribunal or other person; or
 - (b) any act done on the instructions, or on behalf, of a person acting in a judicial capacity.
- (2) Article 20A does not apply to any act of, or relating to, making, confirming or approving any statutory provision.
- (3) Article 20A does not apply to any act of, or relating to, making or approving arrangements or imposing requirements or conditions, of a kind excepted by Article 40.
- (4) Article 20A does not apply to any act of, or relating to, imposing a requirement, or giving an express authorisation, of a kind mentioned in Article 20C(3) in relation to the carrying out of immigration functions.
- (5) In this Article “immigration functions” has the meaning given in Article 20C.]

F11 SR 2003/341

[^{F12}Exception from Article 20A for certain acts in immigration cases

20C.—(1) Article 20A does not make it unlawful for a relevant person to discriminate against another person on grounds of ethnic or national origins in carrying out immigration functions.

- (2) For the purposes of paragraph (1), “relevant person” means—
 - (a) a Minister of the Crown acting personally; or
 - (b) any other person acting in accordance with a relevant authorisation.
- (3) In paragraph (2), “relevant authorisation” means a requirement imposed or express authorisation given—
 - (a) with respect to a particular case or class of case, by a Minister of the Crown acting personally;
 - (b) with respect to a particular class of case by any of the statutory provisions mentioned in paragraph (5).
- (4) In paragraph (1), “immigration functions” means functions exercisable by virtue of any of the statutory provisions mentioned in paragraph (5).
- (5) Those statutory provisions are—
 - (a) the Immigration Acts (within the meaning of section 158 of the Nationality, Immigration and Asylum Act 2002 but excluding sections 28A to 28K of the Immigration Act 1971 so far as they relate to offences under Part III of that Act);
 - (b) the Special Immigration Appeals Commission Act 1997;
 - (c) provision made under section 2(2) of the European Communities Act 1972 which relates to immigration or asylum; and
 - (d) any provision of Community law which relates to immigration or asylum.]

F12 SR 2003/341

[^{F13}Exceptions from Article 20A for decisions not to prosecute etc

- 20D.** Article 20A does not apply to—
- (a) a decision not to institute criminal proceedings and, where such a decision has been made, any act done for the purpose of enabling the decision whether to institute criminal proceedings to be made;

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- (b) where criminal proceedings are not continued as a result of a decision not to continue them, the decision and where such a decision has been made:
 - (i) any act done for the purpose of enabling the decision whether to continue the proceedings to be made; and
 - (ii) any act done for the purpose of securing that the proceedings are not continued.]

F13 SR 2003/341

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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](#)