



Northern Ireland Act 1998

1998 CHAPTER 47

PART VII

HUMAN RIGHTS AND EQUAL OPPORTUNITIES

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.
- (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.

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;

Status: This is the original version (as it was originally enacted).

- (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.

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 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 Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation);
 - (c) any department or other authority listed in Schedule 2 to the Ombudsman (Northern Ireland) Order 1996 (departments and other authorities subject to investigation);
 - (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.
- (5) In this section—
“disability” has the same meaning as in the Disability Discrimination Act 1995; and
“racial group” has the same meaning as in the Race Relations (Northern Ireland) Order 1997.

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 Fair Employment (Northern Ireland) Act 1976, or would be unlawful but for some exception made by virtue of Part V of that Act.
- (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.
- (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 Parliamentary Commissioner Act 1967 (departments, corporations and bodies subject to investigation);
(c) any body listed in Schedule 2 to the 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 Ombudsman (Northern Ireland) Order 1996 (departments and other authorities subject to investigation);

Status: This is the original version (as it was originally enacted).

- (e) the Police Authority for Northern Ireland, the Royal Ulster Constabulary and the Royal Ulster Constabulary Reserve;
- (f) the Probation Board for Northern Ireland; and
- (g) the Post Office.

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—
 - (a) being appointed to the authority or body;
 - (b) acting as a member of the authority or body; or
 - (c) serving 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—
 - (a) of acceptance of office;
 - (b) that he is qualified to act, serve or be employed in a capacity; or
 - (c) that he is not disqualified from acting, serving or being employed in a capacity.
- (4) This section applies to—
 - (a) the Assembly;
 - (b) the Northern Ireland Assembly Commission;
 - (c) any body listed in Schedule 2 to the 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 Ombudsman (Northern Ireland) Order 1996 (departments and other authorities subject to investigation); and
 - (e) 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—
 - (a) grant damages;
 - (b) 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—
 - (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.
- (8) In this section a reference to a declaration includes a reference to any kind of undertaking or affirmation, by whatever name.

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 Parliamentary Commissioner Act 1967;
 - (b) Article 9(3)(b) of the Commissioner for Complaints (Northern Ireland) Order 1996; and
 - (c) Article 10(3)(b) of the Ombudsman (Northern Ireland) Order 1996.