



Northern Ireland Act 1998

1998 CHAPTER 47

PART VII

HUMAN RIGHTS AND EQUAL OPPORTUNITIES

Human rights

68 The Northern Ireland Human Rights Commission

- (1) There shall be a body corporate to be known as the Northern Ireland Human Rights Commission.
- (2) The Commission shall consist of a Chief Commissioner and other Commissioners appointed by the Secretary of State.
- (3) 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.
- (4) Schedule 7 (which makes supplementary provision about the Commission) shall have effect.

69 The Commission's functions

- (1) The Commission shall keep under review the adequacy and effectiveness in Northern Ireland of law and practice relating to the protection of human rights.
- (2) The Commission shall, before the end of the period of two years beginning with the commencement of this section, make to the Secretary of State such recommendations as it thinks fit for improving—
 - (a) its effectiveness;
 - (b) the adequacy and effectiveness of the functions conferred on it by this Part; and
 - (c) the adequacy and effectiveness of the provisions of this Part relating to it.

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- (3) The Commission shall advise the Secretary of State and the Executive Committee of the Assembly of legislative and other measures which ought to be taken to protect human rights—
 - (a) as soon as reasonably practicable after receipt of a general or specific request for advice; and
 - (b) on such other occasions as the Commission thinks appropriate.
- (4) The Commission shall advise the Assembly whether a Bill is compatible with human rights—
 - (a) as soon as reasonably practicable after receipt of a request for advice; and
 - (b) on such other occasions as the Commission thinks appropriate.
- (5) The Commission may—
 - (a) give assistance to individuals in accordance with section 70; and
 - (b) bring proceedings involving law or practice relating to the protection of human rights.
- (6) The Commission shall promote understanding and awareness of the importance of human rights in Northern Ireland; and for this purpose it may undertake, commission or provide financial or other assistance for—
 - (a) research; and
 - (b) educational activities.
- (7) The Secretary of State shall request the Commission to provide advice of the kind referred to in paragraph 4 of the Human Rights section of the Belfast Agreement.
- (8) For the purpose of exercising its functions under this section the Commission may conduct such investigations as it considers necessary or expedient.
- (9) The Commission may decide to publish its advice and the outcome of its research and investigations.
- (10) The Commission shall do all that it can to ensure the establishment of the committee referred to in paragraph 10 of that section of that Agreement.
- (11) In this section—
 - (a) a reference to the Assembly includes a reference to a committee of the Assembly;
 - (b) “human rights” includes the Convention rights.

70 Assistance by Commission

- (1) This section applies to—
 - (a) proceedings involving law or practice relating to the protection of human rights which a person in Northern Ireland has commenced, or wishes to commence; or
 - (b) proceedings in the course of which such a person relies, or wishes to rely, on such law or practice.
- (2) Where the person applies to the Northern Ireland Human Rights Commission for assistance in relation to proceedings to which this section applies, the Commission may grant the application on any of the following grounds—
 - (a) that the case raises a question of principle;

- (b) that it would be unreasonable to expect the person to deal with the case without assistance because of its complexity, or because of the person's position in relation to another person involved, or for some other reason;
 - (c) that there are other special circumstances which make it appropriate for the Commission to provide assistance.
- (3) Where the Commission grants an application under subsection (2) it may—
- (a) provide, or arrange for the provision of, legal advice;
 - (b) arrange for the provision of legal representation;
 - (c) provide any other assistance which it thinks appropriate.
- (4) Arrangements made by the Commission for the provision of assistance to a person may include provision for recovery of expenses from the person in certain circumstances.

71 Restrictions on application of rights

- (1) Nothing in section 6(2)(c), 24(1)(a) or 69(5)(b) shall enable a person—
- (a) to bring any proceedings in a court or tribunal on the ground that any legislation or act is incompatible with the Convention rights; or
 - (b) to rely on any of the Convention rights in any such proceedings,
- unless he would be a victim for the purposes of article 34 of the Convention if proceedings in respect of the legislation or act were brought in the European Court of Human Rights.
- (2) Subsection (1) does not apply to the Attorney General, the Attorney General for Northern Ireland, the Advocate General for Scotland or the Lord Advocate.
- (3) Section 6(2)(c)—
- (a) does not apply to a provision of an Act of the Assembly if the passing of the Act is, by virtue of subsection (2) of section 6 of the Human Rights Act 1998, not unlawful under subsection (1) of that section; and
 - (b) does not enable a court or tribunal to award in respect of the passing of an Act of the Assembly any damages which it could not award on finding the passing of the Act unlawful under that subsection.
- (4) Section 24(1)(a)—
- (a) does not apply to an act which, by virtue of subsection (2) of section 6 of the Human Rights Act 1998, is not unlawful under subsection (1) of that section; and
 - (b) does not enable a court or tribunal to award in respect of an act any damages which it could not award on finding the act unlawful under that subsection.
- (5) In this section “the Convention” has the same meaning as in the Human Rights Act 1998.

72 Standing Advisory Commission on Human Rights: dissolution

- (1) The Standing Advisory Commission on Human Rights is hereby dissolved.
- (2) 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 subsection (1).

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- (3) 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.

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;
 - (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;

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- (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);
 - (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;

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- (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.