
STATUTORY RULES OF NORTHERN IRELAND

2003 No. 341

**Race Relations Order (Amendment)
Regulations (Northern Ireland) 2003**

Burden of proof

42. After Article 54 of the Race Relations Order insert –

“Claims under Article 20A in immigration cases

54A.—(1) No proceedings may be brought by a claimant under Article 54(1) in respect of an immigration claim if –

- (a) the act to which the claim relates was done in the taking by an immigration authority of a relevant decision and the question whether that act was unlawful by virtue of Article 20A has been or could be raised in proceedings on an appeal which is pending, or could be brought, under the 1997 Act or Part 5 of the 2002 Act; or
- (b) it has been decided in relevant immigration proceedings that that act was not unlawful by virtue of that Article.

(2) For the purposes of this Article an immigration claim is a claim that a person –

- (a) has committed a relevant act of discrimination against the claimant which is unlawful by virtue of Article 20A; or
- (b) is by virtue of Article 32 or 33 to be treated as having committed such an act of discrimination against the claimant.

(3) Where it has been decided in relevant immigration proceedings that an act to which an immigration claim relates was unlawful by virtue of Article 20A, any court hearing that claim under Article 54 shall treat that act as an act which is unlawful by virtue of Article 20A for the purposes of the proceedings before it.

(4) No relevant decision of an immigration authority involving an act to which an immigration claim relates and no relevant decision of an immigration appellate body in relation to such a decision shall be subject to challenge or otherwise affected by virtue of a decision of a court hearing the immigration claim under Article 54.

(5) In this Article –

“the Immigration Acts” has the meaning given by section 158 of the 2002 Act;

“immigration appellate body” means an adjudicator appointed for the purposes of Part 5 of the 2002 Act, the Immigration Appeal Tribunal, the Special Immigration Appeals Commission, the Court of Appeal, the Court of Session or the House of Lords;

“immigration authority” means the Secretary of State, an immigration officer or a person responsible for the grant or refusal of entry clearance (within the meaning of section 33(1) of the Immigration Act 1971⁽¹⁾);

“immigration claim” has the meaning given by paragraph (2);

“pending” has the same meaning as in the 1997 Act or, as the case may be, Part 5 of the 2002 Act;

“relevant act of discrimination” means an act of discrimination on the grounds of race or ethnic or national origins, or harassment done by an immigration authority in taking any relevant decision;

“relevant decision” means –

- (a) in relation to an immigration authority, any decision under the Immigration Acts relating to the entitlement of the claimant to enter or remain in the United Kingdom; and
- (b) in relation to an immigration appellate body, any decision on an appeal under the 1997 Act or Part 5 of the 2002 Act in relation to a decision falling within sub-paragraph (a);

“relevant immigration proceedings” means proceedings on an appeal under the 1997 Act or Part 5 of the 2002 Act;

“the 1997 Act” means the Special Immigration Appeals Commission Act 1997;

“the 2002 Act” means the Nationality, Immigration and Asylum Act 2002;

and for the purposes of paragraph (1)(a), any power to grant leave to appeal out of time shall be disregarded.”