

STATUTORY INSTRUMENTS

1997 No. 869

The Race Relations (Northern Ireland) Order 1997

PART VIII **N.I.** ENFORCEMENT

Enforcement in employment field

Jurisdiction of industrial tribunals **N.I.**

52.—(1) A complaint by any person (“the complainant”) that another person (“the respondent”)

- (a) has committed an act^{F1} . . . against the complainant which is unlawful by virtue of Part II^{F1}, Article 72ZA or, (in relation to discrimination on grounds of race or ethnic or national origins, or harassment), Article 26]; or
- (b) is by virtue of Article 32 or 33 to be treated as having committed such an act^{F1} . . . against the complainant,

may be presented to an industrial tribunal.

(2) Paragraph (1) does not apply to a complaint under Article 14(1) of an act in respect of which an appeal, or proceedings in the nature of an appeal, may be brought under any statutory provision.

(3) Where a complaint is presented to an industrial tribunal under paragraph (1) and it appears to the tribunal that the act to which the complaint relates is one in respect of which (as being unlawful discrimination within the meaning of the^{F2} Fair Employment and Treatment (Northern Ireland) Order 1998)—

- (a) a complaint could be made to the Fair Employment Tribunal for Northern Ireland under^{F2} Part VI of that Order]; or
- (b) such a complaint has been made, but the proceedings^{F2} under the Fair Employment and Treatment (Northern Ireland) Order 1998] have not been disposed of,

the tribunal shall not proceed further under this Order in relation to the complaint unless all proceedings which can be taken^{F2} under the Fair Employment and Treatment (Northern Ireland) Order 1998] in respect of the act have been disposed of.

F1 SR 2003/341

F2 1998 NI 21

[^{F3}Burden of proof: industrial tribunals **N.I.**

52A.—(1) This Article applies where a complaint is presented under Article 52 and the complaint is that the respondent—

Changes to legislation: The Race Relations (Northern Ireland) Order 1997, Cross Heading: Enforcement in employment field is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) has committed an act of discrimination, on grounds of race or ethnic or national origins, which is unlawful by virtue of any provision referred to in Article 3(1B) (a), (e) or (f), or Part IV in its application to those provisions, or
- (b) has committed an act of harassment.

(2) Where, on the hearing of the complaint, the complainant proves facts from which the tribunal could, apart from this Article, conclude in the absence of an adequate explanation that the respondent—

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

the tribunal shall uphold the complaint unless the respondent proves that he did not commit or, as the case may be, is not to be treated as having committed, that act.]

F3 SR 2003/341

Remedies on complaint under Article 52 **N.I.**

53^{F4}.—(1) Where an industrial tribunal finds that a complaint presented to it under Article 52 is well-founded, the tribunal shall make such of the following as it considers just and equitable—

- (a) an order declaring the rights of the complainant and the respondent in relation to the act to which the complaint relates;
- (b) an order requiring the respondent to pay to the complainant compensation of an amount corresponding to any damages he could have been ordered by a county court to pay to the complainant if the complaint had fallen to be dealt with under Article 54;
- (c) a recommendation that the respondent take within a specified period action appearing to the tribunal to be practicable for the purpose of obviating or reducing the adverse effect on the complainant of any act of discrimination to which the complaint relates.

(2) If without reasonable justification the respondent to a complaint fails to comply with a recommendation made by an industrial tribunal under paragraph (1)(c), then, if it thinks it just and equitable to do so—

- (a) the tribunal may increase the amount of compensation required to be paid to the complainant in respect of the complaint by an order made under paragraph (1)(b); or
- (b) if an order under paragraph (1)(b) could have been made but was not, the tribunal may make such an order.

(3) Where compensation falls to be awarded in respect of any act both under the provisions of this Article and under any other statutory provision, the tribunal shall not award compensation under this Article in respect of any loss or other matter which has been taken into account under that other statutory provision by a court or tribunal in, awarding compensation in an action or complaint in respect of that act.

(4) The Department may by order make provision—

- (a) for enabling a tribunal, where an amount of compensation falls to be awarded under paragraph (1)(b), to include in the award interest on that amount; and
- (b) specifying, for cases where a tribunal decides that an award is to include an amount in respect of interest, the manner in which and the periods and rate by reference to which the interest is to be determined.

Changes to legislation: *The Race Relations (Northern Ireland) Order 1997, Cross Heading: Enforcement in employment field is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

F4 functions transf. by SR 1999/481

Changes to legislation:

The Race Relations (Northern Ireland) Order 1997, Cross Heading: Enforcement in employment field is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

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](#)