

## STATUTORY INSTRUMENTS

# 1997 No. 869

## The Race Relations (Northern Ireland) Order 1997

### PART VIII **N.I.** ENFORCEMENT

#### *Other enforcement by Commission*

#### **Persistent discrimination** **N.I.**

**59.**—(1) If, during the period of 5 years beginning on the date on which either of the following became final in the case of any person, namely—

- (a) a non-discrimination notice served on him, or
- (b) a finding by a tribunal or court under Article 52 or 54 that he has done an unlawful<sup>[F1]</sup> act of discrimination or harassment],<sup>[F1]</sup> or]

<sup>[F1]</sup>(c) a finding under the Special Immigration Appeals Commission Act 1997 or Part 5 of the Nationality, Immigration and Asylum Act 2002 that he has done an act which was unlawful by virtue of Article 20A.]

it appears to the Commission that unless restrained he is likely to do one or more acts falling within sub-paragraph (b), or contravening Article 28, the Commission may apply to a county court for an injunction restraining him from doing so; and the court, if satisfied that the application is well-founded, may grant the injunction in the terms applied for or in more limited terms.

(2) In proceedings under this Article the Commission shall not allege that the person to whom the proceedings relate has done an act falling within paragraph (1)(b) or contravening Article 28 which is within the jurisdiction of an industrial tribunal unless a finding by an industrial tribunal that he did that act has become final.

**F1** SR 2003/341

#### **Enforcement of Articles 29 to 31** **N.I.**

**60.**—(1) Proceedings in respect of a contravention of Article 29, 30 or 31 shall be brought only by the Commission in accordance with the following provisions of this Article.

- (2) The proceedings shall be—
- (a) an application for a decision whether the alleged contravention occurred; or
  - (b) an application under paragraph (4),

or both.

(3) An application under paragraph (2)(a) shall be made—

- (a) in a case based on any provision of Part II, to an industrial tribunal; and

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- (b) in any other case, to a county court.
- (4) If it appears to the Commission—
  - (a) that a person has done an act which by virtue of Article 29, 30 or 31 was unlawful; and
  - (b) that unless restrained he is likely to do further acts which by virtue of that Article are unlawful,

the Commission may apply to a county court for an injunction restraining him from doing such acts; and the court, if satisfied that the application is well-founded, may grant the injunction in the terms applied for or more limited terms.

(5) In proceedings under paragraph (4) the Commission shall not allege that the person to whom the proceedings relate has done an act which is unlawful under this Order and within the jurisdiction of an industrial tribunal unless a finding by an industrial tribunal that he did that act has become final.

### **Preliminary action in employment cases** **N.I.**

**61.**—(1) With a view to making an application under Article 59(1) or 60(4) in relation to a person the Commission may present to an industrial tribunal a complaint that he has done an act within the jurisdiction of an industrial tribunal.

- (2) If the tribunal considers that the complaint is well-founded it —
  - (a) shall make a finding to that effect; and
  - (b) if it thinks it just and equitable to do so in the case of an act contravening any provision of Part II, may also (as if the complaint had been presented by the<sup>F2</sup> the person concerned]) make an order such as is referred to in Article 53(1)(a), or a recommendation such as is referred to in Article 53(1)(c), or both.
- (3) Paragraphs (1) and (2) are without prejudice to the jurisdiction conferred by Article 60(2).

(4) In Articles 59 and 60 and this Article, the acts “within the jurisdiction of an industrial tribunal” are those in respect of which such jurisdiction is conferred by Articles 52 and 60.

<b>F2</b> SR 2003/341
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### **Undertakings by persons contravening this Order** **N.I.**

- 62.**—(1) This Article applies to—
- (a) an unlawful discriminatory act;
  - (b) an act contravening Article 28;
  - (c) an act contravening Article 29, 30 or 31,

and so applies whether or not proceedings have been brought in respect of the act.

(2) If the Commission is satisfied that a person is committing or has committed any such act the Commission may, for the purpose of preventing the commission by that person of any further such act, seek to obtain from that person an undertaking—

- (a) that he will do, or refrain from doing, certain acts specified in the undertaking;
- (b) that he will institute certain practices or arrangements so specified; or
- (c) that he will change his existing practices or arrangements in a manner so specified.
- (3) An undertaking given by any person under this Article shall—
  - (a) be in writing;
  - (b) be in such terms as may be agreed between that person and the Commission;

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(c) contain such terms as appear to the Commission to be necessary or appropriate for the purpose mentioned in paragraph (2); and

(d) have effect for such period as may be specified therein.

(4) If it appears to the Commission that a person who has given an undertaking under this Article has, at any time within the period specified therein by virtue of paragraph (3)(d), failed to comply with the undertaking, the Commission may apply to the county court for a decision as to whether that person has failed to comply with the undertaking.

(5) Paragraph (2) does not apply to any act in respect of which the Department of Education could exercise the powers conferred on it by Article 20(2); but if the Commission becomes aware of any such act it shall give notice of the act to the Department of Education.

**Changes to legislation:**

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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](#)