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STATUTORY RULES OF NORTHERN IRELAND

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**2003 No. 341**

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

**Public authorities**

**20.** After Article 20 of the Race Relations Order insert –

**“Public authorities**

**20A.—(1)** It is unlawful for a public authority –

- (a) to discriminate against a person on the grounds of race or ethnic or national origins, or
- (b) to subject a person to harassment

in the course of carrying out any functions of the authority which consist of the provision of:

- (i) any form of social security;
- (ii) healthcare;
- (iii) any other form of social protection, or
- (iv) any form of social advantage,

which does not fall within Article 21.

(2) In this Article “public authority”:

- (a) includes any person certain of whose functions are functions of a public nature; but
- (b) does not include any person mentioned in paragraph (3).

(3) The persons mentioned in this paragraph are –

- (a) either House of Parliament;
- (b) a person exercising functions in connection with proceedings in Parliament;
- (c) the Assembly;
- (d) a person exercising functions in connection with proceedings in the Assembly;
- (e) the Security Service;
- (f) the Secret Intelligence Service;
- (g) the Government Communications Headquarters; and
- (h) any unit or part of a unit of any of the naval, military or air forces of the Crown which is for the time being required by the Secretary of State to assist the Government Communications Headquarters in carrying out its functions.

(4) In relation to a particular act, a person is not a public authority by virtue only of paragraph (2)(a) if the nature of the act is private.

(5) This Article is subject to Articles 20B to 20D.

(6) Nothing in this Article makes unlawful any act of discrimination on the grounds of race or ethnic or national origins, or harassment, which –

- (a) is made unlawful by virtue of any other provision of this Order; or
- (b) would be so made but for any provision made by or under this Order.

**Exceptions or further exceptions from Article 20A for judicial and legislative acts etc**

**20B.**—(1) Article 20A does not apply to –

- (a) any judicial act, whether done by a court, tribunal or other person; or
- (b) any act done on the instructions, or on behalf, of a person acting in a judicial capacity.

(2) Article 20A does not apply to any act of, or relating to, making, confirming or approving any statutory provision.

(3) Article 20A does not apply to any act of, or relating to, making or approving arrangements or imposing requirements or conditions, of a kind excepted by Article 40.

(4) Article 20A does not apply to any act of, or relating to, imposing a requirement, or giving an express authorisation, of a kind mentioned in Article 20C(3) in relation to the carrying out of immigration functions.

(5) In this Article “immigration functions” has the meaning given in Article 20C.

**Exception from Article 20A for certain acts in immigration cases**

**20C.**—(1) Article 20A does not make it unlawful for a relevant person to discriminate against another person on grounds of ethnic or national origins in carrying out immigration functions.

(2) For the purposes of paragraph (1), “relevant person” means –

- (a) a Minister of the Crown acting personally; or
- (b) any other person acting in accordance with a relevant authorisation.

(3) In paragraph (2), “relevant authorisation” means a requirement imposed or express authorisation given –

- (a) with respect to a particular case or class of case, by a Minister of the Crown acting personally;
- (b) with respect to a particular class of case by any of the statutory provisions mentioned in paragraph (5).

(4) In paragraph (1), “immigration functions” means functions exercisable by virtue of any of the statutory provisions mentioned in paragraph (5).

(5) Those statutory provisions are –

- (a) the Immigration Acts (within the meaning of section 158 of the Nationality, Immigration and Asylum Act 2002<sup>(1)</sup> but excluding sections 28A to 28K of the Immigration Act 1971<sup>(2)</sup> so far as they relate to offences under Part III of that Act);
- (b) the Special Immigration Appeals Commission Act 1997<sup>(3)</sup>;

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(1) 2002 c. 41  
(2) 1971 c. 77  
(3) 1977 c. 68

- (c) provision made under section 2(2) of the European Communities Act 1972<sup>(4)</sup> which relates to immigration or asylum; and
- (d) any provision of Community law which relates to immigration or asylum.

**Exceptions from Article 20A for decisions not to prosecute etc**

**20D.** Article 20A does not apply to –

- (a) a decision not to institute criminal proceedings and, where such a decision has been made, any act done for the purpose of enabling the decision whether to institute criminal proceedings to be made;
- (b) where criminal proceedings are not continued as a result of a decision not to continue them, the decision and where such a decision has been made:
  - (i) any act done for the purpose of enabling the decision whether to continue the proceedings to be made; and
  - (ii) any act done for the purpose of securing that the proceedings are not continued.”.