



# Northern Ireland Act 1998

## 1998 CHAPTER 47

### PART VII

#### HUMAN RIGHTS AND EQUAL OPPORTUNITIES

##### *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.

#### **Modifications etc. (not altering text)**

**C1** S. 73(5): transfer of certain functions (1.12.1999) by S.R. 1999/481, arts. 1, 4, **Sch. 2 Pt. I**

#### **Commencement Information**

**I1** S. 73 partly in force; s. 73 not in force at Royal Assent see s. 101(3); s. 73 in force for specified purposes at 15.2.1999 by S.I. 1999/340, art. 2(2), **Sch. Pt. 2**; s. 73(1) in force for further specified

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purposes and s. 73(2)-(5) in force at 2.8.1999 and s. 73(1) in force for further specified purposes at 1.10.1999 by [S.I. 1999/2204](#), [arts. 2, 3](#)

#### 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.

#### Commencement Information

- I2** [S. 74](#) wholly in force at 1.10.1999; [s. 74](#) not in force at Royal Assent see [s. 101\(3\)](#); [s. 74](#) in force at 21.6.1999 for specified purposes by [S.I. 1999/1753](#), [art. 2](#); [s. 74](#) in force at 1.10.1999 insofar as not in force already by [S.I. 1999/2204](#), [art. 3](#)

#### 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.

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(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 <sup>M1</sup>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;

[<sup>F1</sup>(b) any authority (other than the Equality Commission, the board of governors of a grant-aided school, the Comptroller and Auditor General, a general health care provider or an independent provider of health and social care) listed in Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016 (listed authorities);]

[<sup>F2</sup>(cc) <sup>F3</sup>... the Chief Constable of the Police Service of Northern Ireland and the Police Ombudsman for Northern Ireland;]

[<sup>F4</sup>(cd) the Director of Public Prosecutions for Northern Ireland;]

<sup>F5</sup>(ce) .....

<sup>F6</sup>(cf) .....

(d) any other person designated for the purposes of this section by order made by the Secretary of State.

[<sup>F7</sup>(3A) An order under subsection (3)(a) or (d) may provide that the designated department, corporation, body or other person—

(a) is not subject to, or is only subject to, specified obligations under subsection (1) or (2), or

(b) is not subject to, or is only subject to, specified obligations under subsection (1) or (2)—

(i) when exercising a specified function, or

(ii) when exercising a specified function in specified circumstances or for specified purposes.

(3B) In subsection (3A) “specified” means specified in the order.]

(4) Schedule 9 (which makes provision for the enforcement of the duties under this section) shall have effect.

[<sup>F8</sup>(4A) The references in subsections (1) and (2) and Schedule 9 to the functions of the Director of Public Prosecutions for Northern Ireland do not include any of his functions relating to the prosecution of offences [<sup>F9</sup>or any of the functions conferred on him by, or in relation to, Part 5 or 8 of the Proceeds of Crime Act 2002 (c. 29) (civil recovery of the proceeds etc. of unlawful conduct, civil recovery investigations and disclosure orders in relation to confiscation investigations)] .]

(5) In this section—

“disability” has the same meaning as in the <sup>M2</sup>Disability Discrimination Act 1995; and

“racial group” has the same meaning as in the <sup>M3</sup>Race Relations (Northern Ireland) Order 1997.

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### Textual Amendments

- F1** S. 75(3)(b) substituted for s. 75(3)(b)(c) (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\), s. 64, Sch. 8 para. 5](#)
- F2** S. 75(3)(cc) inserted (4.11.2001) by [2000 c. 32, s. 78\(1\), Sch. 6 para. 24\(2\)](#); [S.R. 2001/396, art. 2 Sch.](#)
- F3** Words in s. 75(3)(cc) repealed (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\), s. 64, Sch. 9](#)
- F4** S. 75(3)(cd) inserted (1.6.2006) by [2002 c. 26, ss. 38\(2\), 87\(1\)](#); [S.R. 2005/281, art. 5](#)
- F5** S. 75(3)(ce) repealed (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\), s. 64, Sch. 9](#)
- F6** S. 75(3)(cf) repealed (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\), s. 64, Sch. 9](#)
- F7** S. 75(3A)(3B) inserted (13.3.2014) by [Northern Ireland \(Miscellaneous Provisions\) Act 2014 \(c. 13\), ss. 22\(1\), 28\(1\)\(f\)](#)
- F8** S. 75(4A) inserted (1.6.2006) by [2002 c. 26, ss. 38\(3\), 87\(1\)](#); [S.R. 2005/281, art. 5](#)
- F9** Words in s. 75(4A) inserted (1.4.2008) by [Serious Crime Act 2007 \(c. 27\), ss. 74\(2\), 94, Sch. 8 para. 158\(1\)](#); [S.I. 2008/755, art. 2\(1\)\(a\)](#) (subject to arts. 3-14))

### Modifications etc. (not altering text)

- C2** S. 75(1)(2) excluded (6.4.2008) by [Serious Crime Act 2007 \(c. 27\), ss. 37, 94, Sch. 2 para. 19](#); [S.I. 2008/755, art. 15\(1\)\(h\)](#)

### Commencement Information

- I3** S. 75 wholly in force at 1.1.2000; s. 75 not in force at Royal Assent see s. 101(3); s. 75(3)(a)(d) in force for specified purposes at 1.3.1999 by [S.I. 1999/340, art. 2\(4\)](#); s. 75(4) in force for further specified purposes at 1.10.1999 by [S.I. 1999/2204, art. 3](#); s. 75 in force at 1.1.2000 insofar as not already in force by [S.I. 1999/2204, art. 4](#)

### Marginal Citations

- M1** [1967 c.13.](#)
- M2** [1995 c.50.](#)
- M3** [S.I. 1997/869 \(N.I.6\).](#)

## 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;
  - (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.

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- (4) This section does not apply in relation to any act or omission which is unlawful by virtue of the <sup>F10</sup>Fair Employment and Treatment (Northern Ireland) Order 1998], or would be unlawful but for some exception made by virtue of <sup>F10</sup>Part VIII of that Order].
- (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 <sup>M4</sup>Parliamentary Commissioner Act 1967 (departments, corporations and bodies subject to investigation);
  - <sup>F11</sup>(c) any authority (other than a Northern Ireland department, the board of governors of a grant-aided school, the Comptroller and Auditor General, a general health care provider or an independent provider of health and social care) listed in Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016 (listed authorities);]
  - <sup>F12</sup>(e) the Police Service of Northern Ireland, the Police Service of Northern Ireland Reserve and the Police Ombudsman for Northern Ireland;]
  - <sup>F13</sup>(ea) the Director of Public Prosecutions for Northern Ireland;]
  - <sup>F14</sup>(f) .....
  - <sup>F15</sup>(fa) .....
  - <sup>F16</sup>(fb) .....
  - (g) <sup>F17</sup>a universal service provider (within the meaning of <sup>F18</sup>Part 3 of the Postal Services Act 2011) ) so far as carrying out functions in connection with the provision of a universal postal service (within the meaning of <sup>F19</sup>that Part] ).
- <sup>F20</sup>(8) This section does not apply to a decision of the Director of Public Prosecutions for Northern Ireland not to institute, or to discontinue, criminal proceedings or, where such a decision has been made, to any act done for the purpose of enabling the decision whether to institute or continue the proceedings to be made or for securing that the proceedings are discontinued.
- (9) No injunction may be granted in respect of a contravention of this section by the Director of Public Prosecutions for Northern Ireland unless the court is satisfied that it would not prejudice any decision to institute criminal proceedings or any criminal proceedings.
- (10) Where a party to proceedings for a contravention of this section applies for a stay of those proceedings on the ground of prejudice to a decision to institute criminal proceedings, or of prejudice to particular criminal proceedings, the court must grant the stay unless it is satisfied that continuance of the proceedings for the contravention would not result in the prejudice alleged.]

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[<sup>F21</sup>(11) The reference in subsection (1) to the functions of the Director of Public Prosecutions for Northern Ireland does not include any of the functions conferred on him by, or in relation to, Part 5 or 8 of the Proceeds of Crime Act 2002 (c. 29) (civil recovery of the proceeds etc. of unlawful conduct, civil recovery investigations and disclosure orders in relation to confiscation investigations).]

#### Textual Amendments

- F10** Words in s. 76(4) substituted (1.3.1999) by S.I. 1998/3162 (N.I. 21), art. 105(1), **Sch. 3**; S.R. 1999/81, **art. 3(1)**
- F11** S. 76(7)(c) substituted for s. 76(7)(c)(d) (1.4.2016) by **Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4), s. 64, Sch. 8 para. 6**
- F12** S. 76(7)(e) substituted (30.3.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 24(3)**; S.R. 2001/132, art. 2, **Sch.**
- F13** S. 76(7)(ea) inserted (1.6.2006) by 2002 c. 26, ss. 38(4), 87(1); S.R. 2005/281, **art. 5**
- F14** S. 76(7)(f) repealed (1.4.2016) by **Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4), s. 64, Sch. 9**
- F15** S. 76(7)(fa) repealed (1.4.2016) by **Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4), s. 64, Sch. 9**
- F16** S. 76(7)(fb) repealed (1.4.2016) by **Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4), s. 64, Sch. 9**
- F17** Words in s. 76(7)(g) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 121**
- F18** Words in s. 76(7)(g) substituted (1.10.2011) by **Postal Services Act 2011 (c. 5), s. 93(2)(3), Sch. 12 para. 153(a); S.I. 2011/2329, art. 3**
- F19** Words in s. 76(7)(g) substituted (1.10.2011) by **Postal Services Act 2011 (c. 5), s. 93(2)(3), Sch. 12 para. 153(b); S.I. 2011/2329, art. 3**
- F20** S. 76(8)(9)(10) inserted (1.6.2006) by 2002 c. 26, ss. 38(5), 87(1); S.R. 2005/281, **art. 5**
- F21** S. 76(11) inserted (1.4.2008) by **Serious Crime Act 2007 (c. 27), ss. 74(2), 94, Sch. 8 para. 158(2); S.I. 2008/755, art. 2(1)(a)** (subject to arts. 3-14))

#### Modifications etc. (not altering text)

- C3** S. 76(1) excluded (6.4.2008) by **Serious Crime Act 2007 (c. 27), ss. 37, 94, Sch. 2 para. 19; S.I. 2008/755, art. 15(h)**

#### Marginal Citations

- M4** 1967 c.13.

## 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—
- being appointed to the authority or body;
  - acting as a member of the authority or body; or
  - 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—
- 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.
- [<sup>F22</sup>(3A) Subsection (1) is subject to the requirement in section 40A for a member of the Assembly to give the undertaking set out there.]
- (4) This section applies to—
    - (a) the Assembly;
    - [<sup>F23</sup>(b) any authority (other than a Northern Ireland department, the board of governors of a grant-aided school, the Comptroller and Auditor General, a general health care provider or an independent provider of health and social care) listed in Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016 (listed authorities).]
  - (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.

#### Textual Amendments

- F22** S. 77(3A) inserted (4.5.2016) by Northern Ireland (Stormont Agreement and Implementation Plan) Act 2016 (c. 13), ss. 8(2), 11(2) (with Sch. 2)
- F23** S. 77(4)(b) substituted for s. 77(4)(b)(c)(d)(e) (1.4.2016) by Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4), s. 64, Sch. 8 para. 7

## 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 <sup>M5</sup>Parliamentary Commissioner Act 1967;

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[<sup>F24</sup>(b) section 21(1)(b) of the Public Services Ombudsman Act (Northern Ireland) 2016.]

**Textual Amendments**

**F24** S. 78(2)(b) substituted for s. 78(2)(b)(c) (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\), s. 64, Sch. 8 para. 8](#)

**Marginal Citations**

**M5** 1967 c.13.



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