



EQUAL OPPORTUNITIES COMMISSION
FOR NORTHERN IRELAND

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Proposed amendments to the Northern Ireland Bill

EQUALITY COMMISSION

Clause 59: Omit.

Note: The Belfast Agreement left a number of aspects of the White Paper, Partnership for Equality, open for public consultation including whether the statutory duty on public authorities to promote equality of opportunity should be enforced by a new Equality Commission, with the amalgamation of the existing statutory equality commissions. This approach was substantially rejected by the bulk of those who responded to this specific issue. The proposal for the merger of the equality agencies responsible for discrimination on the basis of religion, sex, race and disability arose as a response to a review of fair employment. It was not based on a review of the impact such an amalgamation would have on the provision for sex equality in Northern Ireland.

This amendment would provide for a strong internal mechanism within the Civil Service, similar to the government's proposals on mainstreaming gender equality in Great Britain. This and the following amendments would ensure the adequate participation of groups in decision-making affecting them. Amalgamation of the Commissions would not take place at this time, and the issue would be referred to the new Human Rights Commission for consideration in the context of its investigation of the scope for a possible supplementary Bill of Rights for Northern Ireland. This approach is reflected in the amendments, which follow.

Clause 60: Omit

Note: See note above.

STATUTORY DUTY ON PUBLIC AUTHORITIES

Clause 61: Omit subsection (4) and insert instead the following new clauses:

- (d) ~~The Fair Employment Commission for Northern Ireland, the Standing Advisory Commission on Human Rights, the Commission for Racial Equality for Northern Ireland, the Northern Ireland Disability Council, and the Equal Opportunities Commission for Northern Ireland shall be consulted, where relevant, and may make their views public.~~
- (e) The impact statement and the results of any consultations on it shall be taken into account by the public body in any subsequent decision whether to proceed with the proposed action.
- (f) Following a decision to proceed with the relevant action, the public body shall publish the decision together with its reasons for doing so."

Note: The Belfast Agreement provides that schemes in implementing the equality of opportunity duty would cover arrangements for policy appraisal, including an assessment of impact on relevant categories, public consultation, public access to information and services, monitoring and timetables. In the Bill as drafted, however, there is no requirement that public authorities have such a scheme. Schedule 10 provides for a scheme only if requested from the proposed Equality Commission. There is no reference to assessment of impact on relevant categories and no provisions for public access to information (except details of the publication of a scheme itself). The provision with regard to timetables is that a scheme drawn up by a public authority shall "specify a timetable for measures proposed in the scheme". The purpose of these new clauses is to incorporate the provisions of the Belfast Agreement, thereby strengthening the effectiveness of the equality of opportunity duty.

Clause 61(1): Omit subsections (a) through (d) and insert instead:

"in relation to religion and political opinion; gender; race; disability; age; marital status; dependants; and sexual orientation."

Note: This amendment reflects the provisions of the Belfast Agreement. Whereas the Agreement refers to the "need to promote equality of opportunity in relation to religion...", the Bill provides for "the need to promote equality of opportunity between all persons regardless of (a) religious belief...". Whereas the Belfast Agreement has a group dimension to it, the Settlement Bill is only individualistic, an important difference. This individualist interpretation is reinforced by the requirement that complaints need to be made by an individual directly affected (Schedule 10, 7(2)).

Schedule 9: Omit

Note: The omission of the schedule is consequent on the amendments to Clause 61.

Schedule 10: Omit.

Note: The omission of the schedule is consequent on the amendments to Clause 61.

New Clause (4)

- "(a) It shall be the duty of every public authority to make appropriate arrangements with a view to securing that their various functions and responsibilities are carried out with due regard to the need to comply with the duty set out in section 61.
- (b) An annual report shall be laid before each House of Parliament with respect to the measures and policies adopted to advance the duty set out in section 61.
- (c) Without prejudice to subsection 2, within three years of the coming into effect of this Act, and once every five years thereafter, it shall be the duty of every public authority to review the extent to which its various functions and responsibilities are carried out with due regard to the need to comply with the duties set out in section 61."

New Clause (5):

- "(a) It shall be the duty of every public authority to prepare a statement of any significant impact that any proposed action by it may have on its ability to fulfil its duty under section 61 ("impact statement")
- (b) It shall be the duty of every public authority to include in every impact statement information on:
- (1) the aims and purposes of the proposed action;
 - (2) any significant impact that in its view the proposed action may have on its ability to fulfil its duties under section 61;
 - (3) alternatives to the proposed action,
 - (a) which may achieve the aims and purposes of the proposed action but may be less likely to have an adverse effect on its ability to fulfil its duty under section 61, and
 - (b) which may achieve the aims and purposes of the proposed action but may be more likely to have the effect enabling it to achieve better compliance with its duty under section 61;
 - (4) the justification for the rejection of any alternatives identified in subsection (3);
 - (5) proposals to mitigate any unavoidable impact of the action which would be likely to have an adverse impact on its ability to fulfil its duty under section 61, by recourse to accompanying social and economic measures; and
 - (6) a description of mechanisms to monitor the impact of the action, following its introduction.
- (c) The public authority shall ensure that an impact statement is made available to the public in good time to enable effective consultation to take place by the public authority with those directly affected by the proposed decision.

GROUNDS FOR DISCRIMINATION

Clause 6:

Subsection (2)(e).

After "political opinion", insert ", gender, race, disability, age, marital status, having dependants, and sexual orientation."

Note: To reflect the general approach of the Belfast Agreement, the Bill should be inclusive in its approach to the grounds on which discrimination is prohibited; but this subsection is exclusive in prohibiting discrimination only on the grounds of religion and politics. This amendment provides for inclusive grounds for discrimination.

Clause 62(1):

After the first "discriminate", insert: "directly or indirectly".

After "political opinion", insert ", gender, race, disability, age, marital status, having dependants, and sexual orientation."

Note: The approach, which the Bill takes to discrimination, is problematic in two specific respects. First, it does not prohibit "indirect" discrimination. Second, for it to reflect the general approach of the Belfast Agreement, it should be inclusive in its approach to the grounds on which discrimination is prohibited; but the Bill is exclusive in prohibiting discrimination only on the grounds of religion and politics. These two aspects are dealt with by the proposed amendments to subclause 62(1).

APPLICATION OF RIGHTS

Clause 57: Omit.

Note: This amendment reflects the need to ensure that individuals are not denied access to full, appropriate and proper redress for breaches of Community law.

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