

CONFIDENTIAL



Prime Minister

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Ms 8/12

[Handwritten signature]

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Prime Minister

EUROPEAN COURT OF HUMAN RIGHTS: COMPENSATION FOR CLOSED SHOP VICTIMS

I have seen a copy of the Secretary of State for Employment's minute of 1 December to you. I have also seen the responses of the Lord Chancellor, Foreign and Commonwealth Secretary, the Secretary of State for Trade and Attorney General. I share the reservations expressed by them about the proposed compensation scheme.

2. As you know the European Court has found in the case of Dudgeon that the law on homosexuality in Northern Ireland is in breach of Article 8 of the European Convention. Although I am proposing to make no offer of compensation to Dudgeon by way of a friendly settlement, the Court has still to rule on that issue. If the Court should find against us and award compensation, then the implications of the Secretary of State for Employment's proposals would be serious. I am not convinced by the distinction drawn between paying compensation to all victims of the closed shop legislation on the one hand, and compensating victims of other legislation judged by the Court to be in breach of the European Convention on the other. I believe that, if Dudgeon does win compensation, the proposals would make it very much more difficult for me to resist demands for compensation from any homosexual in Northern Ireland who claimed to have suffered as a result of the existence of the current law. I do not have to emphasise the political controversy which would erupt over claims for general compensation by homosexuals in Northern Ireland.

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3. If there is to be legislation on compensation for those dismissed as a result of the closed shop in GB between 1974 and 1980, it will be necessary to decide how any Northern Ireland cases should be dealt with during the corresponding period during which no compensation has been legally payable in Northern Ireland - this runs from 1976 to date. I am advised that I should not rule out the possibility of a few cases: although the number should be much less than a pro rata figure, we may have a few. To keep Northern Ireland in line if the proposal is implemented the relevant sections of the Bill could be extended to include Northern Ireland, but I think it would be more appropriate for me to introduce separate legislation by Order in Council; or, if the number of cases appears likely to be negligible I could consider the alternative of an extra-statutory scheme. As you are aware I have not yet got legislation providing for compensation for dismissal on closed shop grounds. A draft Order is currently before Parliament which provides, inter alia, for this particular matter on the model of the 1980 Act and while I have deferred progress on it to consider further representations, it may well become law fairly early in the New Year. This would determine the end date for the period for which compensation could be paid.

4. I am copying this minute to those to whom the Secretary of State for Employment's minute was copied.

JP

J P

(Signed on behalf of the Secretary of State in his absence)

8 December 1981

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