



all
ja

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

6 December 1989

**MONITORING OF RELIGIOUS AFFILIATION OF
HOME CIVIL SERVANTS IN NORTHERN IRELAND**

Thank you for your letter of 1 December. You may take it that the Prime Minister would be content to be specified, as Minister for the Civil Service, in Section 3 of the Order as a public authority for the purposes of the relevant sections of the Act.

DOMINIC MORRIS

Ms. Antonia Tatham,
Office of the Minister for the Civil Service

lu



CABINET OFFICE
OFFICE of the MINISTER
for the CIVIL SERVICE

The Minister of State
Privy Council Office
The Rt. Hon. Richard Luce MP

Horse Guards Road
London SW1P 3AL
Telephone: 01 -270 5929

C89/5312

Dominic Morris Esq
10 Downing Street
LONDON SW1A

1 December 1989

Dear Dominic,

**MONITORING OF RELIGIOUS AFFILIATION OF HOME CIVIL SERVANTS
IN NORTHERN IRELAND**

The Prime Minister will recall that she has from time to time personally endorsed publications in connection with the Fair Employment (Northern Ireland) Act 1989, the purpose of which is to secure fair participation in employment for both the Protestant and Roman Catholic Communities. The Department of Economic Development in Northern Ireland now wish to make an Order - the Fair Employment (Specification of Public Authorities) Order (Northern Ireland) 1989, a copy of which I attach - under Section 25 of the Act. Subject to the Prime Minister's agreement, their intention is to specify her, as Minister for the Civil Service, in Section 3 of the Order, as a public authority for the purposes of the relevant sections of the Act. The purpose of this is to permit all civil servants in Northern Ireland to be treated as employees of the Minister for the Civil Service for the purposes of the Act. This will enable the Office of the Minister for the Civil Service to make an aggregated monitoring return to the Fair Employment Commission, on behalf of all Home Civil Service Departments with staff in Northern Ireland, on the religious affiliation of their staff.

You may like to know that there is no provision under the Act for any specific enabling mechanism for the discharge of the relevant functions of the Prime Minister by officials. There would seem to be ample precedent in case law for officials to discharge responsibilities for Ministers. In the unlikely circumstance of a Department breaching its duty under the Act, the Prime Minister as the responsible authority would be required to lay before Parliament a report dealing with the matter.

The Department of the Economic Affairs would ideally like to make the Order by 6 December, and I should therefore be very grateful if you could let me know as soon as possible whether the Prime Minister is content with what is proposed.

Yours sincerely,

Antonia Taittram.

pp A P BREWSTER
Assistant Private Secretary

STATUTORY RULES OF NORTHERN IRELAND

1989 NO

FAIR EMPLOYMENT

Fair Employment (Specification of Public
Authorities) Order (Northern Ireland) 1989.

Made

1989

Coming into operation

1 January 1990

Whereas, in accordance with section 25(3) of the Fair Employment (Northern Ireland) Act 1989(a) ("the Act of 1989") each person who, by virtue of the following Order becomes a public authority, for any of the purposes of sections 27 to 42 of that Act, is

- (1) a Minister of the Crown or the head of a Northern Ireland Department;
- (2) a body created by a statutory provision within the meaning of the Interpretation Act (Northern Ireland) 1954(b) or the holder of any office so created; or
- (3) a person appearing to the Department of Economic Development ("the Department") (c) to exercise functions of a public nature;

(a) 1989c 32

(b) 1954c 33 (NI)

(c) see section 47(5) of the Act of 1989 as read with section 57(1) of the Fair Employment (NI) Act 1976 (c.25); the Department of Manpower Services was renamed the Department of Economic Development by S.I.1982/846 (N.I. 11) Article 3.

And whereas, in accordance with section 26(4) of the Act of 1989 it appears to the Department that some or all of the people who are employed by each person who, by virtue of the following Order, becomes an employer for the purposes of sections 27 to 37 of that Act, who are in the service of the Crown for the purposes of the functions of those persons, or who are treated by virtue of the following Order as so employed or as in such service, are employed or serve in Northern Ireland;

Now, therefore the Department in exercise of the powers conferred on it by sections 25(1) and (2) and 26(2) of the Act of 1989 and of every other power enabling it in that behalf, hereby makes the following Order:

Citation and Commencement

1. This Order may be cited as the Fair Employment (Specification of Public Authorities) Order (Northern Ireland) 1989 and shall come into operation on 1st January 1990.

Interpretation

2. (1) The Interpretation Act (Northern Ireland) 1954 (a) shall apply to this Order as it applies to a measure of the Northern Ireland Assembly.

(2) Expressions used in this Order which are also used in Part II of the Act of 1989 shall, unless the contrary intention appears, have the same meaning as in that part.

- (3) In this Order -

"the Act of 1989" means the Fair Employment (Northern Ireland) Act 1989

"Northern Ireland Civil Servant" means any person serving wholly or mainly in Northern Ireland in the Civil Service of the crown (other than a person whose service normally involves less than sixteen

(a) 1954 c 33 (NI)

hours weekly) and whose remuneration is paid out of moneys appropriated by a transferred provision or the consolidated fund;

"reserve force" means a reserve force within the meaning of Section 10(4) of the Reserve Forces Act 1980(a);

"reservist" means any member of either the Ulster Defence Regiment or any Reserve Force, who serves wholly or mainly in Northern Ireland, other than a person whose service normally involves less than sixteen hours weekly;

"transferred provision" has the meaning assigned to it by Section 1(g) of the Interpretation Act (Northern Ireland) 1954; and

"United Kingdom Civil Servant" means any person serving wholly or mainly in Northern Ireland in the Civil Service of the crown other than -

(a) a person whose service normally involves less than sixteen hours weekly; or

(b) a Northern Ireland Civil Servant.

Specification of public authorities

3. For the purposes of sections 27 to 37 of the Act of 1989:-

(a) the head of the Department of Finance and Personnel shall be a public authority and all Northern Ireland Civil Servants shall be treated as employees of that authority;

|| (b) the Minister for the Civil Service shall be a public authority and all United Kingdom Civil Servants shall be treated as employees of that authority;

(a) 1980 c.9.

(c) the Secretary of State for Defence shall be a public authority and all reservists shall be treated as employees of that authority.

4. Each of the persons specified in Part I of the Schedule shall be a public authority for the purposes of sections 27 to 42 of the Act of 1989.
5. Each of the persons specified in Part II of the Schedule shall be a public authority for the purposes of sections 38 to 42 of the Act of 1989.

Sealed with the Official Seal of the Department of Economic Development
on 1989

(L.S.)

Assistant Secretary

SCHEDULE

PART I

Public Authorities for the purposes of sections 27-42 of the Act of 1989.

Agricultural Research Institute of Northern Ireland

Arts Council for Northern Ireland

Belfast Harbour Commission

British Broadcasting Corporation

Chief Constable of the Royal Ulster Constabulary

Citybus Limited

Coleraine Harbour Commission

Comptroller and Auditor General for Northern Ireland

A District Council

An Education and Library Board established under Article 3
of the Education and Libraries (Northern Ireland) Order
1986(a)

Enterprise Ulster

Equal Opportunities Commission for Northern Ireland

Fair Employment Commission for Northern Ireland

Fire Authority for Northern Ireland

Fisheries Conservancy Board for Northern Ireland

Flexibus Limited

Foyle Fisheries Commission

General Consumer Council for Northern Ireland

Health & Social Services Boards

Independent Broadcasting Authority

Independent Commission for Police Complaints
for Northern Ireland

Industrial Training Boards

Labour Relations Agency
Laganside Corporation
Livestock Marketing Commission for Northern Ireland
Local Enterprise Development Unit
Local Government Staff Commission
Londonderry Port and Harbour Commission
Mental Health Commission for Northern Ireland
Milk Marketing Board for Northern Ireland
National Board for Nursing, Midwifery and
Health Visiting for Northern Ireland
Northern Ireland Airports Limited
Northern Ireland Central Services Agency
for the Health and Social Services
Northern Ireland Commissioner for Complaints
Northern Ireland Council for Post-
Graduate Medical Education
Northern Ireland Economic Development
Office
Northern Ireland Electricity
Northern Ireland Fishery Harbour
Authority
Northern Ireland Health and Social
Services Training Council
Northern Ireland Housing Executive
Northern Ireland Local Government
Officers' Superannuation Committee
Northern Ireland Parliamentary Commissioner for
Administration

Northern Ireland Railways Company Limited
Northern Ireland Schools' Examination
Council
Northern Ireland Tourist Board
Northern Ireland Training Authority
Northern Ireland Transport Holding
Company
Pigs Marketing Board (Northern Ireland)
Police Authority for Northern Ireland
Post Office
Probation Board for Northern Ireland
Rathgael and Whiteabbey Schools
Management Board
Sports Council for Northern Ireland
Staff Commission for Education
and Library Boards
Stranmillis College of Education, Belfast
Trustees of the Ulster Folk and
Transport Museum
Trustees of the Ulster Museum
Ulster Sheltered Employment Limited
Ulsterbus Limited
Warrenpoint Harbour Authority

PART II

Public Authorities for the purposes of sections 38 to 42 of the Act of 1989

Minister of Agriculture, Fisheries and Food

Crown Solicitors's Office for Northern Ireland

Commissioners of Customs and Excise

Secretary of State for Defence

Export Credits Guarantee Department

Secretary of State for the Environment

Secretary of State for the Home Department

Board of Inland Revenue

[The Lord Chancellor's Office [Department]/Northern Ireland

Court[s] Service[s]]

Her Majesty's Stationery Office

Secretary of State for National Savings

Secretary of State for Northern Ireland

Secretary of State for Social Security

Secretary of State for Trade and Industry

Secretary of State for Transport

Any Northern Ireland Department

The Head of any Northern Ireland Department

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order specifies a number of persons or bodies as public authorities for certain purposes under Part II of the Fair Employment (Northern Ireland) Act 1989 ("the Act of 1989") and provides for the persons who are to be treated for such purposes as the employees of some of those authorities.

For the purposes of sections 27 to 37 of the Act of 1989, Article 3 -

- (a) specifies the head of the Department of Finance & Personnel as a public authority and provides that all Northern Ireland civil servants (as defined) shall be treated as employees of that authority;
- (b) specifies the Minister for the Civil Service as a public authority and provides that all United Kingdom civil servants (as defined) shall be treated as employees of that authority; and
- (c) specifies the Secretary of State for Defence as a public authority and provides that all reservists (as defined) shall be treated as employees of that authority.

Article 4 specifies each of the persons listed in Part I of the Schedule as a public authority for the purposes of sections 27 to 42 of the Act of 1989.

Article 5 specifies each of the persons listed in Part II of the Schedule as a public authority for the purposes of sections 38 to 42 of the Act of 1989.

Where a person who is specified as a public authority for the purposes of sections 27 to 37 of the Act of 1989 is the employer, or by virtue of Article 3 becomes the employer, of certain persons then Part II of the Act of 1989 imposes certain duties on him, particularly with respect to those persons. He is required to prepare and serve for each year on the Fair Employment Commission for Northern Ireland ("the Commission") a return (referred to as a "monitoring return") to enable the composition of his workforce to be ascertained; that is to say the number who belong to the Protestant community and the number who belong to the Roman Catholic community in Northern Ireland. In addition the monitoring return he is required to serve must show the composition of

applicants for employment in his workforce. Other provisions of sections 27 to 37 of the Act of 1989 such as those requiring to periodic review of recruitment, training and promotion practices; those relating to enquiries by the Commission and undertakings by and directions to employers; and those providing for the setting of goals and timetables also apply to public authorities specified for the purposes of those sections.

Where a public authority is specified for the purposes of sections 38 to 42 of the Act of 1989 it is prohibited from entering into any contract with a person who is not qualified for the purposes of sections 41 to 43 of that Act and who, in response to an invitation by the authority offers to execute any work or supply any goods or services to it. Any contravention of or failure to comply with this duty is actionable by any person who, in consequence, suffers loss or damage.