

Age Discrimination (Goods, Facilities and Services) Bill

[AS INTRODUCED]

LEGISLATIVE COMPETENCE

At Introduction the Member in charge of the Bill, Ms Claire Sugden, had made the following statement under Standing Order 30:

“In my view the Age Discrimination (Goods, Facilities and Services) Bill would be within the legislative competence of the Northern Ireland Assembly.”

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A

BILL

TO

Make provision for the prohibition of unjustified discrimination, harassment and victimisation on the ground of age in connection with the provision of goods, facilities, and services.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by His Majesty as follows:

PART 1

PROTECTED CHARACTERISTIC OF AGE

Protected characteristic of age

- 1.—(1) Age is a protected characteristic.
- 5 (2) In relation to the protected characteristic of age—
- (a) a reference to a person who has a particular protected characteristic is a reference to a person of a particular age group;
 - (b) a reference to persons who share a protected characteristic is a reference to persons of the same age group.
- 10 (3) A reference to an age group is a reference to a group of persons defined by reference to age, whether by reference to a particular age or to a range of ages.
- (4) Any reference to age includes assumed age.

PART 2

PROHIBITED CONDUCT

15 **Discrimination on the ground of age**

2.—(1) A person (A) discriminates against another (B) on the ground of age if—

- (a) on the ground of B's age, A treats B less favourably than A treats or would treat others, or
- (b) A applies to B a provision, criterion or practice which A applies or would apply equally to persons not of the same age group as B, but—
- 5 (i) which puts or would put persons of the same age group as B at a particular disadvantage when compared with other persons, and
- (ii) which puts B at that disadvantage, or
- (c) A applies to B a provision, criterion or practice, which A also applies, or would apply, equally to persons of a particular age group, and persons
- 10 not of that particular age group, and—
- (i) B is not of that particular age group,
- (ii) the provision, criterion or practice puts, or would put, persons of that particular age group at a particular disadvantage when compared with persons who are not of that particular age group, and
- 15 (iii) the provision, criterion or practice puts, or would put, B at substantively the same disadvantage as persons who are of the particular age group.
- (2) A does not discriminate against B if A can show A's treatment of B to be a proportionate means of achieving a legitimate aim.
- 20 (3) A comparison of B's case with that of another person under subsection (1) must be such that the relevant circumstances in the one case are the same, or not materially different, in the other.
- (4) For the purpose of establishing a contravention of this Act by virtue of subsection (1)(a) or (b), it does not matter whether A is of the same age group
- 25 as B.

Harassment on the ground of age

- 3.—**(1) A person (A) harasses another (B) where, on the ground of age, A engages in unwanted conduct which has the purpose or effect of—
- (a) violating B's dignity; or
- 30 (b) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.
- (2) In deciding whether conduct has the effect referred to in subsection (1), each of the following must be taken into account—
- (a) the perception of B;
- 35 (b) the other circumstances of the case;
- (c) whether it is reasonable for the conduct to have that effect.

Victimisation on the ground of age

- 4.—**(1) A person (A) victimises another person (B) if A subjects B to a detriment because—
- 40 (a) B does a protected act, or

(b) A believes that B has done, or may do, a protected act.

(2) Each of the following is a protected act—

(a) bringing proceedings under this Act;

5 (b) giving evidence or information in connection with proceedings under this Act;

(c) doing any other thing for the purposes of or in connection with this Act;

(d) making an allegation that A or another person has committed an act which (whether or not the allegation so states) would amount to a contravention of this Act.

10 (3) Giving false evidence or information, or making a false allegation, is not a protected act if the evidence or information is given, or the allegation is made, in bad faith.

(4) This section applies only where the person subjected to a detriment is an individual.

15 **Instructions to discriminate**

5.—(1) It is unlawful for a person—

(a) who has authority over another person; or

20 (b) in accordance with whose wishes that other person is accustomed to act, to instruct that person to do any act which is unlawful by virtue of Part 2, or procure or attempt to procure the doing by that person of any such act.

(2) A person (A) discriminates against another person (B) if A treats B less favourably than A treats or would treat other persons in the same circumstances, and does so by reason that—

25 (a) B has not carried out (in whole or in part) an instruction to do an act which is unlawful by virtue of this Act, or

(b) B, having been given an instruction to do such an act, complains to A or to any other person about that instruction.

Pressure to discriminate

30 **6.**—(1) It is unlawful to induce, or attempt to induce, a person to do any act which contravenes Part 2.

(2) An attempted inducement is not prevented from falling within subsection (1) because it is not made directly to the person in question, if it is made in such a way that that person is likely to hear of it.

Liability of employers and principals

35 **7.**—(1) Anything done by a person (A) in the course of A's employment must be treated as also done by the employer.

(2) Anything done by an agent for a principal, with the authority of the principal, must be treated as also done by the principal.

40 (3) It does not matter whether that thing is done with the employer's or principal's knowledge or approval.

(4) In proceedings against A's employer (B) in respect of anything alleged to have been done by A in the course of A's employment it is a defence for B to show that B took all reasonable steps to prevent A—

- (a) from doing that thing, or
 - 5 (b) from doing anything of that description.
- (5) This section does not apply to offences under this Act.

Aiding unlawful acts, liability of employees and agents

8.—(1) A person who knowingly aids another person to do an act made unlawful by this Act is to be treated as doing an unlawful act of the like description.

- 10 (2) A person (A) contravenes this section if—
- (a) A is an employee or agent,
 - (b) A does something which, by virtue of section 7(1) or 7(2), is treated as having been done by A's employer or principal (as the case may be), and
 - 15 (c) the doing of that thing by A amounts to a contravention of this Act by the employer or principal (as the case may be).
- (3) It does not matter whether, in any proceedings, the employer is found not to have contravened this Act by virtue of section 7(4).
- (4) A does not contravene this section if—
- 20 (a) A relies on a statement by the employer or principal that doing that thing is not a contravention of this Act, and
 - (b) it is reasonable for A to do so.
- (5) A person (B) commits an offence if B knowingly or recklessly makes a statement mentioned in subsection (4)(a) which is false or misleading in a material respect.
- 25 (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

PART 3

DISCRIMINATION IN THE PROVISION OF GOODS, FACILITIES AND SERVICES

30 **Application of this Part**

9. This Part does not apply to the protected characteristic of age, so far as relating to persons who have not attained the age of 16.

Provision of services, etc.

35 10.—(1) A person (“service-provider”) concerned with the provision of a service to the public or a section of the public (for payment or not) must not discriminate against a person who seeks to obtain or use that service by refusing or deliberately omitting to provide them with that service.

(2) A service-provider (A) must not, in providing the service, discriminate against a person (B)—

- (a) as to the terms on which A provides the service to B;
 - (b) by terminating the provision of the service to B;
 - (c) by subjecting B to any other detriment.
- (3) A service-provider must not, in providing the service, harass—
- 5 (a) a person requiring the service, or
- (b) a person to whom the service-provider provides the service.
- (4) A service-provider must not victimise a person requiring the service by not providing the person with the service.
- (5) A service-provider (A) must not, in providing the service, victimise a person
- 10 (B)—
- (a) as to the terms on which A provides the service to B;
 - (b) by terminating the provision of the service to B;
 - (c) by subjecting B to any other detriment.
- (6) The provision of a service includes the provision of goods or facilities and
- 15 the following are examples of the services mentioned in subsection (1)—
- (a) access to and use of any place which members of the public are permitted to enter;
 - (b) accommodation in a hotel, boarding house or other similar establishment;
 - (c) facilities by way of banking or insurance or for grants, loans, credit or

20 finance;

 - (d) facilities for education;
 - (e) facilities for entertainment, recreation or refreshment;
 - (f) facilities for transport or travel;
 - (g) a service or facility provided by a club which is available to the public

25 generally or a section of the public, whether on payment or without payment,

 - (h) the services of any profession or trade, or any local or other public authority.
- (7) A reference to the provision of a service includes a reference to the provision
- 30 of a service in the exercise of a public function.
- (8) A public function is a function that is a function of a public nature for the purposes of the Human Rights Act 1998.
- (9) Where an act is within subsection (10), it is to be treated for the purposes
- of this section as not being the provision of a service.
- 35 (10) An act is within this subsection if it is—
- (a) a judicial function;
 - (b) an act done on behalf of, or on the instructions of, a person exercising a judicial function;
 - (c) an act done in connection with proceedings in the Northern Ireland

40 Assembly;

 - (d) any act of, or relating to, making, confirming or approving any statutory provision.

PART 4

EXCEPTIONS FROM PART 3

Extent of Part 3**11.—(1)** Section 10—

5 (a) does not apply to goods, facilities or services outside Northern Ireland except as provided in subsections (2) and (3); and

(b) does not apply to facilities by way of banking or insurance or for grants, loans, credit or finance, where the facilities are for a purpose to be carried out, or in connection with risks wholly or mainly arising, outside Northern Ireland.

(2) Section 10 applies to the provision of facilities for travel outside Northern Ireland where the refusal or omission occurs in Northern Ireland or on a ship, aircraft or hovercraft within subsection (3).

(3) Section 10 applies on and in relation to—

15 (a) any ship registered at a port of registry in Northern Ireland; and

(b) any aircraft or hovercraft registered in the United Kingdom and operated by a person who has their principal place of business, or is ordinarily resident, in Northern Ireland,

even if the ship, aircraft or hovercraft is outside Northern Ireland.

20 (4) This section shall not render unlawful an act done in or over a country outside the United Kingdom, or in or over that country's territorial waters, for the purpose of complying with the laws of that country.

Positive Action

12.—(1) This section applies if a person (P) reasonably thinks that—

25 (a) persons who are of the same age group suffer a disadvantage connected to their age,

(b) persons who share that age group have needs that are different from the needs of persons who do not share it, or

30 (c) participation in an activity by persons who share that age group is disproportionately low.

(2) This Act does not prohibit P from taking any action which is a proportionate means of achieving the aim of—

(a) enabling or encouraging persons who share that age group to overcome or minimise that disadvantage,

35 (b) meeting those needs, or

(c) enabling or encouraging persons who share that age group to participate in that activity.

(3) Regulations may specify action, or descriptions of action, to which subsection (2) does not apply.

40 (4) This section does not enable P to do anything that is prohibited by or under an enactment other than this Act.

Exception for statutory authority

13.—(1) Nothing in section 10 renders unlawful any act of discrimination done—

(a) in pursuance of any statutory provision; or

5 (b) in order to comply with any condition or requirement imposed by a Minister of the Crown, Northern Ireland Minister or government department by virtue of any statutory provision.

(2) This section applies whether the statutory provision, condition, requirement or arrangement in question was passed, made or imposed (as the case may be) before or after the making of this Act.

10 Exceptions specified by regulations

14.—(1) The Department may by regulations specify circumstances in which differential treatment on grounds of age does not contravene this Act.

(2) Regulations under subsection (1) may make provision about—

(a) financial services and insurance;

15 (b) health and social care services;

(c) age-related concessions and benefits;

(d) safeguarding and welfare;

(e) sport and physical recreation; and

(f) any other matter that the Department considers appropriate.

20 (3) Regulations under this section must require that any excepted treatment is—

(a) a proportionate means of achieving a legitimate aim; and

(b) no more than is necessary to achieve that legitimate aim.

(4) Regulations under this section are subject to the draft affirmative procedure.

(5) Before making regulations under this section, the Department must consult—

25 (a) the Commission; and

(b) such other persons as the Department considers appropriate.

Financial services

15.—(1) In making regulations under section 14 relating to financial services, the Department must have regard to—

30 (a) the principle that differential treatment on grounds of age must be related to the assessment of risk where the treatment—

(i) is effected by reference to—

(A) actuarial or statistical data obtained from a source on which it is reasonable to rely, or

35 (B) other relevant underwriting or commercial factors,

and

(ii) is reasonable having regard to the data or other relevant factors,

(b) the need to preserve access to financial products and services for persons of all ages within the scope of this Act; and

(c) the desirability of consistency with provisions in force in other parts of the United Kingdom.

(2) Regulations under section 14 may not provide for a blanket exemption for financial services from the prohibitions in this Act.

5 (3) Any exception relating to financial services must be conditional and evidence-based.

(4) In this section “financial services” includes—

(a) banking and savings;

(b) credit and lending;

10 (c) insurance and assurance;

(d) pensions and annuities;

(e) investment services;

(f) payment services; and

(g) any other financial product or service.

15 **Small dwellings exception**

16.—(1) Sections 10(1) and 10(2) do not apply where the following conditions are satisfied—

(a) the relevant occupier resides, and intends to continue to reside, on the premises;

20 (b) the relevant occupier shares accommodation on the premises with persons who reside on the premises and are not members of the relevant occupier’s household;

(c) the shared accommodation is not storage accommodation or a means of access; and

25 (d) the premises are small premises.

(2) For the purposes of this section, premises are “small premises” if they fall within subsection (3) or (4).

(3) Premises fall within this subsection if—

30 (a) only the relevant occupier and members of their household reside in the accommodation occupied by them;

(b) the premises comprise, in addition to the accommodation occupied by the relevant occupier, residential accommodation for at least one other household;

35 (c) the residential accommodation for each other household is let, or available for letting, on a separate tenancy or similar agreement; and

(d) there are not normally more than two such other households.

(4) Premises fall within this subsection if there is not normally residential accommodation on the premises for more than 6 persons in addition to the relevant occupier and any members of the relevant occupier’s household.

40 (5) For the purposes of this section “the relevant occupier” means the person providing the accommodation or a near relative of theirs and “near relative” means

a person's spouse, or civil partner, parent, child, grandparent, grandchild, or brother or sister (whether of full or half blood or by marriage or civil partnership).

Care in the home exception

5 17. Section 10 does not apply to anything done by a person as a participant in arrangements under which the person (for reward or not) takes into their home, and treats as if they were members of their family, children, elderly persons, or persons requiring a special degree of care and attention.

The Employment Equality (Age) Regulations (Northern Ireland) 2006 exception

10 18. Section 10 does not apply to discrimination or harassment which is rendered unlawful by any provision of The Employment Equality (Age) Regulations (Northern Ireland) 2006.

Associations and private members clubs

15 19.—(1) This Act applies to any association of persons (however described, whether corporate or unincorporated, and whether or not its activities are carried on for profit) if—

(a) it has 25 or more members; and

20 (b) admission to membership is regulated by its constitution and is so conducted that the members do not constitute a section of the public within the meaning of section 10.

(2) It is unlawful for an association to which this section applies, in the case of a person who is not a member of the association, to discriminate against that person—

(a) in the terms on which it is prepared to admit them to membership; or

25 (b) by refusing or deliberately omitting to accept their application for membership.

(3) It is unlawful for an association to which this section applies, in the case of a person who is a member or associate of the association, to discriminate against that person—

30 (a) in the way it affords that person access to any benefits or by refusing or deliberately omitting to afford that person access to them; or

(b) in the case of a member, by depriving them of membership, or varying the terms on which they are a member; or

35 (c) in the case of an associate, by depriving them of their rights as an associate, or varying those rights; or

(d) in either case by subjecting them to any other detriment.

(4) For the purposes of this section—

40 (a) a person is a member of an association if they belong to it by virtue of their admission to any sort of membership provided for by its constitution (and is not merely a person with certain rights under its constitution by

virtue of their membership of some other association), and references to membership of an association shall be construed accordingly;

5 (b) a person is an associate of an association to which this section applies if, not being a member of it, they have under its constitution some or all of the rights enjoyed by members (or would have apart from any provision in its constitution authorising the refusal of those rights in particular cases).

(5) This section does not apply to any association if the main object of the association is to enable the benefits of membership (whatever they may be) to be enjoyed by persons of a particular age.

10 (6) In determining whether subsection (5) applies, regard must be had to the essential character of the association and to all relevant circumstances including, in particular, the extent to which the affairs of the association are so conducted that the persons primarily enjoying the benefits of membership are of the age group in question.

15 **PART 5**

FUNCTIONS OF THE EQUALITY COMMISSION FOR NORTHERN IRELAND

General duty of Commission

20.—(1) It shall be the duty of the Commission—

20 (a) to work towards the elimination of discrimination on the ground of age in the provision of services;

(b) to promote equality of access to services between persons of differing age groups; and

25 (c) to keep under review the working of this Act and, when it is so required the Department or otherwise thinks it necessary, draw up and submit to the Department's proposals for Regulations under this Act.

Research, education and assistance to organisations

30 **21.**—(1) The Commission may undertake or assist (financially or otherwise) the undertaking by other persons of any research, and any educational activities, which appear to the Commission necessary or expedient for the purposes of section 20 (general duty of Commission).

(2) The Commission may make charges for educational or other facilities or services made available by it.

35 (3) The Commission may give financial or other assistance to any organisation appearing to the Commission to be concerned with the promotion of equality of opportunity between persons of different ages.

(4) The Commission shall not give any financial assistance under subsection (3) out of money appropriated by Measure except with the approval of the Department given with the consent of the Department of Finance.

Codes of practice

22.—(1) The Commission may issue codes of practice containing such practical guidance as the Commission thinks fit for all or any of the following purposes, namely—

- 5 (a) the elimination of discrimination or harassment which is unlawful by virtue of this Act;
- (b) the promotion of equality of access to services between persons of differing age groups.

10 (2) Without prejudice to the generality of subsection (1), a code of practice issued under this Act may include such practical guidance as the Commission thinks fit as to what steps it is reasonably practicable for service providers to take for the purpose of preventing them doing acts made unlawful by this Act.

15 (3) When the Commission proposes to issue a code of practice, it will prepare and publish a draft of that code, consider any representations made to it about the draft and may modify the draft accordingly.

 (4) In the course of preparing any draft code of practice for eventual publication under subsection (3), the Commission shall consult with such organisations or bodies as appear to the Commission to be appropriate.

20 (5) The Commission may from time to time revise the whole or any part of a code of practice issued under this Act and issue that revised code, and subsection (3) shall apply (with appropriate modifications) to such a revised code as it applies to the first issue of a code.

Power to conduct formal investigations

25 23.—(1) Without prejudice to its general power to do anything requisite for the performance of its duties under section 20, the Commission may if it thinks fit, and will if required by the Department, conduct a formal investigation for any purpose connected with the carrying out of those duties.

30 (2) The Commission may, with the approval of the Department, appoint, on a full time or part-time basis, one or more individuals as additional Commissioners for the purpose of a formal investigation.

 (3) The Commission may nominate one or more Commissioners, with or without one or more additional Commissioners, to conduct a formal investigation on its behalf, and may delegate any of its functions in relation to the investigation to the persons so nominated.

Terms of reference

35 24.—(1) The Commission shall not embark on a formal investigation unless the requirements of this section have been complied with.

40 (2) The terms of reference for the investigation are to be drawn up by the Commission or, if the Commission was required by the Department to conduct the investigation, by the Department after consulting the Commission.

 (3) It is the duty of the Commission to give general notice of the holding of the investigation unless the terms of reference confine it to activities of persons

named in them, but in such a case the Commission will in the prescribed manner give those persons notice of the holding of the investigation.

(4) Where the terms of reference of the investigation confine it to activities of persons named in them and the Commission in the course of it proposes to investigate any act made unlawful by this Act which it believes that a person so named may have done, the Commission will—

(a) inform that person of its belief and of its proposal to investigate the act in question; and

(b) offer that person an opportunity of making oral or written representations with regard to it (or both oral and written representations if that person thinks fit).

(5) A person who avails of an opportunity under subsection (4) of making oral representations may be represented—

(a) by counsel or a solicitor; or

(b) by some other person of their choice, not being a person to whom the Commission objects on the ground that that other person is unsuitable.

(6) The Commission or, if the Commission was required by the Department to conduct the investigation, the Department after consulting with the Commission, may from time to time revise the terms of reference; and subsections (1) and (3) to (5) will apply to the revised investigation and the terms of reference as they applied to the original.

Power to obtain information

25.—(1) For the purpose of a formal investigation the Commission, by notice in the prescribed form served on the relevant person in the prescribed manner—

(a) may require any person to furnish such written information as may be described in the notice, and may specify the time at which, and in the manner and form in which, the information is to be furnished;

(b) may require any person to attend at such time and place as is specified in the notice and give oral information about, and produce all documents in their possession or control relating to, any matter specified in the notice.

(2) Except as provided by investigation as to compliance with a non-discrimination notice under section 34, a notice shall be served under subsection (1) only where—

(a) service of the notice was authorised by an order made by the Department; or

(b) the terms of reference of the investigation state that the Commission believes that person named in them may have done or may be doing acts that contravene section 10.

(3) A notice under subsection (1) will not require a person—

(a) to give information, or produce any documents, which that person could not be compelled to give in evidence, or produce, in civil proceedings before the High Court; or

(b) to attend at any place unless the necessary expenses of their journey to and from that place are paid or tendered to them.

(4) If a person fails to comply with a notice served on them under subsection (1) or the Commission has reasonable cause to believe that the person intends not to comply with it, the Commission may apply to a county court for an order requiring them to comply with it or with such directions for the like purposes as may be contained in the order.

(5) If a person fails, without reasonable excuse, to comply with an order made by the county court under subsection (4), that person may be dealt with by the county court as if they had failed to comply with a witness summons issued in accordance with county court rules.

(6) A person who—

- (a) wilfully alters, suppresses, conceals or destroys a document which they have been required by a notice or order under this section to produce; or
- (b) in complying with such a notice or order, knowingly or recklessly makes any statement which is false in a material particular,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(7) Proceedings for an offence under subsection (6) may (without prejudice to any jurisdiction exercisable apart from this subsection) be instituted—

- (a) against any person at any place at which they have an office or other place of business;
- (b) against an individual at any place where they reside, or at which they are for the time being.

Recommendations and reports on formal investigations

26.—(1) If in the light of any of its findings in a formal investigation it appears to the Commission necessary or expedient, whether during the course of the investigation or after its conclusion—

- (a) to make to any person, with a view to promoting equality of access to services between persons of different ages, who are affected by any of that person's activities, recommendations for changes in their policies or procedures, or as to any other matters; or
- (b) to make to the Department any recommendations, whether for changes in the law or otherwise,

the Commission will make those recommendations accordingly.

(2) The Commission will prepare a report of its findings in any formal investigation conducted by it.

(3) If the formal investigation is one required by the Department—

- (a) the Commission will deliver the report to the Department; and
- (b) the Department will cause the report to be published,

and, unless required by the Department, the Commission will not publish the report.

(4) If the formal investigation is not one required by the Department, the Commission will either publish the report, or make it available for inspection in accordance with subsection (5).

(5) Where under subsection (4) a report is to be made available for inspection, any person shall be entitled, on payment of such fee (if any) as may be determined by the Commission—

- 5 (a) to inspect the report during ordinary office hours and take copies of all or any part of the report; or
- (b) to obtain from the Commission a copy, certified by the Commission to be correct, of the report.

10 (6) The Commission may, if it thinks fit, determine that the right conferred by subsection (5)(a) is to be exercisable in relation to a copy of the report instead of, or in addition to, the original.

(7) The Commission will give a general notice of the place or places where, and the times when, reports may be inspected under subsection (5).

Restriction on disclosure of information

15 **27.**—(1) No information given to the Commission by any person “the informant” in connection with a formal investigation may be disclosed by the Commission, or by any person who is or has been a Commissioner, additional Commissioner or employee of the Commission, except—

- (a) on the order of any court; or
- (b) with the informant's consent; or
- 20 (c) in the form of a summary or other general statement published by the Commission which does not identify the informant or any other person to whom the information relates; or
- (d) in a report of the investigation published by the Commission or made available for inspection under section 26; or
- 25 (e) to the Commissioners, additional Commissioners, or employees of the Commission, or, so far as may be necessary for the proper performance of the functions of the Commission, to other persons; or
- (f) for the purpose of any civil proceedings under this Act to which the Commission is a party, or any criminal proceedings.

30 (2) Any person who discloses information in contravention of subsection (1) will be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

35 (3) In preparing any report for publication or for inspection the Commission will exclude, so far as is consistent with its duties and the object of the report, any matter which relates to the private affairs of any individual or the business interests of any person where the publication of that matter might, in the opinion of the Commission, prejudicially affect that individual or person.

PART 6

ENFORCEMENT

Restriction on proceedings for breach of Act

5 **28.**—(1) Except as provided by this Act no proceedings, whether civil or criminal, shall lie against any person in respect of an act by reason that the act is unlawful by virtue of a provision of this Act.

(2) Subsection (1) does not preclude the making of an application for judicial review.

Claims under Part 3

10 **29.**—(1) A claim by any person (“the claimant”) that another person (“the respondent”)—

(a) has committed an act against the claimant which is unlawful by virtue of any provision of Part 3; or

15 (b) is by virtue of sections 5, 6, 7, or 8 to be treated as having committed such an act against the claimant,

may be made the subject of civil proceedings in like manner as any other claim in tort for breach of statutory duty.

20 (2) Proceedings under subsection (1) shall be brought only in a county court; but all such remedies shall be obtainable in such proceedings as, apart from this section and section 28, would be obtainable in the High Court.

(3) Damages in respect of an unlawful act of discrimination may include compensation for injury to feelings whether or not they include compensation under any other head.

25 (4) For the purposes of proceedings under subsection (1)—

(a) Article 33(1) (power of judge to appoint assessors) of the County Courts (Northern Ireland) Order 1980 shall apply with the omission of the words “on the application of any party”, and

30 (b) the remuneration of assessors appointed under that Article shall be at such rate as may be determined by the Lord Chancellor with the approval of the Treasury and may be defrayed as part of the expenses of the Lord Chancellor.

(5) A county court shall have jurisdiction to entertain proceedings under subsection (1) with respect to an act done on a ship, aircraft or hovercraft outside its division, including such an act done outside Northern Ireland.

35 **Burden of proof: county court**

30.—(1) This section applies to any proceedings relating to a contravention of this Act.

40 (2) If there are facts from which the court could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the court must hold that the contravention occurred.

(3) But subsection (2) does not apply if A shows that A did not contravene the provision.

(4) This section does not apply to proceedings for an offence under this Act.

Time limits

5 **31.**—(1) A claim falling within section 29 may not be brought after the end of—

(a) the period of 6 months starting with the date of the act to which the claim relates, or

(b) such other period as the county court thinks just and equitable.

10 (2) Where, in relation to proceedings or prospective proceedings by way of a claim under section 29, an application for assistance under section 40 is made to the Commission before the end of the period of 6 months in subsection (1)(a), the period allowed by that subsection for instituting proceedings in respect of the claim shall be extended by 2 months.

15 (3) For the purposes of this section—

(a) conduct extending over a period is to be treated as done at the end of the period;

(b) failure to do something is to be treated as occurring when the person in question decided on it.

20 (4) In the absence of evidence to the contrary, a person (P) is to be taken to decide on failure to do something—

(a) when P does an act inconsistent with doing it, or

(b) if P does no inconsistent act, on the expiry of the period in which P might reasonably have been expected to do it.

25 **Issue of non-discrimination notice**

32.—(1) This section applies to any act contravening this Act, and so applies whether or not proceedings have been brought in respect of the act.

30 (2) If in the course of a formal investigation the Commission becomes satisfied that a person is committing, or has committed, any such acts, the Commission may in the prescribed manner serve on that person a notice in the prescribed form (“a non-discrimination notice”) requiring that person—

(a) not to commit any such acts; and

(b) where compliance with paragraph (a) involves changes in any of their practices or other arrangements—

35 (i) to inform the Commission that they have effected those changes and what those changes are; and

(ii) to take such steps as may be reasonably required by the notice for the purpose of affording that information to other persons concerned.

40 (3) A non-discrimination notice may also require the person on whom it is served to furnish the Commission with such other information as may be reasonably required by the notice in order to verify that the notice has been complied with.

(4) The notice may specify the time at which, and the manner and form in which, any information is to be furnished to the Commission, but the time at which any information is to be furnished in compliance with the notice shall not be later than 5 years after the notice has become final.

5 (5) The Commission shall not serve a non-discrimination notice in respect of any person unless it has first—

(a) given that person notice that it is minded to issue a non-discrimination notice in their case, specifying the grounds on which it contemplates doing so; and

10 (b) offered that person an opportunity of making oral or written representations in the matter (or both oral and written representations if the person thinks fit) within a period of not less than 28 days specified in the notice; and

(c) taken account of any representations so made by them.

15 (6) Section 25(4) shall apply to requirements under subsections (2)(b), (3) and (4) contained in a non-discrimination notice which has become final as it applies to requirements in a notice served under section 25(1).

Appeal against non-discrimination notice

20 **33.**—(1) Not later than 6 weeks after a non-discrimination notice is served on any person, that person may appeal against any requirement of the notice to a county court, so far as the requirement relates to acts which are within the jurisdiction of the court and are not within the jurisdiction of an industrial tribunal.

(2) Where the court considers a requirement in respect of which an appeal is brought under subsection (1) to be unreasonable because it is based on an incorrect finding of fact or for any other reason, the court shall quash the requirement.

25 (3) On quashing a requirement under subsection (2) the court may direct that the non-discrimination notice shall be treated as if, in place of the requirement quashed, it had contained a requirement in terms specified in the direction.

(4) Subsection (1) does not apply to a requirement treated as included in a non-discrimination notice by virtue of a direction under subsection (3).

Investigation as to compliance with a non-discrimination notice

30 **34.**—(1) If—

(a) the terms of reference of a formal investigation state that its purpose is to determine whether any requirements of a non-discrimination notice are being or have been carried out, but section 25(2)(b) does not apply; and

35 (b) section 24(3) is complied with in relation to the investigation on a date (“the commencement date”) not later than the expiration of the period of 5 years beginning when the non-discrimination notice became final,

40 the Commission may within the period referred to in subsection (2) serve notices under section 25(1) for the purposes of the investigation without the authorisation mentioned in 25(2)(a).

(2) The said period begins on the commencement date and ends on the later of the following dates—

- (a) the date on which the period of 5 years mentioned in subsection (1)(b) expires;
- (b) the date of 2 years after the commencement date.

Register of non-discrimination notices

5 **35.**—(1) The Commission will establish and maintain a register (“the register”) of non-discrimination notices which have become final.

(2) Any person will be entitled, on payment of such a fee (if any) as may be determined by the Commission—

10 (a) to inspect the register during ordinary office hours and take copies of any entry; or

(b) to obtain from the Commission a copy, certified by the Commission to be correct, of any entry in the register.

15 (3) The Commission may, if it thinks fit, determine that the right conferred by subsection (2)(a) will be exercisable in relation to a copy of the register instead of, or in addition to, the original.

(4) The Commission will give general notice of the place or places where, and the times when, the register or a copy of it may be inspected.

Persistent discrimination

20 **36.**—(1) If, during the period of 5 years beginning on the date on which either of the following became final in the case of any person, namely—

(a) a non-discrimination notice served on that person; or

(b) a finding by a court under section 29 that the person has done an unlawful act of discrimination or harassment,

25 it appears to the Commission that unless restrained that person is likely to do one or more acts falling within paragraph (b), the Commission may apply to a county court for an injunction restraining that person from doing so; and the court if satisfied that the application is well founded, may grant the injunction in the terms applied for or in more limited terms.

Help for persons in obtaining information etc.

30 **37.**—(1) In accordance with this section, a person (“the person aggrieved”) who considers they may have been discriminated against, in contravention of this Act may serve on the respondent to a complaint presented under section 29 questions in the form set out in Schedule 1 or forms to the like effect with such variation as the circumstances require; and the respondent may if they so wish reply to such questions by way of the form set out in Schedule 2 or forms to the like effect with such variation as the circumstances require.

(2) Where the aggrieved person questions the respondent (whether in accordance with subsection (1) or not)—

40 (a) the questions, and any reply by the respondent (whether in accordance with subsection (1) or not) shall, subject to the following provisions of this section, be admissible as evidence in the proceedings;

5 (b) if it appears to the court that the respondent deliberately, and without reasonable excuse, omitted to reply within eight weeks of service of the questions or that their reply is evasive or equivocal, the court may draw any inference from that fact that it considers it just and equitable to draw, including an inference that they committed an unlawful act.

(3) In proceedings before a county court a question shall only be admissible as evidence in pursuance of subsection (2)(a)—

10 (a) where it has been served before those proceedings had been instituted, if it was so served within the period of six months beginning when the act complained of was done;

(b) where it was served when those proceedings had been instituted, if it was served with the leave of, and within a period specified by, the court in question.

15 (4) A question and any reply may be served on the respondent or, as the case may be, on the person aggrieved.

(5) This section is without prejudice to any other statutory provision or rule of law regulating interlocutory and preliminary matters in proceedings before a county court or industrial tribunal, and has effect subject to any statutory provision or rule of law regulating the admissibility of evidence in such proceedings.

20 (6) In this section “respondent” includes a prospective respondent.

Enforcement of sections 5 and 6

38.—(1) Proceedings in respect of a contravention of section 5 or 6 will be brought only by the Commission in accordance with this section.

(2) The proceedings will be—

25 (a) an application for a decision whether the alleged contravention occurred; or

(b) an application under subsection (4),

or both.

30 (3) An application under subsection (2)(a) will be made in a case based on any provision contained within section 10, to a county court.

(4) If it appears to the Commission—

(a) that a person has done an act which by virtue of section 5 or 6 was unlawful; and

35 (b) that unless restrained the person is likely to do further acts which by virtue of that section are unlawful,

the Commission may apply to a county court for an injunction restraining the person from doing such acts; and the court, if satisfied that the application is well founded, may grant the injunction in the terms applied for or more limited terms.

40 (5) In proceedings under subsection (4) the Commission will not allege that the person to whom the proceedings relate has done an act which is unlawful under this Act and within the jurisdiction of a county court unless a finding by a county court that the person did that act has become final.

Undertakings by persons contravening this Act

39.—(1) This section applies to—

- (a) an unlawful discriminatory act;
- (b) an act contravening section 5 or 6,

5 and so applies whether or not proceedings have been brought in respect of the act.

(2) If the Commission is satisfied that a person is committing or has committed any such act the Commission may, for the purpose of preventing that commission by that person of any further such act, seek to obtain from that person an
10 undertaking—

(a) that the person will do, or refrain from doing, certain acts specified in the undertaking;

(b) that the person will institute certain practices or arrangements so specified;
or

15 (c) that the person will change their existing practices or arrangements in a manner so specified.

(3) An undertaking given by any person under this section will—

(a) be in writing;

20 (b) be in such terms as may be agreed between that person and the Commission;

(c) contain such terms as appear to the Commission to be necessary or appropriate for the purpose mentioned in subsection (2); and

(d) have effect for such period as may be specified therein.

25 (4) If it appears to the Commission that a person who has given an undertaking under this section has, at any time within the period specified therein by virtue of subsection (3)(d), failed to comply with the undertaking, the Commission may apply to the county court for a decision as to whether that person has failed to comply with the undertaking.

Assistance by the Commission

30 **40.**—(1) Where, in relation to proceedings or prospective proceedings under this Act, an individual who is an actual or prospective complainant or claimant applies to the Commission for assistance under this section, the Commission will consider the application and may grant it if it thinks fit to do so—

(a) on the ground the case raises a question of principle; or

35 (b) on the ground that it is unreasonable, having regard to the complexity of the case, or to the applicant's position in relation to the respondent or another person involved, or to any other matter, to expect the applicant to deal with the case unaided; or

(c) by reason of any other special consideration.

40 (2) Assistance under this section may include—

(a) giving advice;

(b) procuring or attempting to procure the settlement of any matter in dispute;

- (c) arranging for the giving of advice or assistance by a solicitor or counsel;
- (d) arranging for representation by any person, including all such assistance as is usually given by a solicitor or counsel in the steps preliminary or incidental to any proceedings, or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings;
- (e) any other form of assistance which the Commission may consider appropriate,

but paragraph (d) shall not affect the law and practice regulating the descriptions of persons who may appear in, conduct, defend, and address the court in, any proceedings.

(3) Where under subsection (1) an application for assistance under this section is made in writing, the Commission shall, within the period of 2 months beginning when the application is received—

- (a) consider the application after making such enquiries as it thinks fit;
- (b) decide whether or not to grant it; and
- (c) inform the applicant of its decision, stating whether or not assistance under this section is to be provided by the Commission and, if so, what form it will take.

(4) If, in a case where subsection (3) applies, the Commission within the period of 2 months there mentioned gives notice to the applicant that, in relation to their application—

- (a) the period of 2 months allowed it by that subsection is by virtue of the notice extended to 3 months; and
- (b) the reference to 2 months in section 31(2) is by virtue of the notice to be read as a reference to 3 months,
- (c) subsection (3) and section 31(2) shall have effect accordingly.

(5) In so far as expenses are incurred by the Commission in providing the applicant with assistance under this section, the recovery of those expenses (as taxed or assessed in such manner as may be prescribed by rules and regulations) shall constitute a first charge for the benefit of the Commission—

- (a) on any costs which (whether by virtue of a judgement or order of a court or an agreement or otherwise) are payable to the applicant by any other person in respect of the matter in connection with which the assistance is given; and
- (b) so far as relates to any costs, on their rights under any compromise or settlement arrived at in connection with that matter to avoid or bring to an end any proceedings.

(6) The charge conferred by subsection (5) is subject to any charge under the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 and is subject to any provision in that Order for payment of any sum into the legal aid fund.

(7) In this section “respondent” includes a prospective respondent and “rules or regulations” in relation to county court proceedings, means county court rules.

PART 7

VALIDITY OF CONTRACTS

Unenforceable terms

5 **41.** A term of a contract is unenforceable against a person in so far as it constitutes, promotes or provides for treatment of that or another person that is of a description prohibited by this Act.

Removal or modification of unenforceable terms

10 **42.**—(1) The county court may, on an application by a person who has an interest in a contract which includes a term that is unenforceable as a result of section 41, make an order for the term to be removed or modified.

(2) An order under this section must not be made unless every person who would be affected by it—

- (a) has been given notice of the application (except where notice is dispensed with in accordance with rules of court), and
- 15 (b) has been afforded an opportunity to make representations to the county court.

(3) An order under this section may include provision in respect of a period before the making of the order.

Contracting out

20 **43.** A term of a contract is unenforceable by a person in whose favour it would operate in so far as it purports to exclude or limit a provision of or made under this Act.

PART 8

GUIDANCE AND REGULATIONS

Duty to publish guidance

25 **44.**—(1) The Department must, before the commencement of the substantive provisions of this Act, issue guidance on—

- (a) the operation of the prohibition of discrimination and related conduct under Part 2;
- 30 (b) the application of the objective justification test under section 2(2);
- (c) the scope and effect of any exceptions made by regulations under this Act;
- (d) examples of lawful and unlawful age-based distinctions in the provision of goods, facilities and services; and
- 35 (e) any other matters that the Department considers appropriate.

(2) Before publishing guidance under this section, the Department must consult—

(a) the Commission; and

(b) such other persons as the Department considers appropriate.

(3) The Department—

(a) must review the guidance issued under subsection (1) at intervals not exceeding 5 years, and

5 (b) may revise it.

(4) The Department must arrange for any guidance issued or revised under this section to be published in a way the Department considers appropriate.

(5) In this section, “substantive provisions” means the provisions of Parts 2 and 3 of this Act.

10 **Review**

45.—(1) The Department must—

(a) within the period of 3 years beginning with the day on which the substantive provisions of this Act come into operation, carry out a review of the operation of this Act; and

15 (b) at intervals of not more than 5 years thereafter, carry out further reviews of the operation of this Act.

(2) The Department must, as soon as practicable after completing a review under this section, lay before the Assembly a report of the findings of the review.

(3) A review under this section must, in particular, consider—

20 (a) the effectiveness of the prohibition of discrimination in achieving its aims;

(b) the scope and operation of any exceptions made by regulations under section 14;

(c) the extent to which the objective justification defence under section 2(2) has been relied upon; and

25 (d) such other matters as the Department considers appropriate.

(4) In this section, “substantive provisions” has the meaning given by section 44(5).

Regulations

30 **46.**—(1) Regulations are not to be made unless a draft has been laid before, and approved by a resolution of, the Assembly, unless otherwise provided.

(2) The Department may by regulation amend Part 3 so as to render lawful an act which, apart from the amendment, would be unlawful by reason of section 10.

35 (3) Any power of the Department to make an order or regulations under this Act includes power to make such supplementary, incidental, consequential, transitional, transitory and saving provision as the Department considers appropriate.

PART 9

SUPPLEMENTARY PROVISIONS

Application to Crown etc.

47.—(1) This Act applies—

- 5 (a) to an act done by or for the purposes of a Minister of the Crown, a Northern Ireland Minister or government department; or
(b) to an act done on behalf of the Crown by a statutory body, or a person holding a statutory office,

as they apply to an act done by a private person.

10 **Interpretation: general**

48. In this Act—

“act” includes a deliberate omission;

“the Commission” means the Equality Commission for Northern Ireland established by section 73 of the Northern Ireland Act 1998;

15 “the Department” means The Executive Office;

“Minister of the Crown” includes the Treasury and the Defence Council;

“Northern Ireland” includes such of the territorial waters of the United Kingdom as are adjacent to Northern Ireland;

20 “Northern Ireland Minister” has the same meaning as in the Northern Ireland Act 1998;

“person” can include a public, private, or voluntary sector organisation;

“statutory body” means a body set up by or in pursuance of a statutory provision, and “statutory office” means an office so set up; and

25 “statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

Commencement

49.—(1) Part 5 and this section come into operation on the day after the day on which the Act receives Royal Assent.

30 (2) The other provisions of this Act come into operation at the end of the period of twelve months after the day on which this Act receives Royal Assent.

Short title

50. This Act may be cited as the Age Discrimination (Goods, Facilities and Services) Act (Northern Ireland) 2026.

SCHEDULES

SCHEDULE 1

FORM OF QUESTIONS BY CLAIMANT OR POTENTIAL CLAIMANT

Form of Questions by Claimant or Potential Claimant

5 To (name of person to be questioned) of
.....

1.—(1) I (name of questioner) of (address)
consider that you may have discriminated against me contrary to the Age
Discrimination (Goods, Facilities and Services) Act (Northern Ireland) [2026].

10 (2) (Give date, approximate time and a factual description of the treatment
received and of the circumstances leading up to the treatment.)

(3) I consider that this treatment may have been unlawful (because
..... (complete if you wish to give reasons, otherwise delete)).

15 2. Do you agree that the statement in paragraph 1(2) above is an accurate
description of what happened? If not, in what respect do you disagree or what
is your version of what happened?

3. Do you accept that your treatment of me was unlawful discrimination?

If not—

(a) why not,

20 (b) for what reason did I receive the treatment accorded to me, and

(c) how far did considerations of age affect your treatment of me?

4. (Any other questions you wish to ask?)

5. My address for any reply you may wish to give to the questions raised above
is (that set out in paragraph 1(1) above) (the following address

25).

..... (signature of questioner)

..... (date)

30 N.B. By virtue of section 37 of the Age Discrimination (Goods, Facilities and
Services) Act (Northern Ireland) [2026] this questionnaire and any reply are
(subject to the provisions of that section) admissible in proceedings under the
Act. A court or tribunal may draw an inference from a failure to reply within
eight weeks of service of this questionnaire or from an evasive or equivocal
reply.

SCHEDULE 2

FORM OF REPLY BY RESPONDENT

Form of Reply by Respondent

5 To (name of questioner) of
(address)

1.—(1) I (name of person questioned) of
(address) hereby acknowledge receipt of the questionnaire signed by you and
dated which was served on me on (date).

10 2. (I agree that the statement in paragraph 1(2) of the questionnaire is an accurate
description of what happened.)

(I disagree with the statement in paragraph 1(2) of the questionnaire in that
.....)

3. I accept/dispute that my treatment of you was unlawful discrimination by me
against you.

15 (My reasons for so disputing are The reason why you received
the treatment accorded to you and the answers to the other questions in paragraph
3 of your questionnaire are)

4. (Replies to questions in paragraph 4 of the questionnaire.)

20 5. I have deleted (in whole or in part) the paragraph(s) numbered
above, since I am unable/unwilling to reply to the relevant questions in the
correspondingly numbered paragraph(s) of the questionnaire for the following
reasons

..... (signature of person questioned)

..... (date)

Age Discrimination (Goods, Facilities and Services) Bill

[AS INTRODUCED]

A Bill to make provision for the prohibition of unjustified discrimination, harassment and victimisation on the ground of age in connection with the provision of goods, facilities, and services.

Introduced by: Ms Claire Sugden

On: 30 June 2026

Bill Type: Non-Executive Bill

ACCOMPANYING DOCUMENTS

An Explanatory and Financial Memorandum is printed separately as NIA Bill 46/22-27 EFM.



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For more information please contact:

Northern Ireland Assembly
Parliament Buildings
Ballymiscaw
Stormont
Belfast BT4 3XX

Telephone: 028 90 521137

Textphone: 028 90 521209

E-mail: info@niassembly.gov.uk