
STATUTORY INSTRUMENTS

1988 No. 1989 (N.I. 22)

NORTHERN IRELAND

**The Education (Unrecognised Degrees)
(Northern Ireland) Order 1988**

<i>Made</i>	- - - -	<i>14th November 1988</i>
<i>Laid before Parliament</i>		<i>29th November 1988</i>
<i>Coming into Operation</i>		<i>5th December 1988</i>

At the Court at Buckingham Palace, the 14th day of November 1988

Present,

The Queen's Most Excellent Majesty in Council

Whereas this Order is only made for purposes corresponding to the purposes of sections 214 to 216 of the Education Reform Act 1988(1):

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974(2) (as modified by section 217 of the said Act of 1988) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Title and commencement

1.—(1) This Order may be cited as the Education (Unrecognised Degrees) (Northern Ireland) Order 1988.

(2) This Order shall come into operation on the expiration of 21 days from the day on which it is made.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(3) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

(1) 1988 c. 40
(2) 1974 c. 28
(3) 1954 c. 33 (N.I.)

“the Department” means the Department of Education;

“recognised award” has the meaning assigned to it by Article 3(2).

Unrecognised degrees

3.—(1) Any person who, in the course of business, grants, offers to grant or issues any invitation relating to any award—

- (a) which may reasonably be taken to be an award granted or to be granted by a United Kingdom institution; and
- (b) which either—
 - (i) is described as a degree; or
 - (ii) purports to confer on its holder the right to the title of bachelor, master or doctor and may reasonably be taken to be a degree;

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

(2) Paragraph (1) does not apply as respects anything done in relation to any recognised award; and for the purposes of this Order a “recognised award” means—

- (a) any award granted or to be granted by a university, college or other body which is authorised by Royal Charter or Act of Parliament to grant degrees;
- (b) any award granted or to be granted by any body for the time being permitted by any body falling within sub-paragraph (a) to act on its behalf in the granting of degrees; or
- (c) such other award as the Department may by order designate as a recognised award for the purposes of this Article.

(3) An order under paragraph (2)(c) may designate as a recognised award either—

- (a) a specified award granted or to be granted by a person named in the order; or
- (b) any award granted or to be granted by such a person.

(4) Where in any proceedings for an offence under this Article it is shown—

- (a) that the defendant granted, offered to grant or issued an invitation relating to an award; and
- (b) that an address in the United Kingdom was given in any document issued by the defendant certifying the granting of the award or containing the offer or invitation in question;

the award shall be presumed to fall within paragraph (1)(a) unless it is shown that the defendant took reasonable steps to inform the person to whom the award was granted or any member of the public or particular individual to whom the offer or invitation was addressed that the award was not granted or to be granted by a United Kingdom institution.

(5) In any proceedings for an offence under this Article it shall be a defence for the defendant to show—

- (a) that the award in question was granted or to be granted by virtue of authority conferred on or before 5th July 1988 by a foreign institution on the body granting the award; and
- (b) that the defendant took reasonable steps to inform the person to whom the award was granted or any member of the public or particular individual to whom the offer was addressed that the award was granted or was to be granted by virtue of authority conferred by a foreign institution.

(6) For the purposes of paragraph (5), where—

- (a) on or before 5th July 1988 authority was conferred by a foreign institution on a body to grant awards of any description for a period expiring after that date; and

- (b) new authority is conferred by the institution (whether before or after the expiry of that period) on the body to grant awards of that description;

the new authority shall be taken to have been granted on or before that date.

(7) Proceedings for an offence under this Article shall not be instituted except by or on behalf of the Department of Economic Development or the Attorney General.

(8) Nothing in this Article shall apply in relation to the granting of an award to a candidate who—

- (a) before 12th May 1988 began to undertake a course of education approved by the person granting the award in preparation for an examination to qualify for the award; and
- (b) whether before or after that date, passes the examination;

and in this paragraph “examination” includes any form of assessment and the reference to passing an examination shall be construed accordingly.

(9) For the purposes of this Article—

- (a) a “United Kingdom institution” means any institution established in the United Kingdom, other than one which is, or is affiliated to or forms part of, an institution whose principal establishment is situated outside the United Kingdom;
- (b) a “foreign institution” means any institution other than a United Kingdom institution; and
- (c) the reference to issuing an invitation relating to any award includes in particular the issuing of any circular, prospectus or advertisement relating to an award, whether addressed to the public generally, to any section of the public, or to any particular individual or individuals.

Enforcement

4.—(1) It shall be the duty of the Department of Economic Development to enforce the provisions of Article 3.

(2) A duly authorised officer of the Department of Economic Development may, at all reasonable hours and on production, if required, of his credentials, exercise the following powers, that is to say—

- (a) he may, for the purpose of ascertaining whether any offence under Article 3 has been committed, enter and search any premises which he reasonably believes may be used for or in connection with the carrying on of a business which is concerned with the granting of awards which are not recognised awards;
- (b) he may, for that purpose, require any person carrying on or employed in connection with any such business to produce any documents or other items relating to the business and may take copies of any such document;
- (c) he may require any information which is contained in a computer and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible if he has reason to believe that it may be evidence of the commission of an offence under that Article; and
- (d) he may seize and detain anything which he has reason to believe may be evidence of the commission of an offence under that Article.

(3) If, on a complaint in writing and on oath, a justice of the peace—

- (a) is satisfied that there is reasonable ground to believe that any documents or other items which a duly authorised officer has power under this Article to inspect are on any premises and that their inspection is likely to disclose evidence of the commission of an offence under Article 3; and
- (b) is also satisfied either—

- (i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this paragraph has been given to the occupier; or
- (ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry or that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to await his return;

the justice may by warrant under his hand, which shall continue in force for a period of one month, authorise an officer of the Department of Economic Development to enter the premises, if need be by force.

(4) An officer seizing any documents or other items in the exercise of his powers under this Article shall inform the person from whom they are seized.

(5) An officer entering any premises by virtue of this Article may take with him such other persons and such equipment as may appear to him necessary; and on leaving any premises which he has entered by virtue of a warrant under paragraph (3) he shall, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secured against trespassers as he found them.

(6) Section 29 of the Trade Descriptions Act 1968⁽⁴⁾ (penalty for obstruction of authorised officers) shall apply as respects the obstruction of an officer acting in pursuance of this Article as it applies as respects the obstruction of an officer acting in pursuance of that Act but with the substitution in subsection (1)—

- (a) of a reference to this Article for the reference to section 28 of that Act; and
- (b) of a reference to his functions under this Article for the reference to his functions under that Act.

(7) Nothing in this Article shall be taken to compel the production by a solicitor of a document or other item containing a privileged communication made by or to him in that capacity or to authorise the taking of possession of any such item which is in his possession.

Identification of bodies granting or providing courses for recognised awards

5.—(1) For the purposes of this Order, any body for the time being designated by order made by the Department as appearing to it to be a recognised body shall be conclusively presumed to be such a body.

(2) The Department shall compile, maintain and publish by order a list including the name of every body which appears to it to fall for the time being within paragraph (3).

(3) A body falls within this paragraph if it is not a recognised body and either—

- (a) provides any course which is in preparation for a degree to be granted by a recognised body and which is approved by or on behalf of the recognised body; or
- (b) is a constituent college, school or hall or other institution of a university which is a recognised body.

(4) In this Article “recognised body” means a body falling within Article 3(2)(a) or (b).

(4) 1968 c. 29

G. I. de Deney
Clerk of the Privy Council

Status: *This is the original version (as it was originally made).*

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which is made only for purposes corresponding to those of sections 214 to 216 of the Education Reform Act 1988, makes it an offence for a person in the course of business to grant, offer to grant or issue any invitation relating to degrees other than those recognised for the purposes of this Order.