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## STATUTORY INSTRUMENTS

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# 1981 No. 839

## The Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981

### PART II

#### EMPLOYMENT AGENCIES

##### *[<sup>F1</sup>Prohibition orders]*

**F1** 1994 c. 40

##### *[<sup>F2</sup>Power to make orders]*

**5A.**—(1) On application by the Department, an industrial tribunal may by order prohibit a person from carrying on, or being concerned with the carrying on of—

- (a) any employment agency or employment business; or
- (b) any specified description of employment agency or employment business.

(2) An order under paragraph (1) (in this Order referred to as “a prohibition order”) may either prohibit a person from engaging in an activity altogether or prohibit him from doing so otherwise than in accordance with specified conditions.

(3) A prohibition order shall be made for a period beginning with the date of the order and ending—

- (a) on a specified date, or
- (b) on the happening of a specified event,

in either case, not more than ten years later.

(4) Subject to paragraphs (5) and (6), an industrial tribunal shall not make a prohibition order in relation to any person unless it is satisfied that he is, on account of his misconduct or for any other sufficient reason, unsuitable to do what the order prohibits.

(5) An industrial tribunal may make a prohibition order in relation to a body corporate if it is satisfied that—

- (a) any director, secretary, manager or similar officer of the body corporate,
- (b) any person who performs on behalf of the body corporate the functions of a director, secretary, manager or similar officer, or
- (c) any person in accordance with whose directions or instructions the directors of the body corporate are accustomed to act,

is unsuitable, on account of his misconduct or for any other sufficient reason, to do what the order prohibits.

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(6) An industrial tribunal may make a prohibition order in relation to a partnership if it is satisfied that any member of the partnership, or any manager employed by the partnership, is unsuitable, on account of his misconduct or for any other sufficient reason, to do what the order prohibits.

(7) For the purposes of paragraph (4), where an employment agency or employment business has been improperly conducted, each person who was carrying on, or concerned with the carrying on of, the agency or business at the time, shall be deemed to have been responsible for what happened unless he can show that it happened without his connivance or consent and was not attributable to any neglect on his part.

(8) A person shall not be deemed to fall within paragraph (5)(c) by reason only that the directors act on advice given by him in a professional capacity.

(9) In this Article—

“director”, in relation to a body corporate whose affairs are controlled by its members, means a member of the body corporate; and

“specified”, in relation to a prohibition order, means specified in the order.]

**F2** 1994 c. 40

### **[<sup>F3</sup> Enforcement**

**5B.** Any person who, without reasonable excuse, fails to comply with a prohibition order shall be guilty of an offence and liable

[<sup>F4</sup>(a) on conviction on indictment, to a fine;

(b) on summary conviction, to a fine not exceeding the statutory maximum.]]

**F3** 1994 c. 40

**F4** Words in art. 5B substituted (3.8.2010) by [Employment Act \(Northern Ireland\) 2010 \(c. 12\)](#), ss. 1, 8(2)

### **[<sup>F5</sup> Variation and revocation of orders**

**5C.**—(1) On application by the person to whom a prohibition order applies, an industrial tribunal may vary or revoke the order if the tribunal is satisfied that there has been a material change of circumstances since the order was last considered.

(2) An industrial tribunal may not, on an application under this Article, so vary a prohibition order as to make it more restrictive.

(3) The Department shall be a party to any proceedings before an industrial tribunal with respect to an application under this Article, and be entitled to appear and be heard accordingly.

(4) When making a prohibition order or disposing of an application under this Article, an industrial tribunal may, with a view to preventing the making of vexatious or frivolous applications, by order prohibit the making of an application, or further application, under this Article in relation to the prohibition order before such date as the tribunal may specify in the order under this paragraph.]

**F5** 1994 c. 40

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**Changes and effects yet to be applied to :**

- rev in pt and am (prosp) by [1994 c. 40 s. 35Sch.10 Pt I para 2](#)

**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art.1 lart.1(5)(d) rev in pt (prosp) by [1994 c. 40 ss. 3581Sch.10 Pt II para 5Sch.17](#)
- arts.34589(1) revoked by [1994 c. 40 s. 81Sch.17](#)