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STATUTORY INSTRUMENTS

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**1990 No. 246 (N.I. 2)**

**The Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990**

- - - - - 14th February 1990

**Modifications etc. (not altering text)**

- C1** Order: transfer of functions (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 1 Pt. 2** (with art. 9(2))

Introductory

**Title and commencement**

1.—(1) This Order may be cited as the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990.

(2) Except as provided by paragraph (3), this Order shall come into operation on the expiration of two months from the day on which it is made.

(3) The following provisions shall come into operation on such day or days as the Head of the Department may by order appoint<sup>F1</sup>, namely—

- (a) Article 11(5);
- (b) Article 12(1) and Part II of Schedule 3 so far as they repeal section 117A of the Factories Act (Northern Ireland) 1965<sup>F2</sup>;
- (c) paragraph 5 of Schedule 4 and Article 19(1) so far as relating thereto;
- (d) Part II of Schedule 5 and Article 19(2) so far as relating thereto<sup>F1</sup>.

**F1** fully exercised by SRs 1990/277; 1997/385 (C.23)

**F2** 1965 c. 20 (N.I.)

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954 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—

“act” includes a deliberate omission;

“the Department” means the Department of Economic Development;

*Status: Point in time view as at 01/01/2018.*

*Changes to legislation: There are currently no known outstanding effects for the The Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990. (See end of Document for details)*

“enactment” includes an enactment contained in an Act of Parliament or in an Act of the Parliament of Northern Ireland or a Measure or an Order in Council having the same effect as such an Act or a Measure; and “enacted” in relation to such an Order in Council means made; “instrument” has the meaning assigned to it by section 1(c) of the Interpretation Act (Northern Ireland) 1954<sup>F3</sup>;

“the 1976 Order” means the Sex Discrimination (Northern Ireland) Order 1976<sup>F4</sup>;

“vocational training” includes advanced vocational training and retraining.

(3) Any reference in this Order to vocational training shall be construed as including a reference to vocational guidance.

**F3** 1954 c. 33 (N.I.)

**F4** 1976 NI 15

Overriding of provisions requiring discrimination as respects employment or training

### **Overriding of statutory requirements which conflict with certain provisions of the 1976 Order**

3.—(1) Any provision of—

- (a) an enactment enacted before the Sex Discrimination (Northern Ireland) Order 1976; or
- (b) an instrument made or approved under such an enactment (including one made or approved after the making of the 1976 Order),

shall be of no effect in so far as it imposes a requirement to do an act which would be rendered unlawful by any of the provisions of that Order referred to in paragraph (2).

(2) Those provisions are—

- (a) Part III (discrimination as respects employment);
- (b) Part IV (discrimination as respects education, etc.) so far as it applies to vocational training; and
- (c) Part V (other unlawful acts) so far as it has effect in relation to the provisions mentioned in subparagraphs (a) and (b).

(3) Where in any legal proceedings (of whatever nature) there falls to be determined the question whether paragraph (1) operates to negative the effect of any provision in so far as it requires the application by any person of a<sup>F5</sup> provision, criterion or practice] falling within [<sup>F5</sup>[<sup>F6</sup>Article 3A(2)(b)] or 5(1)(b)(i)] of the 1976 Order (indirect discrimination on grounds of sex or marital status)—

- (a) it shall be for any party to the proceedings who claims that paragraph (1) does not so operate in relation to that provision to show the<sup>F5</sup> provision, criterion or practice] in question to be [<sup>F7</sup>proportionate as mentioned in Article 3A(2)(d) or 5(1)(b)(iii)]<sup>F5</sup> of that Order]; and
- (b) the said [<sup>F8</sup>Article 3A(2)(d) or 5(1)(b)(iii)] shall accordingly have effect in relation to the<sup>F5</sup> provision, criterion or practice] as if the reference to the person applying it were a reference to any such party to the proceedings.

(4) Where an enactment enacted after the 1976 Order, whether before or after this Order, re#enacts (with or without modification) a provision of an enactment enacted before the 1976 Order, that provision as re#enacted shall be treated for the purposes of paragraph (1) as if it continued to be contained in an enactment enacted before the 1976 Order.

- F5** SR 2001/282
- F6** Words in art. 3(3) substituted (2.5.2016) by [The Sex Discrimination Order 1976 \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/191\)](#), regs. 1(1), **21(a)**
- F7** Words in art. 3(3)(a) substituted (2.5.2016) by [The Sex Discrimination Order 1976 \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/191\)](#), regs. 1(1), **21(b)**
- F8** Words in art. 3(3)(b) substituted (2.5.2016) by [The Sex Discrimination Order 1976 \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/191\)](#), regs. 1(1), **21(c)**

### Power to repeal statutory provisions requiring discrimination as respects employment or training

**4**<sup>F9</sup>.—(1) Where it appears to the Department that a relevant provision, namely any provision of—

- (a) an enactment enacted before this Order; or
- (b) an instrument made or approved under such an enactment (including one made or approved after the making of this Order),

requires the doing of an act which would (within the meaning of the 1976 Order) constitute an act of discrimination in circumstances relevant for the purposes of any of the provisions of that Order falling within Article 3(2), it may by order make such provision (whether by amending, repealing or revoking the relevant provision or otherwise) as it considers appropriate for removing any such requirement.

(2) Paragraph (1) shall have effect in relation to a provision to which Article 3(1) applies as if the reference to a relevant provision requiring the doing of an act were a reference to its so requiring but for the operation of Article 3(1).

(3) Any order under this Article which makes any amendment, repeal or revocation of a relevant provision within the meaning of paragraph (1) may (without prejudice to the generality of Article 18(4)) amend or repeal any provision of this Order by virtue of which acts done in pursuance of the relevant provision are not to be unlawful for the purposes of provisions of the 1976 Order.

(4) Where an enactment enacted after this Order re-enacts (with or without modification) a provision of an enactment enacted before this Order, that provision as re-enacted shall be treated for the purposes of paragraph (1) as if it continued to be contained in an enactment enacted before this Order.

**F9** functions transf. by SR 1999/481

Circumstances where discrimination as respects employment or training is permissible

### Restriction of exemption for discrimination required by or under statute

**5.**—(1) The 1976 Order shall be amended as follows.

(2) Article 10(2)(f) (exception for jobs held by men because of statutory restrictions on employment of women) shall be omitted.

(3) The following Articles shall be substituted for Article 52—

#### “Acts done for purposes of protection of women

**52.**—(1) Nothing in the following provisions, namely—

- (a) Part III;

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- (b) Part IV so far as it applies to vocational training; or
- (c) Part V so far as it has effect in relation to the provisions mentioned in sub#paragraphs (a) and (b),

shall render unlawful any act done by a person in relation to a woman if—

- (i) it was necessary for that person to do it in order to comply with a requirement of an existing statutory provision concerning the protection of women; or
- (ii) it was necessary for that person to do it in order to comply with a requirement of a relevant statutory provision (within the meaning of Part II of the Health and Safety at Work (Northern Ireland) Order 1978<sup>F10</sup>) and it was done by that person for the purpose of the protection of the woman in question (or of any class of women that included that woman).

(2) In paragraph (1)—

- (a) the reference in sub#paragraph (i) to an existing statutory provision concerning the protection of women is a reference to any such provision having effect for the purpose of protecting women as regards—
  - (i) pregnancy or maternity; or
  - (ii) other circumstances giving rise to risks specifically affecting women, whether the provision relates only to such protection or to the protection of any other class of persons as well; and
- (b) the reference in sub#paragraph (ii) to the protection of a particular woman or class of women is a reference to the protection of that woman or those women as regards any circumstances falling within sub#paragraph (a)(i) or (ii) of this paragraph.

(3) In this Article “existing statutory provision” means (subject to paragraph (4)) any provision of—

- (a) an enactment enacted before this Order; or
- (b) an instrument made or approved under such an enactment (including one made or approved after the making of this Order).

(4) Where an enactment enacted after this Order re#enacts (with or without modification) a provision of an enactment enacted before this Order, that provision as re#enacted shall be treated for the purposes of paragraph (3) as if it continued to be contained in an enactment enacted before this Order.

#### **Acts done under statutory authority to be exempt from certain provisions of Part IV**

**52A.**—(1) Nothing in—

- (a) the relevant provisions of Part IV; or
- (b) Part V so far as it has effect in relation to those provisions,

shall render unlawful any act done by a person if it was necessary for that person to do it in order to comply with a requirement of an existing statutory provision within the meaning of Article 52.

(2) In paragraph (1) “the relevant provisions of Part IV” means the provisions of that Part except so far as they apply to vocational training.”

(4) The following Article shall be inserted after Article 53—

#### **“Construction of references to vocational training**

**53A.** In the following provisions, namely—

- (a) Articles 52 and 52A; and
- (b) the provisions of any Order in Council modifying the effect of Article 53,

“vocational training” includes advanced vocational training and retraining; and any reference to vocational training in those provisions shall be construed as including a reference to vocational guidance.”.

**F10** 1978 NI 9

### **Exemption for discrimination under certain provisions concerned with the protection of women at work**

6.—(1) Without prejudice to the operation of Article 52 of the 1976 Order (as substituted by Article 5(3)), nothing in—

- (a) Part III of that Order;
- (b) Part IV of that Order so far as it applies to vocational training; or
- (c) Part V of that Order so far as it has effect in relation to the provisions mentioned in subparagraphs (a) and (b),

shall render unlawful any act done by a person in relation to a woman if it was necessary for that person to do that act in order to comply with any requirement of any of the provisions specified in Schedule 1 (which are concerned with the protection of women at work).

(2) Each of the last two entries in that Schedule shall be construed as including a reference to any provision or provisions for the time being having effect in place of the provision or provisions specified in that entry.

(3) In this Article “woman” means a female person of any age.

### **Exemption for discrimination in connection with certain educational appointments**

7<sup>F11</sup>.—(1) Nothing in Parts III to V of the 1976 Order shall render unlawful any act done by a person in connection with the employment of another person as the principal of any educational establishment if it was necessary for that person to do that act in order to comply with any requirement of any instrument relating to the establishment that its principal should be a member of a particular religious order.

- (2) The Department may by order provide that paragraph (1) shall not have effect in relation to—
  - (a) any educational establishment specified in the order; or
  - (b) any class or description of educational establishments so specified.

(3) In this Article “educational establishment” means—

- (a) any school within the meaning of the Education and Libraries (Northern Ireland) Order 1986;

<sup>F12</sup>(b) any institution providing further education within the meaning of that Order.

(4) Nothing in this Article shall be construed as prejudicing the operation of Article 21 of the 1976 Order (exemption for discrimination in relation to employment of ministers of religion).

**F11** functions transf. by SR 1999/481

**F12** 1986 NI 3

*Status: Point in time view as at 01/01/2018.*

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### **Power to exempt particular acts of discrimination required by or under statute**

- 8**<sup>F13</sup>.—(1) The Department may by order make such provision as it considers appropriate—
- (a) for disapplying paragraph (1) of Article 3 in the case of any provision to which it appears to the Department that that paragraph would otherwise apply;
  - (b) for rendering lawful under any of the provisions of the 1976 Order falling within Article 3(2) acts done in order to comply with any requirement—
    - (i) of a provision whose effect is preserved by virtue of subparagraph (a); or
    - (ii) of an instrument made or approved under an enactment enacted after the 1976 Order but before this Order (including one made or approved after the making of this Order).
- (2) Where an enactment enacted after this Order re-enacts (with or without modification) a provision of an enactment enacted as mentioned in head (ii) of paragraph (1)(b), that provision as re-enacted shall be treated for the purposes of that head as if it continued to be contained in an enactment enacted as mentioned in that head.

**F13** functions transf. by SR 1999/481

### **Discrimination as respects training**

#### **Prohibition of discrimination in connection with provision of training**

- 9.** The following Article shall be substituted for Article 17 of the 1976 Order—

##### **“Persons concerned with provision of vocational training**

- 17.**—(1) It is unlawful, in the case of a woman seeking or undergoing training which would help fit her for any employment, for any person who provides, or makes arrangements for the provision of, facilities for such training to discriminate against her—
- (a) in the terms on which that person affords her access to any training course or other facilities concerned with such training; or
  - (b) by refusing or deliberately omitting to afford her such access; or
  - (c) by terminating her training; or
  - (d) by subjecting her to any detriment during the course of her training.
- (2) Paragraph (1) does not apply to—
- (a) discrimination which is rendered unlawful by Article 8(1) or (2) or Article 24 or 25; or
  - (b) discrimination which would be rendered unlawful by any of those provisions but for the operation of any other provision of this Order.”

#### **Power to exempt discrimination in favour of lone parents in connection with training**

- F14****10**.—(1) The [<sup>F15</sup>Department for Communities or the Department for the Economy] may by order provide with respect to—
- (a) any specified arrangements made under section 1 of the Employment and Training Act (Northern Ireland) 1950<sup>F16</sup> (functions of the [<sup>F15</sup>Department for Communities or the Department for the Economy] as respects employment and training); or

- (b) any specified class or description of training for employment provided otherwise than in pursuance of that section; or
- (c) any specified scheme set up under section 1 of the Employment Subsidies Act 1978<sup>F17</sup> (schemes for financing employment),

that this Article shall apply to such special treatment afforded to or in respect of lone parents in connection with their participation in those arrangements, or in that training or scheme, as is specified or referred to in the order.

(2) Where this Article applies to any treatment afforded to or in respect of lone parents, neither the treatment so afforded nor any act done in the implementation of any such treatment shall be regarded for the purposes of the 1976 Order as giving rise to any discrimination falling within Article 5 of that Order (discrimination against married persons for purposes of Part III of that Order).

(3) An order under paragraph (1) may specify or refer to special treatment afforded as mentioned in that paragraph—

- (a) whether it is afforded by the making of any payment or by the fixing of special conditions for participation in the arrangements, training or scheme in question, or otherwise; and
- (b) whether it is afforded by the [<sup>F18</sup>Department for Communities or the Department for the Economy] or by some other person;

and, without prejudice to the generality of sub#paragraph (b) of that paragraph, any class or description of training for employment specified in such an order by virtue of that sub#paragraph may be framed by reference to the person, or the class or description of persons, by whom the training is provided.

(4) In this Article—

[<sup>F19</sup>(za) “couple” has the meaning given by Article 45(1) of the Welfare Reform (Northern Ireland) Order 2015]

(a) “employment” has the same meaning as in the Industrial Training (Northern Ireland) Order 1984;

[<sup>F20</sup>(b) “lone parent” means a person who—

- (i) is not a member of a couple, and
- (ii) is responsible for, and a member of the same household, as a child;]

(c) “training” includes any education with a view to employment.

**F14** functions transf. by SR 1999/481

**F15** Words in art. 10(1) substituted (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 6 para. 37(a)** (with art. 9(2))

**F16** 1950 c. 29 (N.I.)

**F17** 1978 c. 6

**F18** Words in art. 10(3)(b) substituted (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 6 para. 37(b)** (with art. 9(2))

**F19** Art. 10(4)(za) inserted (coming into force in accordance with reg. 1(1) of the amending Regulation) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/236\)](#), regs. 1(1), **3(a)**

**F20** Art. 10(4)(b) substituted (coming into force in accordance with reg. 1(1) of the amending Regulation) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/236\)](#), regs. 1(1), **3(b)**

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#### **Modifications etc. (not altering text)**

- C2** Art. 10: transfer of functions (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 4 Pt. 2** (with art. 9(2))

### Removal of restrictions and other requirements relating to employment

#### **Repeal or modification of provisions requiring different treatment of different categories of employees**

**11.**—(1) In section 21 of the Factories Act (Northern Ireland) 1965<sup>F21</sup> (prohibition on cleaning of machinery by any woman or young person), the words “woman or” shall be omitted in both places where they occur.

(2) In section 17 of the Office and Shop Premises Act (Northern Ireland) 1966<sup>F22</sup> (fencing of exposed parts of machinery)—

- (a) subsection (3);
- (b) in subsection (4), the words from “, except when any” onwards; and
- (c) subsection (5),

shall cease to have effect.

(3) In sections 42(1), 43 and 44 of the Mines Act (Northern Ireland) 1969<sup>F23</sup> (under which winding and rope haulage apparatus and conveyors are to be operated by or under the supervision of competent male persons who have attained the ages there specified), the word “male” shall be omitted wherever occurring.

(4) In section 93 of that Act (prohibition on heavy work by any woman or young person), the words “woman or young” shall be omitted in both places where they occur.

(5) Section 106(1) of that Act (prohibition of employment of woman in job requiring a significant proportion of the employee's time to be spent underground) shall cease to have effect.

(6) In Schedule 2—

- (a) the provisions of the instruments listed in Part I (which require different treatment of different categories of employees) shall cease to have effect; and
- (b) the provisions of the instruments mentioned in Part II shall have effect subject to the amendments there specified (which assimilate the treatment of different categories of employees).

**F21** 1965 c. 20 (N.I.)

**F22** 1966 c. 26 (N.I.)

**F23** 1969 c. 6 (N.I.)

#### **Removal of restrictions relating to employment of young persons**

**12** <sup>F24</sup>.—(1) The following enactments, namely—

- (a) the enactments listed in Part I of Schedule 3 (which impose prohibitions or requirements with respect to the hours of employment and holidays of young persons and with respect to related matters); and
- (b) the enactments listed in Part II of that Schedule (which impose other prohibitions or requirements for, or in connection with, regulating the employment of young persons),

shall cease to have effect.



(2) The enactments mentioned in Part III of Schedule 3 shall have effect subject to the amendments there specified (which include amendments by virtue of which certain occupations, instead of being restricted to persons who are 16 or older, are restricted to persons over school#leaving age).

(3) If the Department considers it appropriate to do so, it may by order—

- (a) repeal or amend any statutory provision in consequence of paragraph (1) or (2);
- (b) repeal any statutory provision relating to the employment of persons, or any class of persons, who have not attained the age of 18 or (as the case may be) some specified lower age of not less than 16;
- (c) amend any statutory provision falling within sub#paragraph (b) and framed by reference to a specified age expressed as a number of years so that it is instead framed by reference to school#leaving age;
- (d) repeal any statutory provision appearing to the Department to be unnecessary in view of any other such provision, being a provision relating to the employment of persons under school#leaving age.

(4) Nothing in any order under paragraph (3) (apart from a repeal effected by virtue of sub#paragraph (d) of that paragraph) shall affect any statutory provision relating to the employment of persons under school#leaving age.

(5) Any reference in paragraph (3)(d) or (4) to a statutory provision relating to the employment of persons under school#leaving age shall be construed, in relation to a statutory provision which relates to both—

- (a) the employment of such persons; and
- (b) the employment of persons over that age,

as a reference to so much of that provision as relates to the employment of persons under that age.

(6) In this Article—

“school#leaving age” means the upper limit of compulsory school age for the purposes of the Education and Libraries (Northern Ireland) Order 1986<sup>F25</sup>; and

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954<sup>F26</sup>.

**F24** functions transf. by SR 1999/481

**F25** 1986 NI 3

**F26** 1954 c. 33 (N.I.)

### **Exemption of Sikhs from requirements as to wearing of safety helmets [<sup>F27</sup>at workplaces]**

**13.**—(1) Any requirement to wear a safety helmet which (apart from this Article) would, by virtue of any statutory provision or rule of law, be imposed on a Sikh who is [<sup>F28</sup>at a workplace] shall not apply to him at any time when he is wearing a turban.

(2) Accordingly, where—

- (a) a Sikh who is [<sup>F29</sup>at a workplace] is for the time being wearing a turban; and
- (b) (apart from this Article) any associated requirement would, by virtue of any statutory provision or rule of law, be imposed—
  - (i) on the Sikh; or
  - (ii) on any other person,

in connection with the wearing by the Sikh of a safety helmet,

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that requirement shall not apply to the Sikh or (as the case may be) to that other person.

(3) In paragraph (2) “associated requirement” means any requirement (other than one falling within paragraph (1)) which is related to or connected with the wearing, provision or maintenance of safety helmets.

(4) It is hereby declared that, where a person does not comply with any requirement, being a requirement which for the time being does not apply to him by virtue of paragraph (1) or (2), he shall not be liable in tort to any person in respect of any injury, loss or damage caused by his failure to comply with that requirement.

(5) If a Sikh who is [<sup>F30</sup>at a workplace] —

- (a) does not comply with any requirement to wear a safety helmet, being a requirement which for the time being does not apply to him by virtue of paragraph (1); and
- (b) in consequence of any act or omission of some other person sustains any injury, loss or damage which is to any extent attributable to the fact that he is not wearing a safety helmet in compliance with the requirement,

that other person shall, if liable to the Sikh in tort, be so liable only to the extent that injury, loss or damage would have been sustained by the Sikh even if he had been wearing a safety helmet in compliance with the requirement.

(6) Where—

- (a) the act or omission referred to in paragraph (5) causes the death of the Sikh; and
- (b) the Sikh would have sustained some injury (other than loss of life) in consequence of the act or omission even if he had been wearing a safety helmet in compliance with the requirement in question,

the amount of any damages which, by virtue of that paragraph, are recoverable in tort in respect of that injury shall not exceed the amount of any damages which would (apart from that paragraph) be so recoverable in respect of the Sikh's death.

[<sup>F31</sup>(6A) This Article does not apply to a Sikh who—

- (a) works, or is training to work, in an occupation that involves (to any extent) providing an urgent response to fire, riot or other hazardous situations, and
- (b) is at the workplace—
  - (i) to provide such a response in circumstances where the wearing of a safety helmet is necessary to protect the Sikh from a risk of injury, or
  - (ii) to receive training in how to provide such a response in circumstances of that kind.

(6B) This Article also does not apply to a Sikh who—

- (a) is a member of Her Majesty's forces or a person providing support to Her Majesty's forces, and
- (b) is at the workplace—
  - (i) to take part in a military operation in circumstances where the wearing of a safety helmet is necessary to protect the Sikh from a risk of injury, or
  - (ii) to receive training in how to take part in such an operation in circumstances of that kind.]

(7) In this Article—

<sup>F32</sup> ...

<sup>F32</sup> ...

[<sup>F33</sup>“Her Majesty's forces” has the same meaning as in the Armed Forces Act 2006;]

“injury” includes loss of life, any impairment of a person's physical or mental condition and any disease;

“safety helmet” means any form of protective headgear;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954<sup>F34</sup>.

[<sup>F35</sup>“workplace” means any premises where work is being undertaken, including premises occupied or normally occupied as a private dwelling; and “premises” includes any place and, in particular, includes—

- (a) any vehicle, vessel, aircraft or hovercraft,
- (b) any installation (including a floating installation or one resting on the seabed or its subsoil or on other land covered with water or its subsoil), and
- (c) any tent or moveable structure.]

(8) In this Article—

- (a) any reference to a Sikh is a reference to a follower of the Sikh religion; and
- (b) any reference to a Sikh being [<sup>F36</sup>at a workplace] is a reference to his being there whether while at work or otherwise.

- F27** Words in art. 13 heading substituted (1.10.2015) by Deregulation Act 2015 (c. 20), ss. 7(8), 115(7); S.I. 2015/994, art. 11(c) (with art. 12(1))
- F28** Words in art. 13(1) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), ss. 7(2), 115(7); S.I. 2015/994, art. 11(c) (with art. 12(1))
- F29** Words in art. 13(2)(a) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), ss. 7(3), 115(7); S.I. 2015/994, art. 11(c) (with art. 12(1))
- F30** Words in art. 13(5) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), ss. 7(4), 115(7); S.I. 2015/994, art. 11(c) (with art. 12(1))
- F31** Art. 13(6A)(6B) inserted (1.10.2015) by Deregulation Act 2015 (c. 20), ss. 7(5), 115(7); S.I. 2015/994, art. 11(c) (with art. 12(1))
- F32** Words in art. 13(7) omitted (1.10.2015) by virtue of Deregulation Act 2015 (c. 20), ss. 7(6)(a), 115(7); S.I. 2015/994, art. 11(c) (with art. 12(1))
- F33** Words in art. 13(7) inserted (1.10.2015) by Deregulation Act 2015 (c. 20), ss. 7(6)(b), 115(7); S.I. 2015/994, art. 11(c) (with art. 12(1))
- F34** 1954 c. 33 (N.I.)
- F35** Words in art. 13(7) inserted (1.10.2015) by Deregulation Act 2015 (c. 20), ss. 7(6)(c), 115(7); S.I. 2015/994, art. 11(c) (with art. 12(1))
- F36** Words in art. 13(8)(b) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), ss. 7(7), 115(7); S.I. 2015/994, art. 11(c) (with art. 12(1))

**[<sup>F37</sup>Protection of Sikhs from racial discrimination in connection with requirements as to wearing of safety helmets.**

**13A.—(1) Where—**

- (a) any person applies to a Sikh any [<sup>F38</sup> provision, criterion or practice] relating to the wearing by him of a safety helmet while he is [<sup>F39</sup>at a workplace] ; and
- (b) at the time when he so applies the [<sup>F38</sup> provision, criterion or practice] that person has no reasonable grounds for believing that the Sikh would not wear a turban at all times when [<sup>F40</sup>at such a workplace] ,

*Status: Point in time view as at 01/01/2018.*

*Changes to legislation: There are currently no known outstanding effects for the The Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990. (See end of Document for details)*

then, for the purpose of determining whether the application of the<sup>F38</sup> provision, criterion or practice] to the Sikh constitutes an act of discrimination falling within Article 3(1)(b)<sup>F38</sup> or Article 3(1A)] of the Race Relations (Northern Ireland) Order 1997 (indirect racial discrimination), the<sup>F38</sup> provision, criterion or practice] shall be taken to be one which cannot be shown to be justifiable as mentioned in Article 3(1)(b)(ii)<sup>F38</sup>, or to be a proportionate means of achieving a legitimate aim as mentioned in Article 3(1A)(c) of,] of that Order.

(2) Any special treatment afforded to a Sikh in consequence of Article 13(1) or (2) shall not be regarded for the purposes of the Race Relations (Northern Ireland) Order 1997 as giving rise, in relation to any other person, to any discrimination falling within Article 3 of that Order.

(3) [<sup>F41</sup>Paragraphs (6A) to (8)] of Article 13 shall apply for the purposes of this Article as they apply for the purposes of that Article.]

**F37** 1997 NI 6

**F38** SR 2003/341

**F39** Words in art. 13A(1)(a) substituted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 7(10)(a)**, 115(7); S.I. 2015/994, art. 11(c) (with art. 12(2))

**F40** Words in art. 13A(1)(b) substituted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 7(10)(b)**, 115(7); S.I. 2015/994, art. 11(c) (with art. 12(2))

**F41** Words in art. 13A(3) substituted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 7(11)**, 115(7); S.I. 2015/994, art. 11(c) (with art. 12(2))

*Arts. 14—17 rep. by 1996 NI 16*

## Orders

**18.**—(1 <sup>F42</sup> The Department shall consult the Equal Opportunities Commission for Northern Ireland before making—

- (a) an order under Article 4 which makes any amendment or repeal of any provision of an enactment; or
- (b) an order under Article 8.

(2) An order of one of the following descriptions, namely—

- (a) such an order under Article 4 as is mentioned in paragraph (1)(a); or
- (b) an order under Article 8(1)(a) which preserves the effect of any provision of an enactment,

shall not be made unless a draft of it has been laid before and approved by a resolution of the Assembly.

(3) Any order under this Order other than—

- (a) an order under Article 1(3); or
- (b) an order to which paragraph (2) applies,

shall be subject to negative resolution.

(4) An order under this Order may contain such consequential or transitional provisions or savings as appear to the Department to be necessary or expedient.

**F42** functions transf. by SR 1999/481

## Minor and consequential amendments, repeals, etc.

*Para. (1)—Amendments*

*Para. (2)—Repeals*

*Para. (3)—Instruments revoked*

(4) The transitional provisions and savings contained in Schedule 7 shall have effect.

**Status:** Point in time view as at 01/01/2018.

**Changes to legislation:** There are currently no known outstanding effects for the The Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990. (See end of Document for details)

## SCHEDULES

### SCHEDULE 1

Article 6.

#### PROVISIONS CONCERNED WITH PROTECTION OF WOMEN AT WORK

##### Enactments

Sections 73, 85, 126 and 129 of the Factories Act (Northern Ireland) 1965<sup>F43</sup>.

**F43** 1965 c. 20 (N.I.)

**F43** 1965 c. 20 (N.I.)

##### Statutory instruments

Regulation 3 of the Regulations dated 21st January 1907<sup>F44</sup> (Manufacture of paints and colours).

**F44** S.R. & O. 1907/17

**F44** S.R. & O. 1907/17

Regulation 10 of the Regulations dated 12th August 1911<sup>F45</sup> (Smelting of materials containing lead, the manufacture of red or orange lead, and the manufacture of flaked litharge).

**F45** S.R. & O. 1911/752

**F45** S.R. & O. 1911/752

Regulation 1(a)(i), (ii), (iv) and (vi) to (viii) of the Regulations dated 2nd January 1913<sup>F46</sup> (Manufacture and decoration of pottery).

**F46** S.R. & O. 1913/2

**F46** S.R. & O. 1913/2

Regulation 1 of the Indiarubber Regulations 1922<sup>F47</sup>.

**F47** S.R. & O. 1922/329

**F47** S.R. & O. 1922/329

Regulation 5(2) of the Electric Accumulator Special Regulations (Northern Ireland) 1945<sup>F48</sup>.

**F48** S.R. & O. (N.I.) 1945 No. 41

**F48** S.R. & O. (N.I.) 1945 No. 41

**F49** ...

**F49** Words in Sch. 1 omitted (1.1.2018) by virtue of [The Ionising Radiations Regulations \(Northern Ireland\) 2017](#) (S.R. 2017/229), reg. 1, **Sch. 9 para. 1** (with reg. 41, Sch. 8)

**F49** Words in Sch. 1 omitted (1.1.2018) by virtue of [The Ionising Radiations Regulations \(Northern Ireland\) 2017](#) (S.R. 2017/229), reg. 1, **Sch. 9 para. 1** (with reg. 41, Sch. 8)

Article 20(8) of the Air Navigation Order 1985<sup>F50</sup> so far as relating to pregnancy.

**F50** S.I. 1985/1643

**F50** S.I. 1985/1643

### Other instruments

Paragraph 118 of the Approved Code of Practice relating to the Control of Lead at Work Regulations (Northern Ireland) 1986<sup>F51</sup> (approved under Article 18 of the Health and Safety at Work (Northern Ireland) Order 1978<sup>F52</sup>).

**F51** S.R. 1986 No. 36  
**F52** 1978 NI 9

**F51** S.R. 1986 No. 36  
**F52** 1978 NI 9

The following provisions of the medical standards contained in Merchant Shipping Notice No. M 1331 (issued for the purposes of Regulation 7 of the Merchant Shipping (Medical Examination) Regulations 1983<sup>F53</sup>), namely—

- (a) Part X so far as relating to gynaecological conditions; and

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(b) Part XI.

**F53** [S.I. 1983/808](#)

**F53** [S.I. 1983/808](#)

*Schedule 2—Revocations and amendments*

*Schedule 3—Repeals and amendments*

*Schedule 4—Amendments*

*Schedule 5—Repeals*

*Schedule 6—Revocations*

## SCHEDULE 7

Article 19(4).

### TRANSITIONAL PROVISIONS AND SAVINGS

#### Sex discrimination

1. Nothing in Article 5 shall render unlawful any act done by any person if—
  - (a) it was done before the coming into operation of that Article; or



- (b) it was done before the coming into operation of Article 11(5) and it was necessary for him to do it in order to comply with section 106(1) of the Mines Act (Northern Ireland) 1969<sup>F54</sup>.

**F54** 1969 c. 6 (N.I.)

*Paras.2#4 rep. by 1996 NI 16*

**Status:**

Point in time view as at 01/01/2018.

**Changes to legislation:**

There are currently no known outstanding effects for the The Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990.