

## STATUTORY INSTRUMENTS

# 1990 No. 246

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

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>[F1]</sup> provision, criterion or practice<sup>[F2]</sup> falling within <sup>[F1]</sup>[<sup>[F2]</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>[F1]</sup> provision, criterion or practice<sup>[F2]</sup> in question to be <sup>[F3]</sup>proportionate as mentioned in Article 3A(2)(d) or 5(1)(b)(iii)]<sup>[F1]</sup> of that Order]; and
- (b) the said <sup>[F4]</sup>Article 3A(2)(d) or 5(1)(b)(iii)] shall accordingly have effect in relation to the<sup>[F1]</sup> provision, criterion or practice<sup>[F2]</sup> 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.

**F1** SR 2001/282

**F2** 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)**

**F3** 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)**

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**Changes to legislation:** There are currently no known outstanding effects for the The Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990, Section 3. (See end of Document for details)

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**F4** 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)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990, Section 3.