
STATUTORY INSTRUMENTS

1990 No. 246

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

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;
- (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(1)) 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.”.

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.—(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(2);
- (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).

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

8.—(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 sub-paragraph (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.