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STATUTORY INSTRUMENTS

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**1993 No. 2810**

**The Education and Libraries (Northern Ireland) Order 1993**

**PART III**

**PUBLIC SUPPLY OR WORKS CONTRACTS**

**Exceptions for fair employment matters and matters specified by Department**

**21.**—(1) A board which takes any action reasonably necessary to secure compliance with section 41 of the Act of 1989 (restriction on execution of works, etc., by unqualified persons) does not exercise any function regulated by Article 20 by reference to a non-commercial matter.

(2) Subject to paragraph (3), nothing in Article 20 shall preclude a board from—

- (a) asking questions seeking information or undertakings of any person relating to whether any person is or is not an unqualified person for the purposes of section 41 of the Act of 1989 and considering the responses to them; or
- (b) including in a draft contract or draft tender for a contract terms or provisions requiring that the persons who are to carry out work or supply goods or services for the purposes of the contract are not to be unqualified persons for the purposes of that section and considering the responses to them,

if, as the case may be, consideration of the information, the giving of the undertaking or the inclusion of the terms or provisions is reasonably necessary to secure compliance with that section.

(3) Paragraph (2) does not apply to the function of terminating a subsisting contract and, in relation to functions as respects approved lists or proposed contracts, does not authorise questions in other than written form.

(4) Where it is permissible under paragraph (2) to ask a question it is also permissible to make, if it is in writing, a request for evidence in support of an answer to the question.

(5) Nothing in Article 20 shall preclude a board from—

- (a) applying the criteria specified in an order under Article 22(1)(b) in including persons in or excluding persons from an approved list; or
- (b) asking questions specified in an order under Article 22(1)(c) in questionnaires circulated by the board to potential contractors in cases so specified and considering the responses to them.