

SPECIAL EDUCATIONAL NEEDS AND DISABILITY (NORTHERN IRELAND) ORDER 2005

S.I. 2005 1117

EXPLANATORY MEMORANDUM

COMMENTARY ON ARTICLES

Part Iii – Disability Discrimination in Education

Chapter 4 – Miscellaneous

Articles 40 to 48 and Schedule 4

Article 40 and Schedule 4: Extension of role of Equality Commission

76. This Article extends the role of the Equality Commission (EC) to issue non-discrimination notices, make agreements in lieu of enforcement action, apply for an injunction in respect of persistent discrimination and give assistance in relation to proceedings under this Order.

Article 41: Codes of practice

77. This Article allows the EC to prepare Codes of Practice in respect of the new duties in Part III of the Order, apart from those duties which place Boards and schools under a duty to plan.

Article 42: Conciliation for Disputes under this Part

78. This Article extends the EC's power to make arrangements for the provision of conciliation services.

Article 43: Victimisation

79. This Article provides that a person discriminates against another (who need not be disabled) if he penalises them for bringing proceedings or for giving evidence or information in connection with proceedings under this Order or the DDA; or for doing anything under this Order or the DDA to them or another person or for alleging that they or someone else has contravened this Order or the DDA. Discrimination can still occur where there was only a belief or suspicion that one of the above was done or is intended.

Article 44: Aiding unlawful acts

80. This Article provides that a person who knowingly aids another to do an act, which is unlawful under this Order, will be himself treated as having committed the same kind of unlawful act.