

**EMPLOYMENT (MISCELLANEOUS PROVISIONS)
(NORTHERN IRELAND) ORDER 2005**

S.I. 2005 No. 3424 (N.I. 20)

EXPLANATORY MEMORANDUM

COMMENTARY ON ARTICLES (COMMENTS ARE NOT GIVEN WHERE THE WORDING IS SELF-EXPLANATORY)

12. [Article 1](#) is introductory.

Enforcement of regulation of employment agencies and employment businesses

13. [Article 2\(2\)](#) inserts new Articles 7A and 7B into the 1981 Order.
New Article 7A provides the Department with the power to appoint officers, or to arrange with any Minister of the Crown or public body to appoint officers, to act for the purposes of the 1981 Order.
New Article 7B provides these officers with the power to enter any relevant business premises, inspect the premises and any records or other documents required to be kept, and remove any records or documents for the purpose of copying them. The Article also sets out the penalties that will be incurred for obstructing an officer in the exercise of his duties, for failure to comply with the requirements of this Order, and for the wrongful disclosure of information obtained.
[Article 2\(3\)](#) adds the new Article 7B (11) to the list of provisions at Article 9A of the 1981 Order. The effect of the Article is to extend the time limit within which the Department may institute proceedings for the wrongful disclosure of information obtained, from 6 months of the date of the offence to within 3 years after the date of the commission of the offence, and within 6 months after the date on which evidence, sufficient in the opinion of the Department to justify the proceedings, came to its knowledge.

Qualification for certain appointments

14. [Article 3](#) makes an amendment to Article 82(2) of the 1998 Order which specifies that a person is not qualified for appointment as a President of the Industrial Tribunals and the Fair Employment Tribunal, a Vice-President of the Industrial Tribunals and the Fair Employment Tribunal, or a panel of chairmen of the Fair Employment Tribunal unless he is “a barrister or solicitor of not less than 7 years' standing”. The Department understands that this can be legally construed to apply only to appropriately qualified members of the Northern Ireland legal profession. This Article amends Article 82(2) of the 1998 Order to enable appropriately-qualified persons from anywhere in Great Britain or Northern Ireland to apply for appointment.

Enforcement of sums awarded by Fair Employment Tribunal

15. [Article 4](#) amends Article 87 of the 1998 Order by substituting the words “any sum payable in pursuance of a decision of the Tribunal” for the words from “an award of compensation” to “Article 86(1)”. The effect of the Article is to enable the Fair

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Employment Tribunal to enforce awards of ‘any sum payable’ as opposed to the current system where it can enforce awards of compensation, but not costs.

Minor amendments

16. [Article 5](#) makes minor amendments to the Industrial Relations (Northern Ireland) Order 1992 (N.I. 5) and the Employment Rights (Northern Ireland) Order 1996 (N.I. 16).