
STATUTORY RULES OF NORTHERN IRELAND

2000 No. 8

DISABLED PERSONS

FAIR EMPLOYMENT AND TREATMENT

RACE RELATIONS

SEX DISCRIMINATION

**Equal Opportunities (Employment Legislation)
(Territorial Limits) Regulations (Northern Ireland) 2000**

Made 7th February 2000

Coming into operation 9th March 2000

The Office of the First Minister and deputy First Minister being a Department designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to measures relating to discrimination on the grounds of sex, race, disability, religious belief or political opinion in matters of employment, self-employment and vocational training(b), in exercise of the powers conferred on it by that section and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Equal Opportunities (Employment Legislation) (Territorial Limits) Regulations (Northern Ireland) 2000 and shall come into operation on 9th March 2000.

(2) The Interpretation Act (Northern Ireland) 1954(c) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Amendment of the Sex Discrimination (Northern Ireland) Order 1976

2.—(1) Article 13 of the Sex Discrimination (Northern Ireland) Order 1976(d) (meaning of employment at establishment in Northern Ireland) shall be amended as follows.

(2) In paragraph (1), the words “or mainly” shall be omitted.

(3) For paragraph (2) there shall be substituted—

“(2) The reference to “employment” in paragraph (1) includes—

(a) employment on board a ship registered at a port of registry in Northern Ireland; and

(a) 1972 c. 68
(b) The European Communities (Designation) (No. 3) Order 1999 (S.I. 1999/2788)
(c) 1954 c. 33 (N.I.)
(d) S.I. 1976/1042 (N.I. 15)

(b) employment on aircraft or hovercraft registered in the United Kingdom and operated by a person who has his principal place of business, or is ordinarily resident, in Northern Ireland.”.

(4) Paragraph (3) shall be omitted.

(5) In paragraph (5) for the words “shall each have effect as if the last reference to Northern Ireland” there shall be substituted “shall have effect as if the last reference to Northern Ireland in paragraph (1)”.

Amendment of the Disability Discrimination Act 1995

3.—(1) Schedule 8 to the Disability Discrimination Act 1995(a) shall be amended as follows.

(2) In paragraph 47, for sub-paragraph (2) there shall be substituted—

“(2) In section 68—

(a) for subsection (2) substitute—

“(2) Where an employee does his work wholly outside Northern Ireland, his employment is not to be treated as being work at an establishment in Northern Ireland.”; and

(b) in subsections (3) and (4) for “Great Britain” wherever it occurs substitute “Northern Ireland”.”.

Amendment of the Race Relations (Northern Ireland) Order 1997

4.—(1) Article 10 of the Race Relations (Northern Ireland) Order 1997(b) (meaning of employment at establishment in Northern Ireland) shall be amended as follows.

(2) In paragraph (1), the words “or mainly” shall be omitted.

(3) For paragraph (2) there shall be substituted—

“(2) The reference to “employment” in paragraph (1) includes—

(a) employment on board a ship registered at a port of registry in Northern Ireland; and

(b) employment on aircraft or hovercraft registered in the United Kingdom and operated by a person who has his principal place of business, or is ordinarily resident, in Northern Ireland.”.

(4) Paragraph (3) shall be omitted.

(5) In paragraph (5) for the words “paragraphs (1), (2) and (3) shall each have effect as if the last reference to Northern Ireland” there shall be substituted “paragraphs (1) and (2) shall have effect as if the last reference to Northern Ireland in paragraph (1)”.

(a) 1995 c. 50
(b) S.I. 1997/869 (N.I. 6)

Amendment of the Fair Employment and Treatment (Northern Ireland) Order 1998

5.—(1) Article 6 of the Fair Employment and Treatment (Northern Ireland) Order 1998^(a) (“Employment in Northern Ireland” and “occupation in Northern Ireland”) shall be amended as follows.

(2) In paragraph (1), the words “or mainly” shall be omitted.

(3) For paragraph (2) there shall be substituted—

“(2) The reference to “employment” in paragraph (1) includes—

(a) employment on board a ship registered at a port of registry in Northern Ireland; and

(b) employment on aircraft or hovercraft registered in the United Kingdom and operated by a person who has his principal place of business, or is ordinarily resident, in Northern Ireland.”.

(4) In paragraph (3) for the words “shall each have effect as if the last reference to Northern Ireland” there shall be substituted “shall have effect as if the last reference to Northern Ireland in paragraph (1)”.

Sealed with the Official Seal of the Office of the First Minister and deputy First Minister on 7th February 2000.

(L.S.)

D. Trimble
First Minister

S. Mallon
Deputy First Minister

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations, which are made under section 2(2) of the European Communities Act 1972, implement Article 3(1)(g) of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (O.J. No. L018, 21.1.97, p. 1-6).

Article 3(1)(g) of that Directive requires every Member State to ensure that employment legislation concerning equality of treatment between men and women and other provisions on non-discrimination are extended to “posted workers”, that is to say workers who, for a limited period, carry out their work in the territory of that State, having been posted there in certain circumstances by an undertaking established in another Member State.

The relevant equality of treatment and non-discrimination legislation applicable in Northern Ireland is contained in the provisions of section 1 of the Equal Pay Act (Northern Ireland) 1970, Part III of the Sex Discrimination (Northern Ireland) Order 1976, Part II of the Disability Discrimination Act 1995 (as applied by Schedule 8 to that Act), Part II of the Race Relations (Northern Ireland) Order 1997 and Part III of the Fair Employment and Treatment (Northern Ireland) Order 1998 (“the relevant provisions”). Those provisions currently apply only in relation to the employment of a person at an establishment in Northern Ireland; and employment is regarded as being at such an establishment unless the employee concerned does his work “wholly or mainly outside Northern Ireland”. This is by virtue of the territorial limitations contained in Article 13(1) of the Sex Discrimination (Northern Ireland) Order 1976, section 68(2) of the Disability Discrimination Act 1995 (as applied to Northern Ireland by paragraph 47(2) of Schedule 8 to that Act), Article 10(1) of the Race Relations (Northern Ireland) Order 1997 and Article 6(1) of the Fair Employment and Treatment (Northern Ireland) Order 1998 (“the territorial limits”).

These Regulations extend the application of the relevant provisions to workers posted to Northern Ireland by removing the words “or mainly” from those territorial limits so that employment will henceforth be regarded for the purposes of the legislation concerned as being at an establishment in Northern Ireland provided that the employee does at least part of his work within that country. This will apply even where the work is done mainly elsewhere.

The territorial limit contained in Article 13(1) of the Sex Discrimination (Northern Ireland) Order 1976 has effect for the purposes of both Part III of that Order and section 1 of the Equal Pay Act (Northern Ireland) 1970. Accordingly these Regulations do not provide for any separate amendment to the latter Act.

The Regulations also provide for some minor and consequential amendments to Article 13 of the Sex Discrimination (Northern Ireland) Order 1976, Article 10 of the Race Relations (Northern Ireland) Order 1997 and Article 6 of the Fair Employment and Treatment (Northern Ireland) Order 1998.

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