
DRAFT STATUTORY INSTRUMENTS

1998 No.

**The Fair Employment and Treatment
(Northern Ireland) Order 1998**

PART XI

MISCELLANEOUS AMENDMENTS

Amendment of the Sex Discrimination (Northern Ireland) Order 1976

Acts safeguarding national security, etc.

96. For Article 53 of the Sex Discrimination (Northern Ireland) Order 1976 (acts safeguarding national security) there shall be substituted—

“Acts safeguarding national security, etc.

53. No act done by any person shall be treated for the purposes of any provision of Parts III to V as unlawfully discriminating if—

- (a) the act is done for the purpose of safeguarding national security or protecting public safety or public order; and
- (b) the doing of the act is justified by that purpose.

Effect of certificates by Secretary of State

53ZA.—(1) This Article applies where in any proceedings—

- (a) a person claims that an act discriminated against him in contravention of—
 - (i) the relevant provisions of Part IV; or
 - (ii) Part V, so far as it has effect in relation to those provisions; and
- (b) the person against whom the claim is made proposes to rely on a certificate purporting to be signed by or on behalf of the Secretary of State and certifying—
 - (i) that an act specified in the certificate was done for the purpose of safeguarding national security or protecting public safety or public order; and
 - (ii) that the doing of the act was justified by that purpose.

(2) The claimant may, in accordance with rules under section 91 of the Northern Ireland Act 1998, appeal against the certificate to the tribunal established under that section.

(3) If on an appeal under paragraph (2) that tribunal determines—

- (a) that the act specified in the certificate was done for the certified purpose; and
- (b) that the doing of the act was justified by that purpose,

the tribunal shall uphold the certificate; in any other case, the tribunal shall quash the certificate.

(4) If—

- (a) the claimant does not appeal against the certificate; or
- (b) the certificate is upheld on appeal,

the certificate shall be conclusive evidence of the matters certified by it.

(5) Sections 91 and 92 of the Northern Ireland Act 1998 shall apply in relation to appeals under this Article as they apply in relation to appeals under section 90 of that Act.

(6) In paragraph (1) “the relevant provisions of Part IV” means the provisions of that Part except so far as they apply to vocational training.”.

Amendment of the Race Relations (Northern Ireland) Order 1997

Selection of unemployed persons

97. After Article 36 of the Race Relations (Northern Ireland) Order 1997 there shall be inserted—

“Selection of unemployed persons

36A.—(1) The application of any requirement or condition to any person applying to fill a vacancy for employment where the requirement or condition is one that the person applying to fill the vacancy has not been in employment for a specified period of time is not by virtue of Article 3(1)(b) unlawful under any provision of Parts II and IV.

(2) The Commission shall, on request, advise any person who proposes to apply any requirement or condition described in paragraph (1).

(3) In paragraph (1) “specified” means specified by the person applying the requirement or condition in question.”.

Acts safeguarding national security, etc.

98. In the Race Relations (Northern Ireland) Order 1997—

- (a) for Article 41 (acts safeguarding national security) there shall be substituted—

“Acts safeguarding national security, etc.

41. No act done by any person shall be treated for the purposes of any provision of Parts II to IV as unlawfully discriminating if—

- (a) the act is done for the purpose of safeguarding national security or protecting public safety or public order; and
- (b) the doing of that act is justified by that purpose.

Effect of certificates by Secretary of State

41A.—(1) This Article applies where in any proceedings—

- (a) a person claims that an act discriminated against him in contravention of any provision of Parts II to IV; and
- (b) the person against whom the claim is made proposes to rely on a certificate purporting to be signed by or on behalf of the Secretary of State and certifying—

- (i) that an act specified in the certificate was done for the purpose of safeguarding national security or protecting public safety or public order; and
 - (ii) that the doing of the act was justified by that purpose.
- (2) The claimant may, in accordance with rules under section 91 of the Northern Ireland Act 1998, appeal against the certificate to the tribunal established under that section.
- (3) If on an appeal under paragraph (2) that tribunal determines—
 - (a) that the act specified in the certificate was done for the certified purpose; and
 - (b) that the doing of the act was justified by that purpose,the tribunal shall uphold the certificate; in any other case, the tribunal shall quash the certificate.
- (4) If—
 - (a) the claimant does not appeal against the certificate; or
 - (b) the certificate is upheld on appeal,the certificate shall be conclusive evidence of the matters certified by it.
- (5) Sections 91 and 92 of the Northern Ireland Act 1998 shall apply in relation to appeals under this Article as they apply in relation to appeals under section 90 of that Act.
- (6) In this Article—
 - “claim” includes complaint; and
 - “claimant” includes complainant.”;
- (b) in Article 66, paragraph (2)(b) and the word “or” immediately preceding it shall cease to have effect.