

## 1976 No. 1042

## Sex Discrimination (Northern Ireland) Order 1976

## DISCRIMINATION IN OTHER FIELDS

**[<sup>F1</sup>Bodies in charge of educational establishments]**

- (a) in the terms on which it offers to admit her to the establishment as a pupil, or
- (b) by refusing or deliberately omitting to accept an application for her admission to the establishment as a pupil, or
- (c) where she is a pupil of the establishment—
  - (i) in the way it affords her access to any benefits, facilities or services, or by refusing or deliberately omitting to afford her access to them, or
  - (ii) by excluding her from the establishment or subjecting her to any other detriment.

<b>TABLE</b> <b><i>Establishment</i></b>	<b><i>Responsible body</i></b>
1. Educational establishment which is grant-aided.	Education and Library Board or managers or governors, according to which of them has the function in question.
[ <sup>F2</sup> 1A. College of education, <sup>F3</sup> . . . .]	[ <sup>F2</sup> The managers.]
2. Independent school.	Proprietor
3. University.	Governing body.
<b>F4</b>	<b>F4</b>
. . .	. . .
[ <sup>F5</sup> 5. An establishment providing further education in respect of which grants are paid under Article 5(1)(b) of the Further Education (Northern Ireland) Order 1997.]	[ <sup>F5</sup> Governing body.]

[<sup>F1</sup>(2) It is unlawful for the governing body of an institution of further or higher education to discriminate against a woman in the arrangements it makes for the purpose of selecting people for admission to the institution.

**Status:** Point in time view as at 06/04/2008.

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(3) It is unlawful for the governing body of an institution of further or higher education to subject a woman to harassment if that woman is a student at the institution or has applied for admission to the institution.

(4) In paragraphs (2) and (3), “institution of further or higher education” means an establishment falling within column 1 of paragraph 1A, 3 or 5 of the table in paragraph (1).]

F1 SR 2005/426  
F2 1986 NI 3  
F3 2005 NI 13  
F4 1984 NI 10  
F5 1997 NI 15

### Other discrimination by Education and Library Boards

25. It is unlawful for an Education and Library Board, in carrying out such of its functions under<sup>F6</sup> the Education Orders, as defined in] the Education and Libraries (Northern Ireland) Order<sup>F7</sup> 1986] as do not fall under Article 24, to do any act which constitutes sex discrimination.

F6 1997 NI 15  
F7 1986 NI 3

### General duty in public sector of education

26.—(1) Without prejudice to its obligation to comply with any other provision of this Order, a body to which this paragraph applies shall be under a general duty to secure that facilities for education provided by it, and any ancillary benefits or services, are provided without sex discrimination.

(2) [<sup>F8</sup>Article 101] of the Education and Libraries (Northern Ireland) Order<sup>F8</sup> 1986]<sup>F9</sup>. . . shall apply to the performance by a body to which paragraph (1) applies of the duties imposed by Articles 24 and 25 and shall also apply to the performance of the general duty imposed by paragraph (1), as it applies to the performance by an Education and Library Board of a duty imposed by that Order.

(3) The sanctions in paragraph (2) shall be the only sanctions for breach of the general duty in paragraph (1), but without prejudice to the enforcement of Articles 24 and 25 under Article 66 or otherwise (where the breach is also a contravention of either of those Articles).

(4) Paragraph (1) applies to—

- (a) an Education and Library Board; and
- (b) any other body which is a responsible body in relation to an establishment falling within paragraph 1<sup>F8</sup>, 1A], 4 or 5 of the table in Article 24.

F8 1986 NI 3  
F9 1989 NI 20

### Exception for single-sex establishments

27.—(1) [<sup>F10</sup>Articles 24(1)( a) and ( b)] and 26 do not apply to the admission of pupils to any establishment (a “single-sex establishment”) which admits pupils of one sex only, or which would be taken to admit pupils of one sex only if there were disregarded pupils of the opposite sex—

- (a) whose admission is exceptional, or

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(b) whose numbers are comparatively small and whose admission is confined to particular courses of instruction or teaching classes.

(2) Where a school which is not a single-sex establishment has some pupils as boarders and others as non-boarders, and admits as boarders pupils of one sex only (or would be taken to admit as boarders pupils of one sex only if there were disregarded boarders of the opposite sex whose numbers are comparatively small),<sup>F10</sup> Articles 24(1)( a) and ( b)] and 26 do not apply to the admission of boarders and<sup>F10</sup> Articles 24(1)( c)(i)] and 26 do not apply to boarding facilities.

(3) Where an establishment is a single-sex establishment by reason of its inclusion in paragraph (1)( b), the fact that pupils of one sex are confined to particular courses of instruction or teaching classes shall not be taken to contravene Article 24( c)(i) or the duty in Article 26.

**F10** SR 2005/426

### Exception for single-sex establishments turning co-educational

**28.**—(1) Where at any time—

(a) the responsible body for a single-sex establishment falling within column 1 of the table in<sup>F11</sup> Article 24(1)] determines to alter its admissions arrangements so that the establishment will cease to be a single-sex establishment, or

(b) Article 27(2) applies to the admission of boarders to a school falling within column 1 of that table but the responsible body determines to alter its admissions arrangements so that Article 27(2) will cease so to apply,

the responsible body may apply in accordance with Schedule 2 for an order (a “transitional exemption order”) authorising discriminatory admissions during the transitional period specified in the order.

(2) Where during the transitional period specified in a transitional exemption order applying to an establishment the responsible body refuses or deliberately omits to accept an application for the admission of a person to the establishment as a pupil the refusal or omission shall not be taken to contravene any provision of this Order.

(3) Paragraph (2) does not apply if the refusal or omission contravenes any condition of the transitional exemption order.

(4) Except as mentioned in paragraph (2), a transitional exemption order shall not afford any exemption from liability under this Order.

(5) Where, during the period between the making of an application for a transitional exemption order in relation to an establishment and the determination of the application, the responsible body refuses or deliberately omits to accept an application for the admission of a person to the establishment as a pupil the refusal or omission shall not be taken to contravene any provision of this Order.

**F11** SR 2005/426

Art. 29 rep. by SR 2005/426

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### *Goods, facilities, services and premises*

#### **Discrimination in provision of goods, facilities or services**

**30.**—(1) It is unlawful for any person concerned with the provision (for payment or not) of goods, facilities or services to the public or a section of the public to discriminate against a woman who seeks to obtain or use those goods, facilities or services—

- (a) by refusing or deliberately omitting to provide her with any of them, or
  - (b) by refusing or deliberately omitting to provide her with goods, facilities or services of the like quality, in the like manner and on the like terms as are normal in his case in relation to male members of the public or (where she belongs to a section of the public) to male members of that section.
- (2) The following are examples of the facilities and services mentioned in paragraph (1)—
- (a) access to and use of any place which members of the public or a section of the public are permitted to enter;
  - (b) accommodation in a hotel, boarding house or other similar establishment;
  - (c) facilities by way of banking or insurance or for grants, loans, credit or finance;
  - (d) facilities for education;
  - (e) facilities for entertainment, recreation or refreshment;
  - (f) facilities for transport or travel;
  - (g) the services of any profession or trade, or any local or other public authority.

[<sup>F12</sup>(2A) It is unlawful in connection with the provision of goods, facilities or services to the public or a section of the public (except in so far as they relate to an excluded matter) for any person to subject to harassment—

- (a) a woman who seeks to obtain or use those goods, facilities or services, or
- (b) a woman to whom he provides those goods, facilities or services.]

(3) For the avoidance of doubt it is hereby declared that where a particular skill is commonly exercised in a different way for men and for women it does not contravene paragraph (1) for a person who does not normally exercise it for women to insist on exercising it for a woman only in accordance with his normal practice or, if he reasonably considers it impracticable to do that in her case, to refuse or deliberately omit to exercise it.

[<sup>F13</sup>(4) In its application in relation <sup>F14</sup> . . . to discrimination falling within Article 4A, paragraph (1) (b) shall have effect as if references to male members of the public, or of a section of the public, were references to members of the public, or of a section of the public, who do not intend to undergo, are not undergoing and have not undergone gender reassignment.]

**F12** Art. 30(2A) inserted (6.4.2008) by [Sex Discrimination \(Amendment of Legislation\) Regulations 2008](#) (S.I. 2008/963), regs. 1(1), 2(2), **Sch. 2 para. 4(a)**

**F13** SR 1999/311

**F14** Words in art. 30(4) omitted (6.4.2008) by virtue of [Sex Discrimination \(Amendment of Legislation\) Regulations 2008](#) (S.I. 2008/963), regs. 1(1), 2(2), **Sch. 2 para. 4(b)**

#### **Discrimination in disposal or management of premises**

**31.**—(1) It is unlawful for a person, in relation to premises in Northern Ireland of which he has power to dispose, to discriminate against a woman—

- (a) in the terms on which he offers her those premises, or

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- (b) by refusing her application for those premises, or
- (c) in his treatment of her in relation to any list of persons in need of premises of that description.

[<sup>F15</sup>(1A) It is unlawful for such a person to subject to harassment a woman who applies for the premises.]

(2) It is unlawful for a person, in relation to premises managed by him, to discriminate against a woman occupying the premises—

- (a) in the way he affords her access to any benefits or facilities, or by refusing or deliberately omitting to afford her access to them, or
- (b) by evicting her, or subjecting her to any other detriment.

[<sup>F16</sup>(2A) It is unlawful for such a person to subject to harassment a woman who occupies the premises.]

(3) Paragraph (1) does not apply to a person who owns an estate or interest in the premises and wholly occupies them unless he uses the services of an estate agent for the purposes of the disposal of the premises or publishes or causes to be published an advertisement in connection with the disposal.

[<sup>F17</sup>(4) Paragraphs (1A) and (2A) apply in relation to an application for or occupation of premises except in so far as they relate to an excluded matter.]

**F15** Art. 31(1A) inserted (6.4.2008) by [Sex Discrimination \(Amendment of Legislation\) Regulations 2008](#) (S.I. 2008/963), regs. 1(1), 2(2), **Sch. 2 para. 5(a)**

**F16** Art. 31(2A) inserted (6.4.2008) by [Sex Discrimination \(Amendment of Legislation\) Regulations 2008](#) (S.I. 2008/963), regs. 1(1), 2(2), **Sch. 2 para. 5(b)**

**F17** Art. 31(4) inserted (6.4.2008) by [Sex Discrimination \(Amendment of Legislation\) Regulations 2008](#) (S.I. 2008/963), regs. 1(1), 2(2), **Sch. 2 para. 5(c)**

### **Discrimination: consent for assignment or sub-letting**

**32.**—(1) Where the licence or consent of the landlord or of any other person is required for the disposal to any person of premises in Northern Ireland comprised in a tenancy, it is unlawful for the landlord or other person

[<sup>F18</sup>(a) to discriminate against a woman by withholding the licence or consent for disposal of the premises to her, or

- (b) in relation to such a licence or consent, to subject to harassment a woman to whom the disposal would be made if the licence or consent were given.]

(2) Paragraph (1) does not apply if—

- (a) the person withholding a licence or consent, or a near relative of his ( “the relevant occupier”) resides, and intends to continue to reside, on the premises, and
- (b) there is on the premises, in addition to the accommodation occupied by the relevant occupier, accommodation (not being storage accommodation or means of access) shared by the relevant occupier with other persons residing on the premises who are not members of his household, and
- (c) the premises are small premises as defined in Article 33(2).

(3) In this Article “tenancy” means a tenancy created by a lease or sub-lease, by an agreement for a lease or sub-lease or by a tenancy agreement or in pursuance of any statutory provision; and “disposal”, in relation to premises comprised in a tenancy, includes assignment of the tenancy and sub-letting or parting with possession of the premises or any part of the premises.

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(4) This Article applies to tenancies created before the commencement of this Article, as well as to others.

**F18** Words in [art. 32\(1\)](#) substituted (6.4.2008) by [Sex Discrimination \(Amendment of Legislation\) Regulations 2008 \(S.I. 2008/963\)](#), regs. 1(1), 2(2), [Sch. 2 para. 6](#)

### Exception for small dwellings

**33.**—(1) Articles 30(1) and 31 do not apply to the provision by a person of accommodation in any premises, or the disposal of premises by him, if—

- (a) that person or a near relative of his ( “the relevant occupier”) resides, and intends to continue to reside, on the premises, and
- (b) there is on the premises, in addition to the accommodation occupied by the relevant occupier, accommodation (not being storage accommodation or means of access) shared by the relevant occupier with other persons residing on the premises who are not members of his household, and
- (c) the premises are small premises.

(2) Premises shall be treated for the purposes of paragraph (1) as small premises if—

- (a) in the case of premises comprising residential accommodation for one or more households (under separate letting or similar agreements) in addition to the accommodation occupied by the relevant occupier, there is not normally residential accommodation for more than two such households and only the relevant occupier and any member of his household reside in the accommodation occupied by him;
- (b) in the case of premises not falling within sub-paragraph ( a), there is not normally residential accommodation on the premises for more than six persons in addition to the relevant occupier and any members of his household.

### Exception for political parties

**34.**—(1) This Article applies to a political party if—

- (a) it has as its main object, or one of its main objects, the promotion of parliamentary candidatures for the Parliament of the United Kingdom, or the Assembly, or
- (b) it is an affiliate of, or has an affiliate, or has similar formal links with, a political party within sub-paragraph ( a).

(2) Nothing in Article 30(1) shall be construed as affecting any special provision for persons of one sex only in the constitution, organisation or administration of the political party.

(3) Nothing in Article 30(1) shall render unlawful an act done in order to give effect to such a special provision.

### Exception for voluntary bodies

**35.**—(1) This Article applies to a body—

- (a) the activities of which are carried on otherwise than for profit, and
- (b) which was not set up by any statutory provision.

(2) Articles 30(1) and 31 shall not be construed as rendering unlawful—

- (a) the restriction of membership of any such body to persons of one sex (disregarding any minor exceptions), or

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(b) the provision of benefits, facilities or services to members of any such body where the membership is so restricted, even though membership of the body is open to the public, or to a section of the public.

(3) Nothing in Article 30 or 31 shall—

- (a) be construed as affecting a provision to which this paragraph applies, or
- (b) render unlawful an act which is done in order to give effect to such a provision.

(4) Paragraph (3) applies to a provision for conferring benefits on persons on one sex only (disregarding any benefits to persons of the opposite sex which are exceptional or are relatively insignificant), being a provision which constitutes the main object of a body within paragraph (1).

[<sup>F19</sup>(5) Paragraphs (2) to (4) do not apply to discrimination under Article 3 or 4A in its application to Articles 30 to 32 unless the treatment mentioned in those paragraphs is—

- (a) a proportionate means of achieving a legitimate aim, or
- (b) for the purpose of preventing or compensating for a disadvantage linked to sex.]

**F19** Art. 35(5) inserted (6.4.2008) by Sex Discrimination (Amendment of Legislation) Regulations 2008 (S.I. 2008/963), regs. 1(1), 2(2), Sch. 2 para. 7

### Further exceptions from Articles 30(1) and 31

**36.**—[<sup>F20</sup>(1) A person who provides at any place facilities or services restricted to men does not for that reason contravene Article 30(1) if any of the conditions in paragraphs (1A) to (1C) is satisfied.]

[<sup>F21</sup>(1A) The condition is that the place is, or is part of—

- (a) a hospital, or
- (b) any other establishment for persons requiring special supervision, attention or care.

(1B) The condition is that the place is (permanently or for the time being) occupied or used for the purposes of an organised religion, and the facilities or services are restricted to men so as to comply with the doctrines of that religion or avoid offending the religious susceptibilities of a significant number of its followers.

(1C) The condition is that the facilities or services are provided for, or are likely to be used by, two or more persons at the same time, and—

- (a) the facilities or services are such, or those persons are such, that male users are likely to suffer serious embarrassment at the presence of a woman, or
- (b) the facilities or services are such that a user is likely to be in a state of undress and a male user might reasonably object to the presence of a female user.]

(2) A person who provides facilities or services restricted to men does not for that reason contravene Article 30(1) if the facilities or services are such that physical contact between the user and any other person is likely, and that other person might reasonably object if the user were a woman.

[<sup>F22</sup>(2A) In their application to discrimination falling within Article 4A, paragraphs (1A), (1C) and (2) shall apply to the extent that any such discrimination is a proportionate means of achieving a legitimate aim.]

(3) Articles 30(1) and 31 do not apply—

- (a) to discrimination [<sup>F23</sup>or harassment] which is rendered unlawful by any provision in column 1 of the table below, or

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- (b) to discrimination [<sup>F23</sup>or harassment] which would be so unlawful but for any provision in column 2 of that table, or
- (c) to discrimination [<sup>F23</sup>or harassment] which contravenes a term modified or included by virtue of an equality clause.

#### TABLE

##### **Provision creating illegality**

##### **Exception**

Part III

Articles 8(3), 10(1)( b), 18(4), 21 and 22.

Schedule 5 paragraphs 1 and 2.

Article 24 or 25

[<sup>F24</sup>Articles 27 and 28].

Schedule 5 paragraph 4.

- F20** Art. 36(1) substituted (6.4.2008) by Sex Discrimination (Amendment of Legislation) Regulations 2008 (S.I. 2008/963), regs. 1(1), 2(2), **Sch. 2 para. 8(a)**
- F21** Art. 36(1A)–(1C) inserted (6.4.2008) by Sex Discrimination (Amendment of Legislation) Regulations 2008 (S.I. 2008/963), regs. 1(1), 2(2), **Sch. 2 para. 8(b)**
- F22** Art. 36(2A) inserted (6.4.2008) by Sex Discrimination (Amendment of Legislation) Regulations 2008 (S.I. 2008/963), regs. 1(1), 2(2), **Sch. 2 para. 8(c)**
- F23** Words in art. 36(3) inserted (6.4.2008) by Sex Discrimination (Amendment of Legislation) Regulations 2008 (S.I. 2008/963), regs. 1(1), 2(2), **Sch. 2 para. 8(d)**
- F24** SR 2005/426

#### [<sup>F25</sup>Excluded matters

**36ZA** Each of the following is an excluded matter for the purposes of Articles 30 to 32—

- (a) education (including vocational training);
- (b) the content of media and advertisements;
- (c) the provision of goods, facilities or services (not normally provided on a commercial basis) at a place (permanently or for the time being) occupied or used for the purposes of an organised religion.]

- F25** Art. 36ZA inserted (6.4.2008) by Sex Discrimination (Amendment of Legislation) Regulations 2008 (S.I. 2008/963), regs. 1(1), 2(2), **Sch. 2 para. 9(1)**

#### [<sup>F26</sup>Relationships which have come to an end

**36A.**—(1) This Article applies where—

- (a) there has been a relevant relationship between a woman and another person ( “the relevant person”), and
- (b) the relationship has come to an end (whether before or after the commencement of this Article).

(2) In this Article, a “relevant relationship” is a relationship during the course of which an act of discrimination by one party to the relationship against the other party to it is unlawful [<sup>F27</sup> under—

- (a) Articles 30 to 32, except in so far as they relate to an excluded matter, or
- (b) any other provision of this Part, so far as the provision applies to vocational training.]



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(3) It is unlawful for the relevant person to discriminate against the woman by subjecting her to a detriment where the discrimination arises out of and is closely connected to the relevant relationship.

[  
<sup>F28</sup>(4) It is unlawful for the relevant person to subject a woman to harassment where that treatment arises out of or is closely connected to the relevant relationship.]]

**F26** SR 2004/172

**F27** Words in [art. 36A\(2\)](#) substituted (6.4.2008) by [Sex Discrimination \(Amendment of Legislation\) Regulations 2008 \(S.I. 2008/963\)](#), regs. 1(1), 2(2), [Sch. 2 para. 10](#)

**F28** SR 2005/426

### *Extent*

#### **Extent of Part IV**

**37.—**(1) Article 30(1)—

- (a) does not apply to goods, facilities or services outside Northern Ireland except as provided in paragraphs (2) and (3); and
- (b) does not apply to facilities by way of banking or insurance or for grants, loans, credit or finance, where the facilities are for a purpose to be carried out, or in connection with risks wholly or mainly arising, outside Northern Ireland.

(2) Article 30(1) applies to the provision of facilities for travel outside Northern Ireland where the refusal or omission occurs in Northern Ireland or on a ship, aircraft or hovercraft within paragraph (3).

(3) Article 30(1) applies on and in relation to—

- (a) any ship registered at a port of registry in Northern Ireland, and
- (b) any 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, and
- (c) any ship, aircraft or hovercraft belonging to or possessed by Her Majesty in right of the Government of Northern Ireland,

even if the ship, aircraft or hovercraft is outside Northern Ireland.

(4) This Article shall not render unlawful an act done in or over a country outside the United Kingdom, or in or over that country's territorial waters, for the purpose of complying with the laws of that country.

(5) Articles 24, 25 and 26 do not apply to benefits, facilities or services outside Northern Ireland except—

- (a) travel on a ship registered at a port of registry in Northern Ireland, and
- (b) benefits, facilities or services provided on a ship so registered.

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