
STATUTORY INSTRUMENTS

1990 No. 246

The Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990

Overriding of provisions requiring discrimination as respects employment or training

Overriding of statutory requirements which conflict with certain provisions of the 1976 Order

3.—(1) Any provision of—

- (a) an enactment enacted before the Sex Discrimination (Northern Ireland) Order 1976; or
- (b) an instrument made or approved under such an enactment (including one made or approved after the making of the 1976 Order),

shall be of no effect in so far as it imposes a requirement to do an act which would be rendered unlawful by any of the provisions of that Order referred to in paragraph (2).

(2) Those provisions are—

- (a) Part III (discrimination as respects employment);
- (b) Part IV (discrimination as respects education, etc.) so far as it applies to vocational training; and
- (c) Part V (other unlawful acts) so far as it has effect in relation to the provisions mentioned in sub-paragraphs (a) and (b).

(3) Where in any legal proceedings (of whatever nature) there falls to be determined the question whether paragraph (1) operates to negative the effect of any provision in so far as it requires the application by any person of a requirement or condition falling within paragraph (1)(b)(i) of Article 3 or 5 of the 1976 Order (indirect discrimination on grounds of sex or marital status)—

- (a) it shall be for any party to the proceedings who claims that paragraph (1) does not so operate in relation to that provision to show the requirement or condition in question to be justifiable as mentioned in paragraph (1)(b)(ii) of that Article; and
- (b) the said paragraph (1)(b)(ii) shall accordingly have effect in relation to the requirement or condition as if the reference to the person applying it were a reference to any such party to the proceedings.

(4) Where an enactment enacted after the 1976 Order, whether before or after this Order, re-enacts (with or without modification) a provision of an enactment enacted before the 1976 Order, that provision as re-enacted shall be treated for the purposes of paragraph (1) as if it continued to be contained in an enactment enacted before the 1976 Order.

Power to repeal statutory provisions requiring discrimination as respects employment or training

4.—(1) Where it appears to the Department that a relevant provision, namely any provision of—

- (a) an enactment enacted before this Order; or

- (b) an instrument made or approved under such an enactment (including one made or approved after the making of this Order),

requires the doing of an act which would (within the meaning of the 1976 Order) constitute an act of discrimination in circumstances relevant for the purposes of any of the provisions of that Order falling within Article 3(2), it may by order make such provision (whether by amending, repealing or revoking the relevant provision or otherwise) as it considers appropriate for removing any such requirement.

(2) Paragraph (1) shall have effect in relation to a provision to which Article 3(1) applies as if the reference to a relevant provision requiring the doing of an act were a reference to its so requiring but for the operation of Article 3(1).

(3) Any order under this Article which makes any amendment, repeal or revocation of a relevant provision within the meaning of paragraph (1) may (without prejudice to the generality of Article 18(4)) amend or repeal any provision of this Order by virtue of which acts done in pursuance of the relevant provision are not to be unlawful for the purposes of provisions of the 1976 Order.

(4) Where an enactment enacted after this Order re-enacts (with or without modification) a provision of an enactment enacted before this Order, that provision as re-enacted shall be treated for the purposes of paragraph (1) as if it continued to be contained in an enactment enacted before this Order.