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STATUTORY INSTRUMENTS

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**1991 No. 1713 (N.I. 18)**

**NORTHERN IRELAND**

**The Fair Employment (Amendment)  
(Northern Ireland) Order 1991**

*Made - - - - 24th July 1991*

*Coming into operation 25th August 1991*

At the Court at Buckingham Palace, the 24th day of July 1991

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**Title and commencement**

1.—(1) This Order may be cited as the Fair Employment (Amendment) (Northern Ireland) Order 1991.

(2) This Order shall come into operation on the expiration of one month from the day on which it is made.

**Interpretation**

2. The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

**Confidentiality of monitoring information**

3.—(1) Section 30 of the Fair Employment (Northern Ireland) Act 1989 (confidentiality of monitoring information) is hereby repealed.

(2) In section 28(2) of that Act (regulations as to monitoring)—

(a) in paragraph (d) for the words “require information to which section 30(1)(a) or (b) of this Act applies to be retained” there shall be substituted the words

“require—

- (i) information about a person employed or applying for employment in a concern which might be used if any of the prescribed methods for determining the community to which a person is to be treated as belonging for the purposes of monitoring were applied; and
- (ii) a record of the determination by an employer of the community to which a person employed or applying for employment in a concern is to be treated as belonging for those purposes,

to be retained”,

(b) after paragraph (f) there shall be inserted the following paragraph—

“(ff) provide that, subject to such exceptions as may be prescribed, a person who discloses—

- (i) any information of a prescribed description which is obtained or used in pursuance of the regulations for the purposes of preparing any monitoring return, or
- (ii) the determination by an employer of the community to which a person employed or applying for employment in a concern is to be treated as belonging for the purposes of monitoring,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.”.

(3) In section 29(2) of that Act (monitoring applicants)—

(a) in paragraph (a) for the words “information to which section 30(1)(a) of this Act applies” there shall be substituted the words “information of a prescribed description which is obtained in pursuance of the regulations”;

(b) the word “and” at the end of paragraph (b) is hereby repealed;

(c) after paragraph (b) there shall be inserted the following paragraph—

“(bb) provide that, subject to such exceptions as may be prescribed, a person who discloses any information of a prescribed description which is obtained in pursuance of the regulations is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale, and”.

(4) In section 32(1) of that Act (enquiries by the Commission) for the words “held by the employer, being information to which section 30(1)(a) or (b) of this Act applies” there shall be substituted the words “retained by the employer in compliance with regulations under section 28(2)(d) or 29(2)(a) above”.

(5) A person shall not be convicted of an offence under section 30 of the Fair Employment (Northern Ireland) Act 1989 in respect of a disclosure made before the coming into operation of this Order unless, if the disclosure were made on the day after the coming into operation of this Order, he would be guilty of an offence against regulations under section 28(2)(ff) or 29(2)(bb) of that Act.

(6) Where—

(a) before the coming into operation of this Order, information was disclosed in contravention of section 30 of the Fair Employment (Northern Ireland) Act 1989; and

(b) if that information were disclosed on the day after the coming into operation of this Order, the disclosure would not contravene regulations under section 28(2)(ff) or 29(2)(bb) of that Act,