Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1981 No. 839 (N.I. 20)

The Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981 [F1]

- - - - - - *10th June 1981*

F1 functions transf. SR 1999/481

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981 and, subject to paragraph (2), shall come into operation on such a day or days as the Head of the Department may by order appoint[F2].

(2) Article 16 shall come into operation forthwith.

F2 fully exercised by SR 1981/284;1982/249

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954[F3] shall apply to Article 1 and the following provisions of this Order as it apples to a Measure of the Northern Ireland Assembly.

(2) In this Order "the Department" means the Department of Manpower Services.

F3 1954 c. 33 (NI)

PART II

EMPLOYMENT AGENCIES

Arts. 3#5 rep. by 1994 c. 40

[F4 Prohibition orders]

F4 1994 c. 40

[F5 Power to make orders

5A.—(1) On application by the Department, an industrial tribunal may by order prohibit a person from carrying on, or being concerned with the carrying on of—

(a) any employment agency or employment business; or

(b) any specified description of employment agency or employment business.

(2) An order under paragraph (1) (in this Order referred to as "a prohibition order") may either prohibit a person from engaging in an activity altogether or prohibit him from doing so otherwise than in accordance with specified conditions.

(3) A prohibition order shall be made for a period beginning with the date of the order and ending—

(a) on a specified date, or

(b) on the happening of a specified event,

in either case, not more than ten years later.

(4) Subject to paragraphs (5) and (6), an industrial tribunal shall not make a prohibition order in relation to any person unless it is satisfied that he is, on account of his misconduct or for any other sufficient reason, unsuitable to do what the order prohibits.

(5) An industrial tribunal may make a prohibition order in relation to a body corporate if it is satisfied that—

(a) any director, secretary, manager or similar officer of the body corporate,

(b) any person who performs on behalf of the body corporate the functions of a director, secretary, manager or similar officer, or

(c) any person in accordance with whose directions or instructions the directors of the body corporate are accustomed to act,

is unsuitable, on account of his misconduct or for any other sufficient reason, to do what the order prohibits.

(6) An industrial tribunal may make a prohibition order in relation to a partnership if it is satisfied that any member of the partnership, or any manager employed by the partnership, is unsuitable, on account of his misconduct or for any other sufficient reason, to do what the order prohibits.

(7) For the purposes of paragraph (4), where an employment agency or employment business has been improperly conducted, each person who was carrying on, or concerned with the carrying on of, the agency or business at the time, shall be deemed to have been responsible for what happened unless he can show that it happened without his connivance or consent and was not attributable to any neglect on his part.

(8) A person shall not be deemed to fall within paragraph (5)(c) by reason only that the directors act on advice given by him in a professional capacity.

(9) In this Article—

"director", in relation to a body corporate whose affairs are controlled by its members, means a member of the body corporate; and

"specified", in relation to a prohibition order, means specified in the order.**]**

F5 1994 c. 40

[F6 Enforcement

5B. Any person who, without reasonable excuse, fails to comply with a prohibition order shall be guilty of an offence and liable

[F7(a) on conviction on indictment, to a fine;

(b) on summary conviction, to a fine not exceeding the statutory maximum.**]]**

F6 1994 c. 40
F7 Words in art. 5B substituted (3.8.2010) by Employment Act (Northern Ireland) 2010 (c. 12), **ss. 1**, 8(2)

[F8 Variation and revocation of orders

5C.—(1) On application by the person to whom a prohibition order applies, an industrial tribunal may vary or revoke the order if the tribunal is satisfied that there has been a material change of circumstances since the order was last considered.

(2) An industrial tribunal may not, on an application under this Article, so vary a prohibition order as to make it more restrictive.

(3) The Department shall be a party to any proceedings before an industrial tribunal with respect to an application under this Article, and be entitled to appear and be heard accordingly.

(4) When making a prohibition order or disposing of an application under this Article, an industrial tribunal may, with a view to preventing the making of vexatious or frivolous applications, by order prohibit the making of an application, or further application, under this Article in relation to the prohibition order before such date as the tribunal may specify in the order under this paragraph.**]**

F8 1994 c. 40

Conduct of employment agencies and employment business

General regulations

6.—(1) Subject to paragraph (2), the Department may make regulations to secure the proper conduct of employment agencies and employment businesses and to protect the interests of persons availing themselves of the services of such agencies and businesses, and such regulations may in particular make provision—

(a) requiring persons carrying on such agencies and businesses to keep records;

(b) prescribing the form of such records and the entries to be made in them;

(c) requiring persons carrying on such agencies and businesses to make such returns of information to the Department at such times and in such manner as may be prescribed;

(d) prescribing qualifications appropriate for persons carrying on such agencies and businesses;

(e) regulating advertising by persons carrying on such agencies and businesses;

(f) safeguarding clients' money deposited with or otherwise received by persons carrying on such agencies and businesses;

[F9(g) restricting the services which may be provided by persons carrying on such agencies and businesses;

(h) regulating the way in which and the terms on which services may be provided by persons carrying on such agencies and businesses;

(j) restricting or regulating the charging of fees by persons carrying on such agencies and businesses.**]**

[F10(1A) A reference in paragraph (1)(g) and (h) to services includes a reference to services in respect of —

(a) persons seeking employment outside the United Kingdom;

(b) persons normally resident outside the United Kingdom seeking employment in the United Kingdom.**]**

Para. (2) rep by 1999 NI 9

(3) Any person who contravenes any regulation made under this Article shall be guilty of an offence and liable

[F11(a) on conviction on indictment, to a fine;

(b) on summary conviction, to a fine not exceeding the statutory maximum.**]**

F9 1999 NI 9
F10 1999 NI 9
F11 Words in art. 6(3) substituted (3.8.2010) by Employment Act (Northern Ireland) 2010 (c. 12), **ss. 1**, 8(2)

Restriction on charging persons seeking employment

7.—**[**F12(1) Except in such cases or classes of case as the Department may prescribe—

(a) a person carrying on an employment agency shall not request or directly or indirectly receive any fee from any person for providing services (whether by the provision of information or otherwise) for the purpose of finding him employment or seeking to find him employment;

(b) a person carrying on an employment business shall not request or directly or indirectly receive any fee from an employee for providing services (whether by the provision of information or otherwise) for the purpose of finding or seeking to find another person, with a view to the employee acting for and under the control of that other person;

(c) a person carrying on an employment business shall not request or directly or indirectly receive any fee from a second person for providing services (whether by the provision of information or otherwise) for the purpose of finding or seeking to find a third person, with a view to the second person becoming employed by the first person and acting for and under the control of the third person.**]**

(2) Any person who contravenes this Article shall be guilty of an offence and liable

[F13(a) on conviction on indictment, to a fine;

(b) on summary conviction, to a fine not exceeding the statutory maximum.**]**

F12 1999 NI 9
F13 Words in art. 7(2) substituted (3.8.2010) by Employment Act (Northern Ireland) 2010 (c. 12), **ss. 1**, 8(2)

[F14Appointment of officers

7A.—(1) The Department—

(a) may appoint officers to act for the purposes of this Order; and

(b) may, instead of or in addition to appointing any such officers, arrange with any Minister of the Crown or public body, that officers of that Minister or body shall act for those purposes.

(2) In paragraph (1) "public body" means—

(a) a department of the Government of the United Kingdom;

(b) a Northern Ireland department; or

(c) a body performing functions on behalf of the Crown.

(3) When acting for the purposes of this Order, an officer shall, if so required, produce written evidence of his authority so to act.

F14 Arts. 7A and 7B inserted (15.1.2006) by The Employment (Miscellaneous Provisions) (Northern Ireland) Order 2005 (S.I. 2005/3424 (N.I. 20)), **art. 2(2)**

Powers of officers

7B.—(1) An officer acting for the purposes of this Order may at all reasonable times—

(a) enter and inspect any relevant business premises;

[F15(b) inspect—

(i) any records required to be kept under this Part; and

(ii) any financial records not falling within head (i) which he may reasonably require to inspect for the purpose of ascertaining whether the provisions of this Part and of any regulations made under this Part are being complied with or of enabling the Department to exercise its functions under this Part;**]**

(c) subject to paragraph (6), require any person on those premises to furnish him with such information as he may reasonably require for the purpose of ascertaining whether the provisions of this Order and of any regulations made thereunder are being complied with or of enabling the Department to exercise its functions under this Order.

(2) If an officer seeks to inspect or acquire, in accordance with paragraph (1)(b) or (c), a record or information which is not kept at the premises being inspected,**[**F16 the officer may by notice in writing require the person carrying on the employment agency or employment business to furnish him with the record or information at such time and place as he may specify.**]**

[

F17(2A) Where a person carrying on an employment agency or employment business fails to comply with paragraph (2) in relation to any record or information and the officer has reasonable cause to believe that the record or information is kept by—

(a) a person concerned with the carrying on of the employment agency or employment business, or

(b) a person formerly so concerned,

the officer may by notice in writing require that person to furnish him with the record or information at such time and place as he may specify.

(2B) Where a person carrying on an employment agency or employment business fails to comply with paragraph (2) in relation to any financial record which is kept by a bank, an authorised officer