Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sex Discrimination (Northern Ireland) Order 1976. 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

1976 No. 1042 (N.I. 15)

Sex Discrimination (Northern Ireland) Order 1976 [F1]

- - - - - - *2nd July 1976*

F1 function transf. by SR 1999/481

Modifications etc. (not altering text)
C1 Order: transfer of functions (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 1 Pt. 2** (with art. 9(2))

PART I

INTRODUCTORY

Title and commencement

1 [F2]**.**—(1) This Order may be cited as the Sex Discrimination (Northern Ireland) Order 1976.
Para.(2)—Commencement

F2 partly exercised SR 1998/231

Interpretation

2.—(1) 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.

(2) In this Order—

"access" shall be construed in accordance with Article 51;

"act" includes a deliberate omission;

"advertisement" includes every form of advertisement, whether to the public or not, and whether in a newspaper or other publication, by television or radio, by display of notices, signs, labels, showcards or goods, by distribution of samples, circulars, catalogues, price lists or other material, by exhibition of pictures, models or films, or in any other way, and references to the publishing of advertisements shall be construed accordingly;

"associated employer" shall be construed in accordance with paragraph (3);

"the Commission" means **[**[F3] the Equality Commission for Northern Ireland**]**;

"Commissioner" means a member of the Commission;

"designate" shall be construed in accordance with paragraph (4);

[F4references in Parts III and IV to subjecting a person to a detriment do not include subjecting a person to harassment;**]**

"discrimination" and related terms shall be construed in accordance with paragraph (7);

"dispose", in relation to premises, includes granting a right to occupy the premises, and any reference to acquiring premises shall be construed accordingly;

"education" includes any form of training or instruction;

F5...

"employment" means employment under a contract of service or of apprenticeship or a contract personally to execute any work or labour, and related expressions shall be construed accordingly;

"employment agency" means a person who, for profit or not, provides services for the purpose of finding employment for workers or supplying employers with workers;

"enactment" includes an enactment contained in an Act of Parliament or in an Act of the Parliament of Northern Ireland or a Measure or an Order in Council having the same effect as such an Act or a Measure;

"equality clause" has the meaning given in section 1(2) of the Equal Pay Act;

"the Equal Pay Act" means the Equal Pay Act (Northern Ireland) 1970 ;

"estate agent" means a person who, by way of profession or trade, provides services for the purpose of finding premises for persons seeking to acquire them or assisting in the disposal of premises;

[F6"excluded matter" shall be construed in accordance with paragraph (8);**]**

"final" shall be construed in accordance with paragraph (5);

"firm" has the meaning given by section 4 of the Partnership Act 1890 ;

"formal investigation" means an investigation under Article 57;

"further education" includes such education within the meaning of **[**F7 Article 3 of the Further Education (Northern Ireland) Order 1997**]**;

[F8"gender reassignment" means a process which is undertaken under medical supervision for the purpose of reassigning a person's sex by changing physiological or other characteristics of sex, and includes any part of such a process;**]**

"general notice", in relation to any person, means a notice published by him at a time and in a manner appearing to him suitable for securing that the notice is seen within a reasonable time by persons likely to be affected by it;

"genuine occupational qualification" shall be construed in accordance with Article 10(2) **[**F8, except in the expression "supplementary genuine occupational qualification", which shall be construed in accordance with Article 10B(2);**]**

"government department" includes a department of the Government of the United Kingdom;

"grant-aided" in relation to an educational establishment has the meaning given by Article 2(2) of the Education and Libraries (Northern Ireland) Order **[**F9 1986**]**;

[F4references to subjecting a person to harassment, and to acts of harassment, shall be construed in accordance with Article 6A;**]**

"independent school" has the meaning given by Article 2(2) of the Education and Libraries (Northern Ireland) Order **[**F9 1986**]**;

Definition rep. 1984 NI 9

Definition rep. 1998 c. 47

"man" includes a male of any age;

"near relative" shall be construed in accordance with paragraph (6);

"non-discrimination notice" means a notice under Article 67;

"Northern Ireland" includes such of the territorial waters of the United Kingdom as are adjacent to Northern Ireland;

"notice" means a notice in writing;

"prescribed", except in relation to anything required or permitted to be prescribed by order or county court rules, means prescribed by regulations made by the Department of Manpower Services;

"profession" includes any vocation or occupation;

"proprietor", in relation to any school, has the meaning given by Article 2(2) of the Education and Libraries (Northern Ireland) Order **[**F9**]**1986**]**;

F10 ...

"retirement" includes retirement (whether voluntary or not) on grounds of age, length of service or incapacity;

"school" has the meaning given by Article 2(2) of the Education and Libraries (Northern Ireland) Order **[**F9**]**1986**]**;

"statutory provision" has the meaning given by section 1(*f*) of the Interpretation Act (Northern Ireland) 1954 ;

"trade" includes any business;

"training" includes any form of education or instruction;

"upper limit of compulsory school age" means, subject to paragraph (2) of **[**F9**]**Article 46**]** of the Education and Libraries (Northern Ireland) Order **[**F9**]**1986**]**, the age that is that limit by virtue of paragraph (1) of that Article;

[F4**]**"vocational training"

(a) means all types, and all levels of—

(i) vocational training, advanced vocational training and retraining, and

(ii) vocational guidance, and

(b) includes practical work experience undertaken for a limited period for the purposes of a person's vocational training (as defined by sub-paragraph(a));**]**

"woman" includes a female of any age.

[F11**]**(2A)F12 In this Order references to the dismissal of a person from employment or to the expulsion of a person from a position as partner include references—

(a) to the termination of that person's employment or partnership by the expiration of any period (including a period expiring by reference to an event or circumstance), not being a termination immediately after which the employment or partnership is renewed on the same terms; and

(b) to the termination of that person's employment or partnership by any act of his (including the giving of notice) in circumstances such that he is entitled to terminate it without notice by reason of the conduct of the employer or, as the case may be, the conduct of the other partners.**]**

(3) For the purposes of this Order two employers are to be treated as associated if one is a company of which the other (directly or indirectly) has control or if both are companies of which a third person (directly or indirectly) has control.

(4) Any power conferred by this Order to designate establishments or persons may be exercised either by naming them or by identifying them by reference to a class or other description.

(5) For the purposes of this Order a non-discrimination notice or a finding by a court or tribunal becomes final when an appeal against the notice or finding is dismissed, withdrawn or abandoned or when the time for appealing expires without an appeal having been brought; and for this purpose an appeal against a non-discrimination notice shall be taken to be dismissed if, notwithstanding that a requirement of the notice is quashed on appeal, a direction is given in respect of it under Article 68(3).

(6) For the purposes of this Order a person is a near relative of another if that person is the wife or husband **[**F13 or civil partner**]**, a parent or child, a grandparent or grandchild, or a brother or sister of the other (whether of full blood or half-blood or **[**F13 by marriage or civil partnership)**]**, and "child" includes an illegitimate child and the wife or husband**[**F13 or civil partner**]** of a child.

(7) In this Order—

(a) references to discrimination refer to any discrimination falling within Articles 3 to 6; and

(b) references to sex discrimination refer to any discrimination falling within **[**F4 Article 3, **[**F14**]**3A**]** 4 **[**F15, 5A or 5B**]]**,

and related expressions shall be construed accordingly.

[F16**]**(8) In this Order, references to an excluded matter must be construed in accordance with Article 36ZA.**]**

F3 1998 c. 47
F4 SR 2005/426
F5 Words in art. 2(2) repealed (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 4** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
F6 Art. 2(2): definition of "excluded matter" 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(2)(a)**
F7 1997 NI 15
F8 SR 1999/311
F9 1986 NI 3
F10 Words in art. 2(2) omitted (2.5.2016) by virtue of The Sex Discrimination Order 1976 (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/191), regs. 1(1), **3(a)**
F11 1988 NI 13
F12 mod. SR 1991/127
F13 2004 c.33
F14 Word in art. 2(7)(b) inserted (2.5.2016) by The Sex Discrimination Order 1976 (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/191), regs. 1(1), **3(b)**
F15 Words in art. 2(7)(b) substituted (6.4.2008) by Sex Discrimination (Amendment of Legislation) Regulations 2008 (S.I. 2008/963), regs. 1(1), 2(2), **Sch. 2 para. 3(2)**
F16 Art. 2(8) 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(2)(b)**

PART II

DISCRIMINATION TO WHICH ORDER APPLIES

Modifications etc. (not altering text)

C2 Pt. 2 applied (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), Sch. 4 para. 4(1)(2)(a); S.I. 2013/1682, art. 3(k)

[F17Direct discrimination on the ground of sex

3. In any circumstances relevant for the purposes of any provision of this Order, a person ("A") discriminates against another ("B") if, on the ground of sex, A treats B less favourably than A treats or would treat another person.**]**

F17 Art. 3 substituted (2.5.2016) by The Sex Discrimination Order 1976 (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/191), regs. 1(1), **4(1)**

[F18Indirect discrimination on the ground of sex

3A.—(1) In any circumstances relevant for the purposes of any provision of this Order, a person ("A") discriminates against another person ("B") if A applies to B a provision, criterion or practice which is discriminatory in relation to B's sex.

(2) For the purposes of paragraph (1), a provision, criterion or practice is discriminatory in relation to B's sex, if –

(a) A applies, or would apply, it to persons of a different sex,

(b) it puts, or would put, persons of the same sex as B at a particular disadvantage when compared with persons of a different sex,

(c) it puts, or would put, B at that disadvantage, and

(d) A cannot show it to be a proportionate means of achieving a legitimate aim.**]**

F18 Art. 3A inserted (2.5.2016) by The Sex Discrimination Order 1976 (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/191), regs. 1(1), **4(2)**

Sex discrimination against men

4.—(1) F19...The provisions of Parts III and IV relating to sex discrimination against women, are to be read as applying equally to the treatment of men, and for that purpose shall have effect with such modifications as are requisite.

(2) In the application of paragraph (1) **[**F20and Articles 3 and 3A,**]** no account shall be taken of special treatment afforded to women in connection with pregnancy or childbirth.

F19 Words in art. 4(1) omitted (2.5.2016) by virtue of The Sex Discrimination Order 1976 (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/191), regs. 1(1), **5(a)**

F20 Words in art. 4(2) inserted (2.5.2016) by The Sex Discrimination Order 1976 (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/191), regs. 1(1), **5(b)**