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STATUTORY INSTRUMENTS

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**1990 No. 246**

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

Removal of restrictions and other requirements relating to employment

**Repeal or modification of provisions requiring different treatment of different categories of employees**

**11.**—(1) In section 21 of the Factories Act (Northern Ireland) 1965<sup>F1</sup> (prohibition on cleaning of machinery by any woman or young person), the words “woman or” shall be omitted in both places where they occur.

(2) In section 17 of the Office and Shop Premises Act (Northern Ireland) 1966<sup>F2</sup> (fencing of exposed parts of machinery)—

- (a) subsection (3);
- (b) in subsection (4), the words from “, except when any” onwards; and
- (c) subsection (5),

shall cease to have effect.

(3) In sections 42(1), 43 and 44 of the Mines Act (Northern Ireland) 1969<sup>F3</sup> (under which winding and rope haulage apparatus and conveyors are to be operated by or under the supervision of competent male persons who have attained the ages there specified), the word “male” shall be omitted wherever occurring.

(4) In section 93 of that Act (prohibition on heavy work by any woman or young person), the words “woman or young” shall be omitted in both places where they occur.

(5) Section 106(1) of that Act (prohibition of employment of woman in job requiring a significant proportion of the employee's time to be spent underground) shall cease to have effect.

(6) In Schedule 2—

- (a) the provisions of the instruments listed in Part I (which require different treatment of different categories of employees) shall cease to have effect; and
- (b) the provisions of the instruments mentioned in Part II shall have effect subject to the amendments there specified (which assimilate the treatment of different categories of employees).

**F1** 1965 c. 20 (N.I.)

**F2** 1966 c. 26 (N.I.)

**F3** 1969 c. 6 (N.I.)

**Removal of restrictions relating to employment of young persons**

**12** <sup>F4</sup>.—(1) The following enactments, namely—

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**Changes to legislation:** *There are currently no known outstanding effects for the The Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990, Removal of restrictions and other requirements relating to employment. (See end of Document for details)*

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- (a) the enactments listed in Part I of Schedule 3 (which impose prohibitions or requirements with respect to the hours of employment and holidays of young persons and with respect to related matters); and
  - (b) the enactments listed in Part II of that Schedule (which impose other prohibitions or requirements for, or in connection with, regulating the employment of young persons),
- shall cease to have effect.

(2) The enactments mentioned in Part III of Schedule 3 shall have effect subject to the amendments there specified (which include amendments by virtue of which certain occupations, instead of being restricted to persons who are 16 or older, are restricted to persons over school#leaving age).

(3) If the Department considers it appropriate to do so, it may by order—

- (a) repeal or amend any statutory provision in consequence of paragraph (1) or (2);
- (b) repeal any statutory provision relating to the employment of persons, or any class of persons, who have not attained the age of 18 or (as the case may be) some specified lower age of not less than 16;
- (c) amend any statutory provision falling within sub#paragraph (b) and framed by reference to a specified age expressed as a number of years so that it is instead framed by reference to school#leaving age;
- (d) repeal any statutory provision appearing to the Department to be unnecessary in view of any other such provision, being a provision relating to the employment of persons under school#leaving age.

(4) Nothing in any order under paragraph (3) (apart from a repeal effected by virtue of sub#paragraph (d) of that paragraph) shall affect any statutory provision relating to the employment of persons under school#leaving age.

(5) Any reference in paragraph (3)(d) or (4) to a statutory provision relating to the employment of persons under school#leaving age shall be construed, in relation to a statutory provision which relates to both—

- (a) the employment of such persons; and
- (b) the employment of persons over that age,

as a reference to so much of that provision as relates to the employment of persons under that age.

(6) In this Article—

“school#leaving age” means the upper limit of compulsory school age for the purposes of the Education and Libraries (Northern Ireland) Order 1986<sup>F5</sup>; and

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954<sup>F6</sup>.

**F4** functions transf. by SR 1999/481

**F5** 1986 NI 3

**F6** 1954 c. 33 (N.I.)

### **Exemption of Sikhs from requirements as to wearing of safety helmets [<sup>F7</sup>at workplaces]**

**13.**—(1) Any requirement to wear a safety helmet which (apart from this Article) would, by virtue of any statutory provision or rule of law, be imposed on a Sikh who is [<sup>F8</sup>at a workplace] shall not apply to him at any time when he is wearing a turban.

(2) Accordingly, where—

- (a) a Sikh who is [<sup>F9</sup>at a workplace] is for the time being wearing a turban; and
- (b) (apart from this Article) any associated requirement would, by virtue of any statutory provision or rule of law, be imposed—
  - (i) on the Sikh; or
  - (ii) on any other person,

in connection with the wearing by the Sikh of a safety helmet,

that requirement shall not apply to the Sikh or (as the case may be) to that other person.

(3) In paragraph (2) “associated requirement” means any requirement (other than one falling within paragraph (1)) which is related to or connected with the wearing, provision or maintenance of safety helmets.

(4) It is hereby declared that, where a person does not comply with any requirement, being a requirement which for the time being does not apply to him by virtue of paragraph (1) or (2), he shall not be liable in tort to any person in respect of any injury, loss or damage caused by his failure to comply with that requirement.

(5) If a Sikh who is [<sup>F10</sup>at a workplace] —

- (a) does not comply with any requirement to wear a safety helmet, being a requirement which for the time being does not apply to him by virtue of paragraph (1); and
- (b) in consequence of any act or omission of some other person sustains any injury, loss or damage which is to any extent attributable to the fact that he is not wearing a safety helmet in compliance with the requirement,

that other person shall, if liable to the Sikh in tort, be so liable only to the extent that injury, loss or damage would have been sustained by the Sikh even if he had been wearing a safety helmet in compliance with the requirement.

(6) Where—

- (a) the act or omission referred to in paragraph (5) causes the death of the Sikh; and
- (b) the Sikh would have sustained some injury (other than loss of life) in consequence of the act or omission even if he had been wearing a safety helmet in compliance with the requirement in question,

the amount of any damages which, by virtue of that paragraph, are recoverable in tort in respect of that injury shall not exceed the amount of any damages which would (apart from that paragraph) be so recoverable in respect of the Sikh's death.

[<sup>F11</sup>(6A) This Article does not apply to a Sikh who—

- (a) works, or is training to work, in an occupation that involves (to any extent) providing an urgent response to fire, riot or other hazardous situations, and
- (b) is at the workplace—
  - (i) to provide such a response in circumstances where the wearing of a safety helmet is necessary to protect the Sikh from a risk of injury, or
  - (ii) to receive training in how to provide such a response in circumstances of that kind.

(6B) This Article also does not apply to a Sikh who—

- (a) is a member of Her Majesty's forces or a person providing support to Her Majesty's forces, and
- (b) is at the workplace—
  - (i) to take part in a military operation in circumstances where the wearing of a safety helmet is necessary to protect the Sikh from a risk of injury, or

(ii) to receive training in how to take part in such an operation in circumstances of that kind.]

(7) In this Article—

**F12**  
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**F12**  
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[<sup>F13</sup>“Her Majesty's forces” has the same meaning as in the Armed Forces Act 2006;]

“injury” includes loss of life, any impairment of a person's physical or mental condition and any disease;

“safety helmet” means any form of protective headgear;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954<sup>F14</sup>.

[<sup>F15</sup>“workplace” means any premises where work is being undertaken, including premises occupied or normally occupied as a private dwelling; and “premises” includes any place and, in particular, includes—

- (a) any vehicle, vessel, aircraft or hovercraft,
- (b) any installation (including a floating installation or one resting on the seabed or its subsoil or on other land covered with water or its subsoil), and
- (c) any tent or moveable structure.]

(8) In this Article—

(a) any reference to a Sikh is a reference to a follower of the Sikh religion; and

(b) any reference to a Sikh being [<sup>F16</sup>at a workplace] is a reference to his being there whether while at work or otherwise.

**F7** Words in art. 13 heading substituted (1.10.2015) by Deregulation Act 2015 (c. 20), ss. 7(8), 115(7); S.I. 2015/994, art. 11(c) (with art. 12(1))

**F8** Words in art. 13(1) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), ss. 7(2), 115(7); S.I. 2015/994, art. 11(c) (with art. 12(1))

**F9** Words in art. 13(2)(a) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), ss. 7(3), 115(7); S.I. 2015/994, art. 11(c) (with art. 12(1))

**F10** Words in art. 13(5) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), ss. 7(4), 115(7); S.I. 2015/994, art. 11(c) (with art. 12(1))

**F11** Art. 13(6A)(6B) inserted (1.10.2015) by Deregulation Act 2015 (c. 20), ss. 7(5), 115(7); S.I. 2015/994, art. 11(c) (with art. 12(1))

**F12** Words in art. 13(7) omitted (1.10.2015) by virtue of Deregulation Act 2015 (c. 20), ss. 7(6)(a), 115(7); S.I. 2015/994, art. 11(c) (with art. 12(1))

**F13** Words in art. 13(7) inserted (1.10.2015) by Deregulation Act 2015 (c. 20), ss. 7(6)(b), 115(7); S.I. 2015/994, art. 11(c) (with art. 12(1))

**F14** 1954 c. 33 (N.I.)

**F15** Words in art. 13(7) inserted (1.10.2015) by Deregulation Act 2015 (c. 20), ss. 7(6)(c), 115(7); S.I. 2015/994, art. 11(c) (with art. 12(1))

**F16** Words in art. 13(8)(b) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), ss. 7(7), 115(7); S.I. 2015/994, art. 11(c) (with art. 12(1))

**[<sup>F17</sup>Protection of Sikhs from racial discrimination in connection with requirements as to wearing of safety helmets.**

**13A.—(1)** Where—

- (a) any person applies to a Sikh any [<sup>F18</sup> provision, criterion or practice] relating to the wearing by him of a safety helmet while he is [<sup>F19</sup>at a workplace] ; and
- (b) at the time when he so applies the [<sup>F18</sup> provision, criterion or practice] that person has no reasonable grounds for believing that the Sikh would not wear a turban at all times when [<sup>F20</sup>at such a workplace] ,

then, for the purpose of determining whether the application of the [<sup>F18</sup> provision, criterion or practice] to the Sikh constitutes an act of discrimination falling within Article 3(1)(b) [<sup>F18</sup> or Article 3(1A)] of the Race Relations (Northern Ireland) Order 1997 (indirect racial discrimination), the [<sup>F18</sup> provision, criterion or practice] shall be taken to be one which cannot be shown to be justifiable as mentioned in Article 3(1)(b)(ii) [<sup>F18</sup> , or to be a proportionate means of achieving a legitimate aim as mentioned in Article 3(1A)(c) of,] of that Order.

(2) Any special treatment afforded to a Sikh in consequence of Article 13(1) or (2) shall not be regarded for the purposes of the Race Relations (Northern Ireland) Order 1997 as giving rise, in relation to any other person, to any discrimination falling within Article 3 of that Order.

(3) [<sup>F21</sup>Paragraphs (6A) to (8)] of Article 13 shall apply for the purposes of this Article as they apply for the purposes of that Article.]

**F17** 1997 NI 6

**F18** SR 2003/341

**F19** Words in art. 13A(1)(a) substituted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 7(10)(a)**, 115(7); S.I. 2015/994, art. 11(c) (with art. 12(2))

**F20** Words in art. 13A(1)(b) substituted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 7(10)(b)**, 115(7); S.I. 2015/994, art. 11(c) (with art. 12(2))

**F21** Words in art. 13A(3) substituted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 7(11)**, 115(7); S.I. 2015/994, art. 11(c) (with art. 12(2))

**Changes to legislation:**

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