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## STATUTORY INSTRUMENTS

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# 1976 No. 1042

## Sex Discrimination (Northern Ireland) Order 1976

### PART III

#### [<sup>F1</sup>EMPLOYMENT FIELD]

##### *Discrimination by employers*

#### [<sup>F1</sup>Supplementary exceptions relating to gender reassignment]

**10B.**—(1) In relation to discrimination falling within [<sup>F2</sup>Article 4A or 4B] —

- (a) Article 8(1)(a) or (c) does not apply to any employment where there is a supplementary genuine occupational qualification for the job;
- (b) Article 8(2)(a) does not apply to a refusal or deliberate omission to afford access to opportunities for promotion or transfer to or training for such employment; and
- (c) Article 8(2)(b) does not apply to dismissing an employee from, or otherwise not allowing him to continue in, such employment.

(2) Subject to paragraph (3), there is a supplementary genuine occupational qualification for a job only if—

- (a) the job involves the holder of the job being liable to be called upon to perform intimate physical searches pursuant to statutory powers;
- (b) the job is likely to involve the holder of the job doing his work, or living, in a private home and needs to be held otherwise than by a person who is undergoing or has undergone gender reassignment, because objection might reasonably be taken to allowing to such a person—
  - (i) the degree of physical or social contact with a person living in the home, or
  - (ii) the knowledge of intimate details of such a person's life, which is likely, because of the nature or circumstances of the job or of the home, to be allowed to, or available to, the holder of the job;
- (c) the nature or location of the establishment makes it impracticable for the holder of the job to live elsewhere than in premises provided by the employer, and—
  - (i) the only such premises which are available for persons holding that kind of job are such that reasonable objection could be taken, for the purpose of preserving decency and privacy, to the holder of the job sharing accommodation and facilities with either sex whilst undergoing gender reassignment, and
  - (ii) it is not reasonable to expect the employer either to equip those premises with suitable accommodation or to make alternative arrangements; or
- (d) the holder of the job provides vulnerable individuals with personal services promoting their welfare, or similar personal services, and in the reasonable view of the employer

**Changes to legislation:** *Sex Discrimination (Northern Ireland) Order 1976, Section 10B is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

those services cannot be effectively provided by a person whilst that person is undergoing gender reassignment.

[  
<sup>F3</sup>(3) Paragraph (2) does not apply in relation to discrimination against a person whose gender has become the acquired gender under the Gender Recognition Act 2004.]

[  
<sup>F4</sup>(4) Sub-paragraph (a) of paragraph (2) does not apply in relation to the filling of a vacancy at a time when the employer already has employees falling within paragraph 5—

- (a) who are capable of carrying out the duties falling within that paragraph, and
- (b) whom it would be reasonable to employ on those duties, and
- (c) whose numbers are sufficient to meet the employer's likely requirements in respect of those duties without undue inconvenience.

(5) An employee falls within this paragraph if the employee does not intend to undergo and is not undergoing gender reassignment and either—

- (a) the employee has not undergone gender reassignment; or
- (b) the employee's gender has become the acquired gender under the Gender Recognition Act 2004]]

**F1** SR 1999/311

**F2** Words in [art. 10B\(1\)](#) substituted (2.5.2016) by [The Sex Discrimination Order 1976 \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/191\)](#), regs. 1(1), **11**

**F3** [2004 c.7](#)

**F4** SR 2005/426

**Changes to legislation:**

Sex Discrimination (Northern Ireland) Order 1976, Section 10B is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to :**

- Instrument am. (prosp.) by [1998 c. 17 s.50Sch.4 para.13](#)
- Instrument am. (prosp.) by [1998 c. 32 s.74\(1\)Sch.4 para.12](#)
- Instrument rev. in pt. (saving) (prosp.) by [1998 c. 32 s.74\(2\)\(3\)Schs.56](#)

**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

- Act amended by [1996 c. 46 s. 22](#)
- Act amended by [1996 c. 46 s. 22](#)

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch.3 rev. (prosp.) by [1998 c. 47 ss .99 100\(2\) Sch.13 para.2\(4\). Sch.15](#)
- Sch.6 para.2 rev. (prosp.) by [1998 c. 47 s. 100\(2\)Sch.15](#)
- art.19(6)(aa) added (prosp.) by [1997 c. 50 s.134\(1\)Sch.9 para.37](#)
- art.19(6)(aa) added (prosp.) by [1997 c. 50 s.134\(1\)Sch.9 para.37](#)
- art.54(2)(3)(4) rev. (prosp.) by [1998 c. 47 ss .99 100\(2\) Sch.13 para.2\(3\)\(b\). Sch. 15](#)