

STATUTORY INSTRUMENTS

1976 No. 1042

Sex Discrimination (Northern Ireland) Order 1976

PART IV

DISCRIMINATION IN OTHER FIELDS

Goods, facilities, services and premises

Discrimination in provision of goods, facilities or services

30.—(1) It is unlawful for any person concerned with the provision (for payment or not) of goods, facilities or services to the public or a section of the public to discriminate against a woman who seeks to obtain or use those goods, facilities or services—

- (a) by refusing or deliberately omitting to provide her with any of them, or
- (b) by refusing or deliberately omitting to provide her with goods, facilities or services of the like quality, in the like manner and on the like terms as are normal in his case in relation to male members of the public or (where she belongs to a section of the public) to male members of that section.

(2) The following are examples of the facilities and services mentioned in paragraph (1)—

- (a) access to and use of any place which members of the public or a section of the public are permitted to enter;
- (b) accommodation in a hotel, boarding house or other similar establishment;
- (c) facilities by way of banking or insurance or for grants, loans, credit or finance;
- (d) facilities for education;
- (e) facilities for entertainment, recreation or refreshment;
- (f) facilities for transport or travel;
- (g) the services of any profession or trade, or any local or other public authority.

(3) For the avoidance of doubt it is hereby declared that where a particular skill is commonly exercised in a different way for men and for women it does not contravene paragraph (1) for a person who does not normally exercise it for women to insist on exercising it for a woman only in accordance with his normal practice or, if he reasonably considers it impracticable to do that in her case, to refuse or deliberately omit to exercise it.

[^{F1}(4) In its application in relation to vocational training to discrimination falling within Article 4A, paragraph (1)(b) shall have effect as if references to male members of the public, or of a section of the public, were references to members of the public, or of a section of the public, who do not intend to undergo, are not undergoing and have not undergone gender reassignment.]

Status: Point in time view as at 01/01/2006. This version of this cross heading contains provisions that are not valid for this point in time.

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Discrimination in disposal or management of premises

31.—(1) It is unlawful for a person, in relation to premises in Northern Ireland of which he has power to dispose, to discriminate against a woman—

- (a) in the terms on which he offers her those premises, or
- (b) by refusing her application for those premises, or
- (c) in his treatment of her in relation to any list of persons in need of premises of that description.

(2) It is unlawful for a person, in relation to premises managed by him, to discriminate against a woman occupying the premises—

- (a) in the way he affords her access to any benefits or facilities, or by refusing or deliberately omitting to afford her access to them, or
- (b) by evicting her, or subjecting her to any other detriment.

(3) Paragraph (1) does not apply to a person who owns an estate or interest in the premises and wholly occupies them unless he uses the services of an estate agent for the purposes of the disposal of the premises or publishes or causes to be published an advertisement in connection with the disposal.

Discrimination: consent for assignment or sub-letting

32.—(1) Where the licence or consent of the landlord or of any other person is required for the disposal to any person of premises in Northern Ireland comprised in a tenancy, it is unlawful for the landlord or other person to discriminate against a woman by withholding the licence or consent for disposal of the premises to her.

(2) Paragraph (1) does not apply if—

- (a) the person withholding a licence or consent, or a near relative of his (“the relevant occupier”) resides, and intends to continue to reside, on the premises, and
- (b) there is on the premises, in addition to the accommodation occupied by the relevant occupier, accommodation (not being storage accommodation or means of access) shared by the relevant occupier with other persons residing on the premises who are not members of his household, and
- (c) the premises are small premises as defined in Article 33(2).

(3) In this Article “tenancy” means a tenancy created by a lease or sub-lease, by an agreement for a lease or sub-lease or by a tenancy agreement or in pursuance of any statutory provision; and “disposal”, in relation to premises comprised in a tenancy, includes assignment of the tenancy and sub-letting or parting with possession of the premises or any part of the premises.

(4) This Article applies to tenancies created before the commencement of this Article, as well as to others.

Exception for small dwellings

33.—(1) Articles 30(1) and 31 do not apply to the provision by a person of accommodation in any premises, or the disposal of premises by him, if—

- (a) that person or a near relative of his (“the relevant occupier”) resides, and intends to continue to reside, on the premises, and
- (b) there is on the premises, in addition to the accommodation occupied by the relevant occupier, accommodation (not being storage accommodation or means of access) shared by the relevant occupier with other persons residing on the premises who are not members of his household, and

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- (c) the premises are small premises.
- (2) Premises shall be treated for the purposes of paragraph (1) as small premises if—
 - (a) in the case of premises comprising residential accommodation for one or more households (under separate letting or similar agreements) in addition to the accommodation occupied by the relevant occupier, there is not normally residential accommodation for more than two such households and only the relevant occupier and any member of his household reside in the accommodation occupied by him;
 - (b) in the case of premises not falling within sub-paragraph (a), there is not normally residential accommodation on the premises for more than six persons in addition to the relevant occupier and any members of his household.

Exception for political parties

- 34.**—(1) This Article applies to a political party if—
- (a) it has as its main object, or one of its main objects, the promotion of parliamentary candidatures for the Parliament of the United Kingdom, or the Assembly, or
 - (b) it is an affiliate of, or has an affiliate, or has similar formal links with, a political party within sub-paragraph (a).
- (2) Nothing in Article 30(1) shall be construed as affecting any special provision for persons of one sex only in the constitution, organisation or administration of the political party.
- (3) Nothing in Article 30(1) shall render unlawful an act done in order to give effect to such a special provision.

Exception for voluntary bodies

- 35.**—(1) This Article applies to a body—
- (a) the activities of which are carried on otherwise than for profit, and
 - (b) which was not set up by any statutory provision.
- (2) Articles 30(1) and 31 shall not be construed as rendering unlawful—
- (a) the restriction of membership of any such body to persons of one sex (disregarding any minor exceptions), or
 - (b) the provision of benefits, facilities or services to members of any such body where the membership is so restricted,
- even though membership of the body is open to the public, or to a section of the public.
- (3) Nothing in Article 30 or 31 shall—
- (a) be construed as affecting a provision to which this paragraph applies, or
 - (b) render unlawful an act which is done in order to give effect to such a provision.
- (4) Paragraph (3) applies to a provision for conferring benefits on persons on one sex only (disregarding any benefits to persons of the opposite sex which are exceptional or are relatively insignificant), being a provision which constitutes the main object of a body within paragraph (1).

Further exceptions from Articles 30(1) and 31

- 36.**—(1) A person who provides at any place facilities or services restricted to men does not for that reason contravene Article 30(1) if—
- (a) the place is, or is part of, a hospital or other establishment for persons requiring special supervision, attention or care, or

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- (b) the place is (permanently or for the time being) occupied or used for the purposes of an organised religion, and the facilities or services are restricted to men so as to comply with the doctrines of that religion or avoid offending the religious susceptibilities of a significant number of its followers, or
- (c) the facilities or services are provided for, or are likely to be used by, two or more persons at the same time, and
- (i) the facilities or services are such, or those persons are such, that male users are likely to suffer serious embarrassment at the presence of a woman, or
- (ii) the facilities or services are such that a user is likely to be in a state of undress and a male user might reasonably object to the presence of a female user.
- (2) A person who provides facilities or services restricted to men does not for that reason contravene Article 30(1) if the facilities or services are such that physical contact between the user and any other person is likely, and that other person might reasonably object if the user were a woman.
- (3) Articles 30(1) and 31 do not apply—
- (a) to discrimination which is rendered unlawful by any provision in column 1 of the table below, or
- (b) to discrimination which would be so unlawful but for any provision in column 2 of that table, or
- (c) to discrimination which contravenes a term modified or included by virtue of an equality clause.

TABLE

Provision creating illegality

Exception

Part III

Articles 8(3), 10(1)(*b*), 18(4), 21 and 22.

Schedule 5 paragraphs 1 and 2.

Article 24 or 25

[^{F2}Articles 27 and 28].

Schedule 5 paragraph 4.

F2 SR 2005/426

VALID FROM 06/04/2008

[^{F3}**Excluded matters**

36ZA Each of the following is an excluded matter for the purposes of Articles 30 to 32—

- (a) education (including vocational training);
- (b) the content of media and advertisements;
- (c) the provision of goods, facilities or services (not normally provided on a commercial basis) at a place (permanently or for the time being) occupied or used for the purposes of an organised religion.]

F3 Art. 36ZA 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(1)**

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[^{F4}**Relationships which have come to an end**

36A.—(1) This Article applies where—

- (a) there has been a relevant relationship between a woman and another person (“the relevant person”), and
- (b) the relationship has come to an end (whether before or after the commencement of this Article).

(2) In this Article, a “relevant relationship” is a relationship during the course of which an act of discrimination by one party to the relationship against the other party to it is unlawful under any other provision of this Part, so far as the provision applies to vocational training.

(3) It is unlawful for the relevant person to discriminate against the woman by subjecting her to a detriment where the discrimination arises out of and is closely connected to the relevant relationship.

[
^{F5}(4) It is unlawful for the relevant person to subject a woman to harassment where that treatment arises out of or is closely connected to the relevant relationship.]]

F4 SR 2004/172

F5 SR 2005/426

Status:

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