

STATUTORY INSTRUMENTS

2005 No. 1117

The Special Educational Needs and Disability (Northern Ireland) Order 2005

PART III

DISABILITY DISCRIMINATION IN EDUCATION

CHAPTER II

FURTHER AND HIGHER EDUCATION

VALID FROM 01/10/2008

[^{F1}Other unlawful acts

F1 Arts. 30A-30C and cross-heading inserted (10.8.2006 for certain purposes and 1.9.2006 otherwise) by Special Educational Needs and Disability (Northern Ireland) Order 2005 (Amendment) (Further and Higher Education) Regulations (Northern Ireland) 2006 (S.R. 2006/332), regs. 1(3), 10

Relationships which have come to an end

30A.—(1) This Article applies where—

- (a) there has been a relevant relationship between a disabled person and a responsible body, and
- (b) that relationship has come to an end.

(2) In this Article a “relevant relationship” is a relationship during the course of which an act of discrimination against, or harassment of, one party to the relationship by the other party to it is unlawful under any preceding provision of this Chapter.

(3) It is unlawful for the responsible body—

- (a) to discriminate against the disabled person by subjecting him to a detriment, or
- (b) to subject the disabled person to harassment,

where the discrimination or harassment arises out of and is closely connected to the relevant relationship.

(4) This paragraph applies where—

- (a) a provision, criterion or practice applied by the responsible body to the disabled person in relation to any matter arising out of the relevant relationship, or
- (b) a physical feature of premises which are occupied by the responsible body,

places the disabled person at a substantial disadvantage in comparison with persons who are not disabled but are in the same position as the disabled person in relation to the responsible body.

Status: Point in time view as at 01/08/2006. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: The Special Educational Needs and Disability (Northern Ireland) Order 2005, Cross Heading: Other unlawful acts is up to date with all changes known to be in force on or before 01 July 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)

(5) Where paragraph (4) applies, it is the duty of the responsible body to take such steps as are reasonable, in all the circumstances of the case, to prevent the provision, criterion or practice, or feature, having that effect.

(6) Paragraph (5) imposes duties only for the purpose of determining whether a responsible body has discriminated against a disabled person; and accordingly a breach of any such duty is not actionable as such.

(7) Nothing in paragraph (5) imposes any duty on the responsible body if it does not know, and could not reasonably be expected to know, that the person has a disability and is likely to be affected in the way mentioned in that paragraph.

(8) In paragraph (2), reference to an act of discrimination or harassment which is unlawful includes, in the case of a relationship which has come to an end before the commencement of this Article, reference to such an act which would, after the commencement of this Article, be unlawful.

Instructions and pressure to discriminate

30B.—(1) It is unlawful for a responsible body to instruct another person to do any act which is unlawful under this Chapter or to procure or attempt to procure the doing of any such unlawful act by that other person.

(2) It is also unlawful for a responsible body to induce, or attempt to induce, another person to do any act which is unlawful under this Chapter by—

- (a) providing or offering to provide that person with any benefit, or
- (b) subjecting or threatening to subject that person to any detriment.

(3) An attempted inducement is not prevented from falling within paragraph (2) because it is not made directly to the person in question, if it is made in such a way that he is likely to hear of it.

Discriminatory advertisements

30C.—(1) It is unlawful for a responsible body to publish or cause to be published an advertisement which—

- (a) invites applications in relation to any course or student service provided or offered by it, or any qualification conferred by it, and
- (b) indicates, or might reasonably be understood to indicate, that such an application will or may be determined to any extent by reference to—
 - (i) the applicant not having any disability, or any particular disability, or
 - (ii) any reluctance on the part of the person determining the application to comply with a duty imposed on it by Article 30.

(2) Paragraph (1) does not apply where it would not in fact be unlawful under this Chapter for an application to be determined in the manner indicated (or understood to be indicated) in the advertisement.

(3) In this Article, “advertisement” includes every form of advertisement or notice, whether to the public or not.]

Status:

Point in time view as at 01/08/2006. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation:

The Special Educational Needs and Disability (Northern Ireland) Order 2005, Cross Heading: Other unlawful acts is up to date with all changes known to be in force on or before 01 July 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.