

---

## STATUTORY INSTRUMENTS

---

# 1976 No. 1042

## Sex Discrimination (Northern Ireland) Order 1976

### PART IX

#### SUPPLEMENTAL

##### Validity and revision of contracts

77.—(1) A term of a contract is void where—

- (a) its inclusion renders the making of the contract unlawful by virtue of this Order, or
- (b) it is included in furtherance of an act rendered unlawful by this Order, or
- (c) it provides for the doing of an act which would be rendered unlawful by this Order.

(2) Paragraph (1) does not apply to a term the inclusion of which constitutes, or is in furtherance of, or provides for, unlawful discrimination against a party to the contract, but the term shall be unenforceable against that party.

(3) A term of a contract which purports to exclude or limit any provision of this Order or the Equal Pay Act is unenforceable by any person in whose favour the term would operate apart from this paragraph.

(4) Paragraph (3) does not apply—

- (a) to a contract settling a complaint to which Article 63(1) of this Order or section 2 of the Equal Pay Act applies where the contract is made with<sup>[F1]</sup> the assistance of the Labour Relations Agency];
- <sup>[F2]</sup>(aa) to a contract settling a complaint to which Article 63(1) of this Order or section 2 of the Equal Pay Act applies if the conditions regulating compromise contracts under this Order are satisfied in relation to the contract;]
- (b) to a contract settling a claim to which Article 66 applies.

<sup>[F2]</sup>(4A) The conditions regulating compromise contracts under this Order are that—

- (a) the contract must be in writing;
- (b) the contract must relate to the particular complaint;
- (c) the complainant must have received<sup>[F3]</sup> advice from a relevant independent adviser] as to the terms and effect of the proposed contract and in particular its effect on his ability to pursue his complaint before an industrial tribunal;
- (d) there must be in force, when the adviser gives the advice, a<sup>[F3]</sup> contract of insurance, or an indemnity provided for members of a profession or professional body,] covering the risk of a claim by the complainant in respect of loss arising in consequence of the advice;
- (e) the contract must identify the adviser; and
- (f) the contract must state that the conditions regulating compromise contracts under this Order are satisfied.

**Changes to legislation:** *Sex Discrimination (Northern Ireland) Order 1976, Section 77 is up to date with all changes known to be in force on or before 15 July 2023. 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*

- [
- <sup>F3</sup>(4B) A person is a relevant independent adviser for the purposes of paragraph (4A)(c)—
- (a) if he is a qualified lawyer,
  - (b) if he is an officer, official, employee or member of an independent trade union who has been certified in writing by the trade union as competent to give advice and as authorised to do so on behalf of the trade union,
  - (c) if he works at an advice centre (whether as an employee or a volunteer) and has been certified in writing by the centre as competent to give advice and as authorised to do so on behalf of the centre, or
  - (d <sup>F4</sup> if he is a person of a description specified in an order made by the Department of Economic Development.
- (4BA) But a person is not a relevant independent adviser for the purposes of paragraph (4A)(c) in relation to the complainant—
- (a) if he is, is employed by or is acting in the matter for the other party or for a person who is connected with the other party,
  - (b) in the case of a person within paragraph (4B)(b) or (c), if the trade union or advice centre is the other party or a person who is connected with the other party,
  - (c) in the case of a person within paragraph (4B)(c), if the complainant makes a payment for the advice received from him, or
  - (d) in the case of a person of a description specified in an order under paragraph (4B)(d), if any condition specified in the order in relation to the giving of advice by persons of that description is not satisfied.
- (4BB) In paragraph (4B)(a) “qualified lawyer” means a barrister (whether in practice as such or employed to give legal advice), or a solicitor who holds a practising certificate.
- (4BC) In paragraph (4B)(b) “independent trade union” has the same meaning as in the Industrial Relations (Northern Ireland) Order 1992.
- (4C) For the purposes of paragraph (4BA) any two persons are to be treated as connected—
- (a) if one is a company of which the other (directly or indirectly) has control, or
  - (b) if both are companies of which a third person (directly or indirectly) has control.]]
- [<sup>F3</sup>(4D) An agreement under which the parties agree to submit a dispute to arbitration—
- (a) shall be regarded for the purposes of paragraph (4)(a) and (aa) as being a contract settling a complaint if—
    - (i) the dispute is covered by a scheme having effect by virtue of an order under Article 84A of the Industrial Relations (Northern Ireland) Order 1992; and
    - (ii) the agreement is to submit it to arbitration in accordance with the scheme, but
  - (b) shall be regarded for those purposes as neither being nor including such a contract in any other case.]
- (5) On the application of any person interested in a contract to which paragraph (2) applies, a county court may make such order as it thinks just for removing or modifying any term made unenforceable by that paragraph; but such an order shall not be made unless all persons affected have been given notice of the application (except where under rules of court notice may be dispensed with) and have been afforded an opportunity to make representations to the court.
- (6) An order under paragraph (5) may include provision as respects any period before the making of the order.

---

**Changes to legislation:** *Sex Discrimination (Northern Ireland) Order 1976, Section 77 is up to date with all changes known to be in force on or before 15 July 2023. 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*

---

- F1** 1996 NI 18
- F2** 1993 NI 11
- F3** 1998 NI 8
- F4** function transf. by SR 1999/481

**Changes to legislation:**

Sex Discrimination (Northern Ireland) Order 1976, Section 77 is up to date with all changes known to be in force on or before 15 July 2023. 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.

[View outstanding changes](#)

**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](#)