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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]

*[<sup>F1</sup>Discrimination against office holders etc.]*

<b>F1</b> SR 2005/426
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**Offices and posts to which Article 13B applies**

- 13A.**—(1) Subject to paragraphs (2) and (3), Article 13B applies to an office or post if—
- (a) the office or post is one—
    - (i) to which persons are appointed to discharge functions personally under the direction of another person, and
    - (ii) in respect of which they are entitled to remuneration,
  - (b) the office or post is one to which appointments are made by a Minister of the Crown, a Northern Ireland Minister, the Assembly or a government department, or
  - (c) the office or post is one to which appointments are made on the recommendation of, or subject to the approval of, a person referred to in sub-paragraph (b).
- (2) Article 13B does not apply to an office or post if Article 8 (Applicants and employees), Article 12 (Contract workers), or Article 14 (Partnerships)—
- (a) applies in relation to an appointment to the office or post, or
  - (b) would apply in relation to an appointment to an office or post but for the operation of any other provision of this Order.
- (3) Article 13B does not apply to—
- (a) any office of the House of Commons held by a member of it,
  - (b) a life peerage within the meaning of the Life Peerages Act 1958, or any office of the House of Lords held by a member of it,
  - (c) any office of the Assembly held by a member of it,
  - (d) any office of a district council held by a member of it,
  - (e) any office of a political party.
- (4) For the purposes of paragraph (1)(a), the holder of an office or post—
- (a) is to be regarded as discharging her functions under the direction of another person if that other person is entitled to direct her as to when and where she discharges those functions;

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**Changes to legislation:** *Sex Discrimination (Northern Ireland) Order 1976, Cross Heading: Discrimination against office holders etc. is up to date with all changes known to be in force on or before 28 May 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*

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- (b) is not to be regarded as entitled to remuneration merely because she is entitled to payments—
  - (i) in respect of expenses incurred by her in carrying out the functions of the office or post, or
  - (ii) by way of compensation for the loss of income or benefits she would or might have received from any person had she not been carrying out the functions of the office or post.

(5) In this Article and Article 13B, appointment to an office or post does not include election to an office or post.

### **Office holders**

**13B.**—(1) It is unlawful for a relevant person, in relation to an appointment to an office or post to which this Article applies, to discriminate against a woman—

- (a) in the arrangements which he makes for the purpose of determining to whom the appointment should be offered,
- (b) in the terms on which he offers her the appointment, or
- (c) by refusing to offer her the appointment.

(2) It is unlawful, in relation to an appointment to an office or post to which this Article applies and which is an office or post referred to in Article 13A(1)(c), for a relevant person on whose recommendation, or subject to whose approval, appointments to the office or post are made, to discriminate against a woman—

- (a) in the arrangements which he makes for the purpose of determining who should be recommended or approved in relation to the appointment, or
- (b) in making or refusing to make a recommendation, or giving or refusing to give an approval, in relation to the appointment.

(3) It is unlawful for a relevant person, in relation to a woman who has been appointed to an office or post to which this Article applies, to discriminate against her—

- (a) in the terms of the appointment,
- (b) in the opportunities which he affords her for promotion, a transfer, training or receiving any other benefit, or by refusing to afford her any such opportunity,
- (c) by terminating the appointment, or
- (d) by subjecting her to any other detriment in relation to the appointment.

(4) It is unlawful for a relevant person, in relation to an office or post to which this Article applies, to subject to harassment a woman—

- (a) who has been appointed to the office or post,
- (b) who is seeking or being considered for appointment to the office or post, or
- (c) who, in relation to appointment to the office or post, is seeking or being considered for a recommendation or approval referred to in Article 13A(1)(c).

(5) Paragraphs (1) and (3) do not apply to any act in relation to an office or post where, if holding the office or post constituted employment, that act would be lawful by virtue of Article 10 (Exception where sex is a genuine occupational qualification), 10A (Corresponding exception relating to gender reassignment), 10B (Supplementary exceptions relating to gender reassignment) or Article 21 (Ministers of religion etc.).

(6) Paragraph (2) does not apply to any act in relation to an office or post where, if holding the office or post constituted employment, it would be lawful by virtue of Article 10, 10A, 10B or 21 to refuse to offer the person such employment.

(7) Paragraph (3) does not apply to benefits of any description if the relevant person is concerned with the provision (for payment or not) of benefits of that description to the public, or a section of the public to which the person appointed belongs, unless—

- (a) that provision differs in a material respect from the provision of the benefits to persons appointed to offices or posts which are the same as, or not materially different from, that which the person appointed holds,
- (b) the provision of the benefits to the person appointed is regulated by the terms and conditions of her appointment, or
- (c) the benefits relate to training.

(8) In paragraph (3)(c), the reference to the termination of the appointment includes a reference—

- (a) to the termination of the appointment by the expiration of any period (including a period expiring by reference to an event or circumstance), not being a termination immediately after which the appointment is renewed on the same terms and conditions, and
- (b) to the termination of the appointment by any act of the person appointed (including the giving of notice) in circumstances such that she is entitled to terminate the appointment without notice by reason of the conduct of the relevant person.

(9) In this Article “relevant person”, in relation to an office or post, means—

- (a) in a case relating to an appointment to an office or post, the person with power to make that appointment;
- (b) in a case relating to the making of a recommendation or the giving of an approval in relation to an appointment, a person or body referred to in section 13A(1)(b) with power to make that recommendation or (as the case may be) to give that approval;
- (c) in a case relating to a term of an appointment, the person with power to determine that term;
- (d) in a case relating to a working condition afforded in relation to an appointment—
  - (i) the person with power to determine that working condition, or
  - (ii) where there is no such person, the person with power to make the appointment;
- (e) in a case relating to the termination of an appointment, the person with power to terminate the appointment;
- (f) in a case relating to the subjection of a person to any other detriment or to harassment, any person or body falling within one or more of sub#paragraphs (a) to (e) in relation to such cases as are there mentioned.

(10) In paragraph 9(d) “working condition” includes any opportunity for promotion, a transfer, training or receiving any other benefit.

(11) In this Article—

- (a) references to “making a recommendation” include references to making a negative recommendation;
- (b) references to “refusal” include references to deliberate omission;
- (c) “benefits” includes facilities and services]

**Changes to legislation:**

Sex Discrimination (Northern Ireland) Order 1976, Cross Heading: Discrimination against office holders etc. is up to date with all changes known to be in force on or before 28 May 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](#)