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## STATUTORY INSTRUMENTS

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# 1976 No. 1042

## Sex Discrimination (Northern Ireland) Order 1976

### PART VIII

### ENFORCEMENT

#### *Other enforcement by Commission*

#### **Persistent discrimination**

**71.**—(1) If, during the period of five years beginning on the date on which either of the following became final in the case of any person, namely,—

- (a) a non-discrimination notice served on him,
- (b) a finding by a court or tribunal under Article 63 or 66, or section 2 of the Equal Pay Act, that he has done an unlawful discriminatory act or an act in breach of a term modified or included by virtue of an equality clause,

it appears to the Commission that unless restrained he is likely to do one or more acts falling within sub-paragraph ( b ), or contravening Article 38, the Commission may apply to a county court for an injunction restraining him from doing so; and the court, if satisfied that the application is well-founded, may grant the injunction in the terms applied for or in more limited terms.

(2) In proceedings under this Article the Commission shall not allege that the person to whom the proceedings relate has done an act which is within the jurisdiction of an industrial tribunal unless a finding by an industrial tribunal that he did that act has become final.

#### **Enforcement of Articles 39 to 41**

**72.**—(1) Proceedings in respect of a contravention of Article 39, 40 or 41 [<sup>F1</sup>may be brought] by the Commission in accordance with the following provisions of this Article.

(2) The proceedings shall be—

- (a) an application for a decision whether the alleged contravention occurred, or
- (b) an application under paragraph (4),

or both.

(3) An application under paragraph (2)( a ) shall be made—

- (a) in a case based on any provision of Part III, to an industrial tribunal, and
- (b) in any other case to a county court.

(4) If it appears to the Commission—

- (a) that a person has done an act which by virtue of Article 39, 40 or 41 was unlawful, and
- (b) that unless restrained he is likely to do further acts which by virtue of that Article are unlawful,

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**Changes to legislation:** *Sex Discrimination (Northern Ireland) Order 1976, Cross Heading: Other enforcement*  
*by Commission 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*

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the Commission may apply to a county court for an injunction restraining him from doing such acts; and the court, if satisfied that the application is well-founded, may grant the injunction in the terms applied for or more limited terms.

(5) In proceedings under paragraph (4) the Commission shall not allege that the person to whom the proceedings relate has done an act which is unlawful under this Order and within the jurisdiction of an industrial tribunal unless a finding by an industrial tribunal that he did that act has become final.

<p><b>F1</b> Words in <a href="#">art. 72(1)</a> substituted (31.3.2011) by <a href="#">Sex Discrimination Order 1976 (Amendment) Regulations (Northern Ireland) 2011 (S.R. 2011/156)</a>, <a href="#">reg. 10</a></p>
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### **Preliminary action in employment cases**

**73.**—(1) With a view to making an application under Article 71(1) or 72(4) in relation to a person the Commission may present to an industrial tribunal a complaint that he has done an act within the jurisdiction of an industrial tribunal, and if the tribunal considers that the complaint is well-founded they shall make a finding to that effect and, if they think it just and equitable to do so in the case of an act contravening any provision of Part III may also (as if the complaint had been presented by the person discriminated against) make an order such as is referred to in Article 65(1)( a), or a recommendation such as is referred to in Article 65(1)( c), or both.

(2) Paragraph (1) is without prejudice to the jurisdiction conferred by Article 72(2).

(3) Any finding of an industrial tribunal under—

- (a) this Order, or
- (b) the Equal Pay Act,

in respect of any act shall, if it has become final, be treated as conclusive—

- (i) by the county court on an application under Article 71(1) or 72(4) or in proceedings on an equality clause,
- (ii) by an industrial tribunal on a complaint made by the person affected by the act under Article 63 or in relation to an equality clause.

(4) In Articles 71 and 72 and this article, the acts “within the jurisdiction of an industrial tribunal” are those in respect of which such jurisdiction is conferred by Articles 63 and 72 and by section 2 of the Equal Pay Act.

**Changes to legislation:**

Sex Discrimination (Northern Ireland) Order 1976, Cross Heading: Other enforcement by Commission 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.

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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](#)