
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

Enforcement, etc.

Enforcement, remedies and procedures

31.—(1) A claim by a person—

- (a) that a responsible body has discriminated against him [^{F1}, or subjected him to harassment,] in a way which is unlawful under this Chapter,
- (b) that a responsible body is by virtue of Article 44 or 45 to be treated as having [^{F2}done so], or
- (c) that a person is by virtue of Article 44 to be treated as having [^{F3}done so],

may be made the subject of civil proceedings in the same way as any other claim in tort for breach of statutory duty.

[^{F4}(1A) Where—

- (a) a claim is brought under paragraph (1), and
- (b) the claimant proves facts from which the court could, apart from this paragraph, conclude in the absence of an adequate explanation that the defendant has acted in a way which is unlawful under this Chapter,

the court shall uphold the claim unless the defendant proves that he did not so act.]

(2) Damages in respect of discrimination in a way which is unlawful under this Chapter may include compensation for injury to feelings whether or not they include compensation under any other head.

(3) Proceedings may be brought only in a county court.

(4) The remedies available in such proceedings are those which are available in the High Court

(5) The fact that a person who brings proceedings under this Chapter against a responsible body may also be entitled to bring proceedings against that body under Part II of the 1995 Act is not to affect the proceedings under this Chapter.

(6) Part II of Schedule 2 makes further provision about the enforcement of this Chapter and about procedure.

Changes to legislation: *The Special Educational Needs and Disability (Northern Ireland) Order 2005, Section 31 is up to date with all changes known to be in force on or before 06 October 2022. 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** Words in art. 31(1)(a) 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, 11\(2\)\(a\)](#)
- F2** Words in art. 31(1)(b) substituted (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, 11\(2\)\(b\)](#)
- F3** Words in art. 31(1)(c) substituted (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, 11\(2\)\(b\)](#)
- F4** Art. 31(1A) 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, 11\(3\)](#)

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Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 22(1)(i)-(ii) substituted for words by [2016 c. 8 \(N.I.\) s. 12\(1\)](#)