
STATUTORY RULES OF NORTHERN IRELAND

2003 No. 497

**Employment Equality (Sexual Orientation)
Regulations (Northern Ireland) 2003**

PART IV

GENERAL EXCEPTIONS FROM PARTS II AND III

Exception for national security etc

26. No act done by any person shall be treated for the purposes of any provision of Part II or III as unlawfully discriminating if –

- (a) the act is done for the purpose of safeguarding national security or protecting public safety or public order; and
- (b) the doing of the act is justified by that purpose.

Effect of certificates by Secretary of State

27.—(1) This regulation applies where in any proceedings –

- (a) a person claims that an act discriminated against him in contravention of any provision of Part II or III; and
- (b) the person against whom the claim is made proposes to rely on a certificate purporting to be signed by or on behalf of the Secretary of State and certifying –
 - (i) that an act specified in the certificate was done for the purpose of safeguarding national security or protecting public safety or public order; and
 - (ii) that the doing of the act was justified by that purpose.

(2) The claimant may, in accordance with rules under section 91 of the Northern Ireland Act 1998⁽¹⁾, appeal against the certificate to the tribunal established under that section.

(3) If on an appeal under paragraph (2) that tribunal determines –

- (a) that the act specified in the certificate was done for the certified purpose; and
- (b) that the doing of the act was justified by that purpose,

the tribunal shall uphold the certificate; in any other case, the tribunal shall quash the certificate.

(4) If –

- (a) the claimant does not appeal against the certificate; or
- (b) the certificate is upheld on appeal,

the certificate shall be conclusive evidence of the matters certified by it.

(5) Sections 91 and 92 of the Northern Ireland Act 1998 shall apply in relation to appeals under this regulation as they apply in relation to appeals under section 90 of that Act.

(6) In this Regulation –

“claim” includes complaint; and

“claimant” includes complainant.

Exception for benefits dependent on marital status

28. Nothing in Part II or III shall render unlawful anything which prevents or restricts access to a benefit by reference to marital status.

Exceptions for positive action

29.—(1) Nothing in Part II or III shall render unlawful any act done in or in connection with –

(a) affording persons of a particular sexual orientation access to facilities for training which would help fit them for particular work; or

(b) encouraging persons of a particular sexual orientation to take advantage of opportunities for doing particular work,

where it reasonably appears to the person doing the act that it prevents or compensates for disadvantages linked to sexual orientation suffered by persons of that sexual orientation doing that work or likely to take up that work.

(2) Nothing in Part II or III shall render unlawful any act done by a trade organisation within the meaning of regulation 17 in or in connection with –

(a) affording only members of the organisation who are of a particular sexual orientation access to facilities for training which would help fit them for holding a post of any kind in the organisation; or

(b) encouraging only members of the organisation who are of a particular sexual orientation to take advantage of opportunities for holding such posts in the organisation,

where it reasonably appears to the organisation that the act prevents or compensates for disadvantages linked to sexual orientation suffered by those of that sexual orientation holding such posts or likely to hold such posts.

(3) Nothing in Part II or III shall render unlawful any act done by a trade organisation within the meaning of regulation 17 in or in connection with encouraging only persons of a particular sexual orientation to become members of the organisation where it reasonably appears to the organisation that the act prevents or compensates for disadvantages linked to sexual orientation suffered by persons of that sexual orientation who are, or are eligible to become, members.