
STATUTORY INSTRUMENTS

1976 No. 1042

Sex Discrimination (Northern Ireland) Order 1976

PART VIII

ENFORCEMENT

Help for persons suffering discrimination

Help for aggrieved persons in obtaining information etc.

74.—(1) With a view to helping a person (“the person aggrieved”) who considers he may have been discriminated against^[F1] or subjected to harassment] in contravention of this Order to decide whether to institute proceedings and, if he does so, to formulate and present his case in the most effective manner, the^[F2] Office of the First Minister and deputy First Minister] shall by order prescribe—

- (a) forms by which the person aggrieved may question the respondent on his reasons for doing any relevant act, or on any other matter which is or may be relevant;
- (b) forms by which the respondent may if he so wishes reply to any questions.

(2) Where the person aggrieved questions the respondent (whether in accordance with an order under paragraph (1) or not)—

- (a) the question, and any reply by the respondent (whether in accordance with such an order or not) shall, subject to the following provisions of this Article, be admissible as evidence in the proceedings;
- (b) if it appears to the court or tribunal that the respondent deliberately, and without reasonable excuse omitted to reply within^[F1] the period applicable under paragraph (2A)] or that his reply is evasive or equivocal, the court or tribunal may draw any inference from that fact that it considers it just and equitable to draw, including an inference that he committed an unlawful act.

^[F1](2A) The period applicable for the purposes of paragraph (2)(b) is—

- (a) eight weeks beginning with the day when the question was served on the respondent, if the question relates to discrimination under—
 - (i) any provision of Part III, ^{F3} . . .
[Article 30, 31 or 32, except in so far as it relates to an excluded matter; or]
- ^{F4}(ia)
 - (ii) any provision of Part IV, so far as it applies to vocational training;
- (b) a reasonable period, as regards any other question.]

(3) The^[F2] Office of the First Minister and deputy First Minister] may by order—

- (a) prescribe the period within which questions must be duly served in order to be admissible under paragraph (2)(a), and

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(b) prescribe the manner in which a question, and any reply by the respondent, may be duly served.

(4) County court rules may enable the court entertaining a claim under Article 66 to determine, before the date fixed for the hearing of the claim, whether a question or reply is admissible under this Article or not.

(5) This Article is without prejudice to any other statutory provision or rule of law regulating interlocutory and preliminary matters in proceedings before a county court or industrial tribunal, and has effect subject to any statutory provision or rule of law regulating the admissibility of evidence in such proceedings.

Para. (6) rep. by SI 1999/663

(7) In this Article “respondent” includes a prospective respondent.

F1 SR 2005/426

F2 SI 1999/663

F3 Word in [art. 74\(2A\)\(a\)\(i\)](#) omitted (6.4.2008) by virtue of [Sex Discrimination \(Amendment of Legislation\) Regulations 2008 \(S.I. 2008/963\)](#), regs. 1(1), 2(2), [Sch. 2 para. 18\(a\)](#) (with reg. 5(2))

F4 [Art. 74\(2A\)\(a\)\(ia\)](#) inserted (6.4.2008) by [Sex Discrimination \(Amendment of Legislation\) Regulations 2008 \(S.I. 2008/963\)](#), regs. 1(1), 2(2), [Sch. 2 para. 18\(b\)](#) (with reg. 5(2))

Assistance by Commission

75.—(1) Where, in relation to proceedings or prospective proceedings either under this Order or in respect of an equality clause, an individual who is an actual or prospective complainant or claimant applies to the Commission for assistance under this Article, the Commission shall consider the application and may grant it if it thinks fit to do so on the ground that—

- (a) the case raises a question of principle, or
- (b) it is unreasonable, having regard to the complexity of the case or the applicant's position in relation to the respondent or another person involved or any other matter, to expect the applicant to deal with the case unaided,

or by reason of any other special consideration.

(2) Assistance by the Commission under this Article may include—

- (a) giving advice;
- (b) procuring or attempting to procure the settlement of any matter in dispute;
- (c) arranging for the giving of advice or assistance by a solicitor or counsel;
- (d) arranging for representation by any person including all such assistance as is usually given by a solicitor or counsel in the steps preliminary or incidental to any proceedings, or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings,
- [^{F5}(e) any other form of assistance which the Commission may consider appropriate.]

but sub-paragraph (d) shall not affect the law and practice regulating the descriptions of persons who may appear in, conduct, defend and address the court in, any proceedings.

(3) In so far as expenses are incurred by the Commission in providing the applicant with assistance under this Article the recovery of those expenses (as taxed or assessed in such manner as may be prescribed by rules or regulations) shall constitute a first charge for the benefit of the Commission—

- (a) on any costs which (whether by virtue of a judgment or order of a court or tribunal or an agreement or otherwise) are payable to the applicant by any other person in respect of the matter in connection with which the assistance is given, and

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(b) so far as relates to any costs, on his rights under any compromise or settlement arrived at in connection with that matter to avoid or bring to an end any proceedings.

(4) The charge conferred by paragraph (3) is subject to any charge [^{F6}imposed by Article 17 of the Access to Justice (Northern Ireland) Order 2003] and is subject to any provision in [^{F7}, or made under] that [^{F8} Order] for payment of any sum [^{F9}to the Department of Justice].

(5) In this Article “respondent” includes a prospective respondent and “rules or regulations”

(a) in relation to county court proceedings, means county court rules;

(b) in relation to industrial tribunal proceedings, means^{F10} industrial tribunal procedure regulations under the Industrial Tribunals (Northern Ireland) Order 1996].

F5 1988 NI 13

F6 Words in art. 75(4) substituted (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)), art. 1(2), **Sch. 4 para. 3(a)**; S.R. 2015/194, art. 2, **Sch.** (with art. 3)

F7 Words in art. 75(4) inserted (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)), art. 1(2), **Sch. 4 para. 3(b)**; S.R. 2015/194, art. 2, **Sch.** (with art. 3)

F8 1981 NI 8

F9 Words in art. 75(4) substituted (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)), art. 1(2), **Sch. 4 para. 3(c)**; S.R. 2015/194, art. 2, **Sch.** (with art. 3) (as amended (18.11.2014) by Legal Aid and Coroners’ Courts Act (Northern Ireland) 2014 c. 11 (N.I.), Sch. 2 para. 6(43)(a)(iii))

F10 1996 NI 18

Changes to legislation:

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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](#)