
STATUTORY INSTRUMENTS

1998 No. 3162

**The Fair Employment and Treatment
(Northern Ireland) Order 1998**

PART VI

ENFORCEMENT OF PARTS III TO V

Period within which proceedings must be brought

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46.—(1) Subject to paragraph (5) ^{F1}and to [^{F2}Article] 46B^{F3}..., the Tribunal shall not consider a complaint under Article 38 unless it is brought before whichever is the earlier of—

- (a) the end of the period of 3 months beginning with the day on which the complainant first had knowledge, or might reasonably be expected first to have had knowledge, of the act complained of; or
- (b) the end of the period of 6 months beginning with the day on which the act was done.

(2) Subject to paragraph (5) ^{F4}... a county court shall not consider a claim under Article 40 unless proceedings in respect of the claim are instituted before the end of the period of 6 months beginning with the day on which the act complained of was done.

(3) Subject to paragraph (5) ^{F5}... the Tribunal or county court shall not consider an application under Article 42(2)(a) unless it is made before the end of the period of 6 months beginning with the day on which the act to which it relates was done; and a county court shall not consider an application under Article 42(4) unless it is made before the end of the period of 5 years so beginning.

(4) Subject to paragraph (5) ^{F6}... a county court shall not consider an application under Article 43(4) in relation to an undertaking under that Article unless it is made before the end of the period specified in the undertaking by virtue of paragraph (3)(d) of that Article.

(5) A court or the Tribunal may nevertheless consider any such complaint, claim or application which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.

(6) For the purposes of this Article—

- (a) when the inclusion of any term in a contract renders the making of the contract an unlawful act, that act shall be treated as extending throughout the duration of the contract; and
- (b) any act extending over a period shall be treated as done at the end of that period; and
- (c) a deliberate omission shall be treated as done when the person in question does an act inconsistent with doing the omitted act or, if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it were to be done.

Changes to legislation: There are currently no known outstanding effects for the The Fair Employment and Treatment (Northern Ireland) Order 1998, Cross Heading: Period within which proceedings must be brought. (See end of Document for details)

- F1** Words in art. 46(1) substituted (27.1.2020) by Employment Act (Northern Ireland) 2016 (c. 15), ss. 6(1), 29(2); S.R. 2020/1, art. 2(e)
- F2** Words in art. 46(1) substituted (31.12.2020) by S.I. 2019/469, Sch. 1 para. 14(2)(a) (as substituted by The Jurisdiction, Judgments and Applicable Law (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1574), regs. 1, 2(2))
- F3** Words in art. 46(1) repealed (27.1.2020) by Employment Act (Northern Ireland) 2016 (c. 15), s. 29(2), Sch. 3; S.R. 2020/1, art. 2(o)
- F4** Words in art. 46(2) omitted (31.12.2020) by virtue of The Cross-Border Mediation (EU Directive) (EU Exit) Regulations 2019 (S.I. 2019/469), reg. 1(1), Sch. 1 para. 14(2)(b) (with reg. 5) (as amended by S.I. 2020/1493, regs. 1(1), 4(5)(6)); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in art. 46(3) omitted (31.12.2020) by virtue of The Cross-Border Mediation (EU Directive) (EU Exit) Regulations 2019 (S.I. 2019/469), reg. 1(1), Sch. 1 para. 14(2)(b) (with reg. 5) (as amended by S.I. 2020/1493, regs. 1(1), 4(5)(6)); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in art. 46(4) omitted (31.12.2020) by virtue of The Cross-Border Mediation (EU Directive) (EU Exit) Regulations 2019 (S.I. 2019/469), reg. 1(1), Sch. 1 para. 14(2)(b) (with reg. 5) (as amended by S.I. 2020/1493, regs. 1(1), 4(5)(6)); 2020 c. 1, Sch. 5 para. 1(1)

Extension of time limits: mediation

^{F7}**46A.**

- F7** Art. 46A omitted (31.12.2020) by virtue of The Cross-Border Mediation (EU Directive) (EU Exit) Regulations 2019 (S.I. 2019/469), reg. 1(1), Sch. 1 para. 14(3) (with reg. 5) (as amended by S.I. 2020/1493, regs. 1(1), 4(5)(6)); 2020 c. 1, Sch. 5 para. 1(1)

[^{F8}Extension of time limit to allow conciliation

46B.—(1) This Article applies for the purposes of Article 46(1)(a).

^{F9} ...

(2) In this Article—

- (a) Day A is the day on which the complainant concerned complies with the requirement in paragraph (1) of Article 88ZA (requirement to contact Agency before complaint to Tribunal) in relation to the matter in respect of which the complaint is brought, and
- (b) Day B is the day on which the complainant concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under paragraph (10) of that Article) the certificate issued under paragraph (4) of that Article.

(3) In working out when the time limit set by Article 46(1)(a) expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(4) If the time limit set by Article 46(1)(a) would (if not extended by this paragraph) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

(5) Any power of the Tribunal to extend the time limit set by Article 46(1)(a) is exercisable in relation to the time limit as extended by this Article.]

- F8** Art. 46B inserted (27.1.2020) by Employment Act (Northern Ireland) 2016 (c. 15), ss. 6(2), 29(2); S.R. 2020/1, art. 2(e)

F9 Words in art. 46B(1) omitted (31.12.2020) by virtue of S.I. 2019/469, Sch. 1 para. 14(4) (as inserted by The Jurisdiction, Judgments and Applicable Law (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1574), regs. 1, 2(3))

Changes to legislation:

There are currently no known outstanding effects for the The Fair Employment and Treatment (Northern Ireland) Order 1998, Cross Heading: Period within which proceedings must be brought.