



# Fair Employment (Northern Ireland) Act 1976

## 1976 CHAPTER 25

### PART VI

#### MISCELLANEOUS

##### *Application to the Crown, police and public bodies*

###### **50 Application of Act to the Crown**

- (1) Subject to sections 51 to 54, this Act applies—
- (a) to an act done by or for purposes of a Minister of the Crown or a government department, or
  - (b) to an act done on behalf of the Crown by a statutory body or a person holding a statutory office, or
  - (c) to an act done by a member of Her Majesty's forces acting as such, as it applies to an act done by a private person.
- (2) For the purposes of subsection (1), in this Act—
- (a) references to employment include references to—
    - (i) service for purposes of a Minister of the Crown or government department, other than service of a person holding a statutory office, and
    - (ii) service on behalf of the Crown for purposes of a person holding a statutory office or purposes of a statutory body, and
    - (iii) service as a member of Her Majesty's forces;
  - (b) references to a contract of employment include references to the terms of such service ;
  - (c) references to an employee include references to a person who is seeking to become engaged in such service, who is in such service or who has ceased to be in such service ; and

- (d) references to an employer, in relation to an employee, include references to (as the case requires) the authority with power to appoint him, to fix his terms of service, to afford him any benefit, to dismiss him or to subject him to any detriment.
- (3) Subsection (2) of section 49 (or that subsection as it has effect by virtue of an order under subsection (3) of that section) shall have effect in relation to any ship, aircraft or hovercraft belonging to or possessed by Her Majesty in right of the Government of Northern Ireland as it has effect in relation to a ship, aircraft or hovercraft mentioned in paragraph (a) or (b) of that subsection ; and that subsection shall not have effect in relation to any ship, aircraft or hovercraft belonging to or possessed by Her Majesty in right of the Government of the United Kingdom.
- (4) In this section and sections 51, 52 and 54 references to the Crown include it both in right of the Government of the United Kingdom and in right of the Government of Northern Ireland; and—
  - (a) in this section and section 54 references to Her Majesty's forces are references to—
    - (i) the naval, military or air forces of the Crown, and
    - (ii) any women's service administered by the Defence Council,
 but do not include references to any cadet training corps for the time being administered by the Ministry of Defence; and
  - (b) in this section service " for purposes of " a Minister of the Crown or government department does not include service in any office in Schedule 2 (Ministerial offices) to the House of Commons Disqualification Act 1975 as for the time being in force.

## **51 Proceedings against Crown for unlawful discrimination**

The provisions of Parts II to IV of the Crown Proceedings Act 1947 shall apply to proceedings against the Crown under section 30 as they apply to proceedings in Northern Ireland which by virtue of section 23 of that Act are treated for the purposes of Part II of that Act as civil proceedings by or against the Crown, except that in their application to proceedings under section 30—

- (a) section 20 of that Act (removal of proceedings from county court to High Court) shall not apply ; and
- (b) section 28 of that Act (discovery) shall have effect subject to section 52(2) of this Act.

## **52 Disclosure of information by Crown for purposes of investigation or proceedings**

- (1) Subject to subsection (2), any obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to persons in the service of the Crown, whether imposed by any enactment or by any rule of law, shall not apply to the disclosure of information for the purposes of any investigation, appeal or proceedings under this Act; and the Crown shall not be entitled in relation to any such investigation, appeal or proceedings to any such privilege in respect of the production of documents or the giving of evidence as is allowed to the Crown alone by law in legal proceedings.
- (2) A Minister of the Crown or the head of a Northern Ireland department may by a certificate in writing, with respect to any document or information specified in the certificate, or documents or information of any class so specified, certify that in his

opinion the disclosure of that document or information or of documents or information of that class would be prejudicial to the safety of the United Kingdom or any part of it or otherwise contrary to the public interest; and where such a certificate is given nothing in this Act shall be construed as authorising or requiring the communication to any person or for any purpose of any document or information specified in the certificate, or any document or information of a class so specified.

- (3) A document purporting to be a certificate such as is mentioned in subsection (2) shall be received in evidence and, unless the contrary is proved, shall be deemed to be such a certificate.
- (4) Where, in consequence of the enactment of subsection (1), any information is disclosed to persons not in the service of the Crown, those persons shall, without prejudice to subsections (1) and (2) and subject to subsection (5), be subject to the same restrictions upon the disclosure of the information as if they were in that service, and, in particular, the Official Secrets Act 1911 shall have effect in relation to them as if they were persons holding office under Her Majesty.
- (5) Where a person to whom subsection (4) applies is a member, officer or servant of the Agency or of the Appeals Board, or a person whose services have been made available for purposes of the Appeals Board, that subsection shall not preclude his disclosing the information in question to any other person so far as such disclosure is necessary—
  - (a) for the purpose of communicating in accordance with the provisions of this Act—
    - (i) the Agency's finding following an investigation and the reasons for it, or
    - (ii) the Appeals Board's decision on an appeal and the reasons for it; or
  - (b) for the purposes of any criminal proceedings or to comply with the order of a court.
- (6) Any reference in subsection (2) to a Minister of the Crown includes a reference to the Commissioners of Customs and Excise and the Commissioners of Inland Revenue.

### **53 Application of Act to the police**

- (1) For the purposes of this Act the holding of the office of constable shall be treated as employment—
  - (a) by the chief officer of police as respects any act done by him in relation to a constable or that office ;
  - (b) by the police authority as respects any act done by them in relation to a constable or that office.
- (2) There shall be defrayed as expenses of the police authority—
  - (a) any damages or costs awarded against a chief officer of police in any proceedings under this Act, any costs incurred by him in any such proceedings so far as not recovered by him in the proceedings, and any costs incurred by him in connection with any investigation under this Act so far as not defrayed by sums paid by the Agency under Schedule 5, paragraph 11 ; and
  - (b) any sum required by a chief officer of police in connection with the settlement of any complaint made or action brought against him under this Act, if the settlement is approved by the police authority.

- (3) Any proceedings under this Act which, by virtue of subsection (1), would lie against a chief officer of police shall be brought against the chief officer of police for the time being or, in the case of a vacancy in that office, against the person for the time being performing the functions of that office; and references in subsections (2) and (4) to the chief officer of police shall be construed accordingly.
- (4) The police authority may make arrangements for the legal representation of the chief officer of police in any investigation or proceedings under this Act.
- (5) This section applies to a police cadet and appointment as a police cadet as it applies to a constable and the office of constable.
- (6) In this section—
- " chief officer of police "—
  - (a) in relation to a person appointed, or an appointment falling to be made, to the police force or as a police cadet in relation to that force, means the Chief Constable of the Royal Ulster Constabulary,
  - (b) in relation to any other person or appointment means the officer who has the direction and control of the body of constables or cadets in question;
  - " police authority "—
  - (a) in relation to a person appointed, or an appointment falling to be made, to the police force or as a police cadet in relation to that force, means the Police Authority for Northern Ireland,
  - (b) in relation to any other person or appointment, means the authority by whom the person in question is, or on appointment would be, paid ;
  - " police cadet " means any person appointed to undergo training with a view to becoming a constable ;
  - " police force " has the same meaning as in the Police Act (Northern Ireland) 1970.

#### **54 Procedure following investigation under s. 12 of Minister, government department, certain statutory bodies or statutory officers and police**

- (1) This section applies where, following an investigation under section 12, the Agency is of the opinion that there has been a failure to afford equality of opportunity by any of the following authorities, namely—
- (a) a Minister of the Crown or a government department or a person acting for purposes of such a Minister or department; or
  - (b) a member of Her Majesty's forces acting as such ; or
  - (c) any other person acting on behalf of the Crown, being a statutory body or a person holding a statutory office; or
  - (d) the Police Authority for Northern Ireland or the Chief Constable of the Royal Ulster Constabulary ;
- and, accordingly, section 13(2) to (8) and sections 14 and 15 shall not have effect in relation to any such authority.
- (2) Where the Agency asks for an undertaking such as is mentioned in section 13(1)(b), but—
- (a) the undertaking is not given, or
  - (b) the undertaking, although given, is not complied with,

the Agency shall, subject to subsection (4), send a report of the results of its investigation and of the opinion it has formed in relation to the subject-matter of the investigation (including any recommendations the Agency considers appropriate for action on the part of the authority concerned)—

- (i) where the investigation related to a Minister of the Crown, to that Minister ;
  - (ii) where the investigation related to a government department, to the Minister of the Crown in charge of the department, or in the case of a Northern Ireland department to the head of the department, or
  - (iii) where the investigation related to any other authority, to the Minister of the Crown or the head of the Northern Ireland department generally responsible for matters falling within the scope of the functions of that authority.
- (3) Where the report is sent to a Minister of the Crown he shall lay it before Parliament; and where the report is sent to the head of a Northern Ireland department he shall lay it before the Northern Ireland Assembly.
- (4) During the interim period any report which is required by subsections (2) and (3) to be sent to the head of a Northern Ireland department and laid before the Northern Ireland Assembly shall, instead, be sent to the Secretary of State and laid by him before Parliament.
- (5) A person who is not in the service of the Crown shall not be regarded as within subsection (1)(a) by reason only of his acting in pursuance of a contract entered into with a Minister of the Crown or a government department.