



Fair Employment (Northern Ireland) Act 1976

1976 CHAPTER 25

PART VI

MISCELLANEOUS

General

55 Service of documents

- (1) Any notice or other document which is required or permitted by this Act to be served on a person may—
- (a) if that person is an individual, be served on him—
 - (i) by delivering it to him, or
 - (ii) by sending it to him by post, addressed to him at his usual or last-known place of residence or business, or
 - (iii) by leaving it for him at that place ; or
 - (b) if that person is a body corporate or unincorporate, be served on the body—
 - (i) by sending it by post to the proper officer of the body at its registered or principal office, or at its principal office in Northern Ireland, or
 - (ii) by addressing it to the proper officer of the body and leaving it at any such office.
- (2) Subsection (1) does not prejudice any other lawful method of service.

56 Orders and reports

- (1) Any power of the Secretary of State to make an order under section 39(1) or section 59(5) shall be exercisable by statutory instrument.

- (2) An order made by the Department under section 49(3) shall be made by statutory rule for the purposes of the Statutory Rules Act (Northern Ireland) 1958.
- (3) For the purpose of laying before the Northern Ireland Assembly—
- (a) a draft of an order under section 49(3); or
 - (b) a report under section 54(2); or
 - (c) the Agency's annual report,
- section 41(3) of the Interpretation Act (Northern Ireland) 1954 (laying of statutory documents) shall have effect as if the draft order and the reports were statutory documents within the meaning of that Act.

57 General interpretation

- (1) In this Act, unless the context otherwise requires.—
- " access " shall be construed in accordance with subsection (7);
 - " act " includes a deliberate omission, and any reference to an act, action or other thing done shall be construed accordingly;
 - " advertisement " includes every form of advertisement, whether to the public or not, and whether in a newspaper or other publication, by television or radio, by display or circulation of notices or circulars, by exhibition of pictures, models or films or in any other way, and references to the publishing of advertisements shall be construed accordingly;
 - " the Agency " means the Fair Employment Agency for Northern Ireland;
 - " the Appeals Board " means the Fair Employment Appeals Board;
 - " benefits " includes all opportunities, services and facilities, and, in particular, includes opportunities for training, transfer or promotion, for betterment of any kind (including more attractive times or conditions of work) or for any financial advantage (including bonuses, advances of money and preferential terms for acquiring property of any kind);
 - " the commencement of this Act " shall be construed in accordance with section 59(6);
 - " complainant " means a person making a complaint that unlawful discrimination has been committed against him or, in relation to a complaint made or continued under section 24(2), means—
 - (a) subject to paragraph (b) below, in relation to any act which, under this Act, must or may be done by, to or in relation to the complainant, the person making or for the time being continuing the complaint; and
 - (b) in relation to the complainant's having, or being expected to have had, knowledge of anything, the person making the complaint or the person against whom the unlawful discrimination is alleged to have been committed, whichever of them first had, or might reasonably be expected to have had, that knowledge; and
 - (c) in any other connection, the person against whom the unlawful discrimination is alleged to have been committed;
 - " complaint " means a complaint of unlawful discrimination made to the Agency under section 24 ;
 - " confer ", in relation to a qualification, includes renew and extend;

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" contract " includes any contract, whether in writing or oral, express or implied ; " contravention ", in relation to any provision, includes a failure to comply with that provision ;

" costs " includes expenses ;

" the county court ", in relation to any proceedings, means a county court sitting for the county court division in Northern Ireland in which those proceedings may be taken by virtue of rules of court;

" the Declaration of Principle and Intent " has the meaning given by section 6(1);

" the Department " means the Department of Manpower Services for Northern Ireland ;

" the Department of Finance " means the Department of Finance for Northern Ireland ;

" discrimination " and " discriminate " shall be construed in accordance with section 16(1) to (4);

" employer " means—

(a) in relation to a person who is seeking employment, anybody who has employment available ;

(b) in relation to a person employed under a contract of service or of apprenticeship or a contract personally to execute any work or labour, the person entitled to the benefit of that contract;

(c) in relation to a person who has ceased to be in employment, his former employer ; and " employee ", correspondingly, means such a person as is first mentioned in paragraph (a), (b) or (c) of this definition;

" employment " means employment under a contract of service or apprenticeship or a contract personally to execute any work or labour, and, without prejudice to the definitions of " employer " and " employee " above, related expressions shall be construed accordingly ;

" employment agency " means a person who, for profit or not, provides services for the purpose of finding employment for workers or supplying employers with workers;

" employment in Northern Ireland " shall be construed in accordance with section 49 ;

" enactment " includes an enactment contained in an Act of the Parliament of Northern Ireland or an Order in Council made under the Northern Ireland (Temporary Provisions) Act 1972, or in a Measure of the Northern Ireland Assembly;

" equality of opportunity " shall be construed in accordance with section 3 ;

" financial year " means a year ending on 31st March ;

" finding ", in relation to the investigation of a complaint, has the meaning given by section 25(1);

" government department " includes a Northern Ireland department;

" the High Court " means the High Court of Justice in Northern Ireland;

" the injured person ", in relation to an action under section 30, has the meaning given by section 30(1);

" the interim period " has the meaning given by section 1(4) of the Northern Ireland Act 1974 for purposes of that Act;

" member ", in relation to a vocational organisation, includes (except in section 21) a person seeking to become a member and a person who has

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ceased to be a member, and in relation to such an organisation (other than an organisation of workers or employers) also includes any person belonging to a class of person recognised by the organisation as having any particular status in connection with an employment or occupation for the purposes of which the organisation exists, including students and associates, and "membership" shall be construed accordingly ;

" Northern Ireland " includes such of the territorial waters of the United Kingdom as are adjacent to Northern Ireland;

" notice " means a notice in writing ;

" occupation " includes any trade, business, profession or vocation, but not any employment;

" occupation in Northern Ireland " shall be construed in accordance with section 49 ;

" organisation " includes any society or association whether corporate or unincorporate;

" the person concerned ", in relation to an investigation under section 12, has the meaning given by subsection (1)(b) of that section ;

" practices " includes procedures and arrangements;

" proper officer ", in relation to any body corporate or unincorporate, means the secretary or other executive officer charged with the conduct of the general affairs of the body;

" qualification " includes authorisation, recognition, registration, enrolment, approval and certification;

" the register " means the Register of Equal Opportunity Employers and Equal Opportunity Organisations;

" the respondent ", in relation to a complaint, has the meaning given by section 24(1);

" satisfactory ", in relation to an undertaking, means appearing to the Agency to be satisfactory, having regard to all the circumstances;

" school " has the same meaning as in the Education and Libraries (Northern Ireland) Order 1972 ;

" the Standing Advisory Commission on Human Rights " means the commission constituted by that name under section 20 of the Northern Ireland Constitution Act 1973 ;

" statutory body " means a body set up by or in pursuance of an enactment, and " statutory office " means an office so set up ;

" training " includes any form of education or instruction, except that in sections 3(3)(M(ii), 12(1)(b)(v) and 22 it does not include education in—

- (a) a school, or
- (b) an institution of further education within the meaning of the Education and Libraries (Northern Ireland) Order 1972 or an institution in respect of which contributions are paid by an Education and Library Board under Article 23(3) of that Order, or
- (c) an institution which is maintained in pursuance of arrangements made by the Department of Education for Northern Ireland under Article 55(1) of that Order of 1972, or in respect of which grants are paid by that Department under Article 55(2) of that Order, or
- (d) the Ulster College, or
- (e) a university;

" unlawful discrimination " shall be construed in accordance with section 16(5);

" vocational organisation " means—

- (a) an organisation of workers, or
- (b) an organisation of employers, or
- (c) any other organisation of persons engaged in a particular employment or occupation, or employments or occupations of any class, for the purposes of which the organisation exists.

- (2) In this Act references to a person's religious belief or political opinion include references to his supposed religious belief or political opinion and to the absence or supposed absence of any, or any particular, religious belief or political opinion.
- (3) In this Act any reference to a person's political opinion does not include an opinion which consists of or includes approval or acceptance of the use of violence for political ends connected with Northern Irish affairs (including the use of violence for the purpose of putting the public or any section of the public in fear).
- (4) In this Act any reference to failure to afford equality of opportunity includes a reference to unintentional failure.
- (5) For the purposes of this Act a person is seeking employment if he is available for employment, whether or not he is aware of the existence of an opportunity for any particular employment.
- (6) References in this Act to submitting a person for consideration for employment include references to making available to an employer in any way relevant particulars relating to him.
- (7) References in this Act to the affording by any person of access to benefits are not limited to benefits provided by him alone, but include any means by which it is in his power to facilitate access to benefits provided by others.
- (8) Without prejudice to any provision of section 49 or any order under subsection (3) of that section and subject to any other provision of this Act which is limited by its express terms to acts done in Northern Ireland, references (however expressed) in this Act to acts done or to power to do any acts, other than references to acts which may be the subject of criminal proceedings under this Act, include references to acts done or power to do the acts outside Northern Ireland; and references to a contract include references to a contract the proper law of which is not the law of Northern Ireland.
- (9) In this Act any reference to a declarant is a reference to an employer who, or an organisation which, subscribes, or (as the context requires) proposes to subscribe or has subscribed, to the Declaration of Principle and Intent.
- (10) For the purposes of this Act an undertaking is not complied with unless the whole of it is complied with, and directions or recommendations are not complied with unless they are all complied with.
- (11) Except so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment, including this Act.
- (12) In this Act, except where otherwise indicated.—

- (a) a reference to a numbered Part, section or Schedule is a reference to the Part or section of, or the Schedule to, this Act so numbered, and
- (b) a reference in a section to a numbered subsection is a reference to the subsection of that section so numbered, and
- (c) a reference in a section, subsection or Schedule to a numbered paragraph is a reference to the paragraph of that section, subsection or Schedule so numbered, and
- (d) a reference in a paragraph of a section, subsection or Schedule to a numbered sub-paragraph is a reference to the sub-paragraph of that paragraph so numbered.

58 Amendments and extension of enactments, and repeal

- (1) The enactments mentioned in Schedule 6 shall have effect subject to the respective amendments there specified (being amendments consequential on the provisions of this Act).
- (2) The following enactments, namely.—
 - (a) section 5(2)(a) of the Parliamentary Commissioner Act 1967;
 - (b) section 5(2)(a) of the Parliamentary Commissioner Act (Northern Ireland) 1969 ; and
 - (c) section 5(3)(a) of the Commissioner for Complaints Act (Northern Ireland) 1969,
 shall have effect in relation to the right of a person to make a complaint of unlawful discrimination under this Act as if it were such a right of appeal, reference or review as is mentioned in those enactments.
- (3) Section 20(1)(b) of the Northern Ireland Constitution Act 1973 is hereby repealed.

59 Short title, extent and commencement

- (1) This Act may be cited as the Fair Employment (Northern Ireland) Act 1976.
- (2) Subject to subsections (3) and (4) and without prejudice to section 57(8) or to the application by virtue of Schedule 4, paragraph 7, or Schedule 5, paragraph 8, of any enactment which extends to the whole of the United Kingdom, this Act extends to Northern Ireland only.
- (3) The amendments, extension and repeal of enactments which are made by section 58(1), (2)(a) and (3) and Schedule 6 have the same extent as the enactments that are so amended, extended or repealed.
- (4) Sections 47 and 52 and so much of section 57 as applies for the interpretation of those sections extend to the whole of the United Kingdom.
- (5) This Act shall come into operation on such day as the Secretary of State may by order appoint.
- (6) An order under subsection (5)—
 - (a) may appoint different days for different provisions of this Act or for different purposes of the same provision ; and
 - (b) may be revoked or varied by a subsequent order under that subsection;

and any reference in a provision of this Act to the commencement of this Act shall be construed—

- (i) where different days are appointed for different provisions, as a reference to the day appointed for the coming into operation of that provision; or
- (ii) where different days are appointed for different purposes of that provision, as a reference, in relation to each such purpose, to the day appointed for that purpose.