

SCHEDULES

SCHEDULE 1

Section 1(2), Sch. 5 para. 12(1)(a).

THE FAIR EMPLOYMENT AGENCY FOR NORTHERN IRELAND

Incorporation and status

- 1 On the appointment of the first members of the Agency, the Agency shall come into existence as a body corporate.
- 2 (1) The Agency is not an emanation of the Crown, and shall not act or be treated as the servant or agent of the Crown.
(2) Accordingly—
 - (a) neither the Agency nor any of its members or members of its staff as such is entitled to any status, immunity, privilege or exemption enjoyed by the Crown ;
 - (b) the members of the Agency and members of its staff as such are not civil servants ; and
 - (c) the Agency's property is not property of, or held on behalf of, the Crown.

Tenure of office of members

- 3 (1) A person shall hold and vacate his office as chairman or other member of the Agency in accordance with the terms of his appointment:

Provided that no such appointment shall be for a period exceeding five years in the case of the chairman and three years in the case of another member.
- (2) A person may at any time resign office as chairman or other member of the Agency by notice to the Department.
- (3) Past service as chairman or other member of the Agency is no bar to re-appointment.

Remuneration of members

- 4 The Department may pay, or make such payments towards the provision of, such remuneration, allowances (including allowances for expenses), pensions or gratuities to or in respect of the chairman and other members of the Agency, or any of them, as, with the approval of the Department of Finance, it may determine.

Staff

- 5 (1) The Agency may with the approval of the Department and the Department of Finance as to numbers and as to remuneration and other terms and conditions of employment—
 - (a) employ such officers and servants as the Agency considers necessary;

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(b) employ the services of such other persons as the Agency considers expedient for any particular purpose.

(2) The Agency may, in the case of such persons employed by it as may be determined by the Agency with the approval of the Department and the Department of Finance, pay to or in respect of them such allowances (including allowances for expenses), pensions or gratuities, or provide and maintain for them such pension schemes (whether contributory or not), or contributory or other pension arrangements, as may be so determined.

Proceedings

6 (1) Without prejudice to any provision of Schedule 5, the Agency may regulate its own procedure and business including the formalities for affixing its common seal to any document and, subject to sub-paragraph (2), its quorum.

(2) The quorum for meetings of the Agency shall, in the first instance, be determined by a meeting of the Agency attended by not less than five members.

7 The validity of any proceedings of the Agency shall not be affected by any vacancy in the office of chairman or other member of the Agency or by any defect in the appointment of the chairman or any other member.

Instruments

8 A document purporting to be duly executed under the common seal of the Agency shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

9 Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal may be entered into or executed on behalf of the Agency by any person generally or specially authorised by the Agency to act for that purpose, and any document purporting to be such a contract or instrument shall be deemed to be such a contract or instrument until the contrary is proved.

Discharge of functions

10 (1) The Agency may authorise the discharge, under the general direction of the Agency, of its functions in relation to—

- (a) any complaint or other matter falling to be dealt with by it; or
- (b) any class of such matters,

by either a member or a group of members of the Agency selected by the chairman.

(2) Anything done by or in relation to a member or group of members in or in connection with the discharge of functions he or they are authorised to discharge under sub-paragraph (1) shall have the same effect as if done by or in relation to the Agency.

(3) A group of members authorised to discharge any functions under sub-paragraph (1) may regulate their own procedure and business, including their quorum.

(4) The validity of any proceedings of a member or group of members so authorised shall not be affected by any defect in his appointment or any of their appointments ; and the validity of the proceedings of any such group shall not be affected by any vacancy in their number.

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- (5) The chairman may select himself as the member, or as one of the group of members, mentioned in this paragraph.
- 11 The Agency may appoint as assessors, to assist—
- (a) the Agency ; or
 - (b) any member or group of members authorised to discharge functions under paragraph 10,
- in the investigation of any complaint or other matter, persons appearing to the Agency to have special knowledge and experience of the matters to which the investigation relates and of any other circumstances appearing to the Agency to be relevant.

Expenses and accounts

- 12 All expenditure incurred by or on behalf of the Agency—
- (a) within the terms of any general authorisation in writing given by the Department and the Department of Finance; or
 - (b) with the approval of those Departments ;
- may be defrayed as expenses of the Department.
- 13 (1) The Agency shall keep proper accounts in such form as may be approved by the Department, and proper records in relation to the accounts, and shall prepare in respect of the period ending on 31st March 1977 and in respect of each subsequent financial year a statement of accounts in such form as the Department, with the approval of the Department of Finance may direct.
- (2) The accounts of the Agency shall be audited by auditors appointed by the Agency with the approval of the Department and shall be vouched to the satisfaction of the auditors.
- (3) The Agency shall, at such time in each year as the Department may direct, transmit to the Department and the Comptroller and Auditor-General copies, certified by the auditors, of the annual statement of accounts.
- (4) The Comptroller and Auditor-General—
- (a) shall examine a copy of each annual statement of accounts of the Agency;
 - (b) may, in connection with such examination, examine any accounts kept by the Agency and any records relating to the accounts ; and
 - (c) shall make a report on the copy of each annual statement of accounts and send the report to the Department.
- (5) Subject to sub-paragraph (b), a copy of every annual statement of accounts of the Agency and a copy of the Comptroller and Auditor-General's report thereon shall be laid by the head of the Department before the Northern Ireland Assembly.
- (6) During the interim period the copies mentioned in sub-paragraph (5) shall, instead, be sent by the Department to the Secretary of State and laid by him before Parliament.
- (7) In this paragraph "the Comptroller and Auditor-General" means the Comptroller and Auditor-General for Northern Ireland.

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Annual report

- 14 (1) The Agency shall prepare in respect of the period ending on 31st March 1977 and in respect of each subsequent financial year a report on the Agency's activities during that period or year (" the annual report").
- (2) The annual report shall include a general survey of developments, during the period to which it relates, in respect of matters falling within the scope of the Agency's functions.
- (3) Subject to sub-paragraph (4), the annual report shall be made to the head of the Department and shall be laid by him before the Northern Ireland Assembly.
- (4) During the interim period the annual report shall, instead, be made to the Secretary of State and laid by him before Parliament.
- (5) The Department, or where sub-paragraph (4) applies the Secretary of State, shall cause the annual report to be published.

SCHEDULE 2

Section 4(3).

THE FAIR EMPLOYMENT APPEALS BOARD

Tenure of office of members

- 1 (1) A person shall hold and vacate his office as chairman or other member of the Appeals Board in accordance with the terms of his appointment:
- Provided that no such appointment shall be for a period exceeding five years.
- (2) A person may at any time resign office as chairman or other member of the Appeals Board by notice to the Department.
- (3) Past service as chairman or other member of the Appeals Board is no bar to re-appointment.

Remuneration of members

- 2 The Department may pay, or make such payments towards the provision of, such remuneration, allowances (including allowances for expenses), pensions or gratuities to or in respect of the chairman and other members of the Appeals Board, or any of them, as, with the approval of the Department of Finance, it may determine.

Staff and accommodation

- 3 (1) The Department may, with the approval of the Department of Finance as to numbers and as to remuneration and other terms and conditions of employment, appoint officers and servants to assist the Appeals Board in the execution of its functions or may make the services of members of the Department's staff, and such accommodation or facilities as may be agreed upon between the Department and the Board, available for purposes of the Board.

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- (2) The remuneration of persons appointed under sub-paragraph (1) shall be paid by the Department, and the Department may also pay to or in respect of such of those persons as may be determined by it with the approval of the Department of Finance such allowances (including allowances for expenses), pensions or gratuities as may be so determined.

Proceedings

- 4 (1) Subject to sub-paragraph (2) and without prejudice to any provision of Schedule 4, the Appeals Board may regulate its own procedure.
- (2) Where any member of the Appeals Board is indisposed or is for any other reason unable to act, the chairman of the Board may direct that any particular appeal or appeals of any class may be heard by or continued before, and may be determined by, two members of the Board, and for the purposes of the provisions of this Act relating to appeals to the Board those two members shall constitute the Board.
- 5 The validity of the proceedings of the Appeals Board shall not be affected by any vacancy in the office of chairman or other member of the Board or by any defect in the appointment of the chairman or any other member.

Expenses of Board

- 6 Any expenditure incurred in accordance with the provisions of this Act by the Appeals Board, or by the Department for purposes of the Appeals Board, may be defrayed as expenses of the Department.

SCHEDULE 3

Section 6(3).

DECLARATION OF PRINCIPLE AND INTENT

I/We affirm and declare that it is my/our intent to promote and protect equality of opportunity in employment, according to the letter and spirit of the Fair Employment (Northern Ireland) Act 1976 by every means at my/our disposal, and to co-operate to that end with the Fair Employment Agency for Northern Ireland.

I/We further undertake that I/we will use my/our best endeavours to encourage all persons within the range of my/our influence to commit themselves to the same intent."

SCHEDULE 4

Sections 8(3), 14(3), 59(2), Sch. 2 para.
4(1).

CONDUCT OF APPEALS BY THE APPEALS BOARD

Preliminary

- 1 In this Schedule " the appeal" means an appeal to the Appeals Board brought under section 8 or section 14.

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Notices

- 2 (1) The appeal shall be initiated by the appellant serving a notice on the Appeals Board—
- (a) stating that he is appealing to the Board ;
 - (b) specifying the subject-matter of the appeal ; and
 - (c) setting out the grounds on which the appeal is made.
- (2) The appellant shall at the same time serve a copy of the notice on the Agency.

Procedure

- 3 Both the appellant and the Agency shall be entitled—
- (a) to appear before the Appeals Board ;
 - (b) to be represented by solicitor or counsel; and
 - (c) to examine their witnesses and cross-examine each other's.
- 4 Without prejudice to paragraph 3, the Appeals Board shall afford to every person who appears to the Board to be able to propound evidence relevant to the subject matter of the appeal an opportunity of being heard.
- 5 The appeal shall be conducted in private.
- 6 Subject to paragraphs 3 to 5, the Appeals Board may give directions with respect to the practice and procedure to be followed in any proceedings before the Board in connection with the appeal and anything incidental to or consequential on such proceedings ; and such directions may be given with general effect or with respect to cases of any class or any particular case.

Evidence

- 7 (1) For the purposes of the appeal, the Appeals Board may require any person who in its opinion is able to furnish information or produce documents relevant to the appeal to furnish any such information or produce any such document.
- (2) For those purposes the Appeals Board shall have the same powers as the High Court in respect of—
- (a) the attendance and examination of witnesses, including the administration of oaths or affirmations and the examination of witnesses abroad ; and
 - (b) the production of documents.
- (3) A person shall not be compelled for the purposes of the appeal—
- (a) to give any information or produce any document which he could not be compelled to give in evidence or produce in civil proceedings before the High Court; or
 - (b) to give any information or produce any document which discloses, or from which there can be deduced, his religious belief, if he informs the Appeals Board that he objects to doing so ; or
 - (c) to attend at any place unless the necessary expenses of his journey to and from that place are paid or tendered to him ;
- but head (a) above does not prejudice the provisions of section 52(1).

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Obstruction and contempt

- 8 (1) If any person, without lawful excuse, obstructs the Appeals Board, any member or officer of the Board or any person whose services have been made available for purposes of the Board in the performance of its or his functions in connection with the appeal, or is guilty of any act in relation to the appeal which, if the appeal were a proceeding in the High Court, would constitute contempt of court, the Board may certify the offence to the High Court.
- (2) Where an offence is certified under this paragraph, the High Court may inquire into the matter and after hearing—
- (a) any witnesses who may be produced against or on behalf of the person charged with the offence ; and
 - (b) any statement that may be offered in defence,
- may deal with the person charged with the offence in any manner in which the court could deal with him if he had committed the like offence in relation to the court.

Expenses

- 9 The Appeals Board may, if it thinks fit, pay to the appellant and to any other person (except the Agency or anybody acting on its behalf) who attends at the hearing of, or furnishes evidence for the purposes of, the appeal—
- (a) sums in respect of expenses properly incurred by him ; and
 - (b) allowances by way of compensation for the loss of his time,
- in accordance with such scales and subject to such conditions as the Department with the approval of the Department of Finance may determine.

Notification of decision

- 10 (1) Following the hearing of the appeal, the Appeals Board shall serve notice of the Board's decision on both the appellant and the Agency.
- (2) The notice shall state the reasons for the decision.

Confidentiality of information

- 11 (1) Without prejudice to any provision of section 52, no information supplied to the Appeals Board for the purposes of an appeal shall be disclosed by a member, officer or servant of the Board, or a person whose services have been made available for purposes of the Board, to a person who is not a member of, or in the employment of, the Board or whose services have not been made available as aforesaid, except so far as such disclosure is necessary—
- (a) for the purposes of the appeal; or
 - (b) for communicating to any person, in pursuance of paragraph 10, the Board's decision on the appeal and the reasons for the decision ; or
 - (c) for the purposes of any criminal proceedings or to comply with the order of a court.
- (2) If any person discloses any information in contravention of sub-paragraph (1) he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £400.

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SCHEDULE 5

Sections 2(1)(e), 12(3), 24(7), 26(8),
 31(6), 38(4), 53(2)(a), 59(2), Sch. 1 para.
 6(1).

CONDUCT OF INVESTIGATIONS BY THE AGENCY

Preliminary

- 1 In this Schedule " the investigation " means—
- (a) an investigation under section 12 for the purposes of ascertaining the existence, nature and extent of failures to afford equality of opportunity and considering what action, if any, ought to be taken for promoting equality of opportunity; or
 - (b) an investigation under section 24 following a complaint of unlawful discrimination; or
 - (c) an investigation under section 38 in relation to teachers in schools.

Notices

- 2 Where the investigation is to be of the kind mentioned in paragraph 1(a) or (c), the Agency, before holding the investigation.—
- (a) shall serve on every person whose practices it is minded to investigate notice of the Agency's intention to hold the investigation, and
 - (b) shall furnish to each such person, in writing, particulars of the scope and purpose of the investigation.
- 3 Where the investigation is to be of the kind mentioned in paragraph 1(b), the Agency, before holding the investigation.—
- (a) shall serve on the person against whom the complaint is made notice of the Agency's intention to hold the investigation ; and
 - (b) shall furnish to that person, in writing.—
 - (i) particulars of the allegations made in the complaint so far as they relate to him, and
 - (ii) a statement of the substance of any evidence which the Agency has reason to believe may be tendered in support of those allegations.

Procedure

- 4 The Agency shall afford to every person such as is mentioned in paragraph 2(a) or 3(a) an opportunity to comment on the matters or allegations which are the subject of the investigation and to furnish oral or other evidence respecting them.
- 5 The investigation shall be conducted in private.
- 6 Subject to paragraphs 4 and 5, the procedure for conducting the investigation shall be such as the Agency considers appropriate in the circumstances of the case.

Information and evidence

- 7 For the purposes of the investigation, the Agency may obtain information from such persons and (subject to paragraph 5) in such manner and may make such inquiries and call for such reports (including reports by officers of the Agency on inquiries,

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interviews or hearings conducted by them on the Agency's behalf) as the Agency thinks fit.

- 8 (1) For the purposes of the investigation the Agency may require any person who in its opinion is able to furnish information or produce documents relevant to the investigation to furnish any such information or produce any such document.
- (2) For those purposes the Agency shall have the same powers as the High Court in respect of—
- (a) the attendance and examination of witnesses, including the administration of oaths or affirmations and the examination of witnesses abroad ; and
 - (b) the production of documents.
- (3) A person shall not be compelled for the purposes of the investigation—
- (a) to give any information or produce any document which he could not be compelled to give in evidence or produce in civil proceedings before the High Court; or
 - (b) to give any information or produce any document which discloses, or from which there can be deduced, his religious belief, if he informs the Agency that he objects to doing so ; or
 - (c) to attend at any place unless the necessary expenses of his journey to and from that place are paid or tendered to him ;

but head (a) above does not prejudice the provisions of section 52(1).

- 9 For the purposes of the investigation the Agency may also require an employer or a vocational organisation to take such reasonable action as the Agency specifies for communicating to his or its employees or members (as the case requires), or to employees or members of any class, any written material provided for the purpose by the Agency.

Obstruction and contempt

- 10 (1) If any person, without lawful excuse, obstructs the Agency or any member or officer of the Agency in the performance of its or his functions in connection with the investigation, or is guilty of any act in relation to the investigation which, if the investigation were a proceeding in the High Court, would constitute contempt of court, the Agency may certify the offence to the High Court.
- (2) Where an offence is certified under this paragraph, the High Court may inquire into the matter and after hearing—
- (a) any witnesses who may be produced against or on behalf of the person charged with the offence; and
 - (b) any statement that may be offered in defence,
- may deal with the person charged with the offence in any manner in which the court could deal with him if he had committed the like offence in relation to the court.

Expenses

- 11 (1) Without prejudice to paragraph 8(3)(c), the Agency may, if it thinks fit.—
- (a) where the investigation follows a complaint, pay to the complainant, or
 - (b) in any case, pay to any other person who attends, or furnishes information for the purposes of, the investigation,

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sums in respect of expenses properly incurred by him and allowances by way of compensation for the loss of his time in accordance with such scales and subject to such conditions as the Department with the approval of the Department of Finance may determine.

- (2) A payment made under this paragraph to a person who, under section 24(2) continues a complaint made or continued by another may also include sums in respect of expenses properly incurred by, or loss of time of, that other or any predecessor of his.

Confidentiality of information

- 12 (1) Without prejudice to any provision of section 52, no information supplied to the Agency in the course of the investigation shall be disclosed by a member, officer or servant of the Agency to a person who is not a member of, or in the employment of, the Agency, except so far as such disclosure—
- (a) is relevant for the purposes of section 2(1), section 38(3), Schedule 1, paragraph 14 or sub-paragraph (2) or (3); or
 - (b) is necessary for the purpose of carrying out an investigation into a complaint, or for the purpose of communicating to any person, in accordance with the provisions of this Act, the Agency's finding following such an investigation and the reasons for it; or
 - (c) is necessary for the purposes of any proceedings under this Act, either before a court or before the Appeals Board ; or
 - (d) is necessary for the purposes of any criminal proceedings or to comply with the order of a court;
- but any such disclosure as is mentioned in head (a) above is subject to the safeguard in sub-paragraph (4).
- (2) Without prejudice to sub-paragraph (4), where it is necessary or expedient to do so for the proper discharge of the functions of the Agency, a member, officer or servant of the Agency may—
- (a) disclose to an employer any information in the Agency's possession which relates to his employees or to other persons who have applied for employment by him ;
 - (b) disclose to a principal (within the meaning of section 18) any information in the Agency's possession which relates to contract workers whose services are or have been available to him ;
 - (c) disclose to any person who is empowered by virtue of an enactment to select or nominate another person for employment by a third person any information in the Agency's possession which relates to a person who has applied for the employment in question;
 - (d) disclose to an employment agency any information in the Agency's possession which relates to a person who has applied for or obtained the services of the agency ;
 - (e) disclose to a vocational organisation any information in the Agency's possession which relates to members of that organisation or other persons who have applied for membership ;
 - (f) disclose to a person who provides services in connection with the training of persons for employment in any capacity, or for a particular employment or occupation, any information in the Agency's possession which relates to

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- a person who has sought, or on whose behalf it has been sought, to obtain those services, or who has obtained those services ; or
- (g) disclose to a person who has power to confer a qualification such as is mentioned in section 23 any information in the Agency's possession which relates to a person who has applied to have, or has had, that qualification conferred on him.
- (3) Without prejudice to sub-paragraph (4), the Agency shall supply to the Department any information in the Agency's possession which the Department requests.
- (4) No information in the Agency's possession which discloses, or from which there can be deduced, the religious belief of any identifiable individual shall, without that individual's written consent, be disclosed to any person, except where—
- (a) it is disclosed to a person employed by the Agency the nature of whose duties renders it reasonable for him to be supplied with the information ; or
- (b) its disclosure is necessary for a purpose mentioned in sub paragraph (1)(b), (c) or (d).
- (5) If any person discloses any information in contravention of any provision of this paragraph he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £400.

SCHEDULE 6

Section 58(1), 59(3).

AMENDMENTS

The Northern Ireland Constitution Act 1973 (c. 36)

- 1 In section 19 of the Northern Ireland Constitution Act 1973 (religious or political discrimination by certain public authorities to be unlawful)—
- (a) at the beginning of subsection (1) there shall be inserted the words " Subject to subsection (4) below " ; and
- (b) after subsection (3) there shall be inserted the following subsection—
- “(4) This section does not apply to any act or omission which is unlawful by virtue of the Fair Employment (Northern Ireland) Act 1976 or would be unlawful but for some exception made by virtue of Part V of that Act.”
- 2 In section 20(2) of that Act (membership of the Standing Advisory Commission on Human Rights), after paragraph (d) there shall be inserted the following paragraph—
- “(dd) the chairman of the Fair Employment Agency for Northern Ireland ; and”;
- and for " (d)" in the second place where it occurs there shall be substituted " (dd) " .

The House of Commons Disqualification Act 1975 (c. 24)

- 3 In Part II of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified under that Act) there shall (at the appropriate place in alphabetical order) be inserted the following entries—

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“The Fair Employment Agency for Northern Ireland.
The Fair Employment Appeals Board.”

The Northern Ireland Assembly Disqualification Act 1975 (c. 25)

4 In Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified under that Act) there shall (at the appropriate place in alphabetical order) be inserted the following entries—

“The Fair Employment Agency for Northern Ireland.
The Fair Employment Appeals Board.”