THE EMPLOYMENT (NORTHERN IRELAND) ORDER 2003

S.I. 2003 No. 2902 (N.I. 15)

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EXPLANATORY MEMORANDUM

COMMENTARY ON PROVISIONS

Article 30: Equal pay questionnaires
Article 30 inserts a new Section 6B into the Equal Pay Act (Northern Ireland) 1970, making provision for the prescription of forms to be used by claimants and respondents in equal value cases, which can be admitted as evidence in subsequent tribunal proceedings. Tribunals may draw inference from an employer's failure to respond to a questionnaire. The procedure will include prescription of forms, questions and answers as case evidence, a time period for serving questions, and the manner in which these questions and answers can be served. The questionnaire will enable key facts to be established early and should assist the settlement of some cases before they proceed to an industrial tribunal.

A questionnaire procedure is currently available to individuals pursuing disputes over other forms of discrimination, but is not yet used in equal pay disputes. The procedure has proven useful elsewhere, since it assists applicants to set out key facts before a tribunal hearing. The question and answer format can help to identify whether the case is weak or strong. The process is familiar to industrial tribunals, as it has been in place for some time under the Sex Discrimination (Northern Ireland) Order 1976, the Disability Discrimination Act 1995, and the Race Relations (Northern Ireland) Order 1997.

It will also be possible for prescription, by order, of a time period within which questions must be served in order to be admissible as evidence in tribunal proceedings. This is intended to encourage the applicant to pursue a case swiftly. If a tribunal considers that the respondent deliberately and without reasonable excuse failed to reply within the period prescribed, it will be able to draw any inference it considers just or equitable. Tribunals will also be able to draw such an inference if it is considered that the respondent's reply was evasive or equivocal.