
STATUTORY INSTRUMENTS

2006 No. 312

The Disability Discrimination (Northern Ireland) Order 2006

Other matters

Generalisation of section 56 of the 1995 Act in relation to Part III claims

17. For section 56 of the 1995 Act substitute—

“56 Help for aggrieved persons in obtaining information etc.

- (1) For the purposes of this section—
 - (a) a person who considers that he may have been—
 - (i) discriminated against in contravention of Part II or III, or
 - (ii) subjected to harassment in contravention of Part II or section 21A(2),is referred to as “the person aggrieved”; and
 - (b) a person against whom the person aggrieved may decide to institute, or has instituted, proceedings in respect of such discrimination or harassment is referred to as “the respondent”.
- (2) With a view to helping the person aggrieved decide whether to institute proceedings and, if he does so, to formulate and present his case in the most effective manner, the Office shall by order prescribe—
 - (a) forms by which the person aggrieved may question the respondent on his reasons for doing any relevant act, or on any other matter which is or may be relevant; and
 - (b) forms by which the respondent may if he so wishes reply to any questions.
- (3) Where the person aggrieved questions the respondent in accordance with forms prescribed by an order under subsection (2)—
 - (a) the question, and any reply by the respondent (whether in accordance with such an order or not), shall be admissible as evidence in any proceedings under Part II or III;
 - (b) if it appears to the court or tribunal in any such proceedings—
 - (i) that the respondent deliberately, and without reasonable excuse, omitted to reply within the period of eight weeks beginning with the day on which the question was served on him, or
 - (ii) that the respondent’s reply is evasive or equivocal,it may draw any inference which it considers it just and equitable to draw, including an inference that the respondent committed an unlawful act.
- (4) The Office may by order—
 - (a) prescribe the period within which questions must be duly served in order to be admissible under subsection (3)(a); and

- (b) prescribe the manner in which a question, and any reply by the respondent, may be duly served.
- (5) County court rules may enable a court entertaining a claim under section 25 to determine, before the date fixed for the hearing of the claim, whether a question or reply is admissible under this section or not.
- (6) In proceedings in respect of a section 21B claim, subsection (3)(b) does not apply in relation to a failure to reply, or a particular reply, if the following conditions are met—
 - (a) that at the time of doing any relevant act, the respondent was carrying out public investigator functions or was a public prosecutor; and
 - (b) that the respondent reasonably believes that a reply or (as the case may be) a different reply would be likely to prejudice any criminal investigation, any decision to institute criminal proceedings or any criminal proceedings or would reveal the reasons behind a decision not to institute, or a decision not to continue, criminal proceedings.
- (7) The Office may by regulations provide for this section not to have effect, or to have effect with prescribed modifications, in relation to section 21B claims of a prescribed description.
- (8) This section is without prejudice to any other enactment or rule of law regulating interlocutory and preliminary matters in proceedings before a county court or industrial tribunal, and has effect subject to any enactment or rule of law regulating the admissibility of evidence in such proceedings.
- (9) In this section “section 21B claim” means a claim under section 25 by virtue of section 21B.”.