

1989 No. 447

FAIR EMPLOYMENT

The Fair Employment (Questions and Replies)
Regulations (Northern Ireland) 1989

Made 23rd November 1989

Coming into operation 1st January 1990

The Department of Economic Development(a), in exercise of the powers conferred on it by section 28(1) and (3) of the Fair Employment (Northern Ireland) Act 1976(b) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Fair Employment (Questions and Replies) Regulations (Northern Ireland) 1989 and shall come into operation on 1st January 1990.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(c), except section 24 (service of documents), shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

(2) In these Regulations “the Act of 1976” means the Fair Employment (Northern Ireland) Act 1976.

(3) In these Regulations expressions which are also used in the Act of 1976 shall, unless the contrary intention appears, have the same meaning as in that Act.

Forms for asking and answering questions

3. The forms respectively set out in Schedules 1 and 2 are, respectively, hereby prescribed pursuant to section 28(1) of the Act of 1976 as forms—

(a) 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;

(b) by which the respondent may if he so wishes reply to such questions.

Period for service of questions

4. A question shall only be admissible as evidence in pursuance of section 28(2)(a) of the Act of 1976 in proceedings before the Tribunal—

(a) Formerly the Department of Manpower Services; see S.I. 1982/846 (N.I. 11) Article 3

(b) 1976 c. 25 as inserted by section 50 of the Fair Employment (Northern Ireland) Act 1989 (1989 c. 32)

(c) 1954 c. 33 (N.I.)

- (a) where it was served before an originating application had been presented to the Tribunal, if it was so served before the end of the period of three months beginning with the day on which the person aggrieved first had knowledge or might reasonably be expected first to have had knowledge, of the act complained of, or before the end of the period of six months beginning with the day on which the act was done, whichever is the earlier;
- (b) where it was served when an originating application had been presented to the Tribunal, if it was so served within the period of twenty-one days beginning with the day on which the originating application was presented.

Manner of service of questions and replies

5. A question and any reply thereto may be served on the respondent or, as the case may be, on the person aggrieved—

- (a) by delivering it to him; or
- (b) by sending it by post to him at his usual or last known residence or place of business; or
- (c) where the person to be served is a body corporate or is a trade union or employers' association within the meaning of the Industrial Relations (Northern Ireland) Order 1976(a), by delivering it to the secretary or clerk of the body, union or association at its registered or principal office or by sending it by post to the secretary or clerk at that office; or
- (d) where the person to be served is acting by a solicitor, by delivering it at, or by sending it by post to, the solicitor's address for service; or
- (e) where the person to be served is the person aggrieved, by delivering the reply, or sending it by post, to him at his address for reply as stated by him in the document containing the questions.

Sealed with the Official Seal of the Department of Economic Development on 23rd November 1989.

(L.S.)

Robert J. Minnis

Assistant Secretary

THE FAIR EMPLOYMENT (NORTHERN IRELAND) ACTS

Questionnaire of Person Aggrieved

To (name of person to be questioned)
of (address)

1.—(1) I (name of questioner)
of (address)
consider that you may have discriminated against me contrary to the Fair
Employment (Northern Ireland) Acts.

(2) (Give date, approximate time and factual description of the treatment
received and of the circumstances leading up to the treatment.)

(3) I consider that this treatment may have been unlawful [because
..... (complete if you wish to give reasons, otherwise delete)].

2. Do you agree that the statement in paragraph 1(2) above is an accurate
description of what happened? If not, in what respect do you disagree or what is your
version of what happened?

3. Do you accept that your treatment of me was unlawful discrimination by you
against me?

If not—

(a) why not,

(b) for what reason did I receive the treatment accorded to me, and

(c) how far did my religious belief or political opinion or supposed religious
belief or political opinion or the absence or supposed absence of any, or any
particular, religious belief or political opinion affect your treatment of me?

4. (Any other questions you wish to ask.)

5. My address for any reply you may wish to give to the questions raised above is
[that set out in paragraph 1(1) above] [the following address
.....].

_____ (signature of questioner)

_____ (date)

N.B.—By virtue of section 28 of the Fair Employment (Northern Ireland) Act
1976 this questionnaire and any reply are (subject to the provisions of the section)
admissible in proceedings for unlawful discrimination under the Fair Employment
(Northern Ireland) Acts and the Fair Employment Tribunal for Northern Ireland may
draw any such inference as it considers just and equitable from a failure without
reasonable cause to reply within a reasonable period, or from an evasive or equivocal
reply, including an inference that the person questioned has discriminated
unlawfully.

THE FAIR EMPLOYMENT (NORTHERN IRELAND) ACTS

Reply by Respondent

To (name of questioner)
of (address)

1. I (name of person questioned)
of (address)
hereby acknowledge receipt of the questionnaire signed by you and dated
..... which was served on me on (date).

2. [I agree that the statement in paragraph 1(2) of the questionnaire is an accurate
description of what happened.]

[I disagree with the statement in paragraph 1(2) of the questionnaire in that
.....]

3. I accept/dispute that my treatment of you was unlawful discrimination by me
against you.

[My reasons for so disputing are
The reason why you received the treatment accorded to you and the answers to
the other questions in paragraph 3 of the questionnaire are
.....]

4. (Replies to questions in paragraph 4 of the questionnaire.)

5. [I have deleted (in whole or in part) the paragraph(s) numbered
above, since I am unable/unwilling to reply to the relevant questions in the
correspondingly numbered paragraph(s) of the questionnaire for the following
reasons]

_____ (signature of person questioned)

_____ (date)

(This note is not part of the Regulations.)

Regulation 3 of these Regulations prescribes the forms which may be used for the purposes mentioned in section 28(1) of the Fair Employment (Northern Ireland) Act 1976. The form set out in Schedule 1 is for use where a person ("the person aggrieved") wishes to question another ("the respondent") whom he considers may have discriminated against him in contravention of the Fair Employment (Northern Ireland) Acts. The form set out in Schedule 2 is for use by the respondent (if he so wishes) when replying.

Regulation 4 relates to the periods within which questions must be served on the respondent if they are to be admissible as evidence (in pursuance of section 28(2)(a) of the 1976 Act) in proceedings before the Fair Employment Tribunal for Northern Ireland.

Regulation 5 relates to the manner of service of questions and replies.