
EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations revoke and replace the Fair Employment Tribunal Regulations (Northern Ireland) 1989, the Fair Employment Tribunal (Rules of Procedure) Regulations (Northern Ireland) 1989, and subsequent amending Regulations prescribing Rules of Procedure for the Fair Employment Tribunal in Northern Ireland. In addition to minor and drafting amendments, re-numbering and the updating of statutory and other references, these Regulations make the following changes of substance.

Regulation 2 contains new provisions in paragraphs (5) to (8) setting out how time limits in the Regulations and in documents issued under them are to be calculated. Examples are given for interpretation of the general rules. Regulations 3 and 4 make provision in relation to the establishment and composition of the Fair Employment Tribunal. Regulation 5 specifies circumstances in which the Schedules to these Regulations may be applied. Regulation 6 specifies an overriding objective to enable tribunals to deal with cases justly. Regulation 9 contains a transitional provision stating that the new regulations apply in respect of all cases, irrespective of when they were commenced. Regulation 10 revokes the Regulations listed in Schedule 4.

Schedule 1 contains rules of procedure which apply to complaints of unlawful discrimination under Article 38 of the Fair Employment and Treatment (Northern Ireland) Order 1998 (“the Order”). Rules 1 and 3 provide that more than one originating application or notice of appearance may be presented in a single document. Rule 4 concerns the management of cases and includes provision at paragraph (2) that directions may relate in particular to evidence, including witness statements. Failure to comply with a direction may lead to the penalties specified in paragraph (8). Rule 7 is new and allows the tribunal to require a deposit of up to £500 following a pre-hearing review.

Rule 12(1) of Schedule 1 (costs) is amended to provide that certain specified conduct by a party’s representative may be taken into account when awarding costs against that party. The tribunal is also now under a duty to consider an award of costs in the circumstances described in rule 12(1), and these include circumstances where proceedings which have no reasonable prospect of success have been pursued. In rule 12(3), the maximum amount of costs which a tribunal may award without an assessment of costs is set at £10,000. Rule 12(6) now enables the tribunal to have regard, in awarding costs, to those who proceed unreasonably with a case after being required to pay a deposit following a pre-hearing review. In rule 13(2) of Schedule 1 (miscellaneous powers), in sub-paragraphs (c) and (d) respectively, the term “frivolous” has been replaced with “misconceived” (defined in regulation 2(2)) and “unreasonable”. Those paragraphs permit the tribunal to strike out applications or notices of appearance in certain circumstances.

Rule 15 is new and provides for the Secretary of the Office of the Industrial Tribunals and the Fair Employment Tribunal to give notice to certain persons, including the Attorney General for Northern Ireland, in any proceedings in which a devolution issue arises. Rule 20 (Notices, etc.) provides for the service of notices.

Schedule 2 contains rules of procedure which apply to appeals against directions given by the Equality Commission for Northern Ireland (“the Commission”) and to appeals against a refusal by the Commission to cancel a notice of non-qualification for public contracts or financial assistance from a Northern Ireland department.

Schedule 3 contains rules of procedure which apply to proceedings on applications by the Commission under Article 16(1) of the Order for enforcement of undertakings or directions given under that Order, the Fair Employment (Northern Ireland) Act 1989 or the Fair Employment (Northern Ireland) Act 1976.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Schedule 3 also applies to proceedings before the Tribunal to enforce, revoke or vary an order of the Tribunal made on an application under section 16(1) of the Fair Employment (Northern Ireland) Act 1989.