



Fair Employment (Northern Ireland) Act 1976

1976 CHAPTER 25

PART II

EQUALITY OF OPPORTUNITY

Investigation and remedying of practices which fail to afford equality of opportunity

12 Investigation of employment, etc., practices

- (1) For the purpose of assisting the Agency in—
- (a) ascertaining the existence, nature and extent of failures to afford equality of opportunity ; and
 - (b) considering what action, if any, for promoting equality of opportunity ought to be taken by any of the following persons (" the person concerned "), that is to say.—
 - (i) any employer, or
 - (ii) any person who is empowered by virtue of an enactment to select or nominate another person for employment by a third person, or
 - (iii) any employment agency, or
 - (iv) any vocational organisation, or
 - (v) any person who provides services in connection with training for employment in any capacity, or for any particular employment, (not being services provided by the employer of a person who is seeking to obtain or is receiving those services) or any person who provides services in connection with training for a particular occupation, or
 - (vi) any person who has power to confer a qualification which is needed for, or facilitates, engagement in employment in any capacity, or in a particular employment or occupation,

the Agency may conduct the investigations mentioned in subsection (2).

Status: This is the original version (as it was originally enacted).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

- (2) Those investigations are investigations—
- (a) into the composition, by reference to religious beliefs, of any of the following classes of person (or of any class of person within such a class), that is to say—
 - (i) the employees of, or other persons who have applied for employment by, any employer or employers of any class, or
 - (ii) the persons who have applied for or obtained the services of any employment agency, or
 - (iii) the members of, or other persons who have applied for membership of, any vocational organisation or the members of such organisations of any class, or
 - (iv) the persons who have sought (or on whose behalf there have been sought) or who have obtained the services of a person such as is mentioned in subsection (1)(b)(v), or
 - (v) the persons who have applied to have, or have had, conferred on them any qualification such as is mentioned in subsection (1)(b)(vi); and
 - (b) into practices—
 - (i) affecting the recruitment, admission to membership or access to benefits or services of persons belonging to any class referred to in paragraph (a), or the terms of employment or membership or provision of services applicable to such persons, or
 - (ii) involving any detriment to such persons, or
 - (iii) affecting the conferring or holding of any qualification such as is mentioned in subsection (1)(b)(vi) including practices discontinued before the time of the investigation so far as relevant for explaining the composition of the class of person in question at that time.
- (3) Schedule 5 shall have effect with respect to the conduct of investigations under this section.

13 Undertaking or directions for remedying of certain practices

- (1) Where, following an investigation under section 12, the Agency is of the opinion that the person concerned has failed to afford equality of opportunity, either generally or in relation to any class of person, the Agency shall use its best endeavours—
- (a) to ensure that he takes such action for promoting equality of opportunity as is, in all the circumstances, reasonable and appropriate; and
 - (b) where appropriate, to secure a satisfactory written undertaking by him that such action will be taken.
- (2) Where the Agency asks the person concerned for an undertaking such as is mentioned in subsection (1)(b), but—
- (a) the undertaking is not given, or
 - (b) the undertaking, although given, is not complied with,
- the Agency, unless it decides that no further action by it is appropriate.—
- (i) where paragraph (a) applies, shall serve on the person concerned a notice containing directions such as are mentioned in subsection (3), or
 - (ii) where paragraph (b) applies, shall either serve on him such a notice (whose directions shall supersede the undertaking) or make an application to the county court under section 15 for enforcement of the undertaking.

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- (3) The directions contained in a notice served under subsection (2) (i) or (ii) shall be those which the Agency considers to be, in all the circumstances, reasonable and appropriate for promoting equality of opportunity, and the directions may in particular include—
- (a) directions for the abandonment, or for the modification in accordance with any instructions given in the directions, of any practice which results or may result in failure to afford equality of opportunity, or for the substitution or adoption of new practices specified by the Agency; and
 - (b) such directions as the Agency considers necessary to ensure that other directions are duly carried out;
- but the terms of directions contained in a notice served under subsection (2)(ii) which supersede an undertaking shall be such as, in the opinion of the Agency, are not more onerous than the terms of the undertaking.
- (4) A notice served under subsection (2)(i) or (ii) shall inform the person concerned of the right of appeal against the directions which is conferred by section 14.
- (5) The Agency, on the written application of the person concerned, may—
- (a) revoke all of the directions; or
 - (b) modify the directions in accordance with the application—
 - (i) by revoking any of them, or
 - (ii) by substituting new directions for all or any of them;
- and, in substitution for any directions which are revoked under paragraph (a), may accept from that person an undertaking such as is mentioned in subsection (1)(b).
- (6) The Agency shall serve notice of the revocation or modification on the person concerned.
- (7) Any reference in the succeeding provisions of this Act to directions given by the Agency—
- (a) does not include directions revoked under subsection (5) (a); and
 - (b) where the directions have been modified under subsection (5)(b), is to them as so modified.
- (8) The directions shall be binding on the person concerned (except to the extent that they are quashed, or other directions are substituted for them, by the Appeals Board under section 14) and shall be enforceable only in accordance with section 15.