



# Fair Employment (Northern Ireland) Act 1989

## 1989 CHAPTER 32

### PART II

#### NEW DUTIES OF EMPLOYERS IN RESPECT OF THEIR WORKFORCES

##### *Goals and timetables*

#### **36 Notices about goals and timetables**

- (1) The Commission may serve a notice under subsection (2) below on the person who is the employer in relation to a registered concern where—
  - (a) he gives an undertaking under Part I of this Act to take any action,
  - (b) he has been directed under that Part to take any action, or
  - (c) the Tribunal makes an order under section 16(3)(a) of this Act in relation to an undertaking given by, or directions given to, him to take any action,being action appearing to the Commission to be affirmative action, and the Commission is of the opinion that, assuming the action is taken, it is practicable to determine, by reference to one or more periods, the progress towards fair participation in employment in the concern that can reasonably be expected to be made by members of a particular community.
- (2) The notice (“a notice about goals and timetables”) shall specify the period or periods concerned and, in respect of any specified period, the progress that, in the opinion of the Commission, can reasonably be expected to be made towards fair participation by members of the community concerned—
  - (a) in employment, or any class of employment, in the concern in Northern Ireland, or
  - (b) among applicants to fill vacancies for such employment or any class of such employment.

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*Status: This is the original version (as it was originally enacted).*

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- (3) Where, by virtue of any undertaking given by, or directions given to, the person who is the employer in relation to a registered concern, such a notice is served on him, the notice shall cease to have effect—
- (a) if the Tribunal makes an order for the purpose of giving effect to the undertaking or directions or, in the case of directions, the Tribunal or the Commission substitutes for them or any of them other directions, or
  - (b) in the case of directions, if they, or such of them as the notice relates to, are quashed or otherwise cease to have effect, or
  - (c) in the case of an undertaking, if it, or such part of it as the notice relates to, ceases to have effect,
- but without prejudice, in a case within paragraph (a) above, to any power to give a new notice.
- (4) Where a notice about goals and timetables has effect, the Commission may from time to time require the employer to give the Commission such information as the Commission may specify for the purpose of determining the extent to which the progress specified in the notice in respect of any period has been made on the date of the requirement.
- (5) The Commission may not require an employer to give any information under this section before the expiry of the period of six months beginning with—
- (a) the date of the notice about goals and timetables, or
  - (b) if he has previously been required to give any information under this section, the date on which he was last required to do so.
- (6) A requirement under this section to give any information—
- (a) shall be made by notice served on the employer, and
  - (b) shall specify the time by which the information is to be given,
- and the reference in subsections (4) and (5) above to the date of the requirement is to the date on which the notice was served.
- (7) A person required to give any information under this section who fails to comply with the requirement by the specified time is guilty of an offence.
- (8) A person guilty of an offence under subsection (7) above—
- (a) is liable on summary conviction to a fine not exceeding level 5 on the standard scale, and
  - (b) if the failure continues after conviction, is liable on a second or subsequent summary conviction to a fine not exceeding one-tenth of level 5 on the standard scale for each day on which the failure continues.
- (9) It is a defence for a person charged with an offence under subsection (7) above to show that he had a reasonable excuse (which may include unreasonable expense or inconvenience) for failing to comply with the requirement by the specified time and, in a case where it was reasonably practicable for him to comply with it after that time, to show that either—
- (a) he complied with it as soon as was reasonably practicable, or
  - (b) it was not reasonably practicable for him to comply with it before the proceedings were commenced,
- and for the purposes of this subsection the making of a complaint is to be treated as the commencement of the proceedings.

- (10) A person required to give any information under this section who knowingly gives any false or misleading information is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

**37 Power to secure further undertakings or issue further directions**

- (1) Subsection (2) below applies where, by reason of any undertaking or directions under section 12 of this Act, any directions substituted for such directions by the Tribunal or any order made by the Tribunal for the purpose of giving effect to any such undertaking or directions, a notice has been served on any person under section 36(2) of this Act.
- (2) If, while the notice has effect, the Commission forms the opinion—
- (a) that the progress specified in the notice in respect of any period has not been made, and
  - (b) that the person concerned ought to take action for promoting equality of opportunity in addition to the action required to be taken under the existing undertaking or directions,
- section 12 of this Act shall again apply in relation to the person concerned as if the Commission had conducted a fresh investigation under section 11 of this Act.
- (3) Where, by virtue of this section, the Commission secures a written undertaking from the person concerned or serves a notice on him containing directions—
- (a) the undertaking or directions shall have effect in place of the existing undertaking or directions, and
  - (b) any notice previously served on him under section 36(2) of this Act shall cease to have effect, but without prejudice to any power to give a new notice under that subsection.