Equal Pay Act (Northern Ireland) 1970 [F1]

1970 CHAPTER 32

An Act to prevent discrimination, as regards terms and conditions of employment, between men and women. [17th December 1970]

F1 functions transf. by SR 1999/481

Modifications etc. (not altering text)

C1 Act: transfer of functions (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 1 Pt. 2** (with art. 9(2))

1 Requirement of equal treatment for men and women in same employment.

[F2](1 [F3] If the terms of a contract under which a woman is employed at an establishment in Northern Ireland do not include (directly or by reference to a collective agreement or otherwise) an equality clause they shall be deemed to include one.

(2) An equality clause is a provision which relates to terms (whether concerned with pay or not) of a contract under which a woman is employed (the "woman's contract"), and has the effect that—

(a) where the woman is employed on like work with a man in the same employment—

(i) if (apart from the equality clause) any term of the woman's contract is or becomes less favourable to the woman than a term of a similar kind in the contract under which that man is employed, that term of the woman's contract shall be treated as so modified as not to be less favourable, and

(ii) if (apart from the equality clause) at any time the woman's contract does not include a term corresponding to a term benefiting that man included in the contract under which he is employed, the woman's contract shall be treated as including such a term;

(b) where the woman is employed on work rated as equivalent with that of a man in the same employment—

(i) if (apart from the equality clause) any term of the woman's contract determined by the rating of the work is or becomes less favourable

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to the woman than a term of a similar kind in the contract under which that man is employed, that term of the woman's contract shall be treated as so modified as not to be less favourable, and

(ii) if (apart from the equality clause) at any time the woman's contract does not include a term corresponding to a term benefiting that man included in the contract under which he is employed and determined by the rating of the work, the woman's contract shall be treated as including such a term.

[[F4](c) where a woman is employed on work which, not being work in relation to which paragraph (a) or (b) applies, is, in terms of the demands made on her (for instance under such headings as effort, skill and decision), of equal value to that of a man in the same employment—

(i) if (apart from the equality clause) any term of the woman's contract is or becomes less favourable to the woman than a term of a similar kind in the contract under which that man is employed, that term of the woman's contract shall be treated as so modified as not to be less favourable, and

(ii) if (apart from the equality clause) at any time the woman's contract does not include a term corresponding to a term benefiting that man included in the contract under which he is employed, the woman's contract shall be treated as including such a term.**]**

[[F5](d) where—

(i) any term of the woman's contract regulating maternity-related pay provides for any of her maternity-related pay to be calculated by reference to her pay at a particular time,

(ii) after that time (but before the end of the statutory maternity leave period) her pay is increased, or would have increased had she not been on statutory maternity leave, and

(iii) the maternity-related pay is neither what her pay would have been had she not been on statutory maternity leave nor the difference between what her pay would have been had she not been on statutory maternity leave and any statutory maternity pay to which she is entitled,

if (apart from the equality clause) the terms of the woman's contract do not provide for the increase to be taken into account for the purpose of calculating the maternity-related pay, the term mentioned in sub-paragraph (i) above shall be treated as so modified as to provide for the increase to be taken into account for that purpose;

(e) if (apart from the equality clause) the terms of the woman's contract as to—

(i) pay (including pay by way of bonus) in respect of times before she begins to be on statutory maternity leave,

(ii) pay by way of bonus in respect of times when she is absent from work in consequence of the prohibition in Article 104(1) of the Employment Rights (Northern Ireland) Order 1996[23] (compulsory maternity leave), or

(iii) pay by way of bonus in respect of times after she returns to work following her having been on statutory maternity leave,

do not provide for such pay to be paid when it would be paid but for her having time off on statutory maternity leave, the woman's contract shall be treated as including a term providing for such pay to be paid when ordinarily it would be paid;

(f) if (apart from the equality clause) the terms of the woman's contract regulating her pay after returning to work following her having been on statutory maternity leave provide for any of that pay to be calculated without taking into account any amount by which her pay would have increased had she not been on statutory maternity leave, the woman's contract shall be treated as including a term providing for the increase to be taken into account in calculating that pay.**]**

[[F4](3) **[**[F5]An equality clause falling within subsection (2)(a), (b) or (c) shall not**]** operate in relation to a variation between the woman's contract and the man's contract if the employer proves that the variation is genuinely due to a material factor which is not the difference of sex and that factor—

(a) in the case of an equality clause falling within subsection (2)(a) or (b), must be a material difference between the woman's case and the man's; and

(b) in the case of an equality clause falling within subsection (2)(c), may be such a material difference.**]**

(4) …

(5) A woman is to be regarded as employed on like work with men if, but only if, her work and theirs is of the same or a broadly similar nature, and the differences (if any) between the things she does and the things they do are not of practical importance in relation to terms and conditions of employment; and accordingly in comparing her work with theirs regard shall be had to the frequency or otherwise with which any such differences occur in practice as well as to the nature and extent of the differences.

[[F5](5A) For the purposes of subsection (2)(d) to (f)—

(a) "maternity-related pay", in relation to a woman, means pay (including pay by way of bonus) to which she is entitled as a result of being pregnant or in respect of times when she is on statutory maternity leave, except that it does not include any statutory maternity pay to which she is entitled;

(b) "statutory maternity leave period", in relation to a woman, means the period during which she is on statutory maternity leave;

(c) an increase in an amount is taken into account in a calculation if in the calculation the amount as increased is substituted for the unincreased amount.

(5B) For the purposes of subsections (2)(d) to (f) and (5A), "on statutory maternity leave" means absent from work—

(a) in exercise of the right conferred by Article 103(1) or 105(1) of the Employment Rights (Northern Ireland) Order 1996 (ordinary or additional maternity leave), or

(b) in consequence of the prohibition in Article 104(1) of that Order (compulsory maternity leave).**]**

(6) A woman is to be regarded as employed on work rated as equivalent with that of any men if, but only if, her job and their job have been given an equal value, in terms of the demand made on a worker under various headings (for instance effort, skill, decision), on a study undertaken with a view to evaluating in those terms the jobs to be done by all or any of the employees in an undertaking or group of undertakings, or would have been given an equal value but for the evaluation being made on a system setting different values for men and women on the same demand under any heading.

(7) Subject to [[F6] the following subsections], for the purposes of this section—

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(a) "employed" means employed under a contract of service or of apprenticeship or a contract personally to execute any work or labour, and related expressions shall be construed accordingly;

Para.(b) rep. by 1976 NI 15

(c) two employers are to be treated as associated if one is a company of which the other (directly or indirectly) has control or if both are companies of which a third person (directly or indirectly) has control;

[[F7] and men shall be treated as in the same employment with a woman if they are men employed by her employer or any associated employer at the same establishment or at establishments in Northern Ireland which include that one and at which common terms and conditions of employment are observed either generally or for employees of the relevant classes.]

[[F5](7A) This section applies to—

(a) the holding of an office or post to which persons are appointed to discharge functions personally under the direction of another person, and in respect of which they are entitled to remuneration, or

(b) any office or post to which appointments are made by (or on the recommendation of or subject to the approval of) a Minister of the Crown, a Northern Ireland Minister, the Assembly or a government department,

as it applies to employment by a private person, and shall so apply as if references to a contract of employment included references to the terms of appointment, and as if references to the employer included references to the person responsible for paying any remuneration that a holder of the office or post is entitled to in respect of the office or post.

(7B) For the purposes of subsection (7A) the holder of an office or post—

(a) is to be regarded as discharging her functions under the direction of another person of that other person is entitled to direct her as to when and where she discharges those functions,

(b) is not to be regarded as entitled to remuneration merely because she is entitled to payments—

(i) in respect of expenses incurred by her in carrying out the functions of the office or post, or

(ii) by way of compensation for the loss of income or benefits she would or might have received from any person had she not been carrying out the functions of the office or post.

(7C) For the purposes of subsection (7A)—

(a) "office or post" does not include a political office , and

(b) appointment to an office or post does not include election to an office or post.**]**

Subs.(8) rep. by 1976 NI 15

[F6](9) This section shall apply to—

(a) service for purposes of a Minister of the Crown or government department, other than service of a person holding a statutory office, or

(b) service on behalf of the Crown for purposes of a person holding a statutory office or purposes of a statutory body,

as it applies to employment by a private person, and shall so apply as if references to a contract of employment included references to the terms of service.

Para. (10) rep. by 1996 c. 46

(11) In this section "statutory body" means a body set up by or in pursuance of a statutory provision (as defined by section 1(*f*) of the Interpretation Act (Northern Ireland) 1954), and "statutory office" means an office so set up; and service "for purposes of" a Minister of the Crown or government department does not include service in any office in Schedule 2 (Ministerial offices) to the House of Commons Disqualification Act 1975 as for the time being in force.]

[F7](12) For the purposes of this Act it is immaterial whether the law which (apart from this subsection) is the**[**[F8] law applicable to**]** a contract is the law of any part of the United Kingdom or not.

(13) In this Act "Northern Ireland" includes such of the territorial waters of the United Kingdom as are adjacent to Northern Ireland.

(14) Provisions of this section and**[**[F4] sections 2**[**[F9] to 2A**]]** framed with reference to women and their treatment relative to men are to be read as applying equally in a converse case to men and their treatment relative to women.]

F2 1976 NI 15
F3 1976 NI 15
F4 SR 1984/16
F5 SR 2005/426
F6 1976 NI 15
F7 1976 NI 15
F8 1990 c. 36
F9 SR 2004/171

[[F10]**1A Meaning of "political office" in section 1(7C)(a)**

The following are political offices for the purposes of section 1(7C)(a)—

(a) any office of the House of Commons held by a member of it,
(b) a life peerage within the meaning of the Life Peerages Act 1958[21], or any office of the House of Lords held by a member of it,
(c) any office of the Assembly held by a member of it,
(d) any office of a district council held by a member of it, or
(e) any office of a political party.**]**

F10 SR 2005/426

2 Disputes as to, and enforcement of, requirement of equal treatment.

[F11](1) Any claim in respect of the contravention of a term modified or included by virtue of an equality clause, including a claim for arrears of remuneration or damages in respect of the contravention, may be presented by way of a complaint to an industrial tribunal.]

[F12](1A) Where a dispute arises in relation to the effect of an equality clause the employer may apply to an industrial tribunal for an order declaring the rights of the employer and the employee in relation to the matter in question.]

(2) Where it appears to the Ministry of Health and Social Services (in this Act referred to as "the Ministry") that there may be a question whether the employer of any women is or has been [F11 contravening a term modified or included by virtue of their equality clauses], but that it is not reasonable to expect them to take steps to have the question determined, the question may be referred by the Department [F12 as respects all or any of them] to an industrial tribunal and shall be dealt with as if the reference were of a claim by the women [F12 or woman] against the employer.

(3) Where it appears to the court in which any proceedings are pending that a claim or counter-claim in respect of the operation of an [F11 equality clause] could more conveniently be disposed of separately by an industrial tribunal, the court may direct that the claim or counter-claim shall be struck out; and (without prejudice to the foregoing) where in proceedings before any court a question arises as to the operation of an [F11 equality clause], the court may on the application of any party to the proceedings or otherwise refer that question, or direct it to be referred by a party to the proceedings, to an industrial tribunal for determination by the tribunal, and may stay the proceedings in the meantime.

[F13(4) A determination shall not be made by an industrial tribunal in the following proceedings, that is to say—

(a) on a complaint under subsection (1),

(b) on an application under subsection (1A), or

(c) on a reference under subsection (2),

unless the proceedings are instituted on or before the qualifying date (determined in accordance with section 2ZA).**]**

[F13(5) A woman shall not be entitled, in proceedings (including proceedings before an industrial tribunal) brought in respect of a contravention of a term modified or included by virtue of an equality clause, to be awarded any payment by way of arrears of remuneration or damages in respect of a time earlier than the arrears date (determined in accordance with section 2ZB).**]**

[F14(5A) In this section "employer", in relation to the holder of an office or post to which section 1 above applies by virtue of subsection (7A) of that section, shall be construed in accordance with that subsection.**]**

Subs.(6) rep. by 1976 NI 15

Subs.(7) rep. by 1984 NI 9

F11 1976 NI 15
F12 1976 NI 15
F13 SR 2004/171
F14 SR 2005/426

[F15 2ZA "Qualifying date" under section 2(4)

(1) This section applies for the purpose of determining the qualifying date, in relation to proceedings in respect of a woman's employment, for the purposes of section 2(4).

(2) In this section—

"concealment case" means a case where—

(a) the employer deliberately concealed from the woman any fact (referred to in this section as a "qualifying fact")—

(i) which is relevant to the contravention to which the proceedings relate, and

(ii) without knowledge of which the woman could not reasonably have been expected to institute the proceedings, and

(b) the woman did not discover the qualifying fact (or could not with reasonable diligence have discovered it) until after—

(i) the last day on which she was employed in the employment, or

(ii) the day on which the stable employment relationship between her and the employer ended,

(as the case may be);

"disability case" means a case where the woman was under a disability at any time during the six months after (as the case may be)—

(a) the last day on which she was employed in the employment to which the proceedings relate,

(b) where the proceedings relate to a stable employment relationship between her and the employer, the day on which that relationship ended; or

(c) where a qualifying fact is relevant to the proceedings and the fact was deliberately concealed from her by her employer, the day on which she discovered (or could with reasonable diligence have discovered) the fact (if that day falls after the day referred to in paragraph (a) or (b), as the case may be);

"stable employment case" means a case where the proceedings relate to a period during which a stable employment relationship subsists between the woman and the employer, notwithstanding that the period includes any time after the ending of a contract of employment when no further contract of employment is in force;

"standard case" means a case which is not—

(a) a stable employment case,

(b) a concealment case,

(c) a disability case, or

(d) both a concealment and a disability case.

(3) In a standard case, **[**[F16]the qualifying date is, subject to section 2ZAA,**]** the date falling six months after the last day on which the woman was employed in the employment.

(4) In a case which is a stable employment case (but not also a concealment or a disability case or both), **[**[F16]the qualifying date is, subject to section 2ZAA,**]** the date falling six months after the day on which the stable employment relationship ended.

(5) In a case which is a concealment case (but not also a disability case), **[**[F16]the qualifying date is, subject to section 2ZAA,**]** the date falling six months after the day on which the woman discovered the qualifying fact in question (or could with reasonable diligence have discovered it).

(6) In a case which is a disability case (but not also a concealment case), **[**[F16]the qualifying date is, subject to section 2ZAA,**]** the date falling six months after the day on which the woman ceased to be under a disability.

(7) In a case which is both a concealment and a disability case, the qualifying date is the later of the dates referred to in subsections (5) and (6).**]**

F15 SR 2004/171
F16 Words in s. 2ZA(3)-(6) substituted (18.4.2011) by Cross-Border Mediation Regulations (Northern Ireland) 2011 (S.R. 2011/157), **reg. 5(2)** (with reg. 1(2))

[F17 2ZAA Extension of time limit: mediation

(1) Subsection (2) applies where—
  (a) there is mediation in relation to a relevant cross border dispute giving rise to proceedings under this Act; and
  (b) the six months period referred to in section 2ZA(3) to (6) ("the limitation period") would, apart from this section, expire—
    (i) in the period of 8 weeks after the date on which the mediation ends;
    (ii) on the date on which the mediation ends; or
    (iii) after the date on which all of the parties to the dispute agree to participate in the mediation but before the date on which the mediation ends.

(2) Where this subsection applies, the limitation period is extended so that it expires on the date falling 8 weeks after the date on which the mediation ends.

(3) For the purposes of subsection (1) and (2), a mediation in relation to a relevant cross-border dispute ends on the date of the first of these to occur—
  (a) all of the parties reach an agreement in resolution of the dispute;
  (b) all of the parties agree to end the mediation;
  (c) a party notifies all of the other parties of that party's withdrawal,
  (d) a period of 14 days expires after a request made by one party to another party for confirmation of whether the other party has withdrawn and the other party does not respond in that period, or
  (e) a period of 14 days expires after the date on which the mediator's tenure ends (by reason of death, resignation or otherwise) and a replacement mediator has not been appointed in that period.

(4) In this section—

"the Directive" means Directive 2008/52/EC of the European Parliament and of the Council of 21st May 2008 on certain aspects of mediation in civil and commercial matters;

"mediation" and "mediator" have the meanings given by Article 3 of the Directive; and

"relevant cross-border dispute" means a cross-border dispute within the meaning given by Article 2 of the Directive.]

F17 S. 2ZAA inserted (18.4.2011) by Cross-Border Mediation Regulations (Northern Ireland) 2011 (S.R. 2011/157), **reg. 5(3)** (with reg. 1(2))

[F18 2ZB "Arrears date" in proceedings under section 2(5)

(1) This section applies for the purpose of determining the arrears date, in relation to an award of any payment by way of arrears of remuneration or damages in proceedings in respect of a woman's employment, for the purposes of section 2(5).

(2) In this section—

"concealment case" means a case where—

(a) the employer deliberately concealed from the woman any fact—

(i) which is relevant to the contravention to which the proceedings relate, and

(ii) without knowledge of which the woman could not reasonably have been expected to institute the proceedings, and

(b) the woman instituted the proceedings within six years of the day on which she discovered the fact (or could with reasonable diligence have discovered it);

"disability case" means a case where—

(a) the woman was under a disability at the time of the contravention to which the proceedings relate, and

(b) the woman instituted the proceedings within six years of the day on which she ceased to be under a disability;

"standard case" means a case which is not—

(a) a concealment case,

(b) a disability case, or

(c) both.

(3) In a standard case, the arrears date is the date falling six years before the day on which the proceedings were instituted.

(4) In a case which is a concealment or a disability case or both, the arrears date is the date of the contravention.**]**

F18 SR 2004/171

[[F19]2A Procedure before tribunal in certain cases.

(1) Where on a complaint or reference made to an industrial tribunal under section 2, a dispute arises as to whether any work is of equal value as mentioned in section 1(2)(c) the tribunal [[F20] may either—

(a) proceed to determine that question; or

(b) [F21]. . . require a member of the panel of independent experts to prepare a report with respect to that question;

[F21]. . .

[[F21](1A) Subsections (1B) and (1C) apply in a case where the tribunal has required a member of the panel of independent experts to prepare a report under paragraph (b) of subsection (1).

(1B) The tribunal may—

(a) withdraw the requirement, and

(b) request the member of the panel of independent experts to provide it with any documentation specified by it or make any other request to him connected with the withdrawal of the requirement.

(1C) If the requirement has not been withdrawn under paragraph (a) of subsection (1B), the tribunal shall not make any determination under paragraph (a) of subsection (1) unless it has received the report.**]**

[Subsection (2A) applies in a case where—

[F21](2)
(a) a tribunal is required to determine whether any work is of equal value as mentioned in section 1(2)(c), and
(b) the work of the woman and that of the man in question have been given different values on a study such as is mentioned in section 1(6).**]**

[The tribunal shall determine that the work of the woman and that of the man are

[F21](2A) not of equal value unless the tribunal has reasonable grounds for suspecting that the evaluation contained in the study—
(a) was (within the meaning of subsection (3)) made on a system which discriminates on grounds of sex, or
(b) is otherwise unsuitable to be relied upon.**]**

(3) An evaluation contained in a study such as is mentioned in section 1(6) is made on a system which discriminates on grounds of sex where a difference, or coincidence, between values set by that system on different demands under the same or different headings is not justifiable irrespective of the sex of the person on whom those demands are made.

(4) **[**[F21]In this section a**]** reference to a member of the panel of independent experts is a reference to a person who is for the time being designated by the Labour Relations Agency for the purposes of that paragraph as such a member, being neither a member of that Agency nor one of its officers or servants.**]**

F19 SR 1984/16
F20 SR 1996/465
F21 SR 2005/145

Modifications etc. (not altering text)
C2 S. 2A applied (27.9.2012) by The Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012 (S.R. 2012/301), art. 1, **Sch. para. 10(2)**

S.3 rep. with saving by 1988 NI 13

S.4 rep. by 1988 NI 7

5 Agricultural wages orders.

(1) Where an agricultural wages order made before or after the commencement of this Act contains any provision applying specifically to men only or to women only, the order may be referred by the Department to the Industrial Court to declare what amendments need to be made in the order, in accordance with the like rules as apply under section 3(4) to the amendment under that section of a collective agreement, so as to remove that discrimination between men and women; and when the Court have declared the amendments needing to be so made, it shall be the duty of the Agricultural Wages Board, by a further agricultural wages order coming into operation not later than five months after the date of the Court's decision, either to make those

amendments in the order referred to the Court or otherwise to replace or amend that order so as to remove the discrimination.

(2) Where the Agricultural Wages Board certify that the effect of an agricultural wages order is only to make such amendments of a previous order as have under this section been declared by the Industrial Court to be needed, or to make such amendments as aforesaid with minor modifications or modifications of limited application, or is only to revoke and reproduce with such amendments a previous order, then the Board may instead of complying with section 2(8) and (9) of the Agricultural Wages Act serve notice of the proposed order in such manner as appears to the Board expedient in the circumstances, and may make the order at any time after the expiration of seven days from the service of the notice.

(3) An agricultural wages order shall be referred to the Industrial Court under this section if the Department is requested so to refer it either—

(a) by a body for the time being entitled to appoint to the Agricultural Wages Board persons representing employers; or

(b) by a body for the time being entitled to appoint to the Board persons representing workers;

or if in any case it appears to the Department that the order may be amendable under this section.

(4) In this section "the Agricultural Wages Board" means the Agricultural Wages Board for Northern Ireland, "the Agricultural Wages Act" means the Agricultural Wages (Regulation) Act (Northern Ireland) 1939 and "agricultural wages order" means an order of the Agricultural Wages Board under the Agricultural Wages Act.

6 Exclusion from ss.1 to 5 of pensions etc.

[F22](1) **[**[F23]An equality clause shall not**]** operate in relation to terms—

(a) affected by compliance with the laws regulating the employment of women, or

(b) affording special treatment to women in connection with pregnancy or childbirth.

[[F24](1AA) Subsection (1)(b) does not affect the operation of an equality clause falling within section 1(2)(d), (e) or (f).**]**

[[F25](1B) An equality clause shall not operate in relation to terms relating to a person's membership of, or rights under, an occupational pension scheme, being terms in relation to which, by reason only of any provision made by or under Articles 62 to 64 of the Pensions (Northern Ireland) Order 1995 (equal treatment), an equal treatment rule would not operate if the terms were included in the scheme.

(1C) In subsection (1B), "occupational pension scheme" has the same meaning as in the Pension Schemes (Northern Ireland) Act 1993 and "equal treatment rule" has the meaning given by Article 62 of the Pensions (Northern Ireland) Order 1995.**]**

F22 1976 NI 15
F23 1988 NI 13
F24 SR 2005/426
F25 1995 NI 22

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[F27][F26]6A Service pay and conditions.

(1) Sections 1 and 6 shall apply, with the modifications mentioned in subsection (2) and any other necessary modifications, to service by a woman in any of the armed forces as they apply to employment by a private person.

(2) In the application of those sections to service by a woman in any of the armed forces—

(a) references to a contract of employment shall be regarded as references to the terms of service;

(b) in section 1, in subsection (7), paragraph (c) and the words "or any associated employer" and**[**[F28] subsections (7A) to (12)**]** (which have no application)**[**[F29] and subsection (14)**]** shall be omitted; and

(c) references to an equality clause shall be regarded as referring to a corresponding term of service capable of requiring the terms of service applicable in her case to be treated as modified or as including other terms.

(3) Any claim in respect of the contravention of a term of service modified or included, in relation to a woman's service in any of the armed forces, by a term corresponding to an equality clause in a contract of employment (including a claim for arrears of pay or damages in respect of the contravention) may be presented by way of complaint to an industrial tribunal.

Any such contravention shall be regarded for the purposes of a claim under this subsection as if it were a breach of contract.

(4) Subsections (5) to (10) apply in relation to any claim by a woman ("the claimant") arising from a contravention of a term of service referred to in subsection (3).

(5) No complaint in respect of the claim shall be presented to an industrial tribunal unless—

(a) the claimant has made **[**[F30]a service complaint in respect of the claim**]** ; and

[[F31](b) the complaint has not been withdrawn.**]**

[[F32](5A) Where the service complaint is dealt with by a person or panel appointed by the Defence Council by virtue of section 340C(1)(a) of the Armed Forces Act 2006, it is to be treated for the purposes of subsection (5)(b) as withdrawn if—

(a) the period allowed in accordance with service complaints regulations for bringing an appeal against the person's or panel's decision expires, and

(b) either—

(i) the claimant does not apply to the Service Complaints Ombudsman for a review by virtue of section 340D(6) of that Act (review of decision that appeal brought out of time cannot proceed), or

(ii) the claimant does apply for such a review and the Ombudsman decides that an appeal against the person's or panel's decision cannot be proceeded with.**]**

[[F33](6A) Subsection (5) does not prevent the claimant from presenting a complaint to an industrial tribunal concerning a claim in respect of the contravention of a term of service relating to membership of, or rights under—

(a) an occupational pension scheme made under section 3 of the Naval and Marine Pay and Pensions Act 1865,

(b) the Army Pensions Warrant 1977, or

(c) an occupational pension scheme made under section 2 of the Air Force (Constitution) Act 1917.

(6B) In subsection (6A), "occupational pension scheme" has the same meaning as in section 1 of the Pension Schemes (Northern Ireland) Act 1993.**]**

[[F34](7) The presentation of a complaint to an industrial tribunal in reliance on subsection (5) does not affect the continuation of the procedures set out in service complaints regulations.**]**

[F29]**[** (8) A determination may not be made by an industrial tribunal in proceedings on a complaint in respect of the claim unless the complaint is presented on or before the qualifying date (determined in accordance with section 6AA).**]**

(9) A woman shall not be entitled, in proceedings on a complaint in respect of the claim, to be awarded any payment by way of arrears of pay or damages in respect of a time earlier than**[**[F29] the arrears date (determined in accordance with section 6AB).**]**

(10) Section 2A shall apply in relation to a complaint in respect of the claim as it applies to a complaint presented to an industrial tribunal under section 2(1).

[F35](11) . . . . . .

(12) In this section**[**[F29] and sections 6AA and 6AB**]**

"armed forces" means the naval, military or air forces of the Crown; and

[[F36]"service complaint" means a complaint under **[**[F37]section 340A**]** of the Armed Forces Act 2006;

[[F38]"service complaints regulations" means regulations made under section 340B(1) of that Act.**]**

[F39]...**]**

[F29]**[** (13) Provisions of this section and sections 6AA and 6AB, and provisions applied by this section, framed with reference to women and their treatment relative to men are to be read as applying equally in a converse case to men and their treatment relative to women.**]]**

F26 1996 c. 46
F27 mod. by SR 2005/377
F28 SR 2005/426
F29 SR 2004/171
F30 Words in s. 6A(5)(a) substituted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383(2), **Sch. 16 para. 57(2)(a)**; S.I. 2007/2913, **art. 3**
F31 S. 6A(5)(b) substituted (1.1.2016) by Armed Forces (Service Complaints and Financial Assistance) Act 2015 (c. 19), s. 7(1), **Sch. para. 2(2)**; S.I. 2015/1957, reg. 2 (with savings and transitional provisions in S.I. 2015/1969)
F32 S. 6A(5A) inserted (1.1.2016) by Armed Forces (Service Complaints and Financial Assistance) Act 2015 (c. 19), s. 7(1), **Sch. para. 2(3)**; S.I. 2015/1957, reg. 2 (with savings and transitional provisions in S.I. 2015/1969)
F33 S. 6A(6A)(6B) substituted (1.1.2016) for s. 6A(6) by Armed Forces (Service Complaints and Financial Assistance) Act 2015 (c. 19), s. 7(1), **Sch. para. 2(4)**; S.I. 2015/1957, reg. 2 (with savings and transitional provisions in S.I. 2015/1969)
F34 S. 6A(7) substituted (1.1.2016) by Armed Forces (Service Complaints and Financial Assistance) Act 2015 (c. 19), s. 7(1), **Sch. para. 2(5)**; S.I. 2015/1957, reg. 2 (with savings and transitional provisions in S.I. 2015/1969)

F35 S. 6A(11) omitted (1.1.2016) by virtue of Armed Forces (Service Complaints and Financial Assistance) Act 2015 (c. 19), s. 7(1), **Sch. para. 2(6)**; S.I. 2015/1957, reg. 2 (with savings and transitional provisions in S.I. 2015/1969)

F36 Definition of "the service redress procedures" in s. 6A(12) substituted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383(2), **Sch. 16 para. 57(4)**; S.I. 2007/2913, **art. 3**

F37 Words in s. 6A(12) substituted (1.1.2016) by Armed Forces (Service Complaints and Financial Assistance) Act 2015 (c. 19), s. 7(1), **Sch. para. 2(7)(a)**; S.I. 2015/1957, reg. 2 (with savings and transitional provisions in S.I. 2015/1969)

F38 Words in s. 6A(12) inserted (1.1.2016) by Armed Forces (Service Complaints and Financial Assistance) Act 2015 (c. 19), s. 7(1), **Sch. para. 2(7)(b)**; S.I. 2015/1957, reg. 2 (with savings and transitional provisions in S.I. 2015/1969)

F39 Words in s. 6A(12) omitted (1.1.2016) by virtue of Armed Forces (Service Complaints and Financial Assistance) Act 2015 (c. 19), s. 7(1), **Sch. para. 2(7)(c)**; S.I. 2015/1957, reg. 2 (with savings and transitional provisions in S.I. 2015/1969)

Modifications etc. (not altering text)

C3 S. 6A(5) modified (24.4.2009) by Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), arts. 1(2)(b), **196(1)(b)**

C4 S. 6A(7) modified (24.4.2009) by Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), arts. 1(2)(b), **196(2)(b)**

[F40 6AA "Qualifying date" under section 6A(8) F41

(1) This section applies for the purpose of determining the qualifying date, in relation to proceedings on a complaint in respect of a woman's service in any of the armed forces, for the purposes of section 6A(8).

(2) In this section—

"concealment case" means a case where—

(a) the employer deliberately concealed from the woman any fact (referred to in this section as a "qualifying fact")—

(i) which is relevant to the contravention to which the complaint relates, and

(ii) without knowledge of which the woman could not reasonably have been expected to present the complaint, and

(b) the woman did not discover the qualifying fact (or could not with reasonable diligence have discovered it) until after the last day of the period of service during which the claim arose;

"disability case" means a case where the woman was under a disability at any time during the nine months after (as the case may be)—

(a) the last day of the period of service during which the claim arose, or

(b) the day on which she discovered (or could with reasonable diligence have discovered) the qualifying fact deliberately concealed from her by the employer (if that day falls after the day referred to in paragraph (a)); and

"standard case" means a case which is not—

(a) a concealment case,

(b) a disability case, or

(c) both.

(3) In a standard case, the qualifying date is the date falling nine months after the last day of the period of service during which the claim arose.

(4) In a case which is a concealment case (but not also a disability case), the qualifying date is the date falling nine months after the day on which the woman discovered the qualifying fact in question (or could with reasonable diligence have discovered it).

(5) In a case which is a disability case (but not also a concealment case), the qualifying date is the date falling nine months after the day on which the woman ceased to be under a disability.

(6) In a case which is both a concealment and a disability case, the qualifying date is the later of the dates referred to in subsections (4) and (5).**]**

F40 SR 2004/171
F41 mod. by SR 2005/377

[F42 6AB "Arrears date" in proceedings under section 6A(9)
F43

(1) This section applies for the purpose of determining the arrears date, in relation to an award of any payment by way of arrears of pay or damages in proceedings on a complaint in respect of a woman's service in any of the armed forces, for the purposes of section 6A(9).

(2) In this section—

"concealment case" means a case where—

(a) the employer deliberately concealed from the woman any fact—

(i) which is relevant to the contravention to which the proceedings relate, and

(ii) without knowledge of which the woman could not reasonably have been expected to institute the proceedings, and

(b) the woman made a **[**F44service complaint**]** within six years of the day on which she discovered the fact (or could with reasonable diligence have discovered it);

"disability case" means a case where—

(a) the woman was under a disability at the time of the contravention to which the proceedings relate, and

(b) the woman made a **[**F45service complaint**]** within six years of the day on which she ceased to be under a disability;

"standard case" means a case which is not—

(a) a concealment case,

(b) a disability case, or

(c) both.

(3) In a standard case, the arrears date is the date falling six years before the day on which the **[**F46service complaint**]** was made.

(4) In a case which is a concealment or a disability case or both, the arrears date is the date of the contravention.

(5) Subsection (6) applies in a case where, **[**[F47]by virtue of section 6A(6A)**]** , proceedings are instituted without a **[**[F48]service complaint having been made.**]**

(6) In that case, references in this section to the making of a **[**[F49]service complaint**]** shall be read as references to the institution of proceedings.**]**

F42 SR 2004/171
F43 mod. by SR 2005/377
F44 Words in para. (b) of the definition of "concealment case" in s. 6AB(2) substituted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383(2), **Sch. 16 para. 58(a)**; S.I. 2007/2913, **art. 3**
F45 Words in para. (b) of the definition of "disability case" in s. 6AB(2) substituted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383(2), **Sch. 16 para. 58(a)**; S.I. 2007/2913, **art. 3**
F46 Words in s. 6AB(3) substituted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383(2), **Sch. 16 para. 58(b)**; S.I. 2007/2913, **art. 3**
F47 Words in s. 6AB(5) substituted (1.1.2016) by Armed Forces (Service Complaints and Financial Assistance) Act 2015 (c. 19), s. 7(1), **Sch. para. 3**; S.I. 2015/1957, reg. 2 (with savings and transitional provisions in S.I. 2015/1969)
F48 Words in s. 6AB(5) substituted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383(2), **Sch. 16 para. 58(c)**; S.I. 2007/2913, **art. 3**
F49 Words in s. 6AB(6) substituted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383(2), **Sch. 16 para. 58(d)**; S.I. 2007/2913, **art. 3**

Modifications etc. (not altering text)
C5 S. 6AB modified (24.4.2009) by Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), arts. 1(2)(b), **196(1)(b)**

[[F50]6B Questioning of employer

(1) For the purposes of this section—
(a) a person who considers that she may have a claim under section 1 is referred to as “the complainant”, and
(b) a person against whom the complainant may decide to make, or has made, a complaint under section 2(1) or 6A(3) is referred to as “the respondent”.

(2) With a view to helping a complainant to decide whether to institute proceedings and, if she does so, to formulate and present her case in the most effective manner, the Office shall by order prescribe—
(a) forms by which the complainant may question the respondent on any 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 complainant questions the respondent (whether in accordance with an order under subsection (2) or not), the question and any reply by the respondent (whether in accordance with such an order or not) shall, subject to the following provisions of this section, be admissible as evidence in any proceedings under section 2(1) or 6A(3).

(4) If in any proceedings under section 2(1) or 6A(3) it appears to the industrial tribunal that the complainant has questioned the respondent (whether in accordance with an order under subsection (2) or not) and that—
(a) the respondent deliberately and without reasonable excuse omitted to reply within such period as the Office may by order prescribe, or

(b) 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 has contravened a term modified or included by virtue of the complainant's equality clause or corresponding term of service.

(5) Where the Office questions an employer in relation to whom it may decide to make, or has made, a reference under section 2(2), the question and any reply by the employer shall, subject to the following provisions of this section, be admissible as evidence in any proceedings under that provision.

(6) If in any proceedings on a reference under section 2(2) it appears to the industrial tribunal that the Office has questioned the employer to whom the reference relates and that—

(a) the employer deliberately and without reasonable excuse omitted to reply within such period as the Office may by order prescribe, or

(b) the employer'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 employer has contravened a term modified or included by virtue of the equality clause of the woman, or women, as respects whom the reference is made.

(7) The Office may by order—

(a) prescribe the period within which questions must be duly served in order to be admissible under subsection (3) or (5), and

(b) prescribe the manner in which a question, and any reply, may be duly served.

(8) This section is without prejudice to any other statutory provision or rule of law regulating interlocutory and preliminary matters in proceedings before an industrial tribunal, and has effect subject to any statutory provision or rule of law regulating the admissibility of evidence in such proceedings.

(9) Orders under this section shall be subject to negative resolution.

(10) In this section "the Office" means the Office of the First Minister and deputy First Minister.**]**

F50 2003 NI 15

Ss.7—9 rep. by 1976 NI 15

10 Short title and interpretation.

(1) This Act may be cited as the Equal Pay Act (Northern Ireland) 1970.

(2) In this Act the expressions "man" and "woman" shall be read as applying to persons of whatever age.

[[F51](2A) For the purposes of this Act a woman is under a disability if she is an infant or is of unsound mind (within the meaning of Article 47(2) of the Limitation (Northern Ireland) Order 1989).**]**

[F52](3) In this Act references to its commencement shall be construed as references to 29th December 1975.]

F51 SR 2004/171

Status: *Point in time view as at 08/05/2016.*
Changes to legislation: *There are currently no known outstanding effects for the Equal Pay Act (Northern Ireland) 1970. (See end of Document for details)*

F52 1976 NI 15

Status:
Point in time view as at 08/05/2016.

Changes to legislation:
There are currently no known outstanding effects for the Equal Pay Act (Northern Ireland) 1970.