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STATUTORY INSTRUMENTS

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**1998 No. 3162**

**The Fair Employment and Treatment  
(Northern Ireland) Order 1998**

**PART VI**

**ENFORCEMENT OF PARTS III TO V**

*Help for persons suffering discrimination*

**Help for aggrieved persons in obtaining information, etc.**

**44.**—(1) With a view to helping a person (“the person aggrieved”) who considers that another person may have unlawfully discriminated against him to decide whether to institute proceedings and, if he does so, to formulate and present his case in the most effective manner, the Department shall by regulations prescribe—

- (a) forms 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; and
- (b) forms by which the respondent may if he so wishes reply to any questions.

(2) Where the person aggrieved questions the respondent (whether in accordance with regulations under paragraph (1) or not)—

- (a) the question, and any reply by the respondent (whether in accordance with the regulations or not) shall, subject to the following provisions of this Article, be admissible as evidence in the proceedings; and
- (b) if it appears to the court or the Tribunal that the respondent deliberately and without reasonable cause omitted to reply within a reasonable period or that his reply is evasive or equivocal, the court or the Tribunal may draw any inference from that fact that it considers it just and equitable to draw, including an inference that he committed an unlawful act.

(3) The Department may by regulations—

- (a) prescribe the period within which questions must be duly served in order to be admissible under paragraph (2)(a); and
- (b) prescribe the manner in which a question, and any reply by the respondent, may be duly served.

(4) County court rules may enable the court entertaining a claim under Article 40 to determine, before the date fixed for the hearing of the claim, whether a question or reply is admissible under this Article or not.

(5) This Article is without prejudice to any other statutory provision or rule of law regulating interlocutory and preliminary matters in proceedings before a county court or the Tribunal, and has effect subject to any statutory provision or rule of law regulating the admissibility of evidence in such proceedings.

(6) In this Article “respondent” includes a prospective respondent.

### **Advice and assistance from Commission**

**45.**—(1) Where a prospective complainant or claimant requests the Commission in writing for advice in relation to prospective proceedings under this Part, the Commission shall give him such advice unless it considers that the request is frivolous.

(2) Where, in relation to proceedings or prospective proceedings under this Part, an individual who is an actual or prospective complainant or claimant applies to the Commission for assistance under this paragraph, the Commission shall consider the application and may grant it if it thinks fit to do so—

- (a) on the ground that the case raises a question of principle; or
- (b) on the ground that it is unreasonable, having regard to the complexity of the case or the applicant's position in relation to the respondent, or another person involved, or to any other matter to expect the applicant to deal with the case unaided; or
- (c) by reason of any other special consideration.

(3) Assistance given by the Commission under paragraph (2) may include—

- (a) giving advice;
- (b) procuring or attempting to procure the settlement of any matter in dispute;
- (c) arranging for the giving of advice or assistance by a solicitor or barrister;
- (d) arranging for representation by any person including all such assistance as is usually given by a solicitor or barrister in the steps preliminary or incidental to any proceedings, or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings; and
- (e) any other form of assistance which the Commission may consider appropriate,

but sub-paragraph (d) shall not affect the law and practice regulating the descriptions of persons who may appear in, conduct, defend, and address the court in, any proceedings.