
STATUTORY INSTRUMENTS

1998 No. 3162

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

PART VI

ENFORCEMENT OF PARTS III TO V

Other enforcement by Commission

Persistent discrimination

41.—(1) If, during the period of 5 years beginning on the date on which a finding by the Tribunal or a court under Article 38 or 40 that he has committed an act of unlawful discrimination becomes final in respect of any person, it appears to the Commission that unless restrained that person is likely to commit one or more such acts the Commission may apply to a county court for an injunction restraining him from doing so; and the court, if satisfied that the application is well-founded, may grant the injunction in the terms applied for or in more limited terms.

(2) For the purposes of this Article and Article 42 a finding by a court or the Tribunal becomes final when—

- (a) an appeal against the finding is abandoned or determined; or
- (b) the time for appealing expires without an appeal having been brought.

Enforcement of Article 34

42.—(1) Proceedings in respect of a contravention of Article 34 shall be brought only by the Commission in accordance with the following provisions of this Article.

(2) The proceedings shall be—

- (a) an application for a decision whether the alleged contravention occurred; or
- (b) an application under paragraph (4), or both.

(3) An application under paragraph (2)(a) shall be made—

- (a) in a case based on any provision of Part III, to the Tribunal; and
- (b) in any other case, to a county court.

(4) If it appears to the Commission—

- (a) that a person has done an act which by virtue of Article 34 was unlawful; and
- (b) that unless restrained he is likely to do further acts which by virtue of that Article are unlawful,

the Commission may apply to a county court for an injunction restraining him from doing such acts; and the court, if satisfied that the application is well-founded, may grant the injunction in the terms applied for or in more limited terms.

(5) In proceedings under paragraph (4) the Commission shall not allege that the person to whom the proceedings relate has done an act which is unlawful by virtue of Article 34 and within the jurisdiction of the Tribunal unless a finding by the Tribunal under paragraph (3)(a) that he did that act has become final.

(6) In paragraph (5), the acts “within the jurisdiction of the Tribunal” are those in respect of which such jurisdiction is conferred by Article 38.

Undertakings by persons contravening Part IV

43.—(1) This Article applies to an act contravening any provision of Part IV and so applies whether or not proceedings have been brought in respect of the act.

(2) If the Commission is satisfied that a person is committing or has committed any such act the Commission may, for the purpose of preventing the commission by that person of any further such act, seek to obtain from that person an undertaking—

- (a) that he will do, or refrain from doing, certain acts specified in the undertaking;
- (b) that he will institute certain practices so specified; or
- (c) that he will change his existing practices in a manner so specified.

(3) An undertaking given by any person under this Article shall—

- (a) be in writing;
- (b) be in such terms as may be agreed between that person and the Commission;
- (c) contain such terms as appear to the Commission to be necessary or appropriate for the purpose mentioned in paragraph (2); and
- (d) have effect for such period as may be specified therein.

(4) If it appears to the Commission that a person who has given an undertaking under this Article has, at any time within the period specified therein by virtue of paragraph (3)(d), failed to comply with the undertaking, the Commission may apply to the county court for a decision as to whether that person has failed to comply with the undertaking.