
STATUTORY INSTRUMENTS

1998 No. 3162

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

PART VII

DUTIES OF EMPLOYERS IN RESPECT OF THEIR WORKFORCES

Registration

The register of concerns in which people are employed

47.—(1) The Commission shall keep, in such form as the Commission may determine, a register of trades, businesses and other activities (whether carried on for profit or not) in which people are employed.

(2) References in this Part to a concern are to any such trade, business or other activity and include any activity in the service of the Crown, but only to the extent provided by Article 51.

(3) The Commission shall, on an application under Article 48, enter in the register the description of the concern given in the application, the name and address of the employer so given and the date of entry in the register and serve on the applicant notice of the contents and date of the entry.

(4) The Commission shall provide facilities for making the information contained in the entries in the register available for inspection (in visible and legible form) by members of the public during normal office hours free of charge and any person shall be entitled to obtain from the Commission a copy of the information contained in all or any of the entries in the register upon payment of such reasonable fee as the Commission may fix.

Employers to apply for registration

48.—(1) Where a concern, other than a registered concern, satisfies the condition for registration at the end of any week, the employer shall apply under this Article for the concern to be registered.

(2) For the purposes of this Part a concern satisfies the condition for registration at the end of any week if in that week more than 10 employees have been employed in Northern Ireland.

(3) In paragraph (2), the reference to employees does not include a reference to an individual employed under a contract of service or apprenticeship which normally involves employment for less than 16 hours weekly.

(4) Article 5 of the Employment Rights (Northern Ireland) Order 1996 (normal working hours) shall have effect to determine the normal working hours for the purposes of paragraph (3).

(5) The Department may by order substitute for the number of hours for the time being specified in paragraph (3) such other number as is specified in the order.

(6) An application under this Article shall—

(a) describe the concern in general terms;

- (b) give the name and address of the employer; and
- (c) give the number of employees employed in Northern Ireland.

(7) If an employer fails to make an application under this Article within the period of one month after the time when the concern first satisfies the condition for registration (or in the case of a concern the entry for which has been removed from the register, first satisfies that condition since the removal), he shall be guilty of an offence.

- (8) A person guilty of an offence under paragraph (7)—
- (a) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale; and
 - (b) if the failure continues after conviction, shall be 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 paragraph (7) to show that he had a reasonable excuse for failing to make an application under this Article within the period allowed and that he made such an application as soon as it was reasonably practicable for him to do so.

(10) In determining for any of the purposes of this Part whether a concern satisfies the condition for registration, references to the employees of any person (referred to in this paragraph as “the employer”) shall, if regulations made by the Department under this Article so provide or in such circumstances as may be specified in the regulations, include a reference to the employees of—

- (a) any body corporate controlled by the employer and, if the employer is a body corporate, any associated body corporate; and
- (b) any person connected with the employer,

and references to the employer’s concern shall be interpreted accordingly.

(11) This Article does not apply to any person who is a public authority for the purposes of Articles 52 to 61 or to any person falling within Article 50(3)(a) or (b).

Rectification of the register

49.—(1) Where a person becomes an employer in relation to a concern that is already a registered concern, he shall, within the period of one month beginning with his becoming such an employer, apply to the Commission for his name and address to be entered in the register and the Commission shall include in the entry in the register the name and address given in the application.

(2) If an employer who is required so to apply fails to do so within that period, he shall be guilty of an offence.

- (3) A person guilty of an offence under paragraph (2)—
- (a) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale; and
 - (b) if the failure continues after conviction, shall be 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.

(4) It is a defence for a person charged with an offence under paragraph (2) to show that he had a reasonable excuse for failing to make an application under this Article within the period allowed and that he made such an application as soon as it was reasonably practicable for him to do so.

(5) The Commission may, on an application by a registered employer, rectify the description in the register of the registered concern.

(6) The Commission shall remove from the register any entry in respect of a person who becomes a public authority for the purposes of Articles 52 to 61.

(7) The Commission—

- (a) may remove from the register, in respect of any concern, the name of any person who appears to the Commission to have ceased to be an employer; and
- (b) may remove from the register the entry for any registered concern which appears to the Commission to have ceased to exist.

(8) The power conferred by paragraph (7) is exercisable by the Commission of its own motion or on the application of any person.

(9) If a registered employer applies to the Commission to remove from the register the entry for the registered concern and the concern has been registered throughout the year ending on the date of the application, the Commission shall remove the entry if it is of the opinion that the concern did not, at the end of any of the weeks in the period of 26 weeks preceding the application, satisfy the condition for registration.

(10) If the Commission exercises its powers under paragraph (7) or (9), it shall serve notice of its action on any person whose name is removed from the register.

(11) A person who knowingly makes a false statement in connection with an application under paragraph (8) or (9) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(12) In this Article, “registered employer”, in relation to a registered concern, means the person whose name and address is for the time being included in the entry for that concern in the register.