
STATUTORY INSTRUMENTS

2003 No. 2902

The Employment (Northern Ireland) Order 2003

PART V

MISCELLANEOUS

Equal pay: questionnaires

30.—(1) In the Equal Pay Act (Northern Ireland) 1970 (c. 32) after section 6A there shall be inserted—

“Questioning of employer

6B.—(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."